

**CITY OF BILOXI  
AGENDA ITEM  
FACT SHEET**

Item No.: 5 K

Council Meeting Date: October 17, 2017

ITEM TITLE: RESOLUTION  
INTRODUCED BY: Mayor Andrew "FoFo" Gilich  
CONTACT PERSON: E. Michael Leonard, CAO

Peter Abide, City Attorney *pa*

**SUMMARY EXPLANATION:**

Resolution authorizing Outlease Agreement with the United States Postal Service for office facilities to be used for municipal purposes.

Resolution  Ordinance \_\_\_\_\_ Public Hearing \_\_\_\_\_ Routine Agenda \_\_\_\_\_

Exhibits for Review

Contract \_\_\_\_\_ Minutes \_\_\_\_\_ Plans/Maps \_\_\_\_\_ Deed \_\_\_\_\_ Lease \_\_\_\_\_

Other (Specify): Exhibit "A" Outlease Agreement

Submittal Authorization: Council President \_\_\_\_\_ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: \_\_\_\_\_ Second By: \_\_\_\_\_

Vote:	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
	Lawrence	___	___	___	Tisdale	___	___	___
	Gines	___	___	___	Glavan	___	___	___
	Newman	___	___	___	Barrett	___	___	___
	Deming	___	___	___				

ACTION TAKEN:

pa/km101717aleg

RESOLUTION NO.

RESOLUTION AUTHORIZING OUTLEASE AGREEMENT WITH UNITED STATES POSTAL SERVICE FOR OFFICE FACILITIES TO BE USED FOR MUNICIPAL PURPOSES

WHEREAS, the City of Biloxi is in need of office facilities to be used for municipal purposes; and

WHEREAS, the United States Postal Service is in possession of unused space in the Post Office building, with associated parking, located at 135 Main Street, in Biloxi, Mississippi, as set forth in the Outlease Agreement attached as Exhibit "A"; and

WHEREAS, the City has immediate needs for office facilities on the 3<sup>rd</sup> Floor; and

WHEREAS, the Outlease Agreement provides for flexible terms and conditions regarding free rent for the 2<sup>nd</sup> floor, along with a Termination Clause (to be exercised on or before March 1, 2018); and

WHEREAS, it is in the best interest of the City to lease said property from The United States Postal Service upon the terms and conditions contained in the Outlease Agreement attached as Exhibit "A" hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, AS FOLLOWS:

1. The findings, conclusions, and statements of fact contained in the foregoing preamble are hereby adopted, ratified and incorporated herein.

2. The Mayor is hereby authorized to execute on behalf of the City of Biloxi, Mississippi, the Outlease Agreement with the United States Postal Service in substantially the form as the document attached as Exhibit "A".

3. This resolution shall take effect and be in force from and after adoption.

<u>Facility Name/Location</u>	<u>Finance/Sublocation No.</u>	<u>Project Number:</u>
Biloxi Main Office	270702-G02	
135 Main Street		
Biloxi, MS 39530-9998		

THIS OUTLEASE AGREEMENT ("Outlease"), is entered into by and between the **UNITED STATES POSTAL SERVICE**, hereinafter called Lessor, and City of Biloxi, hereinafter called the Lessee, whose address is 140 Lameuse Street, P.O. Box 429 in Biloxi, MS 39533, to use and occupy the property hereinafter described under the terms and subject to the conditions contained herein.

- Premises:** In consideration of the rents, covenants and agreements hereinafter on the part of Lessee to pay, keep, and perform, the Lessor does demise and lease to the Lessee and Lessee hereby leases from Lessor, the following described premises (the "Premises"): The Premises are located in a building (the "Building") having a municipal address of 135 Main Street in Biloxi, MS 39530-9998. The Premises are the entire 2<sup>nd</sup> and 3<sup>rd</sup> Floors, the approximate areas as described and shown Exhibit "A" attached hereto and incorporated herein. The parties agree that the rentable area of the Premises is approximately 9,681 square feet for each floor for a total space equal to **19,362 square feet**.
- Outlease Term:** The fixed term of this Outlease shall begin on 11/1/2017 ("Outlease Commencement Date"), and end on 10/31/2022 ("Outlease Expiration Date"), unless terminated prior thereto pursuant to the terms hereof (hereinafter referred to as the "Outlease Term").
- Rental Rate:** Beginning on the Outlease Commencement Date and for each calendar month, Lessee shall pay the Lessor rent ("Rent"), as set out in the schedule below, which shall be due and payable on a monthly basis in advance, without demand or set-off, in the amount of:

3a.

<u>Months</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
11/01/2017 – 01/31/2018	\$4,581	\$13,743.00
02/01/2018 – 10/31/2018	\$7,502.75	\$67,524.75
11/01/2018 – 10/31/2019	\$7,502.75 <sup>1</sup>	\$90,033.00
10/31/2019 – 10/31/2022	\$15,005.50	\$180,066.00

3b.

<u>Renewal</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>
11/01/2022 – 10/31/2027	\$17,748.50	\$212,982.00
11/01/2027 – 10/31/2032	PMR <sup>2</sup>	PMR
11/01/2032 – 10/31/2037	PMR	PMR

Notes:

- Free Rent or \$7,502.75 per month starting 12 months after build-out of 2<sup>nd</sup> Floor is complete. Rent payments shall commence 12 months after built-out of 2<sup>nd</sup> Floor is complete or on the 25th month after Outlease commencement, whichever comes first.

- 2- PMR = Prevailing Market Rate as determined by an appraisal completed in accordance with the terms and conditions as described in Paragraph 4 below and prior to the Outlease Expiration Date

A security deposit of \$7,502.75 is due in advance of the Outlease Commencement Date (“Security Deposit”) and must be made payable to the “Disbursing Officer, USPS” and submitted to the Contracting Officer along with signed copies of this Outlease. The Lessor shall hold the Security Deposit until the end of the Outlease Term and shall release the same after the Contracting Officer is satisfied in its reasonable discretion that the Lessee is not in default under this Outlease and has restored the Premises in accordance with Paragraphs 9 and 11.

All Rent payments are due and payable on the 1<sup>st</sup> of each month (“Rent Due Date”) in accordance with the above schedule and should be delivered to the Accounting Service Center, US Postal Service, Disbursing Office, P.O. Box 21888, Eagan MN 55121-0888, made payable to the “Disbursing Officer, USPS”, and shall contain the following identification number: **270702-G02**. If Lessee fails to pay the Rent or any other payment due to Lessor within 10 calendar days after the Rent Due Date, then (without limiting Lessor’s rights and remedies including without limitation Paragraph 18 below) Lessee shall pay Lessor a late fee of ten percent (10%) of the amount of such payment for each and every instance during the Outlease Term and any Renewal Term, if any, that Rent is not paid on the Rent Due Date.

#### **4. Renewal Option(s):**

- a. **Renewal Term:** Lessor hereby grants to Lessee the right to renew the Outlease for up to three additional five-year terms (“Renewal Term”). If exercised, the Renewal Term will commence immediately following the end of the initial Outlease Term. During the Renewal Terms, Lessee will lease the Premises subject to all of the terms and conditions of this Agreement, except that the Rent payable by Lessee shall be the amount determined in accordance with Paragraph 4.b below.
- b. **Conditions of Renewal:** Lessee’s right to renew this Outlease is subject to the following conditions:
- **Written Notice:** Lessee may exercise its right to renew this Outlease for the Renewal Term by giving Lessor written notice not earlier than 18 months, and not later than 12 months, prior to the expiration of the Outlease Term (“Renewal Notice”). If Lessee fails to provide the Renewal Notice on or before 12 months prior to the exercise of the Outlease Term, then Lessee’s right of renewal shall be of no further force or effect and the Outlease will terminate upon the expiration of the Term.
  - **Default:** If the event of Default (as defined herein in Paragraph 20), exists on the date that Lessee exercises its renewal option, then, at Lessor’s election (exercised by providing written notice to Lessee within thirty (30) days after Lessor’s receipt of Lessee’s renewal notice), the Renewal Term shall not commence and the Outlease shall expire at the expiration of the then-current term.
  - **Occupancy:** Lessee may not exercise such right for less than the entire Premises.
  - **Prevailing Market Rent:** The parties shall determine rent for the Renewal Term in accordance with and subject to the following conditions:
    - i. The annual rent for each renewal period requiring Prevailing Market Rate (“PMR” as defined herein) and in all events, such annual rent shall not be less than the annual rent paid by Lessee in the immediately preceding successive twelve month period. PMR shall mean the fair market annual rental value (plus any market-appropriate annual escalations thereof) then being charged by lessors to non-equity lessees for comparable premises (comparable in size, floor location, configuration and improvements) in comparable buildings (comparable in age, amenities, quality and location) within the subject geographic market, taking into consideration all appropriate factors, including, without limitation, the size of the Premises, the Lessee’s use, Lessee’s creditworthiness and financial condition, building finishes, exterior appearance, systems and services and rents being offered similar lessees leasing below-grade office space in comparable buildings (comparable in age, amenities, location and quality), the date the particular rate under consideration is to become effective, and the length of the renewal term.

ii. Within one hundred twenty (120) days following receipt of Lessee's Renewal Notice, Lessor shall provide Lessee with a written determination of the PMR for the applicable Renewal Term ("Lessor's PMR Notice"). Lessee shall then have 30 days to accept or reject the rent in the Lessor's PMR Notice for the applicable Renewal Term by providing written notice ("Lessee's PMR Notice") to Lessor stating that Lessee:

(i) Agrees with Lessor's PMR determination for the applicable Renewal Term.

- If Lessee agrees with the PMR determination in the Lessor's PMR Notice or fails to provide Lessee's PMR Notice within 30 days of receipt the Lessor's PMR Notice, then the Rent for the applicable Renewal Term shall be deemed to have accepted by the Lessee at the rate stated in Lessor's PMR Notice. The Renewal Option shall be executed with PMR set forth in Lessor's PMR Notice.

**Or**

(ii) Disagrees with Lessor's PMR determination for the applicable Renewal Term.

- Lessor with an alternative proposed Rent structure based upon the foregoing parameters accompanied by an appraisal report performed by an appraiser who holds a Certified General Appraiser license in the State of Mississippi within 30 days of Lessor's PMR Notice. The appraisal report commissioned by the Lessee must conform to the same scope of work as the Lessor's appraisal, and the purpose of the appraisal report must be to determine market rent for the Premises.
- The parties shall have 30 days ("Negotiation Period") following Lessor's receipt of Lessee's PMR Notice to negotiate the Rent for the applicable Renewal Term.
- If no such agreement is reached, each party shall, within seven business days following conclusion of the Negotiation Period, the Lessor and Lessee will then select an appraiser who holds a Certified General Appraiser license in the state of Mississippi and currently holds the MAI designation from the Appraisal Institute and submit their final Prevailing Market Rate determinations ("PMR Determinations") to determine which appraisal is more credible and more closely reflects PMR for the Premises.
- If the Lessor and Lessee cannot agree on the third appraiser within fourteen (14) days, the Lessor will select the third appraiser.
- Each party will be responsible for contracting with the appraiser for payment and shall share equally the costs of the third appraiser.
- The determination of the third appraiser shall be final and binding on the parties and shall be the Rent payable during the applicable Renewal Term. The Renewal Option shall be executed with PMR set forth in by the third appraiser.

c. All terms and conditions from the prior Outlease Term or Renewal Term shall remain in effect at a Rental Rate equal to 110% of the between parties until such time as the new Renewal Option is executed by both parties.

**5. Termination:** Lessor will have the right to terminate and reclaim the Premises at no cost or liability to Lessor by providing Lessee 180 days' written notice during any Renewal Term. Such termination shall become effective on the date set forth in such notice. Lessor shall have no termination rights during the first 5 year Outlease Term.

Lessee may any time before March 1, 2018, upon written notice to Lessor, terminate this Outlease with respect to the entire 9,681 sq. feet of space located on the 2<sup>nd</sup> Floor of the Building (the "2<sup>nd</sup> Floor Space"). In the event that Lessee exercises its option to terminate this Outlease with respect to the 2<sup>nd</sup> Floor Space, then the parties shall execute an amendment reducing the size of the Premises to 9,681 square feet on the 3<sup>rd</sup> Floor of the building and reducing the Rent payable hereunder by a proportionate amount.

**6. Use:** Lessee shall use the Premises exclusively for: municipal administrative office space and city court functions. Lessee shall use reasonable care in the occupation and use of the Premises and shall not interfere with Lessor's

operations. Lessee, Lessee's agents, employees, invitees and visitors may use the Premises only for lawful purposes consistent with the requirements of applicable laws, codes and regulations, and shall comply fully with the Rules and Regulations Governing Conduct on Postal Property, 39 C.F.R., Part 232, promulgated by Lessor, attached hereto and incorporated herein as Exhibit C ("Lessor Rules") which may be revised from time to time. Lessee agrees not to use the Premises in any way which, in the reasonable judgment of the Lessor, poses a hazard to the Lessor, or other tenants or occupants in the Building, the general public, the Premises or the Building in part or whole. Lessee will not use or occupy the Premises for any disorderly, unlawful or extra-hazardous purposes, or for any purpose that will constitute waste, nuisance or unreasonable annoyance to Lessor or other tenants or occupants of the Building or the general public, or for any purpose prohibited by Lessor's Rules.

7. **Inspection:** Lessee has inspected and knows the condition of the Premises and agrees to accept same in its 'as is' condition including wear and tear thereafter, with all faults, including defects seen and unseen and all conditions natural and artificial and including environmental conditions, without any representation of any kind, express or implied. Lessee accepts all responsibility to inspect the Premises for patent and latent defects and in entering into this Outlease, Lessee has not been induced by, and has not relied upon, any representations, warranties, or statements, whether express or implied by Lessor, or any agent, employee, or representative of Lessor that are not expressly set forth herein. Lessee's decision to lease the Premises is based solely upon lessee's own inspection, examination and analysis of the Premises. It is further understood that Lessor shall have no liability to Lessee for the condition of the Premises and Lessor leases the Premises to Lessee without any obligation on the part of Lessor to make any additions, improvements or alterations thereto.
8. **Indemnification:** Lessor shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the leased Premises, nor for damages to the property or injuries to the person of Lessee or of others who may be on said Premises at Lessee's invitation. Lessee shall indemnify, release and hold Lessor harmless from liability for any and all claims for such damages or injuries to the property, the Premises, or to any persons.
9. **Alterations and Improvements:**
  - a. Lessee shall not demolish any portion of the Premises or make any alterations, additions, improvements or other changes, structural or otherwise (collectively "future Alterations") in or to the Premises without the prior written consent of Lessor in each and every instance which may be granted or withheld in Lessor's sole discretion. If this provision is violated, Lessee is liable for the cost of removal and restoration, plus applicable administrative cost. In the event the Lessor consents to the Lessee making any additions, improvements, repairs, or alterations to the Premises, Lessee shall remain liable for the cost of removal and restoration in accordance with Paragraph 11 below, plus applicable administrative cost.
  - b. Notwithstanding the Paragraph 9(a), Lessor's consent will not be unreasonably withheld or delayed, for Lessee's initial improvements to the Premises which consist of buildout of the unfinished space on the 2<sup>nd</sup> and 3<sup>rd</sup> Floors, ("Initial Improvements"), which Lessee shall be responsible for at its sole cost and expense, and for future Alterations that are non-structural and do not impact the building systems as determined by Lessor in its reasonable discretion.
  - c. Lessee acknowledges that the building is historic and that Lessor is thus subject to certain requirements under the National Historical Preservation Act ("NHPA") and approval of the State Historic Preservation Office ("SHPO). Lessor's consent, if granted, for the Initial Improvements and any future Alterations will be conditioned upon Lessor's ability to satisfactorily comply with various requirements of the NHPA and its implementing regulations, including, without limitation, completion of the process under Section 106 of the regulations implementing the NHPA, which compliance shall be at the sole cost and expense of the Lessee. Such compliance and resulting restrictions, if any, on repairs and/or alterations or improvements, shall not be deemed to be unreasonable withholding, conditioning or delay of consent. With regards to the Initial Improvements and future Alterations to the Premises or signage that impact historic or culturally significant components of the Building, Lessee agrees to retain a cultural resources expert at its sole cost and expense who will prepare the documents, photos, maps, and other information ("SHPO Package") required for Lessor's compliance with the NHPA and its implementing regulations. Lessee shall submit the SHPO Package to Lessor's Federal Preservation Officer

("FPO") as part of the 30% Plans. If the FPO determines that the SHPO Package is complete, the FPO will execute the letter initiating consultation to be included in the SHPO Package and send to Lessee and upon its receipt Lessee will submit the SHPO Package to SHPO and other consulting parties as may be required. If upon the FPO's review, the FPO determines that the SHPO Package is incomplete in the FPO's reasonable determination, then the FPO will provide written notice to Lessee within five (5) business days of receipt of the SHPO Package, which notice will include a list of additional documents, information, or such other changes to the existing documentation required to complete the SHPO Package. Lessee agrees to provide to the FPO any additional documents, information or to make such changes to the SHPO Package at Lessee's sole cost and expense not later than five (5) business days following the receipt of the FPO notice (or for such reasonably later time if five (5) business days is not reasonably attainable given the additional documents, information or changes required in such period; provided that in all events the same shall be submitted within thirty (30) days after receipt of the FPO notice ) ("Extended Submittal Deadline"). If Lessee fails or refuses to provide FPO with a complete SHPO Package, Lessee shall not perform any Alterations or install any signage. Upon receipt of a complete SHPO Package as determined by the FPO in its reasonable determination ("Approved SHPO Package"), the FPO will execute the letter initiating consultation to be included in the SHPO Package and send to Lessee and upon its receipt Lessee will submit the Approved SHPO Package to the SHPO and other appropriate consulting parties. Notwithstanding any actions of the Lessee, Lessor remains solely responsible for compliance with the obligations of the Lessor under the NHPA and its implementing regulations.

- d. The Initial Improvements (and future Alterations of a similar size and scope) plans, documents, submittals and schedule shall be designed and constructed as set forth below in Paragraph 9. The scope of work and drawings for the Initial Improvements should anticipate and include any changes, modification(s), upgrade(s), and replacement(s) to the shell elements and building systems that the Lessee will address in its Initial Improvements and/or future Alterations at its sole cost and expense; and
- e. All future Alterations, Lessee shall provide a detailed written scope of work with 30% design drawings, one hundred percent (100%) architectural drawings on AUTOCAD Disks, that are signed and stamped by a licensed Architect and/or Engineer in the state that the work is being completed in and construction schedules. Lessor will have twenty-one (21) business days to respond after receipt of Lessee's properly submitted and complete request for consent or such longer period of time as may be necessary in order for Lessor to complete its obligations under Paragraph 9 hereof. If Lessor denies a request for consent to perform future Alterations within the time period stated herein, or as the same may have been extended in order for Lessor to comply with the National Historical Preservation Act ("NHPA") and its' implementing regulations, Lessor will provide a written explanation as to the reason for such denial. Lessor's failure to respond shall not constitute its consent to Lessee's future Alterations.
- f. At the time of Lessee's written request for Lessor's consent to perform Initial Improvements to the Premises in this Paragraph 9(b), Lessee shall provide Lessor its submissions in accordance with the terms and conditions of Paragraph 9 and the following:
  - i. With reasonable diligence, Lessee shall deliver to Lessor Lessee's 30% preliminary design plans ("30% Plans") (as defined below) for the Initial Improvements and any future Alterations in the Premises (which includes but are applicable permitted), and Lessee shall indicate its approval of the 30 % Plans in writing by signing and dating such 30% Plans. The 30% Plans shall set forth the location of furniture and office equipment, the location of, and specifications for, electrical outlets, especially those required to accommodate items such as computers and 220 volt equipment, including 1 HVAC equipment, the location of, and specifications for, cable and communications outlets, the location of all heat producing machinery and specification of heat output (BTU/hour) as it is related to any network equipment, the location of conference rooms, the location of new stairwells, elevator shaft and pit, emergency egress routes through the Premises, rooftop location(s) required to house Lessee's proposed use of an air cooled condensing unit, and other rooms subject to occupancy by more than six persons at a time and the specification of maximum expected occupancy, a reflected ceiling plan for all lighting desired by Lessee and preliminary specifications of all Initial Improvements involving lighting, any Initial Improvements which is likely to require a longer than usual period of time to construct , the location of all partitions in the Premises, and any special requirements.



- ii. With reasonable diligence, after receipt of Lessee's 30% Plans, Lessor shall deliver to Lessee either (i) written approval of the 30% Plans or (ii) those changes to the 30% Plans that Lessor will require in order to approve Lessee's 30% Plans within 30 days of receipt from the Lessee. If Lessor advises Lessee that reasonable modifications are required, then Lessee shall have ten [10] business days after receipt of Lessor's notice to make those modifications and re-submit to Lessor for approval. This process shall continue until the Plans are approved by Lessor.
- iii. With reasonable diligence, Lessee shall deliver to Lessor 70% plans which are detailed architectural, mechanical, plumbing, and electrical (and structural, if required) working drawings and construction documents for the Initial Improvements (including, without limitation, the HVAC systems and fire and life safety systems), based upon the approved 30% Plans, prepared by Lessee's architects and engineers, and Lessee shall indicate its approval of the working drawings and construction documents by signing and dating such documents (collectively the "70% Plans").
- iv. With reasonable diligence after Lessee delivers to Lessor the 70% Plans, Lessor shall either (i) indicate its approval of the 70% Plans by signing and dating the 70% Plans or (ii) indicate the revisions required due to errors or omissions in the 70% Plans. . If Lessor advises Lessee that reasonable modifications are required, then Lessee shall have ten [10] business days after receipt of Lessor's notice to make those modifications and re-submit to Lessor for approval. This process shall continue until the Plans are approved by Lessor.
- v. With respect to the Initial Improvements and future Alterations, Lessee shall provide Lessor, for its review and approval, a detailed written scope of work along with one hundred percent (100%) stamped, architectural drawings ("Plans"). Lessor will have thirty (30) days to respond after receipt of Lessee's properly submitted and complete request for consent or Lessor's failure to respond shall not constitute consent to the Initial Improvements.
- vi. Lessee shall construct the Initial Improvements and any future Alterations at its sole cost and expense and indemnify Lessor in accordance with Paragraph 8 of the Outlease. In addition, Lessee without any expense to the Lessor, shall identify and comply with all applicable zoning, licensing and permitting requirements, and shall comply with all applicable federal, state, and municipal laws, codes, and regulations, in connection with the Improvements and the performance of work required and/or related to the Improvements. Lessee must take proper safety and health precautions to protect the work, the workers, the public and the property of others. Lessee is responsible also for all materials delivered and for the installation, use, maintenance, repair, and if applicable, removal of such Initial Improvements.
- vii. The Initial Improvements and any Future Alterations must be accessible for inspection by the authorized representative of the USPS Contracting Officer ("Lessor's Representative") to determine whether contractual requirements are being met during construction and upon substantial completion of the Initial Improvements. Failure of the Lessor to identify deficient work or materials shall not make the Lessor liable for any correction of such deficient work or materials.
- viii. Lessee shall provide the Lessor a Certificate of Occupancy upon completion of the Initial Improvements for both Floors of the Premises.
- ix. Within thirty (30) days after the completion of applicable Initial Improvements and any future Alterations, Lessee shall provide Lessor with final "as built" plans on AUTOCAD disks. In addition, Lessee at its expense shall deliver to Lessor a set of accurate as-built drawings showing such Initial Improvements or future Alterations, if and to the extent that such as-built drawings are typically prepared in connection with the applicable Initial Improvement or future alteration as determined by the Lessor in its reasonable discretion.
- x. Warranty (Construction):
  - If within one (1) year following the completion of the Initial Improvements by Lessee, the Lessor finds that the Initial Improvements or future Alterations need to be repaired or changed because materials, equipment, or workmanship were inferior, defective, or not in accordance with the Plans, Lessee must promptly and without expense to the Lessor:
    - 1) Place in a satisfactory condition all of the Initial Improvements or future Alterations;



- 2) Satisfactorily correct all damage to equipment, the site, the Building, or its contents that is the result of such unsatisfactory work; and
  - 3) Satisfactorily correct any work, materials, or equipment disturbed in making the corrections to the Tenant Work.
- Lessee must obtain each transferable guarantee or warranty of equipment materials or installation furnished by any manufacturer, or installer in the ordinary course of the business or traded. Lessee must obtain and furnish to the USPS all information required to make any assignment such guarantee or warranty legally effective and must submit both the information and guarantee or warranty to the USPS.
- g. Neither Lessee's Initial Improvement nor any future Alterations shall be performed in a manner that adversely directly or indirectly impact the use and enjoyment by Lessor of their premises or rights of occupancy, easements rights or any other rights of Lessor with respect to the Building and/or their respective premises. Lessee shall immediately correct, repair and/or remedy any adverse impacts caused by its actions. Lessee shall not install, improve, construct, place any equipment or structure of any kind or nature whatsoever which will exceed the load-bearing capacity of the floors of the Premises. Lessor's consent to the Initial Improvements and future Alterations shall create no responsibility or liability on the part of Lessor for their completeness, design sufficiency and/or compliance with all codes, laws, rules and regulations of governmental agencies or authorities. Lessor hereby confirms for Lessee that in seeking approvals and permits for Lessee's Initial Improvements and any future Alterations Lessee will follow the normal process in the City of Biloxi for such approvals and permits notwithstanding any exemptions from such approvals and permits that may be available to Lessor. All of Lessee's vendors and contractors are subject to the prior written approval of Lessor
  - h. Lessee assumes the risk for the condition of the building systems in performance of the Initial Improvements and any future Alterations. Lessor shall not be required to make any upgrades, repairs, or alterations to the building systems in order to accommodate Lessee's Initial Improvements and any future Alterations. In the event that Lessee damages the building systems in doing Initial Improvements and any future Alterations, the Lessee shall be responsible to make the repairs and or replacements for such damaged elements at Lessee's sole cost and expense.
  - i. Notwithstanding anything to the contrary in this Outlease, all Initial Improvements and future Alterations shall, at the election of Lessor, remain upon the Premises and be surrendered with the Premises at the expiration of this Outlease without disturbance, molestation or injury; provided that Lessee shall have the right to remove any personal property installed by Lessee so long as the same may be removed without damage to the Premises as determined by the Lessor. If Lessor so elects, Lessee shall remove such future Alterations as Lessor shall determine in its sole discretion upon the expiration or earlier termination of this Outlease, and shall restore the Premises to the condition the Premises was after installation of the Initial Improvements in accordance with Paragraph 8. In the event Lessee fails to remove the same, and restore the Premises to Lessor's satisfaction, then and in such event Lessor may cause same to be removed and disposed of at Lessee's risk and expense and Lessee hereby agrees to reimburse Lessor for the cost of such removal and disposal no later than 30 days after receipt of an invoice from Lessor.

**10. Maintenance:**

- a. General Maintenance: Lessee shall at its sole cost and expense, maintain in good repair and tenantable condition the Premises: which shall include: 1) interior window coverings; 2) walls; 3) floors, floor tiles, and coverings; 4) lights, bulbs, lighting, fixtures; 5) telecommunication services and data services; and 6) Lessee's future Alterations and Initial Improvements to the Premises. Lessor has no obligation to make any repairs or replacements to the furnishings and fixtures in the Premises, including, without limitation, security equipment, paint, walls and wall coverings, carpet, electrical outlets, ceiling tile, lights, supplemental HVAC, any supplemental chillers/boilers, plumbing, electrical panels, lights, floors, walls, and all other fixtures and equipment within the Premises or any water fountains and restrooms, in or serving the Premises. In the event Lessee fails to maintain the Premises, the Lessor may engage in maintenance and repair of the Premises at Lessee's expense.

Lessee shall reimburse the Lessor for all such costs of maintenance and repair plus applicable administrative costs within ten (10) business days of a request therefor from the Lessor.

Lessor shall, except as otherwise specified herein and except for damages resulting from the act or omissions or the negligence of the Lessee, its employees, agents, contractors, licensees, or invitees, maintain in good repair and tenantable condition the Building shell elements which include: the foundation, roof, structure, and base building systems that service the Premises which include the heating, cooling and ventilation for the building ("HVAC"), electrical, plumbing (water and sewer) and life safety systems for the Building, the 1<sup>st</sup> Floor common areas, sidewalks, parking lot and entryway, and any and all equipment, fixtures, and appurtenances, whether severable or non-severable, furnished by the Lessor under this Outlease.

- b. **Janitorial and Cleaning:** Lessee is responsible for janitorial and cleaning services within their Premises.

The Lessor agrees to furnish trash dumpsters and pay for all trash removal during the continuance of the Outlease. The Lessee will be responsible for removing their own trash from their Premises and placing it in the dumpsters provided by the Lessor. Lessor shall provide janitorial services only for the 1<sup>st</sup> Floor and parking areas, and not the Premises in accordance with USPS Handbook MS-47, Housekeeping - Postal Facilities.

- c. **Snow Removal:** Lessor shall be responsible for the removal and clean-up of snow, and ice whereby the frequency and schedule for snow removal shall be subject to the sole and absolute discretion of the Lessor. Lessee acknowledges and agrees that the frequency and schedule shall be dictated by Lessor without any recourse by Lessee. Lessor shall not be liable for any impact, damage, including interruption in the Lessee's use of the Premises during or as a result of snow or ice events.

#### **11. Surrender and Restoration:**

- a. Lessee assumes all responsibility and liability to restore the Premises. Upon the expiration, or early termination of this Outlease, Lessee shall at its sole costs and expense (i) vacate the Premises, (ii) remove its personal property therefrom, (iii) yield and place Lessor in peaceful possession of the Premises, free and clear of any liens, claims or encumbrances caused by Lessee and (iv) restore the Premises to "broom clean" condition and to as good as a condition that the Premises existed at the commencement of this Outlease, including, without limitation, removal of any alterations, Improvements or additions Lessee made to the Premises which the Lessor requests Lessee to remove, ordinary wear and tear and damage by the elements excepted.
- b. In the event Lessee fails to remove its personal property and such alterations, Improvements or additions as may be required to be removed, and restore the Premises to the aforesaid condition stated in Paragraph 11a. by the expiration or earlier termination of the Term or Renewal Term, (i) then upon Lessor notice to Lessee, such failure shall constitute Lessee's abandonment of all property (personal or otherwise) and items in the Premises, and Lessor may restore the Premises which may include removal of such items and disposal of the same in any manner Lessor deems appropriate, include through sale by such means and on such terms as Lessor determines appropriate, and without further notice and without any liability or obligation to Lessor; and (ii) Lessee shall reimburse Lessor for all costs of such removal, storage, disposal and restoration of the Premises plus applicable administrative costs, upon demand. If Lessee shall fail to so vacate and surrender the Premises to Lessor as aforesaid on or before the expiration of the Outlease Term or any earlier termination date, in addition to any and all remedies that Lessor may have at law or at equity, Lessee shall be deemed to be a holdover tenant.

- 12. Sublease and Assignment:** Lessee shall have no right to assign or sublease this Outlease. Lessee shall neither transfer, or assign this Outlease or any of its rights hereunder, nor sublet the Premises or any part thereof or any property thereon nor grant any interest, privilege or license whatsoever in connection with this Outlease. Any transfer, assignment, or sublease in violation of this clause shall constitute an Event of Default under Paragraph 18. Notwithstanding the foregoing, Lessee may request prior written consent from Lessor to transfer, assign, or sublease the Outlease to any subsidiary or affiliate of Lessee, and Lessor's consent shall not be unreasonably withheld, provided Lessee at all times remains liable for the performance of all obligations under this Outlease. The term "affiliate" shall include any corporation or other entity that controls, is controlled by, or is under common control with Lessee. At the time of Lessee's request for consent to an assign or sublease the Outlease to an affiliate, Lessee shall provide Lessor documentation supporting its request including financial information which shall include, but is not limited to, three

years of tax returns, audited financial statements, a proposed assignment or sublease for Lessor's review, and any additional documentation reasonably requested by Lessor to verify the status of the assignee or sublessee. In the event the Lessor consents to the subleasing or assignment of this Outlease, Lessee shall remain obligated to (i) pay rent and (ii) perform all other covenants under this Outlease.

**13. Taxes and Other Reimbursable Charges:** In the event that any tax which shall include but is not limited to a state or local tax or sales tax, is imposed upon the occupancy, use, possession, or leasehold interest of or in the real property herein leased, the obligation for the payment of the tax will be wholly that of the Lessee. Lessee shall pay the same when due without offset or deduction to payments due to the Lessor. In addition, the taxing authority shall provide evidence of such payment to Lessor.

**14. Insurance:**

- a. If the Premises or any part of the Premises is damaged by fire or other casualty resulting from any act or negligence of Lessee or any of Lessee's agents, contractors, invitees, licensees, or employees, rent shall not be diminished or abated while such damages are under repair, and Lessee shall be responsible for the costs of repair not covered by insurance.
- b. Lessee must obtain, at no cost to the Lessor, a commercial general liability insurance policy naming Lessor as an additional named insured and providing minimum limits of liability for bodily injury of \$500,000 for each person and \$1,000,000 for each occurrence and \$2,000,000 aggregate and property damage limits of \$250,000 for each occurrence and \$500,000 aggregate. **A CERTIFICATE OF INSURANCE INCLUDING LESSOR AS AN ADDITIONAL INSURED THEREUNDER SHALL BE FURNISHED TO LESSOR.** The certificate must include the following language: "Written notice must be provided to the United States Postal Service within thirty (30) days of the effective date of any reduction in coverage under, or termination or cancellation of, any of the policies described herein."
- c. Lessee shall maintain insurance throughout the Outlease Term and any renewal thereof and furnish a copy of the Certificate to the Lessor on no less than an annual basis to the Real Estate Specialist at the following address: USPS, Attn: Sean M. Ford , 475 L'Enfant Plaza, SW, Room 6670, Washington, DC 20260-1862. Failure to provide and maintain the aforementioned insurance policy, with the required endorsement, in accordance with this paragraph may result in termination of this Outlease at the option of the Lessor.
- d. In all cases wherein Federal, state or local governmental bodies are asserting they are self-insured, Lessor at its option may approve in writing a waiver of the Insurance requirements in this Paragraph 14. Lessee shall provide Lessor with documentation that is acceptable to Lessor in its sole and absolute discretion of evidence of such self-insurance prior to Lessee's occupancy to satisfy the obligations of this Paragraph.

**15. Utilities:**

- a. Except for telephone and/or other telecommunication services which includes, but is not limited to, internet and cable services. Lessor shall furnish Lessee with all utilities as presently installed in its as-is condition. Lessor shall pay for utilities including electricity, gas, water and sewer for the Premises. Lessor reserves the right to cap any increase in utility costs from the Lessee's use of the Premises to an increase of not more than 150% of the average utility rate for the period from 11/1/2017 to 10/31/2018 ("First Year Utility Rates") compared to the period from 11/1/2016 to 10/31/2017 ("Base Year Cap") and not more than 200% for the each yearly period from 11/1/2018 to 10/31/2022 ("Additional Years Utility Rates") as compared to the Based Year Cap. In the event Lessor determines that Lessee's utility rates for the given year exceed the Base Year Cap in accordance with this Paragraph 15. Should the utility rates for any year during the Outlease Term exceed the Base Year Cap, Lessor shall send written notice to Lessee and include utility rate comparison documentation, and Lessee agrees to pay the overage within 30 days of notification by the Lessor under the terms of Paragraph 3.
- b. Lessee shall not install or operate in the Premises any electric equipment including HVAC that would exceed the electrical capacity provided to the Premises, without obtaining the prior written consent of Lessor, which consent may be granted or withheld in Lessor's reasonable discretion. Lessor may require, as a condition of its consent

to the installation of such equipment or machinery, payment by Lessee, for such excess consumption of electricity as may be occasioned by the operation of said equipment or machinery as provided by Section 15(a).

- c. It is agreed that, Lessor shall not be liable in any way for any failure to furnish or in any way for any damage or inconvenience caused by the cessation or interruption of Utilities, heating, air conditioning, elevator, or custodial services caused by fire, accidents, strikes, breakdowns, necessary maintenance, alterations, repairs, scarcity of labor or materials, acts of God or any other causes. It is further agreed that any such failure or inability to furnish the Utilities, heating, air conditioning, elevator, or custodial services required hereunder shall not entitle Lessee to terminate this Outlease or to an abatement of rent payable hereunder.
- d. f. Lessee agrees to cooperate fully with Lessor to ensure the most effective and energy-efficient operation of the Building. Accordingly, Lessee agrees as follows: (i) Lessee shall not waste electricity, water, heat, air conditioning, and other Utilities and services at the Building; and (ii) Lessee shall not obstruct, alter, or in any way impair the efficient operation of the Building's heat, air conditioning, and ventilation systems. To this end, Lessee shall: (A) not place furniture, equipment, or other objects where they would interfere with air flow; (B) not tamper with or change the setting of any thermostats or temperature control valves without the express prior written consent of Lessor; (C) keep corridor doors closed and not open any windows (except that if the air circulation shall not be in operation, and if windows are capable of being opened, windows may be opened); and (D) during hot weather months, lower and partially close window blinds or drapes when the sun's rays fall directly on windows of the Premises.

**16. Signs:** Lessee, at Lessee's expense shall have the right to: (i) install suite entry signage on the exterior entry door of the ground floor and the exterior east side of the building by the second floor within the Premises and (ii) install a sign on the exterior of the Building. All signage will consist of the Lessee's logo and a brief list of the Lessee's Departments located on each of the two floors. All aspects of such signs shall be subject to Lessor's prior written approval, which approval shall not be unreasonably withheld, installed in compliance with all Laws hereinafter defined, and subject to compliance with NHPA and implementing regulations. Lessee shall insure, maintain in good condition and repair (and replace as often as reasonably required by Lessor) such signs. At the expiration or earlier termination of the Outlease Term, including any Renewal Term, Lessee shall cause such signs to be removed and all damage associated therewith to be repaired and restored in accordance with Paragraph 11 above, at Lessee's sole cost and expense. If Lessee fails to so remove and restore, Lessee shall be liable for the cost of removal and restoration, plus applicable administrative costs.

**17. Entry:** The Lessor reserves the right to enter the Premises at all reasonable hours to inspect it, show same or to make such repairs, additions or alterations as Lessor considers necessary. Exercise of any such right in accordance with the terms of this Paragraph 17 shall not be considered a constructive eviction or a disturbance of Lessee's business or occupancy. Lessor shall provide Lessee with at least 24 hours prior notice of such entry, provided, however, that Lessor shall have the right to enter the Premises without prior notice in the event of an emergency.

**18. Parking:** Lessee has use of 20 Designated Parking Spaces as depicted on page 1 of Exhibit B for the entire term of this Outlease and any options herein as part of the Outlease Rental Rate, unless Lessee terminates 2<sup>nd</sup> Floor Space, at which time the number of Designated Parking Spaces would be reduced to 10 within the area as depicted on page 2 of Exhibit B attached hereto. If additional parking is available and not utilized by the Lessor within the designated area as depicted on page 3 of Exhibit B attached hereto, then Lessee shall have access to this parking free of charge with USPS written permission. Lessor shall have the right to take back any additional parking beyond those designated parking spots with 30 days written notice.

**19. Building Hours & Access:** The Building's normal hours of operation are from 6:00 AM to 5:00 PM, local time, Monday through Saturday, with the exception of Federal holidays ("Building's Normal Operating Hours"). Access to the Premises is generally available to Lessee 7 days a week, 24 hours a day, 365 days per year, subject to causes beyond the reasonable control of Lessor and subject to change by Lessor.

The parties understand that from time to time and in emergency situations, the Lessor, at its own discretion, may be unable to allow or provide access to the Premises on a 24 hour a day, 7 day a week, 365 days per year basis, and may be unable to provide advance notice of such. In no event shall Lessor be liable to Lessee, its invitees, or other third

parties for any damages or losses based on its failure to provide access to the Premises in the case of such emergency. However, to the extent that Lessor is unable to provide uninterrupted access to the Lessee during its Building Normal Operating Hours, the Lessee may be entitled to a rent abatement that is proportionate to the amount of time during which its access is so interrupted, unless such interruption is due to fire or other casualty, Acts of God, acts of a public enemy, riot or insurrection, vandalism, or other similar events or due to the negligent act or omission of Lessee, its agents, contractors, invitees, licensees, or employees.

**20. Default by Lessee:** The occurrence of any one or more of the following events shall constitute a default and breach of this Outlease by Lessee (hereinafter "Event of "Default"): (i) Lessee fails to make any payment of Rent on the Rent Due Date or any other payment required to be made by the Lessee under this Outlease, when due, and such failure shall continue for a period of ten (10) days after Lessor has given Lessee written notice of such failure; or (ii) Lessee abandons the Premises for thirty days or more, or fails to observe or perform any term, covenant, condition or the provisions of this Outlease required to be observed or performed by Lessee, where such failure is not cured to the full satisfaction of the Lessor within 30 days after written notice by the Lessor to Lessee of said failure. Upon such Event of Default by Lessee, the Lessor, at its option, without further notice or demand, shall have the right to any one or more of the following remedies in addition to all other rights and remedies provided at law or in equity or elsewhere herein: (a) declare this Outlease ended and terminated and may re-enter the Premises and remove all persons or things therefrom, and the Lessee hereby expressly waives all service of any demand or notice prescribed by any law or statute whatsoever; and (b) Lessor may enter the Premises and eject Lessee, forcibly or otherwise, without regard to any law or statute to the contrary, dispose of Lessee's personal property in the Premises as deemed in the best interest of the Lessor, and Lessee shall be liable for such damages as Lessor may incur.

**21. Quiet Possession:** Lessor covenants and warrants that upon performance by Lessee of its obligations hereunder, Lessor will keep Lessee in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Premises during the term of this Outlease.

**22. Recording:** This Outlease shall not be recorded.

**23. Notice:** Any notice, or advice to or demand given hereunder shall be in writing, and shall be sent by certified mail with return receipt or express mail with tracking, provided, however, that electronic notice shall be permitted provided that such electronic notice is confirmed by return electronic mail acknowledgement from the recipient and is followed by notice given by one of the other methods listed above. Notice shall be deemed to have been given or made on the day when the notice is deposited in the mail by certified mail/return receipt requested or express mail with tracking or the date of the electronic submission to the following addresses or to such other address as either party may hereafter from time to time specify in writing for such purpose.

If to Lessee: City of Biloxi  
140 Lameuse Street  
P.O. Box 429  
Biloxi, MS 39533

If to Lessor: United States Postal Service  
Attention: Sean Ford, Real Estate Specialist  
475 L'Enfant Plaza, SW, Room 6670  
Washington, DC 20260-1862

**24. Hazardous/Toxic Conditions Clause:** Lessee shall comply with all federal, state and local laws, regulations, rules, ordinances, licensing and/or permit requirements within the Premises and the Building that relate to the protection of human health or the environment (hereinafter "Environmental Requirements"). If any activity of Lessee involves the storage on Premises, shipping to or from the Premises or any use on the Premises of any material, chemical or agent that qualifies as a hazardous or toxic substance under federal, state and local regulations or is an unregulated substance that has hazardous characteristics and is used, stored or transported in sufficient quantities to qualify as hazardous material (collectively, "Hazardous Materials"), then Lessee shall comply with all Environmental Requirements and shall provide the Contracting Officer with copies of all licenses, permits or authorizations for use, shipment, storage or transport of the Hazardous Materials as well as copies of any citations or listing of infractions and subsequent

corrections by the Lessee. Copies of any changes in any and all licenses or permits must be forwarded to the Contracting Officer. Where more than one Environmental Requirement applies, the more stringent shall apply. If any Environmental Requirement(s) requires the filing of periodic reports by the Lessee, it shall be the obligation of Lessee under this Outlease to file a copy of any such periodic report(s) with the Lessor's Contracting Officer at the same time such report(s) is filed with the federal, state or local government or its assignee.

Lessor reserves the right to inspect the Premises at any reasonable time to ascertain if any Outlease violations occur. If any contamination, violation or hazardous condition, as reasonably determined by the Contracting Officer, occurs due to the handling, use, storage or transfer by Lessee of such Hazardous Materials, whether such contamination, violation or hazardous condition is discovered during the Outlease term or after expiration or termination thereof, Lessee shall be solely responsible for removal or remediation of the hazardous or toxic condition in accordance with federal, state and local regulations and permit requirements. Notwithstanding any other clause in this Paragraph or in the Outlease, Lessee shall remove all of Lessee's Hazardous Materials from the Premises at the expiration or termination of the Outlease and provide copies of all permits, notices and manifests required for such removal to Lessor. Lessee's failure to comply with the provisions of this paragraph shall be grounds for termination of this Outlease for default. Receipt by Lessor of notices, reports, or any other information or documentation required herein shall not impose any responsibility on Lessor to supervise the affairs of Lessee nor relieve Lessee of its responsibility to comply fully with all applicable laws and regulations. The rights and remedies of Lessor provided in this clause are in addition to any other rights and remedies which may be available to Lessor by law or under this agreement. Lessee hereby indemnifies Lessor and its officers, agents, representatives, and employees from all claims, loss, damage, actions, causes of action, expense and/or liability, including the cost of defense, resulting from, brought for, or on account of any violation of this clause. This indemnity shall survive any termination or expiration of the Outlease Term or any Renewal Term.

- 25. Asbestos Containing Material (ACM):** For the purposes of this Paragraph 25, "**Asbestos-Containing Material**" (ACM) means any material containing more than 1% asbestos as determined by using the method specified in 40 CFR Part 763, Subpart E, Appendix E. "Friable asbestos material" means any ACM that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

Even though the Lessor performed extensive renovation work to the Premises prior to entering into this Outlease with Lessee, the Premises may, or may not, contain ACM. It is Lessee's responsibility to review the Asbestos Survey a copy of which Lessor has provided to Lessee. Lessee acknowledges receipt and review of the complete Asbestos Survey, as evidenced by the cover page and summary of the pages (the entire Asbestos Survey is not included due to its voluminous nature) in Exhibit D attached hereto and incorporated herein. Lessee understands and agrees that the Asbestos Survey is provided for informational purposes only. Should Lessee contract for custodial services or any other services (including construction, repairs, etc.), Lessee shall notify its contractor of the existence of ACM, where applicable, and provide its contractor with a copy of any Asbestos Survey. Neither Lessee nor its contractor or any other party is entitled to rely on the accuracy of the Asbestos Survey.

In the event Lessee performs any alteration, repair or work within the Premises and Lessee subsequently discovers or identifies ACM in the Premises, Lessee shall provide written notice to the USPS Contracting Officer within 48 hours of discovery of the ACM. Lessee agrees at Lessee's sole cost and expense to remove and/or abate any friable ACM and to coordinate all work with Lessor. Lessee further agrees to provide Lessor copies of all documents, including sampling, lab work, tests and test results tests related to the ACM and performance of the work.

Any renovation or alteration performed by Lessee impacting or potentially impacting ACM requires the prior written approval of the USPS Contracting Officer and in the event of such approval Lessee shall coordinate all work with the Lessor. In performance of any work that impacts or potentially impacts ACM, Lessee shall comply with all applicable local, state, and federal laws, as well as all USPS requirements, including USPS asbestos policies, plans, management instructions, and environmental policies ("Lessor Asbestos Requirements"). Lessee must keep complete records of all such activity, and transfer them to Lessor at the termination of the Outlease.

Lessee agrees to require its contractor to act only in accordance with Lessor Asbestos Requirements. Should Lessee or any contractor providing services to or at the Premises have any questions or concerns regarding Lessor's Asbestos Requirements, Lessee shall contact Lessor prior to undertaking any action at the Premises.

Lessee hereby indemnifies, releases, and holds harmless Lessor from any and all claims, losses, etc. in any way arising out of any work or activity performed related to this Paragraph 25.

- 26. Compliance with Laws:** Lessee shall, and shall ensure that its employees, agents, affiliates, representatives and contractors, identify and fully comply with all laws, including, but not limited to, (i) federal, state, municipal and local laws, codes and regulations, (ii) the rules, orders, regulations and requirements of governmental departments and bureaus, and (iii) all codes, laws, ordinances and regulations of any public authority having jurisdiction over the Premises and pertaining to Lessee's use, occupancy and condition of the Premises and all machinery, equipment and furnishings therein (hereinafter "Laws"). Lessee shall use due care in the occupation and use of the Premises. If any permits are required in order to allow Lessee to lawfully improve the Premises and to occupy and conduct its business in the Premises, then Lessee shall obtain and keep current such permits at Lessee's expense and promptly deliver a copy thereof to Lessor.
- 27. Holding Over:** If Lessee occupies the Premises beyond the Outlease Term or any properly exercised Renewal Term, without Lessor's written consent ("Hold Over"), Lessee shall be deemed to occupy the Premises on a month to month basis, terminable by either party on thirty (30) days written notice to the other party and all of the terms and provisions of this Outlease shall be applicable during that period, except that Lessee shall pay Lessor a monthly rental rate equal to one hundred fifty percent (150%) of the monthly rent applicable hereunder at the expiration of the previous Outlease Term or applicable Renewal Term, prorated for the number of days of such holding over. If Lessee refuses to vacate after receiving a notice of termination as provided in this paragraph, Lessee shall be deemed a Lessee at sufferance and Lessor may use self-help, or may institute a forcible detainer or similar action against Lessee or any other party in possession of the Premises, or pursue any other remedy available at law or in equity.
- 28. Governing Law:** This Outlease shall be governed, construed and interpreted by, through and under federal law. In the event there is no applicable federal law, the laws of the State of Mississippi shall apply.
- 29. Consent:** Lessor shall not unreasonably withhold or delay its consent with respect to any matter for which Lessor's consent is required or desirable under this Outlease.
- 30. Final Agreement:** This Outlease terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.
- 31. No Waiver:** The failure of Lessor to insist in any one or more instance upon performance of any of the terms, covenants, or conditions of this Outlease shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition. Lessee's obligation with respect to such future performance shall continue in full force and effect.
- 32. Headings:** The headings used in this Outlease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Outlease.
- 33. Successors:** The provisions of this Outlease shall extend to and be binding upon Lessor and Lessee and their respective legal representatives, successors and assigns.
- 34. General Conditions:** This Outlease is subject to the General Conditions, attached hereto and incorporated herein as Exhibit E.
- 35. Counterparts.** This Outlease may be executed in counterparts, which together shall constitute a single instrument. The parties agree that if the signature(s) of either Lessor or the Lessee on this Outlease or any amendments, addendums, or other records associated with this Outlease is not an original but is a digitally encrypted signature, then such digitally encrypted signature shall be as enforceable, valid and binding as, and the legal equivalent to, an authentic original wet signature penned manually by its signatory.



- 36. Force Majeure:** Excepting the payment of Rent and any other sums due under this Outlease, in the event either party is in any way delayed or prevented from performing any of its obligations under this Outlease due to fire, acts of God, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, act or failure to act by any governmental entity other than the United States Postal Service, strike, labor dispute, inability to procure materials including delays in obtaining permits, or any other cause beyond such party's reasonable control (whether similar or dissimilar to the foregoing events), then the time for performance of such obligation shall be excused for the period of time equivalent to such delay or prevention.
- 37. Damage or Destruction:** If the Building is totally destroyed or damaged by fire or other casualty, the Outlease shall immediately terminate. If the Building is only partially destroyed or damaged, but as a result thereof the Premises are rendered untenantable, or not usable for their intended purpose as determined by the Lessor in its reasonable discretion, Lessor shall at its election either (1) repair and restore the Premises or (2) terminate the Outlease. Lessor shall provide Lessee written notice of its intent to restore within thirty (30) days following the event of destruction or damage. In the event Lessor elects to restore the Premises, Lessor shall be permitted a reasonable amount of time, not to exceed 270 days from the event of destruction or damage, to substantially complete the repair or restoration of the Premises. Subject to Force Majeure, as defined in Paragraph 36 hereof, if the Lessor elects to repair or restore the Premises, but fails to substantially complete the repair or restoration of the Premises within 270 days from the event of destruction or damage, the Lessee may terminate the Outlease effective as of the date of the destruction or damage by providing Lessor 30 days' written notice. During the time that the Premises are untenantable, or not usable for their intended purpose as determined by the Lessor in its reasonable discretion, Rent shall be abated to the extent not usable for their intended purpose. Termination of the Outlease by either party under this clause shall not give rise to liability for either party except liability for such obligations to pay amounts due prior to such termination and except for the obligations under Sections 8 and 25.

Notwithstanding the foregoing, if the Building is only partially destroyed or damaged, but as a result thereof the Premises are rendered untenantable, or not usable for their intended purpose as determined by the Lessor in its reasonable discretion, and Lessor shall elect to terminate the Outlease by notice given to Lessee, then Lessee may, by written notice given to Lessor within thirty (30) days of receipt of Lessor's termination notice, elect to continue the Outlease in full force and effect, in which event Lessor's termination notice shall be void, but only if all the following conditions are met in Lessor's sole determination: (a) Lessor remains in occupancy of all or substantially all of the balance of the Building and (b) Lessor does not elect to demolish the Building or renovate all or substantially all of the Building, and (c) Lessor determines that the Building Systems and structure do not require repair or restoration in or to the Premises and Lessee agrees, at Lessee's sole cost, to restore the Premises, in which event Lessor shall be under no obligation to restore the Premises or any part thereto (including Building Systems or structure), and (d) Rent shall abate for the period of time which the Premises are untenantable and such abatement shall terminate upon Lessee completion of the restoration of the Premises to the sole satisfaction of the Lessor but in no event shall such abatement period exceed one (1) year from the date of the casualty. Lessee shall resume payment of rent the date Lessee completes restoration of the Premises and the Premises are habitable in the sole determination of Lessor.

Privacy Act Statement: Your information will be used to process your Outlease Agreement. Collection is authorized by 39 USC 401. Providing the information is voluntary, but if not provided, we may not process your request. We may only disclose your information as follows: in relevant legal proceedings; to law enforcement when the USPS or requesting agency becomes aware of a violation of law; to a congressional office at your request; to entities or individuals under contract with USPS; to entities authorized to perform audits; to labor organizations as required by law; to federal, state, local or foreign government agencies regarding personnel matters; to the Equal Employment Opportunity Commission; to the Merit Systems Protection Board or Office of Special Counsel; to the Department of the Treasury under the Treasury Offset Program computer matching to establish an identity; and to financial institutions or payees to facilitate or resolve issues with payment services. For more information regarding our privacy policies visit [usps.com/privacy](http://usps.com/privacy) policy.

**ADDENDUM**

Additional clauses for properties with a USPS presence and/or other Lessees: None



Outlease Agreement

EXECUTED BY LESSEE this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CORPORATION

By executing this Outlease, Lessee certifies that Lessee is not a USPS employee or contract employee (or an immediate family member of either), or a business organization substantially owned or controlled by a USPS employee or contract employee (or an immediate family member of either).

Name of Corporation: \_\_\_\_\_; \_\_\_\_\_ Corporation

By: \_\_\_\_\_ Signature
Print Name & Title

\_\_\_\_\_ Signature
Print Name & Title

Lessee's Address: \_\_\_\_\_
City: \_\_\_\_\_
State: \_\_\_\_\_
Zip + 4: \_\_\_\_\_

E-mail: \_\_\_\_\_

Lessee's Telephone Number(s): \_\_\_\_\_ FAX: \_\_\_\_\_

Federal Tax Identification No.: \_\_\_\_\_

\_\_\_\_\_
Witness

\_\_\_\_\_
Witness

- a. Where the Lessee is a corporation, leases and subleases entered into must have the corporate seal affixed or in place thereof the statement that the corporation has no seal.
b. Where the Lessee is a corporation, municipal corporation, non-profit organization, or fraternal order or society, the Outlease must be accompanied by documentary evidence affirming the authority of the agent, or agents, to execute the Outlease to bind the corporation, municipal corporation, non-profit organization, or fraternal order or society for which he (or they) purports to act. The usual evidence required to establish such authority is in the form of extracts from the articles of incorporation, or bylaws, or the minutes of the board of directors duly certified by the custodian of such records, under the corporate seal. Such resolutions, when required, must contain the essential stipulations embodied in the Outlease. The names and official titles of the officers who are authorized to sign the Outlease must appear in the document.
c. Any notice to Lessee provided under this Outlease or under any law or regulation must be in writing and submitted to Lessee at the address specified above, or at an address that Lessee has otherwise appropriately directed in writing. Any notice to the Postal Service provided under this Outlease or under any law or regulation must be in writing and submitted to "Contracting Officer, U.S. Postal Service" at the address specified below, or at an address that the Postal Service has otherwise directed in writing.

**ACCEPTANCE BY THE UNITED STATES POSTAL SERVICE**

Date: \_\_\_\_\_

**Joseph D. Lowe**  
Contracting Officer

\_\_\_\_\_  
Signature of Contracting Officer

Address of Contracting Officer:  
USPS Facilities  
PO Box 27497  
Greensboro, NC 27498-1103

**Exhibit A**

2<sup>nd</sup> and 3<sup>rd</sup> Floors, consisting of approximately 19,362 square feet total (9,681 square feet per Floor)  
Biloxi Main Office located at 135 Main Street in Biloxi, MS 39530-9998  
(Drawings Do Not Necessarily Depict Current Configuration within Each Floor of Premises -  
Yellow Highlighted Floor Areas are Finished, White Floor Areas are Unfinished)

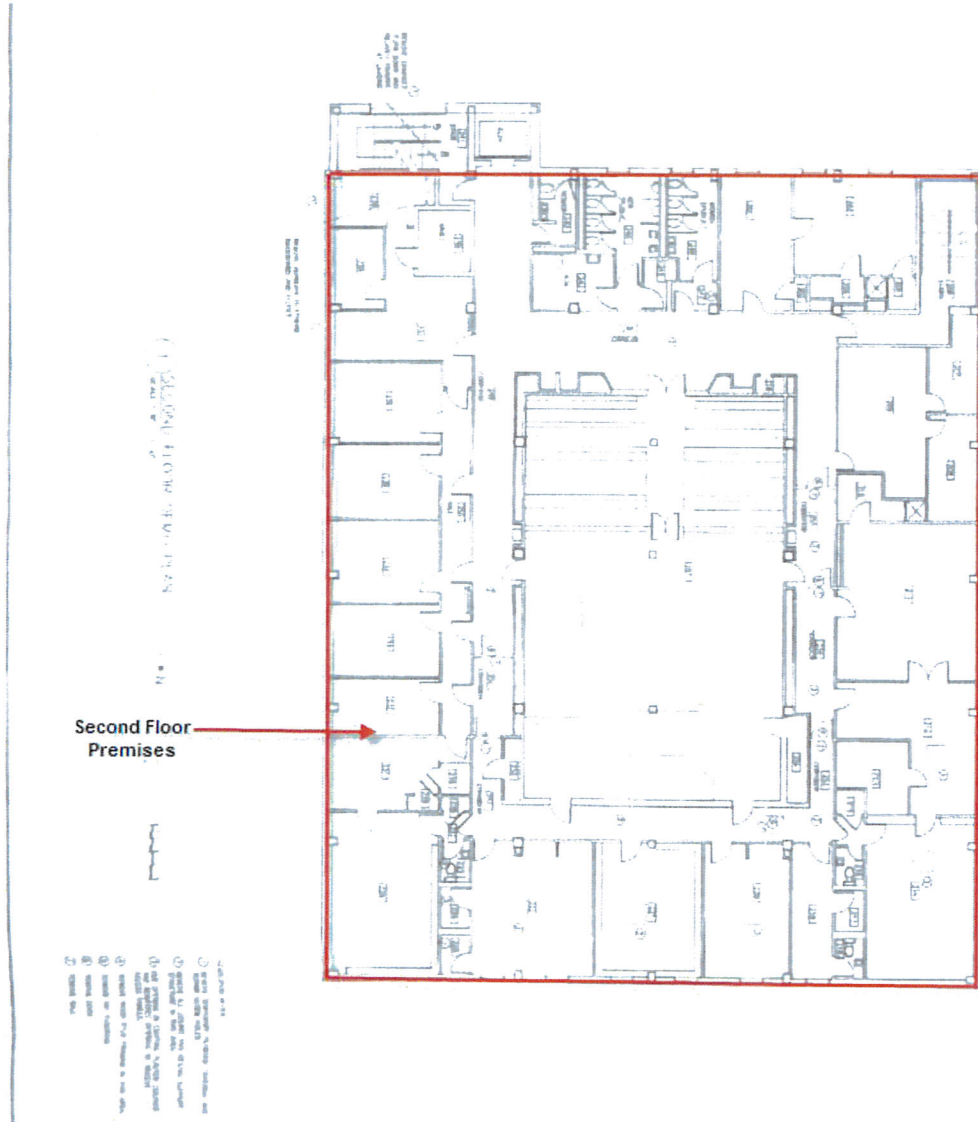
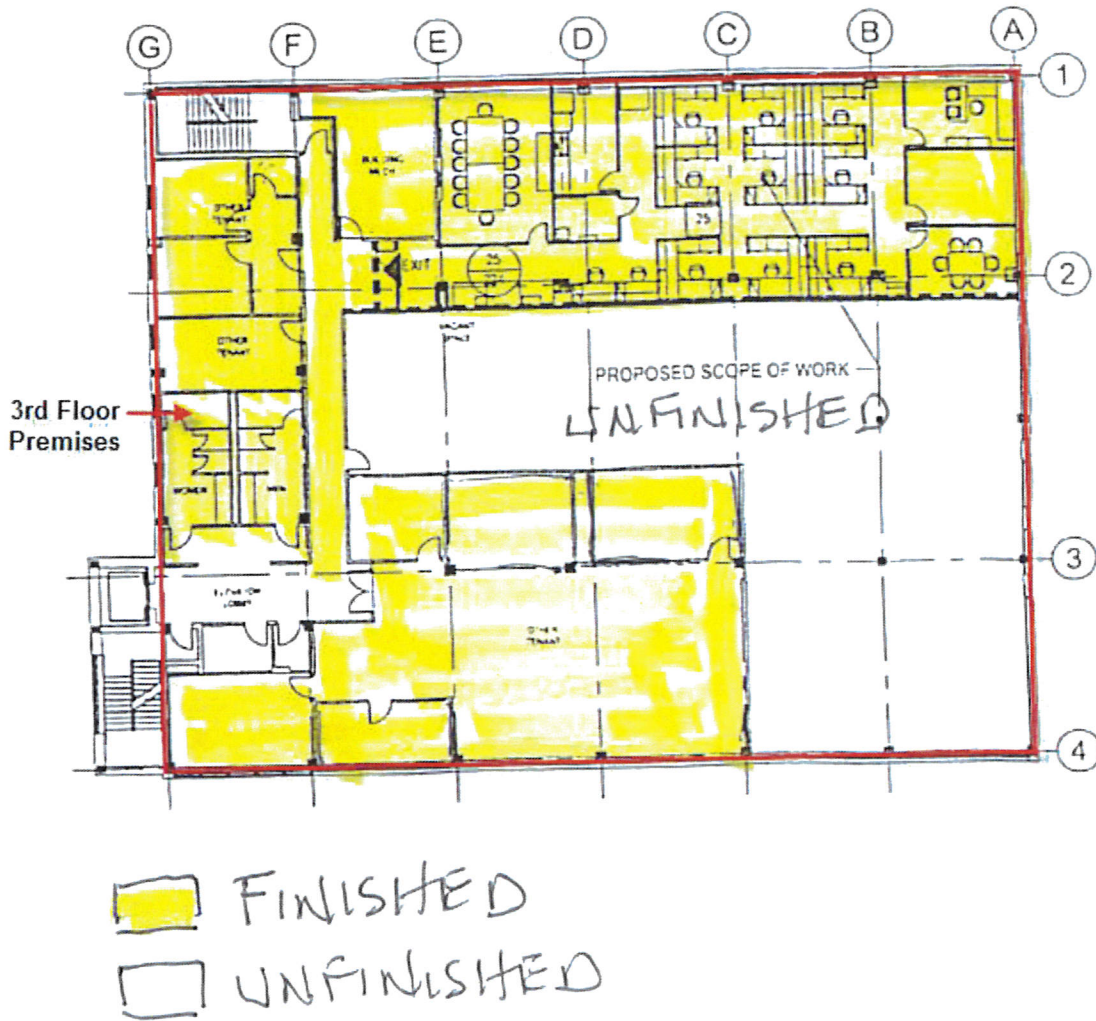


Exhibit A (continued)



**A8** | CODE SUMMARY PLAN - THIRD FLOOR PROPOSED



**Exhibit B**  
Designated Parking for Rental of 3<sup>rd</sup> and 2<sup>nd</sup> Floors





**Exhibit B (continued)**

Reduced Designated Parking for Rental of 3<sup>rd</sup> Floor only



Exhibit B (continued)

Additional Shared Parking



**Exhibit C****Rules and Regulations****A. APPLICABILITY**

These rules and regulations apply to all real property under the charge and control of the Postal Service, to all Lessees, tenant agencies, and to all persons entering or on such property. These rules and regulations shall be posted and kept posted at a conspicuous place on all such property.

**B. RECORDING PRESENCE**

Except as otherwise ordered, properties must be closed to the public after normal business hours. Properties also may be closed to the public in emergency situations and at such times as may be necessary for the orderly conduct of business. Admission to properties when such properties are closed to the public may be limited to authorized individuals who may be required to sign the register and display identification documents when requested by security force personnel or other authorized individuals.

**C. GENERAL RESTRICTIONS**

1. *Preservation of Property.* Improperly disposing of rubbish, spitting, creating any hazard to persons or things, throwing articles of any kind from a building, climbing upon the roof or any part of a building, or willfully destroying, damaging, or removing any property or any part thereof, is prohibited.
2. *Conformity with Signs and Directions.* All persons in and on the property shall comply with official signs of a prohibitory or directory nature, and with the directions of security force personnel or other authorized individuals.
3. *Inspection.* Purses, briefcases, and other containers brought into, while on, or being removed from the property are subject to inspection. However, items brought directly to a postal facility's customer mailing acceptance area and deposited in the mail are not subject to inspection, except as provided by section 274 of the Administrative Support Manual. A person arrested for violation of this section may be searched incident to that arrest.

**D. SPECIFIC RESTRICTIONS**

1. *Disturbances.* Disorderly conduct, or conduct which creates loud and unusual noise, or which obstructs the usual use of entrances, foyers, corridors, offices, elevators, stairways, and parking lots, or which otherwise tends to impede or disturb the public employees in the performance of their duties, or which otherwise impedes or disturbs the general public in transacting business or obtaining the services provided on property, is prohibited.
2. *Gambling.* Participating in games for money or other personal property, the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of lottery tickets, is prohibited on postal premises. This prohibition does not apply to the vending or exchange of state lottery tickets at vending facilities operated by licensed blind persons where such lotteries are authorized by state law.
3. *Alcoholic Beverages and Drugs.* A person under the influence of an alcoholic beverage or any drug that has been defined as a "controlled substance" may not enter postal property or operate a motor vehicle on postal property. The possession, sale, or use of any "controlled substance" (except when permitted by law) or the sale or use of any alcoholic beverage (except as authorized by the Postmaster General or designee) on postal premises is prohibited. The term "controlled substance" is defined in section 802 of title 21 U.S.C.
4. *Smoking and Sale of Tobacco Products in Vending Machines.*
  - a. Smoking (defined as having a lighted cigar, cigarette, pipe, or other smoking material) is prohibited in all postal buildings and office space, including public lobbies.

- b. The sale of tobacco products in vending machines located in or around postal property is prohibited. The distribution of free samples of tobacco products in or around postal property is also prohibited. The term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.
5. *Soliciting, Electioneering, Collecting Debts, Vending, and Advertising.* Soliciting alms and contributions, campaigning for election to any public office, collecting private debts, commercial soliciting and vending, (including but not limited to, the vending of newspapers and other publications), the display or distribution of commercial advertising on postal premises, soliciting signatures on petitions, polls, or surveys (except as otherwise authorized by Postal Service regulations), and impeding ingress to or egress from post offices are prohibited. These prohibitions do not apply to:
  - a. Commercial or nonprofit activities performed under contract with the Postal Service or pursuant to the provisions of the Randolph-Sheppard Act;
  - b. Posting notices on bulletin boards as authorized in POSTAL OPERATIONS MANUAL 221.525;
  - c. The solicitation of Postal Service and other federal military and civilian personnel for contributions by recognized agencies as authorized by the Manual on Fund Raising Within the Federal Service issued under Executive Order 10927 of March 13, 1961.
6. *Leafleting, picketing, etc.* Leafleting, distributing literature, picketing, and demonstrating by members of the public are prohibited in lobbies and other interior areas of postal buildings open to the public. Public assembly and public address, except when conducted or sponsored by the Postal Service, are also prohibited in lobbies and other interior areas of postal buildings open to the public
7. *Voter registration.* Voter registration may be conducted on postal premises only in full accordance with the requirements of 39 CFR 232.1(h)(4).
8. *Placement of furniture, etc.* Except as part of postal activities or activities associated with those permitted under paragraph D.7 above, no tables, chairs, freestanding signs or posters, structures, or furniture of any type may be placed in postal lobbies or on postal walkways, steps, plazas, lawns or landscaped areas, driveways, parking lots, or other exterior spaces.
9. *Depositing Literature.* The depositing or posting of handbills, flyers, pamphlets, signs, posters, placards, or other literature except official postal and other governmental notices and announcements on the grounds, walks, driveways, parking and maneuvering area, exteriors of buildings and other structures, or on the floors, walls, stairs, racks, counters, desks, writing tables, window ledges, or furnishings, in interior public areas on postal premises is prohibited. This prohibition does not apply to:
  - a. Posting notices on bulletin boards as authorized in 221.525, POSTAL OPERATIONS MANUAL.
  - b. Interior space assigned to tenancies for their exclusive use.
10. *Photographs for News, Advertising, or Commercial Purposes.*

Except as prohibited by official signs or the directions of security force personnel or other authorized personnel or a federal court order or rule, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meeting. Other photographs may be taken only with the permission of the local postmaster or installation head.
11. *Dogs and Other Animals.* Dogs and other animals, except those used to assist persons with disabilities, must not be brought upon postal property for other than official purposes.
12. *Vehicular and Pedestrian Traffic*
  - a. Drivers of all vehicles in or on postal premises shall drive in a careful and safe manner at all times and shall comply with signals and directions of security force personnel, other authorized individuals, and all posted traffic signs.
  - b. The blocking of entrances, driveways, walks, loading platforms, or fire hydrants is prohibited.

c. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or continuously in excess of 18 hours without permission, or contrary to the direction of posted signs is prohibited. The section may be supplemented by the postmaster or installation head from time to time by the issuance and posting of specific traffic directives as may be required. When so issued and posted, such directives shall have the same force and effect as if made a part thereof.

13. *Weapons and Explosives.* No person while on postal property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, or store the same on postal property, except for official purposes.

**E. NONDISCRIMINATION**

There must be no discrimination by segregation or otherwise against any person or persons because of race, color, religion, national origin, sex, age (persons 40 years of age or older are protected), reprisal (discrimination against a person for having filed or for having participated in the processing of an EEO complaint\_29 CFR 1613.261-262), or physical or mental handicap, in furnishing, or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided on postal property.

**F. PENALTIES AND OTHER LAW**

1. Alleged violations of these rules and regulations are heard and the penalties prescribed herein are imposed, either in a Federal District Court or by a federal magistrate in accordance with applicable court rules. Questions regarding such rules should be directed to the regional counsel for the region involved.
2. To the extent applicable under 39 CFR Part 232, whoever shall be found guilty of violating the rules and regulations in this notice while on property under the charge and control of the Postal Service is subject to fine of not more than \$50 or imprisonment of not more than 30 days or both. Nothing contained in these rules and regulations shall be construed to abrogate any other federal laws or regulations or any state or local laws and regulations applicable to any area in which the property is situated.
3. Members of the U.S. Postal Security Force shall exercise the powers of special policemen provided by 40 U.S.C. 318 and shall be responsible for enforcing the regulations in this notice in a manner that will protect Postal Service property. Postal inspectors, Office of Inspector General Criminal Investigators, and other persons designated by the chief Postal Inspector may likewise enforce regulations in this notice.

**Exhibit D**

**Asbestos Survey Summary**

**CONTRACT NUMBER: 475450-94-B-0324  
PROJECT NUMBER: H10286  
WORK ORDER NUMBER: 196.00**

**ASBESTOS SURVEY AND ASSESSMENT**

**BILOXI MAIN POST OFFICE  
135 MAIN STREET  
BILOXI, MISSISSIPPI 39530-9998**

Prepared for

**U.S. POSTAL SERVICE  
Mississippi District  
401 East South Street  
Jackson, Mississippi 39201-9991  
(601) 968-5760**

January 1996

Prepared by

**EMCON  
1560 Oakbrook Drive, Suite 100  
Norcross, Georgia 30093-2286**

Project 73000.196.010

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## **1 EXECUTIVE SUMMARY**

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### **1.1 Site Description**

This report addresses the asbestos survey performed at the USPS Biloxi Main Post Office (MPO) facility in Biloxi, Mississippi. The project site on 135 Main Street in Biloxi, Mississippi, is a main post office serving the public. Constructed in 1959, this post office is a three-story building with a concrete floor slab, masonry block and brick walls, and multiple roof systems. The main building's roof system is a flat built-up roof with the smaller adjoining roofs being shingle rolled asphalt and aggregate. This United States Postal Service (USPS) owned facility encompasses approximately 41,668 square feet. The facility has a forced-air, natural gas heating system and central air-conditioning system. The facility includes postal work areas, bathrooms, a lunch room, storage rooms, offices, a box lobby, sorting room, lookout gallery, shipping dock, mechanical room, and a customer service area.

All areas within this postal facility were accessible to the asbestos inspector with the exception of wall spaces and behind electrical boxes. Care was taken to insure that all areas, including return air plenums, pipe chases, layered floor coverings, and areas above ceiling tile were visually inspected and adequately sampled. Should suspect materials behind walls and electrical boxes be impacted by future repair, renovations or demolition, EMCON recommends that these materials be sampled to determine the presence of asbestos. This report summarizes the methodology used for this survey, as well as the findings and recommendations. Documentation supporting these recommendations is provided in the Appendices.

### **1.2 Purpose and Scope of Work**

In order to ensure a safe and healthy work environment, federal, state and local regulations, as well as Postal Service policy, require that asbestos-containing building materials be identified and controlled. The main purpose of this survey and assessment is to establish the location of Asbestos-Containing Building Material (ACBM) throughout this facility. No exemptions from the scope of work are noted herein. This asbestos survey and assessment report provide the basis for an asbestos Operations and Maintenance (O&M) Program.

This survey was accomplished by EMCON under United States Postal Service (USPS) Contract Number 475450-94-B-0324, Work Order 196.00.

### **1.3 Survey Findings and Recommendations**

A total of 194 samples of suspect ACMs were collected from 60 different homogeneous areas during this survey. Laboratory analysis of these samples indicated the presence of asbestos in 18 of the homogeneous areas.

**ASBESTOS SURVEY AND ASSESSMENT SUMMARY**

<b>Building Name:</b>	Biloxi MPO	<b>Consultant:</b>	EMCON
<b>Building Address:</b>	135 Main Street Biloxi, Mississippi 39530-9998		1560 Oakbrook Drive Suite 100 Norcross, Georgia 30093-2286
<b>Survey Date:</b>	June 19, 1995		

SAMPLE INFORMATION										COSTS		
Sample Number	HA	Material Location and Description	Percent Asbestos	Condition	Quantity	Friable	Recommended Response Action	Damage Potential	Hazard Assessment	Removal	Air Monitoring	Replacement
WC 3.1-3.3	WC3	BEIGE WALLPAPER AND ADHESIVE 2ND FLOOR, NW OFFICE RECEPTIONIST AREA	NAD	GOOD	720 SF							
WC 4.1-4.3	WC4	TAN WALLPAPER AND ADHESIVE IN 2ND FLOOR PROBATION OFFICE	NAD	GOOD	560 SF							
WB 1.1-1.3	WB1	DRY WALL 2ND FLOOR NW OFFICES AND 2ND FLOOR PROBATION OFFICE	NAD	GOOD	2,200 SF							
WBJC 1.1-1.3	WBJC1	DRY WALL JOINT COMPOUND LOCATED IN SAME AREA AS HA-WB1	NAD	GOOD	1,650 LF							
WC 1.1-1.3	WC1	BROWN AND WHITE WALLPAPER IN HALLWAYS AND NW OFFICES ON 2ND FLOOR	NAD	GOOD	1,360							
CT 4.1-4.3	CT4	1' X 1' FISSURED WHITE CEILING TILE LOCATED ON 3RD FLOOR	NAD	GOOD	1,600 SF							
CT 5.1-5.3	CT5	1' X 1' TEXTURED WHITE CEILING TILE IN BREAK ROOM, PROBATION OFFICE	NAD	GOOD	400 SF							
OTR 1.1-1.3	OTR1	BLACK MASTIC BEHIND ROOM NUMBER SIGNS THROUGHOUT FACILITY	15%	GOOD	354 SF	NO	O&M	LOW	7			
TST 4.1-4.3	TST4	PIPE LAGGING WITH CLOTH-WRAP BLK FOAM GLASS ON HOT WTR PIPES ABOVE CEILING 1ST FLR	NAD	GOOD	1,640 LF							
CK 3.1-3.3	CK3	LIGHT GREEN CAULK BETWEEN TERRAZO PANELS ON LOBBY WALL	NAD	GOOD	560 LF							
CT 3.1-3.3	CT3	1' X 1' PERFORATED WHITE-FACED CEILING TILE-BACK OF COURTROOM, IN 2ND FLR OFCS	NAD	GOOD	1,200 SF							

**ASBESTOS SURVEY AND ASSESSMENT SUMMARY**

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<b>Survey Date:</b>	June 19, 1995		

SAMPLE INFORMATION										COSTS		
Sample Number	HA	Material Location and Description	Percent Asbestos	Condition	Quantity	Friable	Recommended Response Action	Damage Potential	Hazard Assessment	Removal	Air Monitoring	Replacement
IN 1.1-1.3	IN1	YELLOW FIBERGLASS DUCT INSULATION W/ FOIL AND CLOTH BACKING ON DUCTS IN MAIL RM	NAD	GOOD	675 SF							
AS 1.1-1.3	AS1	SPRAY ON ACOUSTICAL CEILING FINISH IN MAIL ROOM BOX LOBBY, AND SERVICE LOBBY	NAD	GOOD	4,200 SF							
DM 1.1-1.3	DM1	BROWN DUCT MASTIC ON HVAC DUCT WORK LOCATED ABOVE CEILING ON ALL FLOORS	NAD	GOOD	1,250 LF							
BB 1.1-1.4	BB1	BLACK VINYL BASEBOARD THROUGHOUT THE MAJORITY OF THE BUILDING	NAD	GOOD	1,060 LF							
BBA 1.1-1.3	BBA1	BROWN BASEBOARD ADHESIVE ON HA-BB1	NAD	GOOD	1,060 LF							
BB 2.1-1.4	BB2	BROWN VINYL BASEBOARD IN 1ST FLR WOMEN'S LOCKER ROOM AND 2ND AND 3RD FLR CORRIDORS	NAD	GOOD	2,000 LF							
BBA 2.1-2.3	BBA2	BROWN BASEBOARD ADHESIVE ON HA-BB2	NAD	GOOD	2,000 LF							
BBA 4.1-1.3	BBA4	BROWN BASEBOARD ADHESIVE ALONG HALLWAY WALLS, MAINTENANCE STORAGE AREAS	NAD	FAIR	2,000 LF							
TSI 1.1-1.4	TS1	WHITE PIPE ELBOW MATERIAL LOCATED THROUGHOUT ON PIPE ELBOWS	4%	GOOD	1,060 LF	YES	REMOVE	MODERATE	6	\$19,080.00	\$3,180.00	\$15,264.00
FCM 2.1-2.3	FCM2	BLACK MASTIC UNDER HA-FC2	6%	GOOD	23,240 SF	NO	O&M	LOW	7			
FC 3.1-3.4	FC3	9" X 9" BROWN AND WHITE VINYL FLOOR TILE PATCH ON 1ST FLOOR	8%	FAIR	4 SF	NO	O&M	MODERATE	3			



**ASBESTOS SURVEY AND ASSESSMENT SUMMARY**

<b>Building Name:</b>	Biloxi MPO	<b>Consultant:</b>	EMCON
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<b>Survey Date:</b>	June 19, 1995		

Sample Number	HA	Material Location and Description	SAMPLE INFORMATION							COSTS		
			Percent Asbestos	Condition	Quantity	Friable	Recommended Response Action	Damage Potential	Hazard Assessment	Removal	Air Monitoring	Replacement
FCM 3.1-3.3	FCM3	BLACK MASTIC UNDER HA-FC3	6%	GOOD	4 SF	NO	O&M	LOW	7			
CK 1.1-1.3	CK1	BEIGE WINDOW CAULKING AROUND WINDOW FRAMES	NAD	GOOD	950 LF							
CK 2.1-2.3	CK2	GRAY WINDOW CAULKING GLAZE ON WINDOWS	NAD	GOOD	1,200 LF							
FC 2.1-2.4	FC2	9" X 9" BROWN AND PINK VINYL FLOOR TILE USED THROUGHOUT FACILITY	6%	GOOD	23,240 SF	NO	O&M	MOD	6			
FCM 7.1-7.3	FCM7	BLACK MASTIC UNDER HA-FC7	12%	GOOD	6 SF	NO	O&M	LOW	7			
FC 8.1-8.3	FC8	1" X 1" FIBER CORK FLOOR TILE IN COURTROOM	NAD	GOOD	2,280 SF							
FCM 8.1-8.3	FCM8	BLACK MASTIC UNDER HA-FC8	NAD	GOOD	2,280 SF							
RM 4.1-4.3	RM4	SILVER AND BLACK ROOF FLASHING COMPOUND ON ROOF	30%	GOOD	1,600 LF	NO	O&M	LOW	7			
DM 2.1-2.3	DM2	BLACK DUCT MASTIC ON HVAC DUCT WORK ON 1ST, 2ND, AND 3RD FLOORS ABOVE CEILING	30%	GOOD	1,200 LF	NO	O&M	LOW	7			
OTR 4.1-4.4	OTR4	FIBER TAPE LOCATED ON HVAC DUCT WORK SEAMS, ABOVE CEILING (1ST, 2ND, 3RD FLOORS)	30%	GOOD	2,200 LF	NO	O&M	LOW	7			
RM 1.1-1.3	RM1	BLACK ROOFING TAR ON ROOF	NAD	GOOD	14,000 SF	NO						

**ASBESTOS SURVEY AND ASSESSMENT SUMMARY**

<b>Building Name:</b> Biloxi MPO	<b>Consultant:</b> EMCON
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<b>Survey Date:</b> June 19, 1995	

SAMPLE INFORMATION										COSTS			
Sample Number	HA	Material Location and Description	Percent Asbestos	Condition	Quantity	Friable	Recommended Response Action	Damage Potential	Hazard Assessment	Removal	Air Monitoring	Replacement	
RM 2.1-2.3	RM2	ASPHALT SHINGLE BLACK WITH GRAY FACE ON ROOF	NAD	GOOD	799 LF								
RM 3.1-3.3	RM3	GRAY MASTIC ALONG ROOF EDGES	NAD	GOOD	1,200 LF								
CT 1.1-1.3	CT1	2' X 2' WHITE FISSURED CEILING TILE IN 1ST FLOOR OFFICES AND 2ND AND 3RD FLOOR HALLWAYS	NAD	GOOD	8,600 SF								
CT 2.1-2.4	CT2	2' X 4' WHITE FISSURED CEILING TILE IN COURTROOM ON 2ND FLOOR	NAD	GOOD	2,240 SF								
TSI 5.1-5.3	TSI5	PIPE LAGGING FBRGLS W CLOTH, FOIL, AND BLK MASTIC BACKING ON HOT WATER PIPE IN BOILER	NAD	GOOD	89 LF								
ASSUMED	ROOF	NO CORE SAMPLING PERFORMED, THEREFORE MUST ASSUME THE BUILT UP ROOF CONTAINS GREATER THAN 1% ASBESTOS. CORE SAMPLING IS REQUIRED PRIOR TO RENOVATION, REPAIR OR DEMOLITION.		GOOD	40,000 SF								
										<b>Subtotals</b>	\$19,080.00		\$15,264.00
										<b>Consultant Fees</b>		\$3,180.00	
										<b>O &amp; M Costs</b>		\$2,346.50	
										<b>TOTALS</b>	\$19,080.00	\$5,526.50	\$15,264.00

HA = Homogeneous Area  
NAD = No Asbestos Detected



**Exhibit E****General Conditions****1. Contingent Fees/Brokers**

- a. The Lessee warrants that no person or selling agency has been employed or retained to solicit or obtain this Outlease for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide, established commercial or selling agencies employed by the Lessee for the purpose of obtaining business.
- b. For licensed employees or established commercial brokerage agencies employed by the parties for the purpose of leasing space for a brokerage commission, each party agrees to pay its respective agent a commission in accordance with the respective agreement(s) between the respective party and its agent/broker.
- c. For breach or violation of this warranty, the Postal Service has the right to annul this contract without liability or to deduct from the contract price or otherwise recover the full amount of the commission, percentage, brokerage fee, or contingent fee.

**2. Non-Discrimination:** The Lessee agrees that they will not discriminate by segregation or otherwise against any person or persons because of race, color, religion, national origin, sex, age (persons 40 years of age or older are protected), reprisal (discrimination against a person for having filed or for having participated in the processing of an EEO complaint 29 CFR 1613.261-262), or physical or mental handicap, in furnishing, or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided herein.

**3. Relocation:** Lessee acknowledges that it acquires no right by virtue of execution of this Outlease to claim any benefits under Title 39, Code of Federal Regulations, Part 777 (Relocation Assistance and Real Property Acquisition Policies).

**4. Gratuities or Gifts (Clause 1-5: March 2006)**

- a. The Postal Service may terminate this contract for default if, after notice and a hearing, the Postal Service Board of Contract Appeals determines that the Lessee or the Lessee's agent or other representative:
  - i. Offered or gave a gratuity or gift (as defined in 5 CFR 2635) to an officer or employee of the Postal Service; and
  - ii. Intended by the gratuity or gift to obtain a contract or favorable treatment under a contract.
- b. The rights and remedies of the Postal Service provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**5. Incorporation by Reference:** In addition to the foregoing, the following clauses are incorporated in this contract by reference. The text of incorporated terms may be found in the Contract Clauses section of the Postal Service's Supplying Principles and Practices manual, which is accessible on-line or upon request.

Clause 9-7, Equal Opportunity (March 2006)<sup>1</sup>

Clause 9-13, Affirmative Action for Handicapped Workers (March 2006)<sup>2</sup>

Clause 9-14, Affirmative Action for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (February 2010)<sup>3</sup>

<sup>1</sup>For contracts aggregating payments of \$10,000 or more.

<sup>2</sup>For contracts aggregating payments of \$10,000 or more.

<sup>3</sup>For contracts aggregating payments of \$25,000 or more.