
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM S-8
REGISTRATION STATEMENT**
*UNDER
THE SECURITIES ACT OF 1933*

CONSTRUCTION PARTNERS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

26-0758017
(I.R.S. Employer
Identification No.)

290 Healthwest Drive, Suite 2
Dothan, Alabama
(Address of Principal Executive Offices)

36303
(Zip Code)

Construction Partners, Inc. 2018 Equity Incentive Plan
(Full title of the plan)

Gregory A. Hoffman
Senior Vice President and
Chief Financial Officer
290 Healthwest Drive, Suite 2
Dothan, Alabama 36303
Telephone: (334) 673-9763
(Name, address and telephone number, including area code, of agent for service)

With a copy to:

Greg R. Samuel
Rosebud Nau
Haynes and Boone, LLP
2801 N. Harwood Street, Suite 2300
Dallas, Texas 75201
(214) 651-5000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, anon-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

EXPLANATORY NOTE

This Registration Statement on Form S-8 (this "Registration Statement") is filed by Construction Partners, Inc., a Delaware corporation (the "Registrant"), to register an additional 1,100,000 shares of the Registrant's Class A common stock, par value \$0.001 per share, for issuance under the Construction Partners, Inc. 2018 Equity Incentive Plan (as amended, the "Plan"). Accordingly, the contents of the previous Registration Statement on Form S-8 (File No. 333-224974) filed by the Registrant with the Securities and Exchange Commission on May 16, 2018 (the "Prior Registration Statement") relating to the Plan, including reports that the Registrant filed after the Prior Registration Statement to maintain current information about the Registrant, are incorporated by reference into this Registration Statement pursuant to General Instruction E of Form S-8. The Prior Registration Statement is currently effective.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 6. Indemnification of Directors and Officers.

Limitation of Liability

Section 102(b)(7) of the Delaware General Corporation Law (the "DGCL") permits a corporation, in its certificate of incorporation, to limit or eliminate, subject to certain statutory limitations, the liability of directors and officers to the corporation or its stockholders for monetary damages for breaches of fiduciary duty, except for liability:

- for any breach of a director or officer's duty of loyalty to the corporation or its stockholders;
- for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- of a director in respect of certain unlawful dividend payments or stock redemptions or repurchases;
- for any transaction from which a director or officer derives an improper personal benefit; and
- of an officer in any action by or in the right of the corporation.

In accordance with Section 102(b)(7) of the DGCL, the amended and restated certificate of incorporation (the "Certificate") of the Registrant provides that no director or officer shall be personally liable to the Registrant or any of its stockholders for monetary damages resulting from breaches of their fiduciary duty as directors or officers, except to the extent such limitation on or exemption from liability is not permitted under the DGCL or any other law of the State of Delaware. The effect of this provision is to eliminate the rights of the Registrant and its stockholders (through stockholders' derivative suits on the Registrant's behalf) to recover monetary damages against a director or officer for breach of the fiduciary duty of care as a director or officer, including breaches resulting from negligent or grossly negligent behavior, except as restricted by Section 102(b)(7) of the DGCL. However, this provision does not limit or eliminate the rights of the Registrant or its stockholders to seek non-monetary relief, such as an injunction or rescission, in the event of a breach of a director or officer's duty of care.

If the DGCL or any other law of the State of Delaware is amended to authorize corporate action further eliminating or limiting the liability of directors or officers, then, in accordance with the Certificate, the liability of the Registrant's directors or officers to the Registrant or its stockholders will be eliminated or limited to the fullest extent authorized by the DGCL or any other law of the State of Delaware, as so amended. Any repeal or amendment of provisions of the Certificate limiting or eliminating the liability of directors or officers, whether by the Registrant's stockholders or by changes in law, or the adoption of any other provisions inconsistent therewith, will (unless otherwise required by law) be prospective only, except to the extent such amendment or change in law permits the Registrant to further limit or eliminate the liability of directors or officers on a retroactive basis.

Indemnification

Section 145 of the DGCL permits a corporation, under specified circumstances, to indemnify its directors, officers, employees or agents against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by them in connection with any action, suit or proceeding by reason of the fact that they were or are directors, officers, employees or agents of the corporation, if such directors, officers, employees or agents acted in good faith and in a manner they reasonably believed to be in or not opposed to the best

interests of the corporation and, with respect to any criminal action or proceeding, had no reason to believe their conduct was unlawful. In a derivative action or suit (i.e., one by or in the right of the corporation), indemnification may be made only for expenses actually and reasonably incurred by directors, officers, employees or agents in connection with the defense or settlement of an action or suit, and only with respect to a matter as to which they shall have acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made if such person shall have been adjudged liable to the corporation, unless and only to the extent that the court in which the action or suit was brought shall determine upon application that the defendant directors, officers, employees or agents are fairly and reasonably entitled to indemnity for such expenses despite such adjudication of liability.

The Certificate provides that the Registrant shall, to the fullest extent authorized or permitted by applicable law, indemnify its current and former directors and officers, as well as those persons who, while directors or officers of the Registrant, are or were serving as directors, officers, employees or agents of another entity, trust or other enterprise, including service with respect to an employee benefit plan, in connection with any threatened, pending or completed proceeding, whether civil, criminal, administrative or investigative, against all expenses, liability and loss (including, without limitation, attorney's fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred or suffered by any such person in connection with any such proceeding. Notwithstanding the foregoing, a person eligible for indemnification pursuant to the Certificate shall be indemnified by the Registrant in connection with a proceeding initiated by such person only if such proceeding was authorized by the Registrant's board of directors, except for proceedings to enforce rights to indemnification.

The right to indemnification conferred by the Certificate is a contractual right that includes the right to be paid by the Registrant the expenses incurred in defending or otherwise participating in any proceeding referenced above in advance of its final disposition, provided, however, that if the DGCL requires, an advancement of expenses will be made only upon delivery to the Registrant of an undertaking, by or on behalf of any person covered by the Certificate, to repay all amounts so advanced if it is ultimately determined that such person is not entitled to be indemnified for such expenses under the Certificate or otherwise.

The rights to indemnification and advancement of expenses are not deemed to be exclusive of any other rights which any person covered by the Certificate may have or hereafter acquire under law, the Certificate, the amended and restated by-laws of the Registrant (the "By-Laws"), an agreement, vote of stockholders or disinterested directors, or otherwise.

Any repeal or amendment of provisions of the Certificate affecting indemnification rights, whether by the Registrant's stockholders or by changes in law, or the adoption of any other provisions inconsistent therewith, will (to the extent permitted by applicable law) be prospective only, except to the extent such amendment or change in law permits the Registrant to provide broader indemnification rights on a retroactive basis, and will not in any way diminish or adversely affect any right or protection existing at the time of such repeal or amendment or adoption of such inconsistent provision with respect to any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision. The Certificate also permits the Registrant, to the extent and in the manner authorized or permitted by law, to indemnify and to advance expenses to persons other than those specifically covered by the Certificate.

The By-Laws include provisions relating to advancement of expenses and indemnification rights consistent with those set forth in the Certificate. In addition, the By-Laws provide for a right of indemnitee to bring a suit in the event a claim for indemnification or advancement of expenses is not paid in full by the Registrant within a specified period of time. The By-Laws also permit the Registrant to purchase and maintain insurance, at its expense, to protect the Registrant and/or any of its directors, officers, employees or agents, or another entity, trust or other enterprise, against any expense, liability or loss, whether or not the Registrant would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Any repeal or amendment of provisions of the By-Laws affecting indemnification rights, whether by the Registrant's board of directors, stockholders or by changes in applicable law, or the adoption of any other provisions inconsistent therewith, will (unless otherwise required by law) be prospective only, except to the extent such amendment or change in law permits the Registrant to provide broader indemnification rights on a retroactive basis, and will not in any way diminish or adversely affect any right or protection existing thereunder with respect to any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

The Registrant has entered into indemnification agreements with each of its current directors and executive officers. These agreements require the Registrant to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service to the Registrant, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified. The Registrant also intends to enter into indemnification agreements with its future directors and executive officers. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling the Registrant pursuant to the foregoing provisions, the Registrant has been informed that, in the opinion of the Commission, such indemnification is against public policy as expressed in the Securities Act of 1933, as amended (the "Securities Act"), and is therefore unenforceable.

There is currently no pending material litigation or proceeding involving any of the Registrant's directors, officers or employees for which indemnification is sought.

Item 8. Exhibits.

The following exhibits are filed with or incorporated by reference in this Registration Statement.

Exhibit Number

- 4.1 [Form of Class A Common Stock Certificate \(incorporated by reference to Exhibit 4.1 to Amendment No. 1 to the Registration Statement on Form S-1 \(File No. 333-224174\) filed on April 23, 2018\).](#)
- 4.2 [Amended and Restated Certificate of Incorporation of Construction Partners, Inc., as amended through February 23, 2023 \(incorporated by reference to Exhibit 3.1 to the Quarterly Report on Form 10-Q \(File No. 001-38479\) filed on August 8, 2023\).](#)
- 4.3 [Amended and Restated By-Laws of Construction Partners, Inc. \(incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K \(File No. 001-38479\) filed on November 9, 2022\).](#)
- 5.1* [Opinion of Haynes and Boone, LLP](#)
- 10.1 [Construction Partners, Inc. 2018 Equity Incentive Plan \(incorporated by reference to Exhibit 10.7 to Amendment No. 1 to the Registration Statement on Form S-1 \(File No. 333-224174\) filed on April 23, 2018\).](#)
- 10.2 [First Amendment to the Construction Partners, Inc. 2018 Equity Incentive Plan \(incorporated by reference to Exhibit 10.1 to the Quarterly Report on Form 10-Q \(File No. 001-38479\) filed on August 9, 2019\).](#)
- 10.3 [Second Amendment to the Construction Partners, Inc. 2018 Equity Incentive Plan \(incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K \(File No. 001-38479\) filed on March 22, 2024\).](#)
- 23.1* [Consent of RSM US LLP](#)
- 23.2* [Consent of Haynes and Boone, LLP \(included in Exhibit 5.1\)](#)
- 24.1* [Power of Attorney \(included in signature page hereof\)](#)
- 107* [Filing Fee Table](#)

* Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Act the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Dothan, State of Alabama, on June 18, 2024.

CONSTRUCTION PARTNERS, INC.

By: /s/ Gregory A. Hoffman
Name: Gregory A. Hoffman
Title: Senior Vice President and Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Gregory A. Hoffman and Fred J. (Jule) Smith, III, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration, and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto each said attorney-in-fact and agent full power and authority to do and perform each and every act in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or either of them or their or his or her substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Fred J. (Jule) Smith, III</u> Fred J. (Jule) Smith, III	President, Chief Executive Officer and Director (Principal Executive Officer)	June 18, 2024
<u>/s/ Gregory A. Hoffman</u> Gregory A. Hoffman	Senior Vice President and Chief Financial Officer (Principal Financial Officer)	June 18, 2024
<u>/s/ Todd K. Andrews</u> Todd K. Andrews	Chief Accounting Officer (Principal Accounting Officer)	June 18, 2024
<u>/s/ Ned N. Fleming, III</u> Ned N. Fleming, III	Executive Chairman of the Board	June 18, 2024
<u>/s/ Charles E. Owens</u> Charles E. Owens	Vice Chairman of the Board	June 18, 2024

<u>/s/ Craig Jennings</u> Craig Jennings	Director	June 18, 2024
<u>/s/ Mark R. Matteson</u> Mark R. Matteson	Director	June 18, 2024
<u>/s/ Michael H. McKay</u> Michael H. McKay	Director	June 18, 2024
<u>/s/ Stefan L. Shaffer</u> Stefan L. Shaffer	Director	June 18, 2024
<u>/s/ Noreen E. Skelly</u> Noreen E. Skelly	Director	June 18, 2024



June 18, 2024

Construction Partners, Inc.
290 Healthwest Drive, Suite 2
Dothan, Alabama 36303

Re: Construction Partners, Inc. Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Construction Partners, Inc., a Delaware corporation (the “Company”), with respect to certain legal matters in connection with the preparation of the Company’s Registration Statement on Form S-8 (the “Registration Statement”) under the Securities Act of 1933, as amended (the “Securities Act”), filed with the Securities and Exchange Commission on the date hereof. The Registration Statement relates to the registration of 1,100,000 shares (the “Shares”) of the Company’s Class A common stock, \$0.001 par value per share (the “Common Stock”), reserved for issuance pursuant to future awards under the Construction Partners, Inc. 2018 Equity Incentive Plan (as amended, the “Plan”).

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

The opinion expressed herein is limited exclusively to the General Corporation Law of the State of Delaware, as currently in effect, and we have not considered, and express no opinion on, any other laws.

In rendering the opinion set forth herein, we have examined originals or copies, certified or otherwise identified to our satisfaction, of (i) the Amended and Restated Certificate of Incorporation of the Company, as amended through February 23, 2023, and the Amended and Restated By-Laws of the Company; (ii) certain resolutions of the board of directors and stockholders of the Company related to the approval of the Plan; (iii) the Plan; (iv) the Registration Statement and all exhibits thereto; (v) the specimen Common Stock certificate; (vi) a certificate executed by an officer of the Company, dated as of the date hereof; and (vii) such other records, documents and instruments as we considered appropriate for purposes of the opinion stated herein.

In making the foregoing examinations, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents submitted to us as certified, conformed or photostatic copies thereof and the authenticity of the originals of such latter documents. As to all questions of fact material to the opinion stated herein, we have, without independent third-party verification of their accuracy, relied in part, to the extent we deemed reasonably necessary or appropriate, upon the representations and warranties of the Company contained in such documents, records, certificates, instruments or representations furnished or made available to us by the Company.

In rendering the opinion set forth below, we have assumed that, at the time of the issuance of the Shares, (i) the resolutions referred to above will not have been modified or rescinded; (ii) there will not have occurred any change in the law affecting the authorization, execution, delivery, validity or fully paid status of the Common Stock; and (iii) the Company will receive consideration for the issuance of the Shares that is at least equal to the par value of the Common Stock.

Based on the foregoing, and subject to the assumptions, qualifications, limitations, and exceptions set forth herein, we are of the opinion that upon the issuance of the Shares in accordance with the terms of the Plan, the Shares will be validly issued, fully paid and non-assessable.

Haynes and Boone, LLP

2801 N. Harwood Street | Suite 2300 | Dallas, TX 75201
T: 214.651.5000 | haynesboone.com



Construction Partners, Inc.
June 18, 2024
Page 2

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to all references to us in the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act and the rules and regulations thereunder. This opinion is given as of the date hereof and we assume no obligation to update or supplement such opinion after the date hereof to reflect any facts or circumstances that may thereafter come to our attention or any changes that may thereafter occur.

Very truly yours,

/s/ Haynes and Boone, LLP

HAYNES AND BOONE, LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated November 29, 2023, relating to the consolidated financial statements of Construction Partners, Inc. and Subsidiaries (the Company), and the effectiveness of the Company's internal control over financial reporting, appearing in the Annual Report on Form 10-K of the Company for the year ended September 30, 2023.

/s/ RSM US LLP

Birmingham, Alabama
June 18, 2024

CALCULATION OF FILING FEE TABLE

FORM S-8
(Form Type)Construction Partners, Inc.
(Exact Name as Specified in its Charter)

Table 1 - Newly Registered Shares

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered (1)	Proposed Maximum Offering Price Per Unit (2)	Maximum Aggregate Offering Price (2)	Fee Rate	Amount of Registration Fee
Equity(3)	Class A Common Stock, par value \$0.001 per share	Other (2)	1,100,000	\$54.22	\$59,636,500	0.0001476	\$8,802.35
Total Offering Amounts				—	\$59,636,500	—	\$8,802.35
Total Fee Offsets				—	—	—	\$8,802.35
Net Fee Due				—	—	—	\$0.00

- (1) This Registration Statement on Form S-8 (the "Registration Statement") covers (i) shares of Class A common stock, \$0.001 par value per share ("Common Stock"), of Construction Partners, Inc. (the "Registrant") authorized for issuance under the Construction Partners, Inc. 2018 Equity Incentive Plan (as amended, the "Plan") and (ii) pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), any additional shares of Common Stock that may become issuable under the Plan by reason of any stock dividend, stock split or other similar transaction.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) and Rule 457(c) under the Securities Act, based on the average of the high and low prices reported for a share of Common Stock on The Nasdaq Global Select Market on June 11, 2024.
- (3) Represents shares of the Registrant's Common Stock issuable under the Plan, including shares of Common Stock that may become available for issuance under the Plan upon the forfeiture, cancellation, expiration or termination of awards under the Plan.

Table 2 - Fee Offset Claims and Sources

	Registrant or Filer Name	Form or Filing Type	File Number	Initial Filing Date	Filing Date	Fee Offset Claimed	Security Type Associated with Fee Offset Claimed	Security Title Associated with Fee Offset Claimed	Unsold Securities Associated with Fee Offset Claimed	Unsold Aggregate Offering Amount Associated with Fee Offset Claimed	Fee Paid with Fee Offset Source
Rule 457(p)											
Fee Offset Claims (1)	Construction Partners, Inc.	S-3	333-232555	July 3, 2019	—	\$8,802.35	Unallocated (Universal) Shelf	Unallocated (Universal) Shelf	(1)	\$250,000,000	—
Fee Offset Sources (2)	Construction Partners, Inc.	S-3	333-232555	—	July 3, 2019	—	—	—	—	—	\$8,802.35

- (1) The Registrant previously filed a Registration Statement on Form S-3 with the Securities and Exchange Commission on July 3, 2019 (File No. 333-232555) (the "Shelf Registration Statement"), which was declared effective on July 16, 2019, that registered an aggregate of \$250,000,000 of an indeterminate amount of newly issued securities to be offered by the Registrant from time to time (the "Unsold Securities"). The Registrant hereby confirms that the offering of the Unsold Securities has been terminated.
- (2) The Registrant expects to offset the registration fee due hereunder by an amount of fees that was previously paid with respect to the Unsold Securities covered by the Shelf Registration Statement pursuant to Rule 457(p) under the Securities Act. The fee previously paid for the Unsold Securities covered by the Shelf Registration Statement was \$30,300.00. Pursuant to Rule 457(p) under the Securities Act, the Registrant hereby offsets the total registration fee due under this Registration Statement of \$8,802.35 from the fees previously paid in connection with the Unsold Securities covered by the Shelf Registration Statement, with \$18,422.52 remaining to be applied to future filings. Accordingly, no additional registration fee is being paid in connection with the filing of this Registration Statement.