

# MISSISSIPPI PORT AUTHORITY

## BOARD OF COMMISSIONERS

### REGULAR MEETING

**November 17, 2016**

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Minutes of the Mississippi State Port Authority Board of Commissioners Meeting,  
Thursday, November 17, 2016, 2510 14<sup>th</sup> Street, Suite 1500, Gulfport, Mississippi at  
which the following Commissioners and staff were present:

Commissioners: Robert J. Knesal, Vice-President  
John Rester, Treasurer  
Jack Norris, Commissioner

Staff: Jonathan Daniels, Executive Director/CEO  
Matthew Wypyski, Chief Operating Officer  
John Webb, Director of Engineering  
Kim Purchner, Executive Asst./HRO  
DeeDee Wood, Chief Financial Officer  
Mel Arsenault, Director of External Affairs  
Dale Waltman, Director of Operations  
Nick Foto, Deputy Program Manager  
Shawn Meyer, Deputy Director of Operations  
Chuck Graham, Crane Manager  
Gary Pitcovich, Asst. Crane Manager

David Duhe, Legal Counsel

Others: Duane Wilson, Chemours  
Philip Carter, MDA  
Randall Love, T.L. Wallace  
Richie Ashley, Neel-Schaffer  
Robert Boone, RLB, LLC  
Brian Smith, Watkins & Eager  
Cindy Lamb, Pickering  
Todd Bradford, YAJV  
John Coughlin, YAJV  
Elizabeth Calvit, CH2HMill  
Casey McConnell, YAJV  
Maurice Manuel, YAJV  
Grace Kelly, Ace Contractors, Inc.  
Steve Twedt, Neel Schaffer  
Bob Wren, MS State Pilots  
Stanley Fournier, MS State Pilots  
Rusty Hilton, MS State Pilots  
Todd Stockberger, CH2MHill  
Damon Torricelli, Neel Schaffer, Inc.  
Mark Schloegel, SSH  
Mark McDaniel, YAJV  
Lillian Jenkins, Horne  
Paula Volz, Gulfport Marriott  
Bill Mitchell, Brown, Mitchell & Alexander  
Kym Davis, YAJV

TomWells, Waldemar S. Nelson Co.

Commissioner Knesal noted the presence of a quorum and called the meeting to order at approximately 8:30 a.m.

The Pledge of Allegiance was led by Commissioner Knesal.

The invocation was led by Pastor Chris O'Brian, Seaman's Center.

PUBLIC COMMENTS:

There were no Public Comments

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A status update was given by Mel Arsenault, Director of External Affairs, regarding MSPA's Community Outreach.

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Commissioner Rester moved to approve the October 28th and November 9th Minutes. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve travel (Nov. 1-2/Aguillard, Bell to Jackson, MS; Nov. 26-Dec. 3/Daniels to Israel & Switzerland; Jan. 4-5/Daniels, Wypyski + BOC to Jackson, MS; Dec. 13-16/Daniels to Grand Cayman). Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Norris moved to approve the disbursements listed below. Commissioner Rester seconded and the motion was unanimously approved.

FINAL CHECKLIST FOR NOVEMBER 17, 2016

BILLS FOR THE MONTHS OF NOVEMBER AND DECEMBER 2016 APPROVED AND PAID  
FROM THE GROSS REVENUE FUND OF THE MS STATE PORT AUTHORITY AT GULFPORT

CHK#	VENDOR	DESCRIPTION	CHK AMT
51517	AFLAC	Employee Deductions	1,490.71
51518	AGA - Gulf Coast Chapter	CPE Course and Luncheon	25.00
51519	AirGas Gulf States	Oxygen Cylinder Rental	39.97
51520	Alexander, Van Loon, Sloan	FY2016 Final Audit Billing	24,150.00
51521	Anytime Portables, LLC	Portable Restroom Services	350.00
51522	Battery Sales & Service	Batteries for Shuttlewagon	167.92
51523	AT&T	Telephone Services	1,743.41
51525	Can't Be Beat Fence Co., LLC	Warehouse Fence	1,160.00
51526	Card Services	Travel Expenses	40.00
51527	Card Services	Travel Expenses	3,066.64
51528	Card Services	Promotional Items, Printer and Advertising	598.29
51529	Chancellor, Inc.	Lamps and Fuses for High Mast Lights	1,471.34
51530	City of Gulfport	Water	13,334.16
51531	Sun Coast Business Supply	Ledger Books	85.50
51532	Cornett Bolt & Screw	Maint. Supplies for Cranes & Spreader	102.12
51533	Danny Miller Plumbing, Inc.	Annual Backflow Certification	1,000.00
51535	Eagle Energy, Inc.	Diesel	5,315.58
51536	Emerald TC, LLC	Computer Services	647.50
51537	Federal Express Corp.	Express Mail Services	479.28
51538	Fuelman	Fuel for MSPA Vehicles	325.96
51539	Grainger, Inc.	Maintenance Supplies	270.20
51540	Great Southern Club	Monthly Dues and Business Expenses	162.56
51541	Gulf Coast Business Supply, Inc.	Toner Cartridges and Office Supplies	315.13

51542	Gulf Coast Chapter of MS CPA's	Membership Dues	60.00
51543	Harbor Square Parking Garage	Quarterly Parking	3,073.11
51544	Harbor Square Parking Garage	Quarterly Parking - DRD	583.20
51545	Robert J. Knesal	Per Diem	200.00
51546	Lowe's Home Center, Inc.	Maintenance Supplies	36.76
51547	Maritime Defense Strategy, LLC	Security Consulting Services	3,650.00
51549	MS Economic Council	Registration Fees for Hobnob 2016	60.00
51550	MEDC	Membership Dues	185.00
51551	MS Dept. of Human Services	Employee Deductions	156.00
51552	MS Gulf Coast Chamber of Comm.	Membership Dues	375.00
51553	MS Power Company	Electricity	82,022.34
51554	MS Pub. Employees Credit Union	Employee Deductions	320.00
51555	MSPA Petty Cash Fund	Replenish Petty Cash	37.45
51556	Jack Norris	Per Diem	120.00
51557	Palmer Companies, LLC	Fabricate Gear Basket for STS Cranes	3,939.00
51558	Ports America, Inc.	Draying Dole Containers	9,539.70
51559	PRAM	Fall Workshop	75.00
51560	Legal Shield	Employee Deductions	46.86
51562	Eluse J. Roberts	Per Diem	160.00
51563	Rotary Club of Gulfport	Dues & Meals - J. Daniels & K. Aguillard	454.00
51564	James C. Simpson, Jr.	Per Diem	240.00
51565	Norma Jean Soroe	Transcription Fees	449.48
51566	Southern Printing & Silkscreen	Banners for Groundbreaking the MRC	340.00
51567	The Sun Herald	Advertising	6,545.06
51568	Swetman Security Services, Inc.	Security Guard Services	23,435.06
51569	United States Postal Service	Postage for Mailing Machine	1,000.00
51570	WalMart Community	Supplies for Lynn Meadows Free Night	171.86
51571	Waste Management	Waste Removal Services	310.80
51573	WXXV TV	October Web Camera Lease	1,200.00
51574	Matthew Wypyski	Business Expenses	70.05
51576	State School Insurance Fund	Employee Deductions	13,937.94
51577	Guardian	Employee Dental Deductions	1,179.37
51578	Hancock Bank	December Lease for Suites 880 and 1450	19,705.53
51579	Kansas City Southern Railway	Approach Rail Mods at U.S. 90 & Copa Dr.	45,000.00
51580	Vision Service Plan	Employee Deductions	251.52
CHECKS DATED 10/27/16 AND RELEASED PRIOR TO THE MEETING			
51503	Jonathan Daniels	Travel Expenses	358.54
51504	Matthew Wypyski	Travel Expenses	1,703.03
CHECKS DATED 11/3/16 AND RELEASED PRIOR TO THE MEETING			
51506	Kim Aguillard	Travel Expenses	108.23
51507	Carlos Bell	Travel Expenses	395.07
51508	Jonathan Daniels	Travel Expenses	396.51
51509	Robert J. Knesal	Travel Expenses	742.86
51510	Jack Norris	Travel Expenses	414.63
51511	James C. Simpson, Jr.	Travel Expenses	1,379.23
CHECKS DATED 11/9/16 AND RELEASED PRIOR TO THE MEETING			
51512	Biloxi Tent & Awning	Repair Large American Flag	95.00
51513	C-Port, LLC	Refund MOU Earnest Money	25,000.00
51514	MS Dept. of Human Services	Employee Deductions	156.00
51515	MS Pub. Employees Credit Union	Employee Deductions	320.00
51516	MS State Tax Commission	Employee Deductions	7,251.00
TRANSFERS			
10/28/16	Federal Tax Deposit	Payroll Tax Deposit	23,923.86
11/01/16	Deferred Compensation	Employee Deductions	1,270.00

11/07/16	Public Employment Retirement	Retirement Match and Withheld	50,388.58
11/11/16	Deferred Compensation	Employee Deductions	1,270.00
11/11/16	Federal Tax Deposit	Payroll Tax Deposit	23,926.16
Wire	3SixZero	Travel Expenses	<u>2,165.00</u>
		Total	<u>\$ 416,535.06</u>

Commissioner Rester moved to approve the Port User Licenses, pending receipt of all fees and insurance documents. Commissioner Norris seconded and the motion was unanimously approved.

The following items were approved:

RENEWAL LICENSES:

Apprentice Pilot: Murrell W. Hinton, III,  
Steamship Agent: ISS Marine Service; Maritime Endeavors Shipping

NEW LICENSES:

Apprentice Pilot: Matthew Hinton

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Commissioner Rester moved to approve the following progress payments: Balch & Bingham (\$53,606.22); BMA (\$122,130.81); Doleac Electric Co. (\$279,031.16); G.A. West & Company (\$433,205.34); Matthews Marine (\$2,173,437.55); QES (\$2,562.50); W.C. Fore Trucking, Inc. (\$273,408.17); and YAJV (\$181,274.08). Commissioner Norris seconded and the motion was unanimously approved.

OLD BUSINESS:

Commissioner Rester moved to approve Amendment No. 14 with Atkins North America under Contract No. 010-HUD-014. This amendment reallocates funds from completed or substantially completed tasks to tasks specific to completion of the Environmental Impact Statement. There is no change in schedule or costs. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 4 under Contract No. 010-HUD-012 with CDM Smith. Amendment No. 4 adds 89 days to complete the close out of the water tank with no change in contract value. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 4 to Task Order No. 25 with Neel Schaffer, Inc. under Contract No. 010-HUD-001. Amendment No. 4 adds 365 days and increases costs by \$30,758.00 and will match the contract extension date. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 1 to Task Order No. 39 with Neel Schaffer, Inc. under Contract No. 010-HUD-001. Amendment No. 1 adds 355 days with no change in costs to match the contract extension date. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Norris moved to approve Amendment No. 1 to Task Order No. 41 with Neel Schaffer, Inc. under Contract No. 010-HUD-001. Amendment No. 1 amends the expiration date to August 19, 2017 with no change in cost. Commissioner Rester seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 7 to Task Order No. 8 under Contract No. 010-HUD-002 with Thompson Engineering. Amendment No. 7 adds 365 days with no change in costs. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Norris moved to approve Amendment No. 1 to Task Order No. 21 under Contract No. 010-HUD-002 with Thompson Engineering. Amendment No. 1 adds 365 days with no change in costs. Commissioner Rester seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 1 to Task Order No. 22 under Contract No. 010-HUD-002 with Thompson Engineering. Amendment No. 1 adds 120 days with no change in costs. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 5 to Task Order No. 6 with QES, Inc. under Contract No. 010-HUD-003. Amendment No. 5 adds 90 days with no change in costs. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Norris moved to approve Amendment No. 2 to Task Order No. 12 with QES, Inc. under Contract No. 010-HUD-003. Amendment No. 2 adds 60 days with no change in costs. Commissioner Rester seconded and the motion was unanimously approved.

Commissioner Norris moved to approve Amendment No. 1 to Task Order No. 14 with QES, Inc. under Contract No. 010-HUD-003. Amendment No. 1 adds 60 days and increases costs by \$1,000.00. Commissioner Rester seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 5 to Task Order No. 16 with Anchor QEA, LLC under Contract No. 010-HUD-011. Amendment No. 5 adds 212 days with no change in costs. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 5 to Task Order No. 20 with Anchor QEA, LLC under Contract No. 010-HUD-011. Amendment No. 5 adds 212 days with no change in costs. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Norris moved to approve Amendment No. 2 to Task Order No. 6 under Contract No. 010-HUD-012 with CDM Smith. Amendment No. 2 adds 61 days with no change in costs. Commissioner Rester seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Amendment No. 7 to Task Order No. 7 with Atwell & Gent under Contract No. 010-HUD-013. Amendment No. 7 adds 183 days with no change in costs. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Change Order No. 1 to Contract No. 015-HUD-035 with Dan Hensarling, Inc. Change Order No. 1 increases the contract by \$34,871.58 and adds 363 linear feet of Auger Cast Pile. There is no change in schedule. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Change Order No. 3 to Contract No. 015-HUD-030 with Wharton Smith, Inc. Change Order No. 3 increases the contract by \$129,073.20 with no change in schedule. Commissioner Norris seconded and the motion was unanimously approved.

The bid award for the Small Craft Harbor Landside Improvements Project was tabled until later in the meeting.

Commissioner Rester moved to award the North Harbor West Paving and Electrical Improvements Project to Necaise Brothers Construction. A total of two bids were received and Necaise Brothers Construction was the apparent low and best bidder at \$12,689,413.79. Commissioner Norris seconded and the motion was unanimously approved.

NEW BUSINESS:

Commissioner Norris moved to approve Task Order No. 26 with Thompson Engineering under Contract No. 010-HUD-002. Task Order No. 26 has duration of 365 days and a not to exceed amount of \$18,194.48. Commissioner Rester seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Task Order No. 22 with Yates Anderson Joint Venture under Contract No. 010-HUD-006. Task Order No. 22 has duration of 270 days and a not to exceed amount of \$425,000.00. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to approve Task Order No. 23 with Yates Anderson Joint Venture under Contract No. 010-HUD-006. Task Order No. 23 has duration of 272 days and a not to exceed amount of \$100,000.00. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to authorize the advertisement for the Port Perimeter Landscaping Project. Commissioner Norris seconded and the motion was unanimously approved.

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PORT RESTORATION UPDATE:

The Ground Storage Tank Project is on schedule with approximately 90% complete on the elevated platform. Wharton Smith will begin testing all systems in the upcoming month in preparation of completing the project in January of 2017.

Necaise Brothers continues to work on the Terminal 3 Cross Dock Inspection Platform under the Phase 2 Sitework and Utilities Project. The temporary retention pond in Terminal 1 is being filled to accommodate the new M&R building.

Dan Hensarling is back-filling around all grade beams and preparing for the slab forming on the Terminal 2 M&R Project.

J.O. Collins assisted Systems Scale with the installation of the scale trays on the Truck Scale Project and a small concrete pour for bollards is scheduled for late this week. They are also progressing well on the Early Start Foundation Package and are installing piles daily. The groundbreaking for this project was held this past Monday.

There are currently three advertisements out for bid: 1) Marine Research Facility; 2) Terminal 1 M&R; and 3) Barge Mooring Project.

OPERATIONS REPORT:

Matthew Wypyski reported on the maritime activity for October:

Vessels	14		Vehicles	15,432
Tugs	60		Railcar Count	683
Barges	65		TEU's	15,422
			Tonnage (short tons)	219,378

The tonnage count is a 35% increase over September.

Mike Hooks, the USCOE vendor for dredging is currently dredging in our channel. They began on October 19th and have completed 3.5 miles of the channel.

EXECUTIVE DIRECTOR'S COMMENTS:

This is the 2nd largest scale dredging we have had in the last two to three years. This shows that the USACE are paying attention to the Port of Gulfport.

Mr. Wypyski mentioned our TEU count earlier. We compared our TEU counts for October 2015 and October 2016 and were extremely pleased to find we had an increase of 42%. This is the highest increase in the nation.

We held a groundbreaking ceremony this past Monday that was very well attended. This facility will certainly stand as a catalyst for Mississippi's Blue Economy.

Port staff is working on a new logo/trademark within the next 45 days and hope to incorporate the new lighthouse.

Last week, you might have seen the Crowley vessel docked at Pier 6. It has been at least 20 years since a vessel has docked there. This shows the progress that is being made.

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GENERAL COUNSEL'S COMMENTS:

David Duhe had no comments.

MDA'S COMMENTS:

Philip Carter had no comments.

COMMISSIONER COMMENTS:

Commissioner Norris mentioned that the last maintenance dredging we had was just a couple of years ago and it cost \$12 million. This current dredging is costing \$9 million so it shows a reduction in costs when the channel is properly maintained.

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Commissioner Rester moved to close the meeting to discuss the need for an Executive Session. Commissioner Norris seconded and the motion was unanimously approved.

Commissioner Rester moved to enter Executive Session to discuss legal matters (a lease negotiation and pending litigation). Commissioner Norris seconded and the motion was unanimously approved.

(THE BOARD OF COMMISSIONERS ENTERED INTO EXECUTIVE SESSION AT APPROXIMATELY 9:20 A.M.)

Commissioner Norris moved to come out of Executive Session. Commissioner Rester seconded and the motion was unanimously approved.

Commissioner Knesal stated that no action took place during Executive Session.

Commissioner Rester moved to take the award of the Small Craft Harbor Landside Improvement agenda item off the table to discuss. Commissioner Norris seconded and the motion was unanimous.

Commissioner Rester moved to approve Resolution No. 16-07 which awards the Contract for the Small Craft Harbor Landside Improvements, Project No. 410 to Necaise Brothers Construction Co., Inc. The Port received 5 bids and Necaise Brothers Construction was

the apparent low and responsive bidder at \$1,895,943.40. Commissioner Norris seconded and the motion was unanimously approved. A roll call was taken with the following results:

Commissioner Norris	Vote: Aye
Commissioner Knesal	Vote: Aye
Commissioner Rester	Vote: Aye

The Resolution will be spread upon the minutes.

Commissioner Knesal moved to adjourn. Commissioner Rester seconded and the motion was unanimously approved.

The meeting adjourned at approximately 10:45 a.m.

Approved and Attested



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Robert J. Knesal  
President



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John Rester  
Secretary



## RESOLUTION NO. 16-07

The Board of Commissioners of the Mississippi State Port Authority at Gulfport (the "Port Authority") took up for consideration the matter of awarding the contract for the Small Craft Harbor Landside Improvements, Project No. 410. Thereupon, Commissioner Rester offered and moved the adoption of the following resolution:

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT APPROVING THE AWARD OF CONTRACT FOR THE SMALL CRAFT HARBOR LANDSIDE IMPROVEMENTS, PROJECT NO. 410 TO NECAISE BROTHERS CONSTRUCTION CO., INC.**

**WHEREAS**, on or about September 5, 2016, the Port Authority issued an Advertisement for Bids for the Small Craft Harbor Landside Improvements, Project No. 410 (the "Project") which, among other things, stated: (i) the Award of Contract criteria for the Project would be expressed in the Instruction to Bidders; and (ii) that the Project was covered by the Mississippi Jobs First requirements under Miss. Code Ann. § 31-5-37 ("MS Jobs First");

**WHEREAS**, the Instructions to Bidders required that, *among other things*, the bidder, shall provide the Port Authority with a "[c]ompleted Bid Form and other documentation required in Section 00 43 00 Procurement for Supplements", together with a MS Jobs First employment plan meeting the requirements set forth in subparagraphs (a) through (g) of the Instruction to Bidders relevant to MS Jobs First;

**WHEREAS**, the Port Authority reserved the right to reject any bid if, for among other reasons, the evidence submitted by the bidder demonstrated that such bidder failed to comply with the bid requirements, including the requirements of the Instructions to Bidders;

**WHEREAS**, on or about October 20, 2016, the Port Authority held a pre-bid public meeting to discuss the Project and the requirements for submission of bids, which included a discussion of the type and character of the work required for the Project as well as the MS Jobs First requirements;

**WHEREAS**, among the firms in attendance at that pre-bid public meeting were representatives of the following prospective bidders: Necaise Brothers Construction Co., Inc. ("Necaise"); W.C. Fore Trucking, Inc. ("Fore"); Gulf Breeze Landscaping, LLC ("Gulf Breeze"); J.O. Collins, Inc. ("Collins"); and Kappa Development & General Contracting, Inc. ("Kappa"). A copy of the Pre-Bid Meeting Sign-up Sheet is attached as Exhibit "A" and fully incorporated herein;

**WHEREAS**, as directed in the Instructions to Bidders, if any prospective bidder had questions concerning interpretation of the Bidding Documents, such prospective bidder was directed to contact the Port Authority by e-mail and the deadline for the submission of questions was ten (10) calendar days before November 3, 2016. The Instructions to Bidders directed that any interpretation of the Contract Documents would be made only by a written Addendum duly issued, and the Port Authority was not responsible for any other explanation or interpretation of the Contract Documents not otherwise in the form of a duly issued written Addendum;

**WHEREAS**, on November 3, 2016 at 10:00 a.m., the Port Authority opened the sealed bids submitted by the following five (5) bidders and read aloud the Total Amount of Base Bid submitted by each respective bidder as follows:

<b>Bidder Name</b>	<b>Total Bid Amount</b>
Fore	Not Provided.
Necaise	\$1,895,943.40
Kappa	\$2,147,239.00
Collins	\$2,162,335.22
Gulf Breeze	\$2,314,808.30

**WHEREAS**, upon opening the sealed bid of Fore, the Port Authority was unable to read aloud Fore's Total Amount of Base Bid because Fore's bid *did not include* a completed Bid Form identifying Fore's Total Amount of Base Bid both "(IN FIGURES)" and "(IN WORDS)", as required by the Instructions to Bidders. As such, the other bidders present at the bid opening were not given the benefit of knowing what was Fore's Total Amount of Base Bid for the Project due to the omission in Fore's bid;

**WHEREAS**, in addition to Fore's bid having failed to include a Total Amount of Base Bid, Fore *also* failed to include a properly executed Bid Form constituting a legally binding offer consistent with the requirements of the bid documents. Specifically, the bid documents required Fore to certify to the following statement, which was found on page four of the Bid Form:

The undersigned, having read and understood the Bidding Documents and examined the Project site and adjoining areas, and being familiar with the obstacles and conditions that will affect proposed Work, hereby offers and agrees to furnish all labor, equipment and materials and to perform all the Work required for "Small Craft Harbor Landside Improvements" project at the Mississippi State Port Authority at Gulfport, Port of Gulfport, Gulfport, Mississippi in accordance with the Contract Documents and at the process stated in the preceding Bid Schedule.

Fore's bid *did not contain* a certification to the above statement contained on page four of the Bid Form;

**WHEREAS**, at the bid opening, Fore's representatives were present and were given an opportunity to personally inspect Fore's bid and confirmed that Fore's bid failed to include a completed Bid Form, as required by the Instructions to Bidders;

**WHEREAS**, upon opening the sealed bids and reading aloud the total bid amounts submitted by the remaining four (4) bidders, the Port Authority notified those in attendance at the

bid opening that it was taking the five (5) bids, including Fore's bid, under advisement and reviewing the total bid amounts as well as other criteria contained in the bid packages of each respective bidder. This internal review was conducted by the Port Authority, together with its construction consultants Yates Anderson Joint Venture ("YAJV"), TL Wallace Construction, Inc. ("TL Wallace"), and CH2M Hill, Inc. ("CH2M");

**WHEREAS**, during the Port Authority's internal review of Fore's bid, but prior to award, the Port Authority added the total sum of the line items contained in Fore's bid for a total bid amount of \$1,745,797.49, which was lower than the Total Bid Amount of Necaise as read aloud at the bid opening;

**WHEREAS**, the Port Authority determined that Fore's incomplete Bid Form was not an informality or minor defect capable of being waived by the Port Authority because, among other reasons, if Fore were allowed to supplement its bid to correct the errors and omissions discussed above, it prejudiced other bidders, primarily Necaise, the then-lowest bidder as read aloud at the bid opening, who was not given the benefit of knowing what Fore's Total Amount of Base Bid for the Project was due to the omission in Fore's bid;

**WHEREAS**, the Port Authority had no obligation to allow Fore to supplement its Bid Form to correct the errors and omissions discussed above;

**WHEREAS**, as such, Fore was not allowed to supplement its Bid Form after bid opening to correct the errors and omissions discussed above; and consistent with the Port Authority's authority to disqualify a bidder for "[f]ailure to comply with the bid requirements", the Port Authority determined that Fore's bid should be given no further consideration and was rejected as being non-responsive and non-responsible;

**WHEREAS**, following the opening of the bids, but prior to award, on November 16, 2016, the Port Authority notified Fore that the Port Authority was rejecting Fore's bid as non-responsive and non-responsible because Fore failed to submit a complete, properly executed Bid Form constituting a legally binding offer and certifying to a Total Amount of Base Bid both in figures and in words, as required by the Instruction to Bidders for the Project. A copy of the November 16, 2016, letter to Fore is attached as Exhibit "B" and fully incorporated herein;

**WHEREAS**, following the opening of the bids, but prior to award, on November 16, 2016, the Port Authority notified Gulf Breeze that the Port Authority was also rejecting Gulf Breeze's bid as non-responsive and non-responsible because Gulf Breeze failed to submit a MS Jobs First employment plan meeting the requirements set forth in subparagraphs (a) through (g) of the Instruction to Bidders relevant to MS Jobs First. A copy of the foregoing letter is attached as Exhibit "C" and fully incorporated herein;

**WHEREAS**, the Award of Contract section of the Instructions to Bidders stated that the Project would be awarded to the lowest responsive, responsible bidder, subject to a preference for a Section 3 Business Concern of 1.5 percent of the bid amount for the purpose of determining the lowest bid;

**WHEREAS**, of the three (3) remaining bidders not otherwise determined to be non-responsive and/or non-responsible, the Port Authority has reviewed and evaluated the bids for

the purposes of determining the lowest responsive, responsible bidder and, based upon the foregoing, the Port Authority finds that Necaize is the lowest and best, responsive and responsible bidder for the Project;

WHEREAS, the Port Authority's determination to award the Project to Necaize, the lowest and best bidder, was carefully made with regard to the surrounding facts and circumstances, supported by substantial evidence, well-documented, and serves the best interest of the State of Mississippi; and

WHEREAS, the Port Authority now desires to authorize and approve the award of the contract for the Small Craft Harbor Landside Improvements, Project No. 410 to Necaize Brothers Construction Co., Inc.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MISSISSIPPI STATE PORT AUTHORITY AT GULFPORT, AS FOLLOWS:**

In accordance with the findings of the Board of Commissioners as set forth in the Recitals above and Mississippi law, the Port Authority hereby authorizes and approves the awarding of the contract for the Small Craft Harbor Landside Improvement, Project No. 410 to Necaize Brothers Construction Co., Inc. because it is the lowest and best, responsive and responsible bid.

Commissioner Norris seconded the motion to adopt the foregoing Resolution, and the vote thereupon was as follows:

	<u>Voted:</u>
Commissioner Knesal:	<u>Aye</u>
Commissioner Norris:	<u>Aye</u>
Commissioner Rester:	<u>Aye</u>
Commissioner Roberts:	<u>Absent</u>
Commissioner Simpson:	<u>Absent</u>

The motion having received the foregoing vote of the Board of Commissioners, the President declared the motion carried and the Resolution adopted, on this the 17<sup>th</sup> day of November, 2016.

This Resolution, along with any exhibits thereto, shall be incorporated into and considered as part of the minutes for the Board of Commissioners' meeting in which it is adopted.



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E.J. ROBERTS, PRESIDENT