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### ETHICS ADVISORY OPINION NO. 26-008-E

April 10, 2026

**Question Presented:** May a city purchase an easement from the city judge for a necessary sewer project?

**Brief Answer:** Yes. Under these circumstances, the judge's real property is the sole source for routing this necessary sewer project, and the city may purchase the easement without violating Section 25-4-105(3)(a), Miss. Code of 1972.

The Mississippi Ethics Commission issued this opinion on the date shown above in accordance with Section 25-4-17(i), Mississippi Code of 1972, as reflected upon its minutes of even date. The Commission is empowered to interpret and opine only upon Article IV, Section 109, Mississippi Constitution of 1890, and Article 3, Chapter 4, Title 25, Mississippi Code of 1972. This opinion does not interpret or offer protection from liability for any other laws, rules or regulations. The Commission based this opinion solely on the facts and circumstances provided by the requestor as restated herein. The protection from liability provided under Section 25-4-17(i) is limited to the individual who requested this opinion and to the accuracy and completeness of these facts.

#### I. LAW

The pertinent Ethics in Government Laws to be considered here are as follows:

Section 25-4-103, Miss. Code of 1972.

(h) "Governmental entity" means the state, a county, a municipality or any other separate political subdivision authorized by law to exercise a part of the sovereign power of the state.

(n) "Property" means all real or personal property.

(o) “Public funds” means money belonging to the government.

(p) “Public servant” means:

(i) Any elected or appointed official of the government;

(ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the state of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or

(iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

Section 25-4-105, Miss. Code of 1972.

(3) No public servant shall:

(a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent.

(4) Notwithstanding the provisions of subsection (3) of this section, a public servant or his relative:

(d) May be a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent: (i) where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws; or (ii) where the contractual relationship involves the further research, development, testing, promotion or merchandising of an intellectual property created by the public servant.

## II. FACTS

Facts provided by the requestor are set forth below, with identifying information redacted, and are considered a part of this opinion.

The City [...] is currently undertaking efforts to improve its wastewater infrastructure in and around a residential subdivision consisting of approximately fifty (50) homes, along with additional nearby residences. The existing pump

station serving this area has reached the end of its useful life and requires frequent and costly repairs, creating an ongoing financial burden for the City.

After evaluation by the City's engineer, it has been determined that replacing the existing pump station with a gravity sewer line is the most efficient, reliable, and economically feasible long-term solution. The proposed gravity system will significantly reduce maintenance costs and improve service to the residents in this area.

In order to complete this project, the City must obtain a sewer easement across property owned by one of its residents. The engineer has prepared a map identifying the proposed route, and it has been determined that this route represents the most practical and cost-effective means of completing the project. Alternative routes were considered; however, those alternatives would result in substantially higher costs and are not financially feasible for the City.

The resident serves in an appointed position for the City [as part-time municipal court judge]. In light of this, the City understands that it must ensure full compliance with the provisions of the Mississippi Ethics in Government Law.

The City will obtain an independent determination of the fair market value of the easement to ensure that the purchase price is reasonable and consistent with applicable standards. The Mayor and City Council will make formal findings that the acquisition of this easement is necessary for the completion of a critical public infrastructure project, is in the best interest of the citizens of [the City] and represents a fair and reasonable transaction.

This easement acquisition is essential to providing reliable sewer service and protecting the public health, safety, and welfare of the community.

Based upon the foregoing, can the City [...], Mississippi purchase this easement from this person who serves in the appointed position?

### III. ANALYSIS

Section 25-4-105(3)(a), Miss. Code of 1972, prohibits any public servant of the city from being a contractor, subcontractor or vendor to the city. One who sells real property to the city may be considered a vendor to the city. Yet a number of exceptions are codified in Section 25-4-105(4), and Section 25-4-105(4)(d) is particularly relevant to this situation. Under that exception, a public servant of the city may sell to the city “where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.” Id.

The city’s engineer has already established the best route for the future sewer line, and it runs across real property owned by the city judge. The city requires that particular parcel of land to complete the necessary sewer project, and the city cannot complete the project without purchasing an easement across that parcel. Therefore, the property owned by the city judge is the

sole source for this necessary easement, and the city can purchase the easement without violating Section 25-4-105(3)(a), after complying with all applicable laws governing the purchase of rights in real property by a municipality.

MISSISSIPPI ETHICS COMMISSION

BY: \_\_\_\_\_  
Tom Hood, Executive Director and  
Chief Counsel