



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

September 14, 2023

Tim C. Holleman, Esq.  
Attorney, Harrison County Board of Supervisors  
1720 23<sup>rd</sup> Avenue/Boyce Holleman Boulevard  
Gulfport, Mississippi 39501

Re: Interlocal Agreements and Public Purchasing Laws

Dear Mr. Holleman:

The Office of the Attorney General has received your request for an official opinion.

### Question Presented

In your request, you reference MS AG Op., *Baker* (July 20, 2001), which provides that a city may not adopt a county's contract regarding the purchase of commodities. You ask if this prohibits a city and county from entering into an otherwise lawful interlocal agreement for the paving of roads whereby the county uses the county's contractor for the work, and the city reimburses the county for its assistance.

### Brief Response

The prohibition against a city adopting a county's purchasing contract does not prevent a city from acting jointly with a county, by way of an otherwise lawful interlocal agreement, for the paving of roads.

### Applicable Law and Discussion

The *Baker* opinion you reference correctly provides that a city is prohibited from piggybacking on a county's purchasing contract and that purchases for commodities shall be made in accordance with Mississippi Code Annotated Sections 31-7-12 or 31-7-13. *Baker* at \*1. A local governmental unit's authority to enter into an interlocal agreement for paving is distinguishable from this prohibition. The Interlocal Cooperation Act of 1974 found in Sections 17-13-1 *et seq.*, expressly authorizes cooperative contracts between governmental units:

It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate and to contract with

other local governmental units on a basis of mutual advantage and thereby provide services and facilities in a manner pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

Miss. Code Ann. § 17-13-3.

Accordingly, an interlocal agreement allows two local governmental units to act jointly as long as each governmental unit has independent statutory authority for the proposed action, which both the city and county do under the set of facts presented here. However, the public purchasing laws still apply. It is the opinion of this office that the prohibition against a city adopting a county's purchasing contract does not prevent a city from entering into an otherwise lawful interlocal agreement with a county for the paving of roads.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abigail C. Overby*

Abigail C. Overby  
Special Assistant Attorney General

OFFICIAL OPINION