

**MUNICIPAL MINUTES, CITY OF TUPELO**  
**STATE OF MISSISSIPPI**  
**APRIL 02, 2019**

Be it remembered that a regular meeting of the Tupelo City Council was held in the Council Chambers in the City Hall Building on Tuesday, April 2, 2019, at 6:00 p.m. with the following in attendance: Markel Whittington, Lynn Bryan, Travis Beard, Nettie Y. Davis, Buddy Palmer, Mike Bryan, Willie Jennings; City Attorney Ben Logan; Leesha Faulkner, Acting Clerk of Council.

Councilman Buddy Palmer gave the invocation, followed by the Pledge of Allegiance led by Councilman Mike Bryan.

**IN THE MATTER OF CALLING THE MEETING TO ORDER**

President Travis Beard called the meeting to order at 6:00 p.m.

**IN THE MATTER OF CONFIRMATION OR AMENDMENT TO THE AGENDA AND AGAENDA ORDER**

Councilwoman Davis moved seconded by Councilman Mike Bryan to amend the agenda to include items 4.3C National Autism Month Proclamation, 4.3D Junior Auxiliary Week Proclamation, and to keep item 8.3 under the study agenda. The vote was unanimous in favor.

**PROCLAMATIONS, RECOGNITIONS, AND REPORTS AGENDA**

**IN THE MATTER OF RECOGNITION OF BOY/GIRL SCOUTS**

No Scouts were present for recognition.

**IN THE MATTER OF RECOGNITION OF CITY EMPLOYEES**

No employees were present for recognition of reaching milestones in their tenure of service.

**IN THE MATTER OF PUBLIC RECOGNITIONS**

Councilman Jennings said he was honored on Saturday night, March 30, 2019, to have welcomed visitors and participants at *Dancing with the Stars* held by the Elvis Presley Fan Club.

Councilman Palmer attended the *Tables for Tails* fundraiser for the Tupelo-Lee Humane Society at Woody's on Saturday, March 30, 2019. He deemed the event, "very nice."

Councilman Mike Bryan recognized former council members in the audience, who attended to pay their respects to the memory of former Councilman Richard "Dick" Hill. (See Proclamation 4.3A in APPENDIX A). Those recognized included: Bill Nesmith, Doyce Deas, Perry Smith, and Fred Pitts.

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Councilwoman Nettie Davis asked for prayers for the family of the late Rev. Jamison, who passed away Sunday, March 24, 2019. She also congratulated the Historic Preservation Commission for its fundraiser on Sunday, March 24, 2019, held at Park Heights. She closed by thanking Dick Hill's son for attending the meeting and receiving the proclamation in memory of his father.

Councilman Lynn Bryan called the *10 for Tupelo* event on Saturday, March 24, 2019, to clean up the city a success and thanked Kathryn Rhea of Keep Tupelo Beautiful and Jesse Bandre of the Rotary Club for their work in organizing the day.

Council President Travis Beard attended the *Special Olympics* event at Tupelo High School on Friday, March 23, 2019, as a representative of the city and commended Principal Art Dobbs and his staff for organizing the recognition of Special Olympic athletes. He also praised Tupelo Parks and Recreation Director Alex Farned and his staff for a successful *4th Annual Cherry Blossom Festival*. Councilman Beard welcomed guests at the reception held at the Parks and Recreation administration offices prior to the festival and at the festival, which was held at the Furniture Market Building IV because of the threat of inclement weather.

**IN THE MATTER OF A PROCLAMATION HONORING THE LIFE OF FORMER COUNCILMAN DICK HILL**

Mayor Jason Shelton read and presented the family of Richard "Dick" Hill with a proclamation recognizing the business and civic leadership of the late councilman. After presentation of the proclamation, retired Marine Major Rex Moody, in the presence of other members of the Marine League of which Mr. Hill was a lifetime member, presented a flag that had been flown over the Vietnam Memorial Replica Wall in Veterans Memorial Park. A copy of the proclamation is attached to these minutes as **APPENDIX A.**

**IN THE MATTER OF A PROCLAMATION FOR NATIONAL LIBRARY WEEK**

Mayor Jason Shelton read and presented to Jeff Tomlinson, Director of the Lee County Library, a proclamation proclaiming April 7-12 as National Library Week. A copy of the proclamation is attached to these minutes as **APPENDIX B.**

**IN THE MATTER OF A PROCLAMATION FOR NATIONAL AUTISM AWARENESS MONTH**

Mayor Jason Shelton read and presented to members of the Junior Auxiliary a proclamation recognizing April as National Autism Awareness Month. The Mayor noted the sales earlier that day of hamburger plates by the staff of Tupelo Parks and Recreation to the public as a fundraiser for the Autism Center of North Mississippi, which is based in Tupelo. A copy of the proclamation is attached to these minutes as **APPENDIX C.**

**MUNICIPAL MINUTES, CITY OF TUPELO**  
**STATE OF MISSISSIPPI**  
**TUESDAY, APRIL 02, 2019**

**IN THE MATTER OF A PROCLAMATION FOR JUNIOR AUXILIARY WEEK**

Mayor Jason Shelton read and presented to Allan Bradford, who stood with tutors, students and other Junior Auxiliary members, a proclamation recognizing April 7-13 as National Junior Auxiliary Week. A copy of the proclamation is attached to these minutes as **APPENDIX D.**

**IN THE MATTER OF THE MAYOR'S REPORT**

Mayor Jason Shelton echoed the remarks by various members of the City Council during their public recognitions. He also congratulated the Tupelo Middle School Theatre Group, under the direction of Marley Maharrey, for its award-winning performance at the 2019 Mississippi Middle School One-Act Festival. The Mayor reminded those in attendance of the joint State of Education/State of the City event on Thursday, April 11, 2019, at 6 p.m., in the Civic Auditorium at Tupelo Middle School.

The regular meeting was closed and the public agenda opened.

**IN THE MATTER OF THE PUBLIC AGENDA**

No items appeared for consideration.

**IN THE MATTER OF CITIZEN HEARINGS**

No items appeared for consideration.

The public agenda was closed and open session reopened.

**ACTION AGENDA**

No items appeared for consideration.

**ROUTINE AGENDA**

**IN THE MATTER OF REVIEW, APPROVE, REJECT MINUTES OF THE MARCH 19, 2019 REGULAR CITY COUNCIL MEETING**

Councilman Lynn Bryan moved, seconded by Councilman Buddy Palmer to approve the minutes as submitted. The vote was unanimous in favor.

**IN THE MATTER OF REVIEW, APPROVE, REJECT MINUTES OF THE MARCH 4, 2019, PLANNING COMMITTEE MEETING**

Councilman Willie Jennings moved, seconded by Councilman Buddy Palmer to approve the minutes of the March 4, 2019, Planning Committee meeting as submitted. The vote was unanimous in favor. A copy of the minutes is attached as **APPENDIX E.**

**MUNICIPAL MINUTES, CITY OF TUPELO**  
**STATE OF MISSISSIPPI**  
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**IN THE MATTER OF REVIEW, APPROVE, REJECT DVERTISING AND PROMOTIONAL EXPENSE LIST – LEE COUNTY COURIER**

Chief Financial Officer Kim Hanna submitted a request to the City Council to approve the list of expenditures for advertising and bringing into favorable notice the opportunities, possibilities, and resources to the City of Tupelo. Councilman Markel Whittington moved, seconded by Councilman Buddy Palmer to approve the advertising and promotional list as submitted. The vote was unanimous in favor. A copy of the list is attached to these minutes as **APPENDIX F.**

**IN THE MATTER OF REVIEW, APPROVE, REJECT RESOLUTION GRANTING LEGGETT & PLATT COMPONENTS COMPANY, INC., OPTION TO PURCHASE PROPERTY AND IMPROVEMENTS**

Councilman Mike Bryan moved, seconded by Councilwoman Nettie Davis to approve the resolution amending the lease agreements with Leggett & Platt Components Company, Inc., to grant the company an option to purchase the leasehold property and improvements, subject to approval by the Mississippi Development Authority (MDA). The vote was unanimous in favor. A copy of the resolution is attached to these minutes as **APPENDIX G.**

**IN THE MATTER OF REVIEW, APPROVE, REJECT CHANGE ORDER NO. 1 FOR THE EASON BOULEVARD – HIGHWAY 45 TURN LANE PROJECT**

Councilman Buddy Palmer moved, seconded by Councilwoman Nettie Davis, to find the change order commercially reasonable and not for purposes of avoiding the purchasing law and to approve Change Order No. 1 for the Eason Boulevard – Highway 45 Turn Lane Project. The vote was unanimous in favor.

**IN THE MATTER OF REVIEW, APPROVE, ACCEPT 2018 CITY AUDIT**

Councilman Markel Whittington moved, seconded by Councilman Buddy Palmer to accept the 2018 City Audit. The vote was unanimous in favor. Council President Travis Beard called the unqualified audit, “a great audit.” Mayor Jason Shelton said there were no findings by the auditors. “We are in excellent financial condition, thanks to the Council’s sound leadership.” A copy of the summary sheet and letter is attached to these minutes as **APPENDIX H.**

**IN THE MATTER OF REVIEW, APPROVE, REJECT REQUEST TO DONATE SICK TIME TO EMPLOYEE OF THE POLICE DEPARTMENT, SERGEANT TIFFANY GILLEYLEN**

Councilman Buddy Palmer moved, seconded by Councilman Willie Jennings to approve request to donate sick time to employee of the Police Department, Sergeant Tiffany Gilleylen. The vote was unanimous in favor.

**MUNICIPAL MINUTES, CITY OF TUPELO**  
**STATE OF MISSISSIPPI**  
**APRIL 02, 2019**

**IN THE MATTER OF A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TUPELO, MISSISSIPPI (THE "CITY"), DECLARING THE INTENTION OF THE CITY TO ENTER INTO A LOAN (THE "LOAN") WITH THE MISSISSIPPI DEVELOPMENT BANK (THE "BANK") SECURED BY A PROMISSORY NOTE (THE "NOTE") PURSUANT TO MISSISSIPPI CODE 1972 ANNOTATED, SECTIONS 31-25-1 ET SEQ., MISSISSIPPI CODE OF 1972, AS AMENDED FROM TIME TO TIME (THE "ACT") FOR THE PURPOSES OF PROVIDING FUNDS FOR ERECTING, REPAIRING, IMPROVING, ADORNING, EQUIPPING, EXPANDING, AND FURNISHING MUNICIPAL BUILDINGS, INCLUDING BUT NOT LIMITED TO, THE CONVENTION CENTER AND RELATED MUNICIPAL BUILDINGS; AND PURCHASING BUILDINGS AND LAND THEREFORE AND FOR OTHER AUTHORIZED PURPOSES UNDER MISSISSIPPI CODE ANN. SECTIONS 21-33-301 ET SEQ., AS AMENDED AND/OR SUPPLEMENTED FROM TIME TO TIME, THE ACT AND OTHER APPLICABLE LAWS OF THE STATE OF MISSISSIPPI, INCLUDING PAYING FOR THE COST OF SUCH BORROWING, SAID LOAN AND NOTE BEING FUNDED BY THE BANK FROM THE ISSUANCE OF NOT TO EXCEED \$16,000,000 SPECIAL OBLIGATION BONDS SERIES 2019 (TUPELO, MISSISSIPPI PUBLIC IMPROVEMENT REVENUE PROJECT); AND DIRECTING PUBLICATION OF NOTICE OF SUCH INTENTION; AND FOR RELATED PURPOSES.**

Moved by Councilman Buddy Palmer, seconded by Councilman Markel Whittington to approve said resolution. The vote was unanimous in favor. A copy of the resolution is attached to these minutes as **APPENDIX I.**

**IN THE MATTER OF A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TUPELO, MISSISSIPPI (THE "CITY"), EMPLOYING PROFESSIONALS IN CONNECTION WITH THE ISSUANCE OF A PROMISSORY NOTE (THE "NOTE") OF THE CITY PURSUANT TO MISSISSIPPI CODE 1972 ANNOTATED, SECTIONS 31-25-1 ET SEQ., MISSISSIPPI CODE OF 1972, AS AMENDED FROM TIME TO TIME (THE "ACT"); AND FOR RELATED PURPOSES.**

Councilwoman Nettie Davis moved, seconded by Councilman Mike Bryan to approve the resolution. The vote was unanimous in favor. A copy of the resolution is attached to these minutes as **APPENDIX J.**

**STUDY AGENDA**

**IN THE MATTER OF REVIEW, APPROVE, REJECT AUTHORIZING MAYOR TO ENTER INTO PURCHASE AGREEMENT BETWEEN CITY OF TUPELO AND**

**MUNICIPAL MINUTES, CITY OF TUPELO**  
**STATE OF MISSISSIPPI**  
**APRIL 02, 2019**

**NORTHEAST MISSISSIPPI REGIONAL WATER SUPPLY DISTRICT, SUBJECT TO RATIFICATION IN FINAL FORM.**

Councilman Markel Whittington moved, seconded by Councilman Mike Bryan to suspend the rules, move the item up immediately for Council action. The vote was unanimous in favor.

Councilman Mike Bryan moved, seconded by Councilwoman Nettie Davis to approve authorizing Mayor to enter into purchase agreement between City of Tupelo and Northeast Mississippi Regional Water Supply District, subject to ratification in final form. The vote was unanimous in favor. A copy of the resolution is attached to these minutes as **APPENDIX K.**

**IN THE MATTER OF REVIEW, APPROVE REJECT RESOLUTION AUTHORIZING MYOR TO ENTER INTO OPERATIONS AND MAINTENANCE AGREEMENT BETWEEN CITY OF TUPELO AND NORTHEAST MISSISSIPPI REGIONAL WATER SUPPLY DISTRICT, SUBJECT TO RATIFICATION IN FINAL FORM.**

Vote unanimous to move the item up to the April 15, 2019, action agenda.

**IN THE MATTER OF REVIEW APPROVE, REJECT ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 23.5: SOLID WASTE COLLECTION, REMOVAL AND DISPOSAL.**

Vote unanimous to move the item up to the April 15, 2019, action agenda.

**IN THE MATTER OF REVIEW, APPROVE, REJECT PLANNING COMMITTEE RECOMMENDATION TO REZONE PROPERTY ON FEEMSTER LAKE ROAD FROM MIXED USE EMPLOYMENT TO LOW DENSITY RESIDENTIAL DISTRICT.**

Vote unanimous to move the item up to the April 15, 2019, action agenda.

**EXECUTIVE SESSION**

**IN THE MATTER OF MISSISSIPPI CODE ANNOTATED 25-41-7(k) TRANSACTION OF BUSINESS AND DISCUSSIONS REGARDING EMPLOYMENT OR JOB PERFORMANCE OF A PERSON IN A SPECIFIC POSITION OR TERMINATION OF AN EMPLOYEE HOLDING A SPECIFIC POSITION. THE EXEMPTION PROVIDED BY THIS PARAGRAPH INCLUDES**

**TRANSACTION OF BUSINESS AND DISCUSSION IN EXECUTIVE SESSION BY THE BOARD OF TRUSTEES OF A PUBLIC HOSPITAL REGARDING ANY EMPLOYEE OR MEDICAL STAFF MEMBER OR APPLICANT FOR MEDICAL STAFF PRIVILEGES AND ANY SUCH INDIVIDUA'S CREDENTIALING, HEALTH, PERFORMANCE, SALARY, RAISES OR DISCIPLINARY ACTION.**

**MUNICIPAL MINUTES, CITY OF TUPELO**  
**STATE OF MISSISSIPPI**  
**APRIL 02, 2019**

**THE EXEMPTION PROVIDED BY THIS PARAGRAPH INCLUDES THE RIGHT TO ENTER INTO EXECUTIVE SESSION CONCERNING A LINE ITEM IN A BUDGET WHICH MIGHT AFFECT THE TERMINATION OF AN EMPLOYEE OR EMPLOYEES. ALL OTHER BUDGET ITEMS SHALL BE CONSIDERED IN OPEN MEETINGS AND FINAL BUDGETARY ADOPTION SHALL NOT BE TAKEN IN EXECUTIVE SESSION (1972 as amended).**

**MISSISSIPPI CODE ANNOTATED 25-41-7(g) TRANSACTION OF BUSINESS AND DISCUSSION REGARDING THE PROSPECTIVE PURCHASE SALE OR LEASING OF LANDS AND (j) TRANSACTION OF BUSINESS AND DISCUSSIONS OR NEGOTIATIONS REGARDING THE LOCATION, RELOCATION, OR EXPANSION OF A BUSINESS, MEDICAL SERVICE OR AN INDUSTRY (1972 as amended).**

Councilman Mike Bryan moved, seconded by Markel Whittington to close the meeting and determine the need for Executive session. The vote was unanimous in favor.

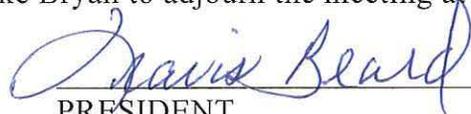
City Attorney Ben Logan advised that the matters were proper for executive session discussion.

Councilman Willie Jennings moved, seconded by Councilman Buddy Palmer to go into executive session at 7:18 p.m. The vote was unanimous in favor.

After the discussion of the items, Councilman Markel Whittington moved, seconded by Councilman Lynn Bryan to come out of executive session at 7:32. The vote was unanimous in favor with no action taken.

**IN THE MATTER OF ADJOURNMENT**

With no further business to come before the City Council, Councilman Markel Whittington moved, seconded by Council Mike Bryan to adjourn the meeting at 7:33 p.m.

  
 \_\_\_\_\_  
 PRESIDENT

ATTEST:

  
 \_\_\_\_\_  
 ACTING CLERK OF COUNCIL

  
 \_\_\_\_\_  
 MAYOR  
 April 17, 2019  
 \_\_\_\_\_  
 DATE

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**Documents Not Available**

Appendix A

Appendix B

Appendix C

Appendix D

**(Various Proclamations)**

# MEMO

**TO:** Mayor, City Council members  
**FROM:** Pat Falkner  
**DATE:** March 26, 2019  
**RE:** Routine agenda item: Review/accept minutes of March 4 Planning Committee meeting.

Attached are the minutes of the March 4 Planning Committee meeting. Actions taken were as follows:

- MAJSUB19-02 Application from King Pines 2018 LLC to locate a new thirty-eight lot subdivision on two sites. Site 1 is east side of Monument Drive, south of Hancock Park and Site 2 is at the corner of Ida and Lawndale. The property is zoned Mixed Use Residential.

Approved

- RZ19-01 Application from J & T Properties to change the zoning of the southern section of Parcel 088t-27-052-00 on Feemster Lake Road from Mixed Use Employment to Low Density Residential District.

Approved

Council action on these minutes will include final approval of the King Pines subdivision. The rezoning will be on the study agenda with a public hearing and final action at the April 16 meeting.

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whoever lived there at the end of the fifteenth year. Mr. Bryan confirmed that and added that the purchase would be at a reduced price.

Ms. Mart asked if the Monument Drive site would have fences along the north and south boundaries. Mr. Bryan confirmed that these fences would be provided. She asked if the fences would be landscaped. Mr. Bryan said that landscaping would be provided for each lot and the common lots.

Mrs. Mary K. McCustion of 1513 Winter Valley Road appeared with questions about the development and long term maintenance. Mr. Falkner answered that in projects funded under the tax credit housing program, the owner is required to do all maintenance, both inside the homes and outside, for the first fifteen years. After that the purchasers of the homes would be responsible for maintenance as well as utilities, taxes and insurance.

Mr. Moll noted that a homeowners association could be created at that time.

Mr. Falkner reported that the subdivision met all the applicable standards for residential development in the Mixed Use Residential zoning district.

Mr. Moll asked if the street into the Monument Drive site would be public or private. Mr. Falkner reported that it would become a public street on completion.

Mr. Hildenbrand mentioned that he was a little concerned about the residents of the homes on Ida Street having convenient access to the clubhouse.

Mr. Davis made a motion to approve the application, seconded by Mr. Smith, with Mr. Hildenbrand, Mr. Moll, Mrs. Thompson, Ms. Mart, and Mr. Armstrong voted in favor.

Mr. Turner and Mr. Reed returned to the meeting.

**RZ 19-01:** Application from Jeff and Tammy Cooley for rezoning of south half of a 36 acre parcel located off Feemster Lake Road, from Mixed Use Employment to Low Density Residential.

Mr. Falkner presented the application in the absence of the applicants. He explained that the property had been split between two zoning districts during the 2013 citywide rezoning. The north section is zoned Low Density Residential and the south is zoned Mixed Use Employment. The different zoning of the south section is not consistent with the best use of the property in that it is not accessible from the Eason Boulevard side where other MUE properties are located. If rezoned so that the entire property was residential, it could be accessed from Feemster Lake Road and could be developed with single family homes like other properties to the north and west.

Mr. Felix Rutledge, 2912 Oakview, appeared, saying that he owned land across from the subject property and that the area was still in relatively large, undeveloped tracts. He was concerned about a wetland in the rear of the subject property and also about

**Finance Department**

**To:** Mayor & City Council  
**From:** Kim Hanna  
**Date:** April 2, 2019  
**Re:** Review/Approve/Reject Advertising and Promotion Expense

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The following expenditures are requested to be approved for the purpose of advertising and bringing into favorable notice the opportunities, possibilities and resources of the City of Tupelo.

ADMINISTRATION

Lee County Courier – Best Mayor 2019	\$110.00
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The proposed expenditures are included in the operating budget of the City of Tupelo.

7-2-10  
Title

Place  
Holder

RESOLUTION

**RESOLUTION GRANTING LEGGETT & PLATT COMPONENTS COMPANY, INC.,  
OPTION TO PURCHASE PROPERTY AND IMPROVEMENTS**

**WHEREAS**, Leggett & Platt Components Company, Inc. ("Leggett & Platt") leases two parcels and improvements on South Green Street, Tupelo, Mississippi, from the City of Tupelo, Mississippi ("City"); and

**WHEREAS**, the Premises are located on Parcels 113N-07-017-00 ("Parcel 17") and 113J-07-059-00 ("Parcel 59") as identified by the Lee County, Mississippi, Tax Assessor's Office; and

**WHEREAS**, Parcel 59 is more particularly described in the attached Exhibit "A" and Parcel 17 is more particularly described in the attached Exhibit "B." Parcel 17 and Parcel 59 are herein collectively referred to as the "Premises"; and

**WHEREAS**, Leggett & Platt and its predecessors in interest leased the Premises from the City through the following instruments ("Leases"):

- A. Industrial Enterprise Contract dated April 29, 1955;
- B. Supplemental Industrial Enterprise Contract dated July 29, 1957;
- C. Lease Agreement dated February 4, 1964;
- D. Lease Agreement dated July 28, 1967;
- E. Lease Agreement dated July 28, 1971;
- F. Industrial Enterprise Contract dated April 28, 1955; and
- G. Contract dated June 14, 1960; and

**WHEREAS**, the City issued bonds pursuant to the Leases and any amendments to said Leases and said bonds have been fully paid and retired by Leggett & Platt and its predecessors in interest, together with all interest and charges in connection therewith; and

**WHEREAS**, the City has authority to dispose of Premises financed by Industrial Revenue Bonds under Section 57-1-45, Miss. Code Ann. (1972); and

**WHEREAS**, the City desires to amend the Leases to grant Leggett & Platt an option to purchase the Premises and improvements ("Option") for Ten Thousand Three Hundred and no/100 Dollars (\$10,300.00) ("Purchase Price"), said amount representing the total annual rent for 2019 for all of the Leases; and

**WHEREAS**, the proposed Amendment to Lease Agreements granting Leggett & Platt the Option is attached as Exhibit "C"; and

**WHEREAS**, Leggett & Platt has paid the Purchase Price by check dated January 25, 2019; and

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**WHEREAS**, Leggett & Platt contends it has overpaid ad valorem taxes on parcels owned by Leggett & Platt separate and apart from the Premises for multiple years and agrees, in the event it exercises the Option and acquires fee title to the Premises, to waive any claim to refund for such taxes; and

**WHEREAS**, Leggett & Platt agrees, in the event it exercises the Option and acquires fee title to the Premises, not to challenge the 2019 assessed value of the Premises described in Exhibit "A" by the Lee County Tax Assessor's Office; and

**WHEREAS**, the proposed Amendment to Lease Agreements attached as Exhibit "C" will promote, protect and safeguard the public interest and further the purpose of Title 57, Chapter 1 of the Mississippi Code Annotated.

**NOW, THEREFORE**, it is hereby resolved and ordered by the city council of the City of Tupelo, Mississippi, as follows:

1. The prefatory paragraphs of this Resolution are incorporated herein and hereby found and determined to be in accordance with the necessary and warranted exercise of authority by the City of Tupelo, that is, the granting of the Option to purchase to Leggett & Platt for the Premises described in Exhibits "A" and "B."

2. This Resolution shall be submitted to the Mississippi Development Authority for its consideration under Section 57-1-45, Miss. Code Ann. (1972) as well as any other necessary regulatory agencies.

3. Leggett & Platt and the City shall agree on a due diligence period during which Leggett & Platt will conduct at its sole expense any tests, inspections, appraisals or other investigations that Leggett & Platt deems necessary for the Premises.

4. Prior to exercise of the Option, Leggett & Platt may obtain a commitment for title insurance showing marketable title to the Premises, subject to agreed encumbrances.

After a full discussion of this matter, Council Member \_\_\_\_\_ moved, seconded by Council Member \_\_\_\_\_, the foregoing Resolution be adopted, and upon the question being put to a vote, the results were as follows:

- Councilmember Whittington voted \_\_\_\_\_
- Councilmember L. Bryan voted \_\_\_\_\_
- Councilmember Beard voted \_\_\_\_\_
- Councilmember Davis voted \_\_\_\_\_
- Councilmember Palmer voted \_\_\_\_\_
- Councilmember M. Bryan voted \_\_\_\_\_
- Councilmember Jennings voted \_\_\_\_\_

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The motion having received the affirmation vote of a majority of the members present, the President declared the motion carried and the Resolution adopted.

WHEREUPON, the foregoing Resolution was declared, passed and adopted at a regular meeting of the Council on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF TUPELO, MISSISSIPPI**

By: \_\_\_\_\_  
TRAVIS BEARD  
City Council President

**ATTEST:**

\_\_\_\_\_  
AMANDA DANIEL  
Clerk of the Council

**APPROVED:**

\_\_\_\_\_  
JASON L. SHELTON, Mayor

\_\_\_\_\_  
DATE

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**EXHIBIT "A"**

## Surveyed Description (11/13/18):

Commencing and Beginning at a (found) 1/2-inch re-bar marking the Southeast corner of Lot No. 46 of Mahtoka Park Subdivision, Part One, according to the plat thereof recorded in Plat Book No. 1 at Page 63 in the office of the Lee County Chancery Clerk; run thence North 76 degrees 47 minutes 57 seconds West a distance of 549.70 feet to a (set) 1/2-inch re-bar with cap; run thence North 10 degrees 49 minutes 24 seconds East a distance of 553.41 feet, along the East line of Warrior Trail (an unimproved street), to a (set) 1/2-inch re-bar with cap; run thence South 76 degrees 40 minutes 15 seconds East a distance of 1,073.60 feet to a (found) 1/2-inch iron pipe; run thence South 18 degrees 13 minutes 47 seconds West a distance of 692.33 feet, along the westerly right-of-way line of South Green Street, to a (set) 1/2-inch re-bar with cap; run thence North 85 degrees 07 minutes 55 seconds West a distance of 464.51 feet, parallel with an old abandoned railroad spur, to a (set) 1/2-inch re-bar with cap; run thence North 18 degrees 33 minutes 20 seconds East a distance of 207.36 feet to the point of beginning.

Survey Parcel COT 59 is situated in the Northwest Quarter of Section 7, Township 10 South, Range 6 East, City of Tupelo, Lee County, Mississippi, and contains 14.94 acres, as described.

**EXHIBIT "B"**

## Surveyed Description (11/13/18):

Commencing at a (found) 1/2-inch re-bar marking the Southeast corner of Lot No. 46 of Mahtoka Park Subdivision, Part One, according to the plat thereof recorded in Plat Book No. 1 at Page 63 in the office of the Lee County Chancery Clerk; run thence South 18 degrees 33 minutes 20 seconds West a distance of 284.60 feet to a (set) 1/2-inch re-bar with cap and the Point of Beginning.

From said point of beginning, run South 85 degrees 07 minutes 55 seconds East a distance of 464.96 feet, parallel with an old abandoned railroad spur, to a (set) 1/2-inch re-bar with cap; run thence South 18 degrees 13 minutes 47 seconds West a distance of 542.30 feet, along the westerly right-of-way line of South Green Street, to a point in asphalt pavement; run thence in a southwesterly direction, along the northwest right-of-way line of South Green Street, along a simple circular curve to the right with the following characteristics: Radius = 2,834.79 feet; Arc Length = 200.08 feet; Chord Bearing and Length = South 26 degrees 06 minutes 12 seconds West 200.04 feet to a point in asphalt pavement; run thence North 84 degrees 05 minutes 06 seconds West a distance of 231.70 feet to a point in concrete pavement; run thence North 52 degrees 35 minutes 00 seconds West a distance of 261.60 feet to a (found) 1/2-inch re-bar; run thence North 41 degrees 39 minutes 57 seconds East a distance of 105.00 feet to a (found) 1/2-inch re-bar; run thence North 20 degrees 39 minutes 57 seconds East a distance of 105.00 feet to a (found) 1/2-inch re-bar; run thence North 18 degrees 33 minutes 20 seconds East a distance of 148.91 feet to a (set) 1/2-inch re-bar; run thence North 12 degrees 47 minutes 07 seconds East a distance of 241.60 feet to a (set) 1/2-inch re-bar with cap; run thence South 85 degrees 07 minutes 55 seconds East a distance of 25.00 feet, parallel with an old abandoned railroad spur, to the Point of Beginning.

Survey Parcel COT 17 is situated partly in the Northwest Quarter and partly in the Southwest Quarter of Section 7, Township 10 South, Range 6 East, City of Tupelo, Lee County, Mississippi, and contains 7.43 acres, as described.

## EXHIBIT "C"

### AMENDMENT TO LEASE AGREEMENTS

This Amendment is entered into by and between the City of Tupelo, Mississippi ("Landlord"), and Leggett & Platt Components Company, Inc. ("Tenant"), respecting the premises commonly known as 1961 South Green Street, Tupelo, Mississippi and 1921 South Green Street, Tupelo, Mississippi (collectively, the "Premises").

#### WITNESSETH

WHEREAS, Landlord is the landlord and Tenant is the current tenant under the following instruments (collectively, the "Leases") respecting the Premises, copies of which are attached hereto as Exhibits "A", "B", "C", "D", "E", "F", and "G" respectively, and incorporated herein by this reference:

- A. Industrial Enterprise Contract dated April 29, 1955;
- B. Supplemental Industrial Enterprise Contract dated July 29, 1957;
- C. Lease Agreement dated February 4, 1964;
- D. Lease Agreement dated July 28, 1967;
- E. Lease Agreement dated July 28, 1971;
- F. Industrial Enterprise Contract dated April 28, 1955; and
- G. Contract dated June 14, 1960.

WHEREAS, through a series of assignments and internal restructurings, Tenant is the successor-in-interest to the original tenant under the Leases;

WHEREAS, Landlord and Tenant desire to amend the Leases pursuant to this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant do hereby agree and amend the Leases as follows:

1. **Option to Purchase.** Landlord hereby agrees that all bonds issued pursuant to the Leases and any amendments thereto have been fully paid and retired, together with all interest and charges in connection therewith. Tenant shall have the exclusive and irrevocable option to purchase all of the Premises, and all buildings and improvements thereon ("Option"), for the purchase price of Ten Thousand Three Hundred and no/100 Dollars (\$10,300.00) ("Purchase Price"), said amount representing the total annual rent for 2019 for all of the Leases. Landlord and Tenant confirm that Tenant has paid the Purchase Price to Landlord by check dated January 25, 2019. Tenant may exercise the Option by providing written notice thereof to Landlord of its desire to purchase the Premises ("Notice"). The closing of the sale of the Premises to Tenant ("Closing") shall take place at a

time and location mutually acceptable to Landlord and Tenant. In consideration of Tenant's payment of the Purchase Price to Landlord, Landlord shall deliver to Tenant, at Closing, a good and sufficient Special Warranty Deed and bill of sale conveying fee simple title to the Premises, including all fixtures, improvements and personal property then located thereon and therein, free and clear of all liens, encumbrances other defects in title, excepting those that are acceptable to the Tenant at its sole discretion.

2. **Counterparts/Execution.** This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile signatures and signed executed pages sent as a PDF attachment to an e-mail shall be deemed originals for all purposes.

3. **Definitions.** All capitalized terms used but not defined in this Amendment shall have meanings given to such terms in the Leases.

4. **Recitals.** The recitals set forth above are incorporated as if fully set forth herein.

5. **Brokerage.** Landlord and Tenant each warrant to each other that it has not dealt with any broker or agent in connection with the negotiation or execution of this Amendment. Landlord and Tenant shall each indemnify each other against all costs, expenses, attorneys' fees, and other liability for commissions or other compensations claimed by any broker or agent claiming the same by, through, or under the indemnifying party.

6. **Authority.** The parties to this Amendment warrant and represent to one another that they have the power and authority to enter into and perform their respective obligations under this Amendment, and the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such persons, and that all formal requirements necessary or required by any state and/or federal law or private agreement in order for the parties to enter into and perform their respective obligations under this Amendment have been fully complied with.

(Signature page to follow.)

IN WITNESS WHEREOF, Landlord and Tenant have executed this Amendment, which shall be effective as of the last date indicated in the signature block below.

**TENANT:**

**LANDLORD:**

**LEGGETT & PLATT COMPONENTS  
COMPANY, INC.**

**CITY OF TUPELO**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

Et

**CITY OF TUPELO, MISSISSIPPI**  
**SUMMARY COMMENTS - AUDIT 9/30/2018**

Page 149 – Summary of Auditors Results

- Unmodified Opinion on Financial Statements – means financial statements present fairly in all material respects the financial position of the City of Tupelo in accordance with accounting principles generally accepted in the United States.
- No Internal Control findings and no compliance findings on the financial statement level or the federal awards level of reporting.

Page 21 & 22– Statement of Net Position

- Reflects total assets of \$461,227,219. This is an increase of \$32.3m. A large portion of this increase is related to \$9.2m increase in unrestricted cash reserves of the City from the 2017 year.
- Reflects total liabilities of \$200,635,339. This is an increase of \$28.9m. A large portion of this increase is related to issuances of \$28.6m in long term debt by the City for capital improvements. The City added approximately \$33.4m of capital assets in the FY 2018 year.
- In summarizing the Statement of Net Position: Total assets increased, cash reserves increased and capital assets increased. The increase in capital assets(\$33.4m) did require an increase in long term debt(\$28.6M) that was necessary to fund capital improvements by the City.

Page 23 – Statement of Activities

- The largest revenue item (other than utility revenues) is Sales Tax coming back from the State of Mississippi related to sales in the City. This amount of sales tax is \$29,064,458 – an increase of approximately \$670,106 or 2.36%. This compares to an increase of \$415,000 or 1.48% in the FY 2017 year.

Page 26 – Statement of Revenues & Expenditures – Governmental Funds

- Total Revenues are \$60,779,028 for all governmental funds of the City. 47.82% of this revenue was funded by sales tax revenues from the State of Mississippi. This compares to only 28.37% of revenue from property tax levies of ad valorem taxes of the City.
- Revenues did exceed expenditures on this Statement by \$1,366,345 for all governmental funds of the City.
- Capital improvements were added by the City in the amount of \$15,520,686 with only \$10,000,000 of debt borrowed to fund these capital improvements, while still operating at a surplus of \$1,366,345.

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Page 33 & 34 – Statement of Revenues & Expenditures – Proprietary Funds (Utility Funds)

- Total operating revenues were \$73,798,158, bringing total revenue of governmental funds and proprietary funds to a total of \$134,577,186.
- Total expenditures were \$71,998,268, a reduction from the prior year of \$2,131,725.
- This statement reflects a change in net position of \$3,391,268 for all proprietary funds of the City. The majority of this increase is related to the component unit of Northeast Mississippi Regional Water Supply District (\$2,918,547).

Page 35 – Statement of Cash Flows – Proprietary Funds (Utility Funds)

- This statement reflects an total increase in cash reserves for the utility funds of \$8,957,621 with \$6,555,694 of this attributable to Northeast Mississippi Regional Water Supply District.

Again, in summary this year's audit report reflects an unmodified opinion on the financial statements with no internal control or compliance findings in regards to Governmental Auditing Standards or Uniform Guidance for federal programs. This is a report this Council, the Mayor, Kim Hanna, Don Lewis and all City personnel should take great pride in.

Thank you for your time and the continued relationship our firm has had with the City of Tupelo since 1994.

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**INDENTURE OF TRUST**

**BY AND BETWEEN**

**MISSISSIPPI DEVELOPMENT BANK**

**AND**

**THE PEOPLES BANK,  
AS TRUSTEE**

---

**DATED \_\_\_\_\_, 2019**

---

**RELATING TO THE ISSUANCE OF**

**\$\_\_\_\_\_,000**

**MISSISSIPPI DEVELOPMENT BANK  
SPECIAL OBLIGATION BONDS, SERIES 2019  
(TUPELO, MISSISSIPPI PUBLIC IMPROVEMENT REVENUE PROJECT)**

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## INDENTURE OF TRUST

**THIS INDENTURE OF TRUST**, dated \_\_\_\_\_, 2019, is by and between the **MISSISSIPPI DEVELOPMENT BANK**, a public body corporate and politic of the State of Mississippi (the "**State**"), exercising essential public functions (the "**Bank**"), organized under the provisions of Sections 31-25-1 *et seq.*, Mississippi Code of 1972, as from time to time amended (the "**Bank Act**"), and The Peoples Bank, a national banking association duly organized and existing under and by virtue of the laws of the United States of America and authorized to accept and execute trusts of the character herein with its principal corporate trust office in Biloxi, Mississippi, as Trustee (the "**Trustee**").

### WITNESSETH:

**WHEREAS**, the Bank is authorized and empowered by the provisions of the Bank Act to issue Bonds for the purpose of entering into loan agreements with Local Governmental Units (as defined herein and in the Bank Act); and

**WHEREAS**, the execution and delivery of this Indenture of Trust (this "**Indenture**") have been in all respects duly and validly authorized by a resolution duly passed and approved by the Board of Directors of the Bank.

### NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:

#### GRANTING CLAUSES

The Bank, in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds (as defined herein) by the owners thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and interest on the Bonds according to their tenor and effect and to secure the performance and observance by the Bank of all covenants expressed or implied herein and in the Bonds, does hereby grant, transfer, bargain, sell, convey, mortgage, assign and pledge, and grant a security interest in the rights, interests, properties, monies and other assets described in the following Granting Clauses to the Trustee and its successors in trust and assigns forever, for the securing of the performance of the obligations of the Bank hereinafter set forth, such grant, transfer, bargaining, sale, conveyance, mortgage, assignment, pledge and security interest, as described in the following Granting Clauses.

#### GRANTING CLAUSE FIRST

All cash and securities now or hereafter held in the Funds and Accounts created or established under this Indenture (other than the Rebate Fund) and the investment earnings thereon (other than the Rebate Fund) and all proceeds thereof (except to the extent in the Rebate Fund or any amounts which are transferred from such Funds and Accounts (as defined herein) from time to time in accordance with this Indenture).

### **GRANTING CLAUSE SECOND**

The Loan Agreement (as defined herein) and the Note (as defined herein) acquired and held by the Trustee pursuant to this Indenture and the earnings thereon and all proceeds thereof.

### **GRANTING CLAUSE THIRD**

All funds, accounts and monies hereinafter pledged to the Trustee as security by the Bank to the extent of that pledge, including any Tax Monies (as defined herein) received by the Trustee under Section 5.09 hereof.

**TO HAVE AND TO HOLD** all and singular the hereinafter defined Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever;

**IN TRUST NEVERTHELESS**, upon the terms and trust herein set forth for the equal and proportionate benefit, security and protection of all present and future owners of the Bonds issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any of the other Bonds except as otherwise expressly provided herein;

**PROVIDED HOWEVER**, that if the Bank shall pay or cause to be paid, or there shall otherwise be paid or made provision for payment of, the principal of and interest on the Bonds due or to become due thereon, at the times and in the manner mentioned in the Bonds, and shall pay or cause to be paid or there shall otherwise be paid or made provision for payment to the Trustee of all sums of money due or to become due according to the provisions hereof and shall otherwise comply with Article IX hereof, then this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture to be and remain in full force and effect.

**THIS INDENTURE OF TRUST FURTHER WITNESSETH**, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered, and all said property, rights and interests, including, without limitation, the amounts hereby assigned and pledged, are to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and the Bank has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective owners, from time to time, of the Bonds, or any part thereof, as follows (subject, however, to the provisions of Sections 3.11 and 3.12 hereof):

## ARTICLE I.

### DEFINITIONS AND RULES OF INTERPRETATION

**SECTION 1.01. Definitions.** Terms used herein, unless the context hereof shall require otherwise, shall have the following meanings, and any other terms used herein and not defined herein shall have the meanings given such terms in Section 1.1 of the Loan Agreement unless the context or use thereof indicates another or different meaning or intent.

#### **Accounts**

“Accounts” shall mean the accounts created pursuant to Article VI hereof.

#### **Act**

“Act” shall mean the Bank Act and the City Act.

#### **Arbitrage Rebate Agreement**

“Arbitrage Rebate Agreement” shall mean the Arbitrage Rebate Agreement among the Bank, the City and the Trustee, in connection with the Series 2019 Bonds.

#### **Authorized Officer**

“Authorized Officer” shall mean the President, Vice President, Executive Director, Secretary or Assistant Secretary of the Bank or such other person or persons who are duly authorized to act on behalf of the Bank.

#### **Bank**

“Bank” shall mean the Mississippi Development Bank, a public body corporate and politic of the State, exercising essential public functions and organized under the provisions of the Bank Act.

#### **Bank Act**

“Bank Act” shall mean Sections 31-25-1 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time.

#### **Bond or Bonds**

“Bond” or “Bonds” shall mean the Series 2019 Bonds and any Refunding Bonds.

#### **Bond Counsel**

“Bond Counsel” shall mean an attorney or firm of attorneys approved by the City and the Bank that is nationally recognized in the area of municipal law and matters relating to the exclusion of interest on state and local government bonds from gross income under federal tax

law, including particularly compliance with Section 148(f) of the Code. Bond Counsel shall initially mean Butler Snow LLP, Ridgeland, Mississippi.

**Bondholder**

“Bondholder” “Holder” or “holder of Bonds” or “owner of Bonds” or any similar term shall mean the Registered Owner of any Bond in whose name a Bond is registered in the Bond Register.

**Bond Issuance Expense Account**

“Bond Issuance Expense Account” shall mean the account by that name created by Section 6.02 hereof.

**Bond Register**

“Bond Register” shall mean the registration records of the Bank kept by the Trustee to evidence the registration and transfer of the Bonds.

**Business Day**

“Business Day” means any day other than (a) a Saturday, (b) a Sunday, (c) any other day on which banking institutions in New York, New York or Biloxi, Mississippi, are authorized or required not to be open for the transaction of regular banking business, (d) any day the City Hall in Tupelo, Mississippi is closed, or (e) a day on which the New York Stock Exchange is closed.

**Capitalized Interest Account**

"Capitalized Interest Account" means the account by the name created by Section 6.02 hereof.

**City**

“City” shall mean the City of Tupelo, Mississippi or any successor thereto.

**City Act**

“City Act” shall mean Sections 21-33-301 et seq., Mississippi Code of 1972, as amended and/or supplemented from time to time.

**City Bond Resolution**

“City Bond Resolution” shall mean the resolution of the Mayor and City Council of the City adopted on May 7, 2019 in connection with the Series 2019 Bonds and the loan of the proceeds thereof to the City.

**City Project**

“City Project” shall mean together, providing projects as authorized under the City Act, including but not limited to erecting, repairing, improving, adorning, equipping, expanding and furnishing municipal buildings, including but not limited to, the convention center and related municipal buildings; and purchasing buildings and land therefor.

**Closing Date**

“Closing Date” shall mean, in connection with the Series 2019 Bonds, the date on which the Series 2019 Bonds are delivered by the Bank to, and paid for by, the Underwriter.

**Code**

“Code” or “Internal Revenue Code” shall mean the Internal Revenue Code of 1986, as amended, and all applicable Treasury Regulations promulgated thereunder.

**Costs of Issuance**

“Costs of Issuance” shall mean any and all costs and expenses relating to the issuance, sale and delivery of the Series 2019 Bonds, and the execution and delivery of this Loan Agreement, the Indenture and the Note, including, but not limited to, all fees and expenses of legal counsel, municipal advisors or consultants, feasibility consultants and accountants, the initial fees and expenses of the Trustee, any fee to be paid to the Bank, bond or reserve fund insurance premiums, credit enhancements or liquidity facility fees, the preparation and printing of this Loan Agreement, the Note, the Indenture, the Tax Intercept Agreement, any preliminary official statement and final official statement, the Series 2019 Bonds, and all other related closing documents, and all other expenses relating to the issuance, sale and delivery of the Series 2019 Bonds required to be paid from the proceeds of the Series 2019 Bonds.

**Counsel**

“Counsel” shall mean an attorney duly admitted to practice law before the highest court of any state and approved by the Bank and the Trustee.

**Default**

“Default” shall mean an event or condition the occurrence of which, with the lapse of time or the giving of notice or both, would become an Event of Default hereunder.

**Event of Default**

“Event of Default” shall mean any occurrence or event specified in Section 10.01 hereof.

**Funds**

“Funds” shall mean the funds created pursuant to Article VI hereof (other than the Rebate Fund).

**General Account**

“General Account” shall mean the account by that name created by Section 6.02 hereof.

**General Fund**

“General Fund” shall mean the fund by that name created by Section 6.02 hereof.

**Governmental Obligations**

“Governmental Obligations” shall mean to the extent permitted by State law (a) direct obligations of the United States of America; (b) obligations guaranteed as to principal and interest by the United States of America or any federal agency whose obligations are backed by the full faith and credit of the United States of America, including but not limited to: U. S. Treasury obligations, Farmers Home Administration (or the successor thereto), General Services Administration, Guaranteed Title XI financing, Government National Mortgage Association (GNMA); and (c) obligations of any state of the United States of America or any political subdivision thereof, the full payment of principal of, premium, if any, and interest on which (i) is fully and unconditionally guaranteed or insured by the United States of America, or (ii) is provided for by an irrevocable deposit of the securities described in clause (i) to the extent such investments are permitted by State law.

All Government Obligations must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the Series 2019 Bonds (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

**Indenture**

“Indenture” shall mean this Indenture of Trust, and all supplements and amendments hereto entered into pursuant to Article XII hereof.

**Insured Obligations**

“Insured Obligations” shall mean the Series 2019 Bonds.

**Interest Payment Date**

“Interest Payment Date” shall mean any date on which interest is payable on the Bonds, and for the Series 2019 Bonds, January 1 and July 1, commencing January 1, 2020.

**Investment Securities**

“Investment Securities” means any of the following to the extent such investments are permitted by State law: (a) obligations of the State, any municipality of the State or the United States of America rated at least “A” by S&P or Moody's; (b) obligations the principal and interest of which are fully guaranteed by the State or the United States of America; (c) obligations of any corporation wholly owned by the United States of America; (d) obligations

of any corporation sponsored by the United States of America which are or may become eligible as collateral for advances to member banks as determined by the Board of Governors of the Federal Reserve System; (e) obligations of insurance firms or other corporations whose investments are rated "AA" or better by recognized rating companies; (f) certificates of deposit or time deposits of qualified depositories of the State as approved by the State Depository Commission, secured in such manner, if any, as the Bank shall determine; (g) contracts for the purchase and sale of obligations of the type specified in items (a) through (e) above; (h) repurchase agreements secured by obligations specified in items (a) through (e) above; or (i) money market funds, rated "AAM" or "AAM-G" or better by S&P, the assets of which are required to be invested in obligations specified in items (a) through (f) above.

### **Loan Agreement**

"Loan Agreement" shall mean, the Loan Agreement by and between the City and the Bank, dated \_\_\_\_\_, 2019.

### **Local Governmental Units**

"Local Governmental Units", as defined in the Bank Act, shall mean (a) any county, municipality, utility district, regional solid waste authority, county cooperative service district or political subdivision of the State of Mississippi, (b) the State or any agency thereof, (c) the institutions of higher learning of the State, (d) any education building corporation established for institutions of higher learning, or (e) any other governmental unit created under State law, such as the City.

### **Moody's**

"Moody's" shall mean Moody's Investors Service, Inc., a Delaware corporation, its successors and assigns and, if dissolved or liquidated or if it no longer performs the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the City (with the approval of the Bank) by written notice to the Trustee.

### **Note**

"Note" shall mean the \$\_\_\_\_,000 Promissory Note (Tupelo, Mississippi Public Improvement Revenue Project), dated \_\_\_\_\_, 2019, of the City to the Bank attached as Exhibit A to the Loan Agreement.

### **Note Payment**

"Note Payment" shall mean the amounts paid or required to be paid, from time to time, for principal of, premium, if any, and interest on a the Note held by the Trustee pursuant to this Indenture.

### **Notice Address**

“Notice Address” shall mean, with respect to the City, the City's address given in connection with the execution and delivery of the Loan Agreement and Promissory Note to the Bank, and, with respect to the Bank, the Trustee and the Underwriter:

Bank:	Mississippi Development Bank 735 Riverside Drive, Suite 300 Jackson, Mississippi 39202 Attention: Executive Director
Trustee:	The Peoples Bank 758 Vieux Marche Mall Biloxi, MS 39530-3820 Attention: Corporate Trust Department
Underwriter:	Raymond James & Associates, Inc. 50 North Front Street, 16 <sup>th</sup> Floor Memphis, Tennessee 38103 Attention: Public Finance

### **Opinion of Bond Counsel**

“Opinion of Bond Counsel” shall mean an opinion by a nationally recognized firm experienced in matters relating to the tax exemption for interest payable on obligations of states and their instrumentalities and political subdivisions under federal law, and which is acceptable to the Bank and the Trustee.

### **Opinion of Counsel**

“Opinion of Counsel” shall mean a written opinion of Counsel addressed to the Trustee, for the benefit of the owners of the Bonds, who may (except as otherwise expressly provided in this Indenture) be Counsel to the Bank or Counsel to the owners of the Bonds and who is acceptable to the Trustee.

### **Outstanding**

“Outstanding” or “Bonds Outstanding” shall mean all Bonds which have been authenticated and delivered by the Trustee under this Indenture, including Bonds held by the Bank, except:

- (a) Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity;
- (b) Bonds deemed paid under Article IX hereof; and

(c) Bonds in lieu of which other Bonds have been authenticated under Section 3.05, 3.06 or 3.10 hereof.

**Program**

“Program” shall mean the program for entering into a loan with Local Governmental Units by the Bank pursuant to the Bank Act.

**Program Expenses**

“Program Expenses” shall mean all of the fees and expenses of the Trustee and the Bank and costs of determining the amount rebatable, if any, to the United States of America under Section 6.09 hereof, all to the extent properly allocable to the Program and approved in writing by the Bank.

**Project**

“Project” shall mean providing financing to (a) fund a loan to the City under the Loan Agreement in order to finance the City Project, (b) paying capitalized interest on the Series 2019 Bonds, and (c) paying Costs of Issuance for the Series 2019 Bonds.

**Rebate Fund**

“Rebate Fund” shall mean the fund by that name created by Section 6.02 hereof.

**Record Date**

“Record Date” shall mean, with respect to any Interest Payment Date, the fifteenth day of the calendar month next preceding such Interest Payment Date.

**Redemption Account**

“Redemption Account” shall mean the account by that name created by Section 6.02 hereof.

**Redemption Price**

“Redemption Price” shall mean, with respect to any Bond, the principal amount thereof, plus the applicable premium, if any, payable upon redemption prior to maturity.

**Refunding Bonds**

“Refunding Bonds” shall mean Bonds issued pursuant to Section 2.05 hereof and any Supplemental Indenture.

**Registered Owner**

“Registered Owner” shall mean the person or persons in whose name any Bond shall be registered on the Bond Register.

**Revenues**

“Revenues” shall mean the Funds and Accounts and all income, revenues and profits of the Funds and Accounts referred to in the granting clauses hereof including, without limitation, all Note Payments, any Tax Monies and any additional amount paid to the Trustee under the Loan Agreement or the Note.

**S&P**

“S&P” shall mean Standard & Poor's Credit Market Services, a division of The McGraw Hill Companies, Inc., a New York corporation, its successors and assigns and, if dissolved or liquidated or if it no longer performs the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the City (with the approval of the Bank) by written notice to the Trustee.

**Security Documents**

“Security Documents” shall mean this Indenture, the Loan Agreement, the Note, the Tax Intercept Agreement, the Series 2019 Bonds and/or any additional or supplemental document executed in connection with the Insured Obligations.

**Series 2019 Bonds**

“Series 2019 Bonds” shall mean the \$\_\_\_\_,000 Mississippi Development Bank Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project) issued pursuant to Section 2.01 of this Indenture.

**State**

“State” shall mean the State of Mississippi.

**Supplemental Indenture**

“Supplemental Indenture” shall mean an indenture supplemental to or amendatory of this Indenture, executed by the Bank and the Trustee in accordance with Article XII hereof.

**Tax Intercept Agreement**

“Tax Intercept Agreement” shall mean the Tax Intercept Agreement, dated \_\_\_\_\_, 2019, by and between the City and the Bank, and accepted by the Trustee, as further described in Section 5.09 hereof.

### **Tax Monies**

“Tax Monies” shall have the meaning given to it in Section 5.09 hereof.

### **Treasury Regulations**

“Treasury Regulations” shall mean all proposed, temporary or permanent federal income tax regulations then in effect and applicable.

### **Trust Estate**

“Trust Estate” shall mean the property, rights, and amounts pledged and assigned to the Trustee pursuant to the Granting Clauses hereof.

### **Trustee**

“Trustee” shall mean The Peoples Bank, or any successor trustee appointed, qualified and then acting as such under the provisions of the Indenture.

### **Underwriter**

“Underwriter” shall mean Raymond James & Associates, Inc.

**SECTION 1.02. Rules of Interpretation.** For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) The words “herein” and “hereof” and “hereunder” and words of similar import, without reference to any particular section or subdivision, refer to this Indenture as a whole rather than to any particular section or subdivision of this Indenture.
- (b) References in this Indenture to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this Indenture as originally executed.
- (c) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; and all computations provided for herein shall be made in accordance with generally accepted accounting principles consistently applied and applied on the same basis as in prior years.
- (d) The Table of Contents and titles of articles and sections herein are for convenience only and are not a part of this Indenture.
- (e) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.
- (f) Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Indenture.

(g) For purposes of this Indenture and the Indenture, a petition in bankruptcy shall be deemed dismissed only if either (a) the petition is dismissed by order of a court of competent jurisdiction and no further appeal rights exist from such order or (b) the City notifies the Indenture Trustee that such a dismissal has occurred.

(h) Any Opinion of Counsel required hereunder shall be a written opinion of such counsel.

## ARTICLE II.

### AUTHORIZATION AND ISSUANCE OF BONDS

#### SECTION 2.01. Authorization and Issuance of Series 2019 Bonds.

(a) In accordance with the Act, the “Mississippi Development Bank Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project)” are hereby authorized to be issued. The aggregate principal amount of Series 2019 Bonds that may be issued, authenticated and Outstanding hereunder is \_\_\_\_\_ Dollars (\$\_\_\_\_,000).

(b) There is hereby created by this Indenture, in the manner and to the extent provided herein, a continuing pledge and lien to secure the full and final payment of the principal or Redemption Price of and interest on all of the Series 2019 Bonds issued pursuant to this Indenture. The Series 2019 Bonds shall be payable solely from the Revenues. The State shall not be liable on the Series 2019 Bonds and the Series 2019 Bonds shall not be a debt, liability, pledge of the faith or loan of the credit of the State. The Series 2019 Bonds shall contain on the face thereof a statement to the effect that the Bank is obligated to pay the principal of the Series 2019 Bonds, the interest and the redemption premium, if any, thereon only from the Revenues and that the State is not obligated to pay such principal, interest or redemption premium, if any, and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the Series 2019 Bonds. In the Bank Act, the State has pledged to and agreed with the holders of any Series 2019 Bonds that the State will not limit or alter the rights hereby vested in the Bank to fulfill the terms of any agreements made with the said Bondholders or in any way impair the rights and remedies of such holders until such Series 2019 Bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of Series 2019 Bonds, are fully met and discharged. All Series 2019 Bonds shall mature on or before July 1, 2049.

**SECTION 2.02. Purpose and Disposition of Series 2019 Bonds.** The purpose for issuing the Series 2019 Bonds is (a) to fund a loan to the City under the Loan Agreement in order to finance the City Project; (b) to pay capitalized interest on the Series 2019 Bonds, and (c) to fund the Bond Issuance Expense Account of the General Fund to pay the Costs of Issuance. Upon the delivery of the Series 2019 Bonds and receipt of the net proceeds thereof, the Bank shall deliver to the Trustee proceeds of the Series 2019 Bonds in the amount of \$\_\_\_\_.00 (being \$\_\_\_\_,000.00 par amount of the Series 2019 Bonds, plus an original issue premium of \$\_\_\_\_\_, less the Underwriter's discount of \$\_\_\_\_\_ paid directly to the Underwriter. The proceeds of the Series 2019 Bonds shall be deposited as follows: (1) into the Bond Issuance Expense Account of the General Fund, the sum of \$\_\_\_\_\_ to pay Costs of Issuance; (2) into the Capitalized Interest Account, the sum of \$\_\_\_\_\_ to pay interest on the Series 2019 Bonds from the date of issuance of the Series 2019 Bonds through July 1, 2021, and (3) into the Loan Account of the General Fund, the sum of \$\_\_\_\_\_ to fund a loan to the City under the Loan Agreement, as secured by the Note.

**SECTION 2.03. General Description of the Series 2019 Bonds.** The Series 2019 Bonds shall be issuable as fully registered bonds in the denomination of \$5,000 or any integral multiple thereof and shall be numbered from R-1 upward.

Each Series 2019 Bond shall be dated its date of original issuance and shall carry the date on which it is authenticated. If a Series 2019 Bond is authenticated on or prior to January 1, 2020, it shall bear interest from its date of original issuance. Each Series 2019 Bond authenticated after January 1, 2020, shall bear interest from the most recent Interest Payment Date to which interest has been paid as of the date of authentication of such Series 2019 Bond unless such Series 2019 Bond is authenticated after a Record Date and on or before the next succeeding Interest Payment Date, in which event the Series 2019 Bond will bear interest from such next succeeding Interest Payment Date.

Interest on the Series 2019 Bonds shall be payable on January 1 and July 1 of each year, commencing January 1, 2020, until the Series 2019 Bonds are paid. Interest will be calculated using a three hundred sixty (360) day year based on twelve (12) thirty (30) day months.

The Series 2019 Bonds shall mature on July 1 in the years and in the principal amounts, and shall bear interest at the rates per annum, all as set forth below:

<b>Year of Maturity</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
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**SECTION 2.04. Provisions for Issuance of Bonds.** Bonds shall be executed by Authorized Officers of the Bank for issuance under this Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to the Bank or to the purchasers thereof, as specified in a written order of the Bank, but only upon the receipt by the Trustee of:

(a) An Opinion of Counsel dated as of the date of delivery thereof to the effect that (1) the Indenture and the performance by the Bank of its obligations hereunder, have been duly authorized, and the Indenture has been duly executed and delivered by the Bank and constitutes the legal, valid and binding agreement of the Bank, enforceable in accordance with its terms; (2) the Bonds have been duly authorized, sold, executed and delivered by the Bank, and are valid and binding obligations of the Bank enforceable in accordance with their terms; and (3) all resolutions and actions of the Bank relating to the documents in question and all related proceedings comply with all rules and regulations of the Bank and all approvals or other actions required to be obtained or taken by the Bank under the Bank Act have been obtained or taken as required;

(b) A written order as to the delivery of such Bonds, signed by an Authorized Officer;

(c) A copy of the resolution adopted and approved by the Bank, authorizing the execution and delivery of the Indenture and the sale and issuance of such Bonds, certified by an Authorized Officer;

(d) A certificate of an Authorized Officer that the issuance of such Bonds will not violate any limitations in the Bank Act or any other laws of the State as to the amount of bonds that may be outstanding from time to time under the Bank Act;

(e) An Opinion of Bond Counsel dated as of the date of delivery thereof;

(f) A certificate of an Authorized Officer that the Bank Act has not been repealed or amended in a manner that would adversely affect the rights of owners of such Bonds; and

(g) Such further documents, monies and securities as are required by the provisions of Article VII hereof or required by the Underwriter.

**SECTION 2.05. Provisions for Issuance of Refunding Bonds.** All or any part of one or more series of Refunding Bonds may be authenticated and delivered upon original issuance to refund all or any part of the Outstanding Bonds. Refunding Bonds shall be issued in a principal amount sufficient, together with other monies available therefor, to accomplish such refunding and to make such deposits required by the provisions of the Bank Act, this Section and by the Supplemental Indenture authorizing said Refunding Bonds.

(b) Refunding Bonds may be authenticated and delivered only upon receipt by the Trustee (in addition to the receipt by the Trustee of the documents required by Section 2.04 hereof) of:

(1) Irrevocable instructions to the Trustee, satisfactory to it, to give due notice of redemption of all the Bonds to be refunded on the redemption date specified in such instructions;

(2) Irrevocable instructions to the Trustee, satisfactory to it, to give notice provided for in Section 4.05 hereof to the owners of the Bonds being refunded (which may be a conditional notice of redemption); and

(3) Either (A) monies in an amount sufficient to effect payment at the applicable Redemption Price or principal payment amount of the Bonds to be refunded or paid, respectively, together with accrued interest on such Bonds to the redemption or maturity date and all necessary and appropriate fees and expenses of the Trustee, which monies shall be held by the Trustee or any one or more of the Trustees in a separate account irrevocably in trust for and assigned to the respective owners of the Bonds to be refunded or paid, or (B) Governmental Obligations in such principal amounts, of such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of Article IX which Governmental Obligations shall be held in trust and used only as provided in said Article.

**SECTION 2.06. Form of Bonds.** The Bonds and the Trustee's certificate of authentication to be endorsed on the Bonds are all to be in substantially the following form, with necessary and appropriate variations, omissions and insertions as are permitted or required by this Indenture:

[FORM OF BOND]

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE TRUSTEE (AS DEFINED BELOW) OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL IN AS MUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

UNITED STATES OF AMERICA  
STATE OF MISSISSIPPI

\$\_\_\_\_,000  
MISSISSIPPI DEVELOPMENT BANK  
SPECIAL OBLIGATION BOND (TUPELO,  
MISSISSIPPI PUBLIC IMPROVEMENT REVENUE PROJECT), SERIES 2019

No. R-1					\$ _____
	<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Original Date</b>	<b>Date of Authentication</b>	<b>CUSIP</b>
	___%	July 1, 20__	_____, 2019	_____, 2019	_____

Registered Owner: CEDE & CO.

Principal Amount: \_\_\_\_\_ DOLLARS

Mississippi Development Bank, a body corporate and politic, exercising essential public functions (“**Bank**”), and organized under the laws of the State of Mississippi, for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, upon surrender hereof, the principal amount stated above in lawful money of the United States of America but solely from the sources referred to herein and not otherwise, on the Maturity Date specified above, unless this Bond, as hereinafter defined, shall be redeemable and shall previously have been called for redemption and payment of the Redemption Price made or provided for, and to pay interest on such principal amount in like money, but solely from said sources, from the Interest Payment Date to which interest has been paid as of the date of authentication of this Bond (unless this Bond is authenticated on or before January 1, 2020, then

from its original date of issuance, or unless this Bond is authenticated after the fifteenth day of the month preceding the next succeeding Interest Payment Date, then from such Interest Payment Date or unless payment of the interest on this Bond is in default, then from such date when interest has been paid in full) at the Interest Rate per annum stated above, payable on each January 1 and July 1 (each an "Interest Payment Date"), commencing January 1, 2020, until payment of such principal amount shall have been made upon redemption or at maturity. The principal of this Bond is payable at the principal corporate trust office of The Peoples Bank, as Trustee, in Biloxi, Mississippi, or at the principal corporate trust office of any successor trustee appointed under the Indenture (as defined herein); and payments of interest hereon will be made to the Registered Owner hereof (whose name appears on the registration records kept by the Trustee at the close of business on the fifteenth day of the month prior to such Interest Payment Date, each a "Record Date") by check mailed on the Interest Payment Date by the Trustee to such Registered Owner at his address as it appears on the registration records of the Bank kept by the Trustee or at such other address as is furnished to the Trustee in writing by such Registered Owner. The Bank may provide for the payment of interest on Bonds to holders of \$1,000,000 or more by wire transfer or electronic funds transfer or by such other method as is acceptable to the Trustee and the Bondholder upon written election of such Bondholder at least one Business Day prior to the applicable Record Date. Principal shall be payable at the principal corporate trust office of the Trustee upon presentation of the Bonds to be paid

This Bond and the other Bonds, and the interest payable hereon and thereon, are payable solely by the Bank from the Revenues (as defined herein) and other funds of the Bank pledged therefor under the Indenture, which Revenues and funds include the payments on the Note (as defined in the Indenture) purchased by the Bank and assigned to the Trustee. The Bank has no taxing power. This Bond and the other Bonds, both as to principal and interest, do not constitute a debt, liability or loan of the credit of the State or any political subdivision thereof, including the City (as defined herein), under the constitution or statutes of the State or a pledge of the faith and credit or the taxing power of the State or any political subdivision thereof, including the City. The issuance of the Bonds under the provisions of the Bank Act (as defined herein) does not, directly, indirectly or contingently, obligate the State or any political subdivision thereof, including the City, to levy any form of taxation for the payment thereof or to make any appropriation for their payment and such Bonds do not now and shall never constitute a debt of the State or any political subdivision thereof within the meaning of the constitution or the statutes of the State and do not now and shall never constitute a charge against the credit of the State or any political subdivision thereof or a charge against the taxing power of the State or any political subdivision thereof, including the City. Neither the State nor any agent, attorney, member or employee of the State or of the Bank shall in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Bank. No breach by the Bank of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any agent, employee, attorney or member of the State or of the Bank, or any charge upon their general credit or upon the taxing power of the State. In the Bank Act, the State has pledged and agreed with the holders of any Bonds that the State will not limit or alter the rights hereby vested in the Bank to fulfill the terms of any agreements made with the said Bondholders or in any way impair the rights and remedies of such holders until such Bonds, together with the interest thereon, with interest on any unpaid

installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of Bonds, are fully met and discharged.

This Bond is one of an authorized issue of bonds of the Bank known as \$\_\_\_\_,000 Mississippi Development Bank Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project) (the “**Bonds**”), issued under and secured by an Indenture of Trust, dated \_\_\_\_\_, 2019 (“**Indenture**”), duly executed and delivered by the Bank to The Peoples Bank, Biloxi, Mississippi, as Trustee (“**Trustee**”). The Bonds are limited in aggregate principal amount to \_\_\_\_\_ Dollars (\$\_\_\_\_,000). The Bonds are issued pursuant to Sections 31-25-1 *et seq.*, Mississippi Code of 1972, as amended (the “**Bank Act**”), to provide funds for a loan to the City of Tupelo, Mississippi (the “**City**”), secured by the Note and the Loan Agreement (as defined herein) and to pay costs of issuing the Bonds and the Note. The Note is the \$\_\_\_\_,000 Promissory Note (Tupelo, Mississippi Public Improvement Revenue Project), dated \_\_\_\_\_, 2019 (the “**Note**”), of the City, issued pursuant to a loan agreement by and between the City and the Bank, dated \_\_\_\_\_, 2019 (the “**Loan Agreement**”). The Note will be paid from any legally available revenues of the City, including, without limitation, available amounts of the City’s General Fund, as secured and described in the Loan Agreement. The proceeds received by the City under the Loan Agreement will be used by the City to provide funds for erecting, repairing, improving, adorning, equipping, expanding and furnishing municipal buildings, including but not limited to, the convention center and related municipal buildings; and purchasing buildings and land therefor and for other authorized purposes under Sections 21-33-301 *et seq.*, Mississippi Code of 1972, as amended and/or supplemented from time to time (the “**City Project**”), (b) pay capitalized interest, and (c) pay the costs of issuance of the Bonds and the Note.

The Bonds are all equally and ratably secured by and entitled to the protection of the Indenture on a parity one with another and with any Refunding Bonds which may be issued pursuant to Section 2.05 of the Indenture. To secure payment of principal of and interest on all the Bonds and performance of all other covenants of the Bank under the Indenture, the Bank, pursuant to the Indenture, has assigned and pledged to the Trustee, and has granted to the Trustee a security interest in, the Trust Estate (as defined in the Indenture), including all rights, title and interest of the Bank in and to all monies and securities from time to time received and held by the Trustee under the Indenture and all income from the deposit, investment and reinvestment thereof except any monies and securities held in the Rebate Fund established under the Indenture (all such money and funds and accounts referred to in the granting clauses of the Indenture are defined in the Indenture and are herein referred to as the “**Revenues**”). Reference is hereby made to the Indenture for a description of the rights, duties and obligations of the Bank, the Trustee and the owners of the Bonds, the terms and conditions upon which the Bonds are issued and the terms and conditions upon which the Bonds will be paid at or prior to their stated maturity, or will be deemed to be paid upon the making of provision for payment therefor. Copies of the Indenture are on file at the principal corporate trust office of the Trustee in Biloxi, Mississippi.

This Bond is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing at the principal corporate trust office of the Trustee, but only in the manner and subject to the limitations prescribed in the Indenture and upon surrender and cancellation of this Bond. This Bond may be transferred without cost to the Registered Owner

except for any tax or governmental charge required to be paid with respect to the transfer. Upon such transfer a new Bond or Bonds of the same maturity and of authorized denomination or denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The Bank and the Trustee may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and the interest due hereon and for all other purposes and neither the Bank nor the Trustee shall be affected by any notice to the contrary.

The Bonds are issuable as fully registered bonds in denominations of \$5,000 or any integral multiple thereof. Subject to the limitations and upon payment of any taxes or governmental charges, Bonds may be exchanged for a like aggregate principal amount of Bonds of the same maturity of authorized denominations.

If the City directs the Bank to redeem Bonds pursuant to the City Bond Resolution, the Bank has agreed under the Indenture to accept redemption and redeem Bonds in the following instances:

The Bonds (or any portions thereof in integral multiples of \$5,000 or any integral multiple thereof, maturing on or after July 1, 20\_\_\_\_, are subject to optional redemption, prior to their stated dates of maturity, in whole or in part, in principal amounts and maturities selected by the Bank on any date on or after July 1, 20\_\_\_\_, at par, plus accrued interest to the date of redemption. Under the Indenture, selection of Bonds to be redeemed within a maturity will be made by lot by the Trustee.

In the event less than all of the Bonds are to be redeemed, the principal amount and maturity to be redeemed shall be selected by the Bank, and the Trustee, at its sole discretion, shall select the Bonds to be redeemed by lot within a selected maturity, provided that Bonds shall be redeemed only in whole multiples of \$5,000 or any integral multiples thereof.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds to be redeemed will be given by mailing a copy of the redemption notice by registered or certified mail not less than thirty (30) days nor more than forty-five (45) days prior to the date fixed for redemption to the Registered Owner of the Bond to be redeemed at the address shown on the registration records kept by the Trustee. Failure to give such notice by mailing, or any defect therein with respect to any Bond, shall not affect the validity of any proceedings for the redemption of other Bonds. All Bonds so called for redemption will cease to bear interest on the specified redemption date, shall no longer be protected by the Indenture and shall not be deemed to be Outstanding under the provisions of the Indenture, provided funds for their redemption are on deposit at the place of payment prior to or on the redemption date.

The Registered Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute an action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the

Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of the Indenture, or of any supplements thereto, may be made to the extent permitted by, and in accordance with, the Indenture.

The Bank hereby certifies, recites and declares that all acts, conditions and things required by the constitution and statutes of the State, the Indenture, and resolutions of the Bank to exist, happen and be performed prior to the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Bank Act; that the issuance of the Bonds, together with all other obligations of the Bank, does not exceed or violate any constitutional or statutory limitation applicable to the Bank; and that the Revenues pledged to the payment of the principal of and interest on the Bonds, as the same become due, are designed to be sufficient in amount for that purpose.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been signed by the Trustee.

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Indenture.

[Remainder of page intentionally left blank; signatures to follow.]

IN WITNESS WHEREOF, the Mississippi Development Bank has caused this Bond to be executed in its name and on its behalf by the facsimile or manual signature of its Executive Director and a facsimile or manual seal of its official seal to be hereunto impressed or imprinted hereon by any means and attested by the facsimile or manual signature of its Secretary.

(SEAL)

**MISSISSIPPI DEVELOPMENT BANK**

By \_\_\_\_\_  
Executive Director

ATTEST:

By \_\_\_\_\_  
Secretary

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds issued and delivered pursuant to the provisions of the within mentioned Indenture.

**THE PEOPLES BANK, as Trustee**

By \_\_\_\_\_  
Authorized Signatory

Date of Authentication: \_\_\_\_\_, 2019



thereof. Upon initial issuance, the ownership of each such Series 2019 Bond shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC, and except as provided in Section 2.09 hereof, all of the Outstanding Series 2019 Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC.

With respect to Series 2019 Bonds registered in the Bond Register in the name of Cede & Co., as nominee of DTC, the Bank and the Trustee shall have no responsibility or obligation to any participant for whom DTC is a security depository nominee ("**DTC Participants**") or to any person on behalf of whom such a DTC participant holds an interest in the Series 2019 Bonds. Without limiting the immediately preceding sentence, the Bank, the Underwriters and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC participant with respect to any ownership interest in the Series 2019 Bonds, (b) the delivery to any DTC participant or any other person, other than a Bondholder, as shown in the Bond Register, of any notice with respect to the Series 2019 Bonds, including any notice of redemption, or (c) the payment to any DTC participant or any other person, other than a Bondholder, as shown in the Bond Register, of any amount with respect to principal of, premium, if any, or interest on, the Series 2019 Bonds. Notwithstanding any other provision of this Indenture to the contrary, the Bank, the Trustee and each paying agent, if any, shall be entitled to treat and consider the person in whose name each Series 2019 Bonds is registered in the Bond Register as the absolute owner of such Series 2019 Bonds for the purpose of payment of principal, premium, if any, and interest with respect to such Series 2019 Bonds, for the purpose of giving notices of redemption and other matters with respect to such Series 2019 Bonds, for the purpose of registering transfers with respect to such Series 2019 Bonds, and for all other purposes whatsoever. The Trustee and each paying agent, if any, shall pay all principal of, premium, if any, and interest on the Series 2019 Bonds only to or upon the order of the respective Bondholders, as shown in the Bond Register as provided in this Indenture, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Bank's obligations with respect to payment of principal of, premium, if any, and interest on the Series 2019 Bonds to the extent of the sum or sums so paid. No person other than a Bondholder, as shown in the Bond Register, shall receive a bond certificate evidencing the obligation of the Bank to make payments of principal, premium, if any, and interest pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Indenture with respect to interest checks or drafts being mailed to the Registered Owner at the close of business on the Record Date, the words "Cede & Co." in this Indenture shall refer to such new nominees of DTC; and upon receipt of such a notice, the Trustee shall promptly deliver a copy of the same to each paying agent, if any.

**SECTION 2.08. Successor Securities Depository; Transfers Outside Book-Entry Only System.** In the event that the Bank and the Trustee determine that DTC is incapable of discharging its responsibilities described herein and in the Letter of Representations or that it is in the best interest of the Beneficial Owners of the Series 2019 Bonds that they be able to obtain certificated Series 2019 Bonds, the Bank and the Trustee shall (a) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Series 2019 Bond certificates to such

successor securities depository or (b) notify DTC and DTC Participants of the availability through DTC of Series 2019 Bond certificates and transfer one or more separate Series 2019 Bond certificates to DTC Participants having Series 2019 Bonds credited to their DTC accounts. In such event, the Series 2019 Bonds shall no longer be restricted to being registered in the Bond Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Bondholders transferring or exchanging Series 2019 Bonds shall designate, in accordance with the provisions of this Indenture.

**SECTION 2.09. Payments and Notices to Cede & Co.** Notwithstanding any other provision of this Indenture to the contrary, so long as any of the Series 2019 Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Series 2019 Bonds and all notices with respect to such Series 2019 Bonds shall be made and given, respectively, in the manner provided in DTC's Blanket Letter of Representations. The Trustee shall request in each notice sent to Cede & Co. pursuant to the terms of this Indenture that Cede & Co. forward or cause to be forwarded such notice to the DTC Participants.

## ARTICLE III.

### GENERAL TERMS AND PROVISIONS OF BONDS

**SECTION 3.01. Medium, Form and Place of Payment.** The Bonds shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be payable by check mailed on the Interest Payment Date to the Registered Owners as of the Record Date. The Bank may provide for the payment of interest on Bonds to holders of \$1,000,000 or more by wire transfer or electronic funds transfer or by such other method as is acceptable to the Trustee and the Bondholder upon written election of such Bondholder at least one Business Day prior to the applicable Record Date. Principal shall be payable at the principal corporate trust office of the Trustee upon presentation of the Bonds to be paid.

**SECTION 3.02. Legends.** The Bonds may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Indenture as may be necessary or desirable to comply with custom, as determined by the Bank prior to the delivery thereof.

**SECTION 3.03. Execution.** The Bonds shall be executed on behalf of the Bank with the manual or facsimile signature of its Executive Director, President or Vice President and shall have impressed or imprinted thereon, by facsimile or otherwise, the official seal of the Bank, which seal shall be attested by the manual or facsimile signature of the Secretary or Assistant Secretary of the Bank. In case any officer of the Bank whose signature or whose facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. Any Bond may be executed and attested on behalf of the Bank by such officer as at the time of the execution of such Bonds shall be duly authorized or hold the proper office of the Bank although at the date borne by the Bonds or at the date of delivery of the Bonds such officer may not have been so authorized or have held such office.

**SECTION 3.04. Authentication.** No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the following form shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture:

## CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued and delivered pursuant to the provisions of the within mentioned Indenture.

**THE PEOPLES BANK, as Trustee**

By \_\_\_\_\_  
Authorized Signatory

The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized representative or signatory of the Trustee, but it shall not be necessary that the same representative or signatory sign the certificate of authentication on all of the Bonds. The signature of the authorized representative or signatory of the Trustee shall be manual.

**SECTION 3.05. Mutilated, Lost, Stolen or Destroyed Bonds.** If any Bond is mutilated, lost, stolen or destroyed, the Bank shall execute and the Trustee shall authenticate a new Bond or Bonds of the same maturity and denomination, as that mutilated, lost, stolen or destroyed; provided that in the case of any mutilated Bond, such Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with security and/or indemnity satisfactory to it. In the event any such Bond shall have matured or been called for redemption, instead of issuing and authenticating a duplicate Bond, the Trustee may pay the same without surrender thereof; provided, however, that in the case of a lost, stolen or destroyed Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee together with security and/or indemnity satisfactory to it, before any payment may be made. The Trustee may charge the owner of such Bond its reasonable fees and expenses in connection with replacing any Bonds mutilated, lost, stolen or destroyed. Any Bond issued pursuant to this Section 3.05 shall be deemed part of the original series of the Bonds in respect of which it was issued and a contractual obligation of the Bank replacing the obligation evidenced by such mutilated, lost, stolen or destroyed Bond.

**SECTION 3.06. Registration, Transfer and Exchange of Bonds; Persons Treated as Owners.** The Bank shall cause the Bond Register to be kept by the Trustee at its principal corporate trust office, and the Trustee is hereby constituted and appointed the bond registrar of the Bank. At reasonable times and under reasonable regulations established by the Trustee, said Bond Register may be inspected by the Bank or by owners (or a designated representative thereof) of five percent (5%) or more in aggregate principal amount of the Bonds then Outstanding.

Upon surrender for transfer of any Bond at the principal corporate trust office of the Trustee, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Trustee and duly executed by the registered owner or his attorney duly authorized in writing, the Bank shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of the same maturity for a like

aggregate principal amount. The Bonds may be transferred or exchanged without cost to the Bondholders except for any tax or governmental charge required to be paid with respect to the transfer or exchange. The execution by the Bank of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such Bond.

The Trustee shall not be required (a) to register, transfer or exchange any Bond during a period of fifteen (15) days next preceding mailing of a notice of redemption of any Bonds, or (b) to register, transfer or exchange any Bonds selected, called or being called for redemption prior to their stated maturity in whole or in part after mailing notice of such call has been made.

The person in whose name a registered Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal and interest thereon, shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

All Bonds delivered upon any transfer or exchange shall be valid obligations of the Bank, evidencing the same debt as the Bonds surrendered, shall be secured by this Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the Bond surrendered.

**SECTION 3.07. Destruction of Bonds.** Whenever any Outstanding Bond shall be delivered to the Trustee for cancellation pursuant to this Indenture or upon payment of the principal amount or interest represented thereby or for replacement pursuant to Section 3.05 hereof, such Bond shall be canceled and destroyed by the Trustee and a counterpart of a certificate of destruction evidencing such destruction shall be furnished by the Trustee to the Bank.

**SECTION 3.08. Nonpresentment of Bonds.** In the event any Bond shall not be presented for payment when the principal thereof comes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay such Bond shall have been made available to the Trustee for the benefit of the owner thereof, all liability of the Bank to the owner thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such funds for four (4) years, for the benefit of the owner of such Bond, without liability for interest thereon to such owner, who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond.

Any money so deposited with and held by the Trustee not so applied to the payment of Bonds within four (4) years after the date on which the same shall become due shall be repaid by the Trustee to the Bank and thereafter the Bondholders shall be entitled to look only to the Bank for payment, and then only to the extent of the amount so repaid, and the Bank shall not be liable for any interest thereon to the Bondholders and shall not be regarded as a trustee of such money.

**SECTION 3.09. Other Obligations Payable from Revenues.** The Bank shall grant no liens or encumbrances on or security interests in the Trust Estate (other than those created by this

Indenture), and, except for the Bonds, shall issue no bonds or other evidences of indebtedness payable from the Trust Estate.

**SECTION 3.10. Temporary Bonds.** Until the definitive Bonds are ready for delivery, the Bank may execute, in the same manner as is provided in Section 3.03, and, upon the request of the Bank, the Trustee shall authenticate and deliver, one or more temporary Bonds, which shall be fully registered. Such temporary Bonds shall be subject to the same provisions, limitations and conditions as the definitive Bonds and shall be substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in the denominations of \$100,000 and integral multiples of \$5,000 in excess thereof as authorized by the Bank, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Bank at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds shall deliver in exchange therefor definitive Bonds, of the same aggregate principal amount and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant to this Indenture.

If the Bank shall authorize the issuance of temporary Bonds in more than one denomination, the owner of any temporary Bond or Bonds may, at his option, surrender the same to the Trustee in exchange for another temporary Bond or Bonds of like aggregate principal amount and maturity of any other authorized denomination or denominations, and thereupon the Bank shall execute and the Trustee, in exchange for the temporary Bond or Bonds so surrendered and upon payment of the taxes and charges provided for in Section 3.06, shall authenticate and deliver a temporary Bond or Bonds of like aggregate principal amount and maturity in such other authorized denomination or denominations as shall be requested by such owner. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

**SECTION 3.11. Limitations on Obligations of Bank.** The Bonds, together with interest thereon, shall be limited obligations of the Bank but payable solely from Revenues and shall be a valid claim of the respective owners thereof only against the Funds and Accounts, other than the Rebate Fund and any Accounts created thereunder, established hereunder and the Note acquired by the Trustee, all of which are hereby assigned and pledged hereunder for the equal and ratable payment of the Bonds and shall be used for no other purpose than the payment of the Bonds, except as may be otherwise expressly authorized in this Indenture. The Bonds do not constitute a debt or liability of the State or of any political subdivision thereof under the constitution of the State or a pledge of the faith and credit of the State or any political subdivision thereof, including the City, but shall be payable solely from the Revenues and funds pledged therefor in accordance with this Indenture. The issuance of the Bonds under the provisions of the Bank Act does not directly, indirectly or contingently, obligate the State or any political subdivision thereof, including the City, to levy any form of taxation for the payment thereof or to make any appropriation for their payment and such Bonds and the interest payable thereon do not now and shall never constitute a debt of the State or any political subdivision thereof within the meaning of the constitution of the State or the statutes of the State and do not now and shall never constitute a charge against the credit or taxing power of the State or any political subdivision thereof, including the City. Neither the State nor any agent, attorney,

member or employee of the State or of the Bank, shall in any event be liable for the payment of the principal of, and premium, if any, or interest on the Bonds or damages, if any, for the nonperformance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Bank. No breach by the Bank of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the State or any of the State's or the Bank's agents, members, attorneys, and employees or any charge upon the general credit of the State or a charge against the taxing power of the State or any political subdivision thereof, including the City. In the Bank Act, the State has pledged to and agreed with the holders of any Series 2019 Bonds that the State will not limit or alter the rights hereby vested in the Bank to fulfill the terms of any agreements made with the said Bondholders or in any way impair the rights and remedies of such holders until such Series 2019 Bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders of Series 2019 Bonds are fully met and discharged.

**SECTION 3.12. Immunity of Officers and Directors.** No recourse shall be had for the payment of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against any past, present or future officer, member, director, agent or employee of the Bank or any officer, member, director, trustee, agent or employee of any successor entities thereto, as such, either directly or through the Bank or any successor entities, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, directors, trustees, agents, or employees as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and issuance of such Bonds.

## ARTICLE IV.

### REDEMPTION OF BONDS PRIOR TO MATURITY

**SECTION 4.01. Privilege of Redemption and Redemption Prices.** If the City directs the Bank to redeem the Series 2019 Bonds pursuant to the City Bond Resolution, the Bank agrees to accept redemption and redeem the Series 2019 Bonds in the following instances:

**Optional Redemption.** The Series 2019 Bonds (or any portions thereof in integral multiples of \$5,000 or any integral multiple thereof maturing on or after July 1, 20\_\_\_, are subject to redemption, prior to their stated dates of maturity, in whole or in part, in principal amounts and maturities selected by the Bank on any date on or after July 1, 20\_\_\_, at par, plus accrued interest to the date of redemption.

**SECTION 4.02. Redemption at the Election or Direction of the Bank.** In the case of any redemption of Bonds, the Bank shall give written notice to the Trustee of its election or direction so to redeem, of the redemption date, of the principal amounts of the Bonds of each maturity to be redeemed (which maturities and principal amounts thereof to be redeemed shall be determined by the Bank in its sole discretion, subject to any limitations with respect thereto contained in the Bank Act and this Indenture) and of the monies to be applied to the payment of the Redemption Price. Such notice shall be given at least thirty (30) but no more than forty-five (45) days prior to the redemption date. On the redemption date, the Bank shall pay to the Trustee an amount in cash which, in addition to other monies, if any, available therefor held by such Trustee, will be sufficient to redeem, on the redemption date at the Redemption Price thereof, together with interest accrued to the redemption date, all of the Bonds to be redeemed.

**SECTION 4.03. Selection of Bonds to be Redeemed.** If less than all of the Bonds are to be redeemed, the Bonds shall be redeemed only in whole multiples of \$5,000 or any integral multiple thereof. For purposes of redemption, each \$5,000 of principal shall be considered as a Bond. If less than all of the Bonds shall be called for redemption, the principal amount and maturity of the particular Bonds to be redeemed shall be selected by the Bank and the Trustee shall select the particular Bonds to be redeemed by lot within a maturity in such manner as the Trustee may determine.

**SECTION 4.04. Redemption Payments.** If funds shall be deposited with the Trustee on or before the redemption date in an amount sufficient to pay the Redemption Price of the Bonds or portions thereof called, including accrued interest thereon to the redemption date, the Trustee is hereby authorized and directed to apply such funds to the payment of such Bonds. If proper notice of redemption by mailing has been given as provided in Section 4.05 and sufficient funds for redemption shall be on deposit with the Trustee as aforesaid, interest on the Bonds or portions thereof thus called shall no longer accrue after the date fixed for redemption. No payment shall be made by the Trustee upon any Bond or portion thereof called for redemption until such Bond or portion thereof shall have been delivered for payment or cancellation or the Trustee shall have received the items required by Section 3.05 hereof with respect to any mutilated, lost, stolen or destroyed Bond.

**SECTION 4.05. Notice of Redemption.** Notice of the call for any redemption, identifying the Bonds to be redeemed, shall be given by the Trustee by mailing a copy of the redemption notice by registered or certified mail at least thirty (30) days but not more than forty-five (45) days prior to the date fixed for redemption to the Underwriter and to the registered owner of each Bond to be redeemed at the address shown on the Bond Register. Failure to give such notice by mailing to any Bondholder or any defect in such notice, shall not affect the validity of any proceeding for the redemption of any other Bonds.

**SECTION 4.06. Cancellation.** All Bonds which have been redeemed shall not be reissued but shall be canceled and destroyed by the Trustee in accordance with Section 3.07 hereof.

## ARTICLE V.

### GENERAL COVENANTS

**SECTION 5.01. Payments of Principal and Interest.** The Bank covenants and agrees that it will promptly pay the principal of and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Bonds according to the true intent and meaning thereof, provided that the principal and interest are payable by the Bank solely from Revenues and any other funds or assets of the Bank hereinafter pledged to the Trustee as security by the Bank to the extent of that pledge.

**SECTION 5.02. Performance of Covenants by the Bank.** The Bank covenants and agrees that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, if any, and every Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining thereto. The Bank covenants and agrees that it is duly authorized under the constitution and laws of the State, including particularly the Act, to issue the Bonds authorized hereby and to execute this Indenture and to pledge the Revenues and all other property hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture and the Loan Agreement have been duly and effectively taken, and that the Bonds in the hands of the owners thereof are and will be valid and enforceable limited obligations of the Bank according to the terms thereof and hereof.

**SECTION 5.03. Instruments of Further Assurance.** The Bank covenants and agrees that the Trustee may defend its rights to the payment of the Revenues for the benefit of the owners of the Bonds against the claims and demands of all persons whomsoever. The Bank covenants and agrees that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the rights assigned hereby and the amounts and other property pledged hereby to the payment of the principal of and interest on the Bonds.

#### **SECTION 5.04. Covenants Concerning Program.**

(a) In order to provide for the payment of the principal, premium, if any, and interest on the Bonds and Program Expenses, the Bank shall from time to time, with all practical dispatch and in a sound and economical manner consistent in all respects with the Bank Act, the provisions of this Indenture and sound banking practices and principles, to the extent necessary to provide for the payment of the Bonds (1) do all such acts and things as shall be necessary to receive and collect Revenues (including enforcement of the prompt collection of all arrears on Note), and (2) diligently enforce, and take all steps, actions and proceedings reasonably necessary in the judgment of the Bank to protect its rights with respect to or to maintain any insurance on the Bonds, the Note and the Loan Agreement and to enforce all terms, covenants and conditions of the Note and Loan Agreement including the collection, custody and prompt

application of all payments and deposits required by the terms of the Note and the Loan Agreement for the purposes for which they were made.

(b) Whenever necessary in order to provide for the payment of debt service on the Bonds, the Bank shall commence or direct the Trustee to commence appropriate remedies with respect to the Note and Loan Agreement which are in default.

**SECTION 5.05. Possession and Inspection of Note and Loan Agreement.** The Trustee covenants and agrees to retain or cause its agent to retain possession of the Note and the Loan Agreement and a copy of the transcript or documents related thereto and release them only in accordance with the provisions of this Indenture. The Bank and the Trustee covenant and agree that all records and documents in their possession relating to the Note and the Loan Agreement shall at all times be open to inspection by such accountants or other agencies or persons as the Bank or the Trustee may from time to time designate or approve.

**SECTION 5.06. Accounts and Reports.** The Bank covenants and agrees to keep proper records and accounts (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Program, the Note and the Funds and Accounts established by this Indenture. Such records, and all other records and papers of the Bank, and such Funds and Accounts shall at all reasonable times be subject to the inspection of the Trustee and the owners of an aggregate of not less than five percent (5%) in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

The Trustee covenants and agrees to provide to the Bank, if requested by the Bank, prior to the twentieth (20<sup>th</sup>) day of the month following the end of each six-month period, commencing with the period ending November 1, 2018, a statement of the amount on deposit in each Fund and Account as of the first day of that month and of the total deposits to and withdrawals from each Fund and Account during the preceding six (6) month or applicable period.

The reports, statements and other documents (other than Bondholder lists) required to be furnished to or by the Trustee pursuant to any provision of this Indenture shall be provided to the owners of an aggregate of not less than five percent (5%) in principal amount of the Bonds then Outstanding who file or have filed a written request therefor with the Trustee with any such costs of such documents to be paid by such owners.

**SECTION 5.07. Bank Covenants with Respect to Note and Loan Agreement.**

(a) The Bank covenants and agrees that it will not permit or agree to any material change in the Note or the Loan Agreement.

(b) The Bank covenants and agrees that it will enforce or authorize the enforcement of all remedies available to owners or holders of the Note and the Loan Agreement; provided, however, that decision as to the enforcement of remedies shall be within the sole discretion of the Trustee.

(c) The Bank covenants and agrees that it will not sell or dispose of the Note.

**SECTION 5.08. Monitoring Investment.** The Bank covenants and agrees to regularly review the investments held by the Trustee in the Funds and Accounts for the purpose of assuring that the Revenues derived from such investments are sufficient to provide, with other anticipated Revenues, the debt service on Outstanding Bonds.

**SECTION 5.09. Agreement Withholding City Monies to Satisfy Delinquent Payments.** As provided for in the Bank Act, the City and the Bank have entered into and the Trustee has accepted the Tax Intercept Agreement whereby the City has covenanted, agreed and authorized the Mississippi Department of Revenue or any other State agency, department or commission to (a) withhold all or any part of any monies which the City is entitled to receive from time to time pursuant to any law and which is in possession of the Mississippi Department of Revenue or any other State agency, department or commission (the "**Tax Monies**") subject to the following existing Tax Intercept Agreement with the Bank: Mississippi Development Bank loan, dated April 10, 2018 outstanding in the principal amount of \$13,960,000 as of June 1, 2019, and (b) pay same over to the Trustee to satisfy any delinquent payment (the "**Delinquent Payment**") under Section 4.2 and 4.4(e) of the Loan Agreement. If on the fifteenth (15<sup>th</sup>) day of December and June of each year, beginning December 15, 2019, the Trustee has not received sufficient City Revenues pursuant to Section 4.2(a) of the Loan Agreement to timely make the payments under Sections 4.2 and/or 4.4(e) of the Loan Agreement, the Bank has authorized and directed the Trustee under the Tax Intercept Agreement to file the Tax Intercept Agreement and a statement of deficiency setting forth the amount of any Delinquent Payment with the Mississippi Department of Revenue or any other State agency, department or commission, thereby directing the Mississippi Department of Revenue or any other State agency, department or commission to pay any Tax Monies directly to the Trustee on behalf of the Bank to satisfy any Delinquent Payment, all as permitted under the Bank Act. The Trustee is hereby directed to pay any Tax Monies into the General Account of the General Fund to be applied in accordance with Section 6.05 hereof.

In addition, the City has entered into the following loan agreements with agencies of the State: Drinking Water ("**DWI**") Loan No. DWI-280090-01-02 dated as of September 1, 2005, outstanding as of June 1, 2019 in the amount of \$410,823.49; DWI-H280090-02-2 dated as of April 1, 2008, outstanding as of June 1, 2019 in the amount of \$241,559.32; State Revolving Fund ("**SRF**") from the Mississippi Department of Environmental Quality loan No. C280885-02, dated as of September 1, 2010, outstanding as of June 1, 2019 in the amount of \$11,337,929.86; SRF-C280885-01-3, dated as of September 1, 2006, outstanding as of June 1, 2019 in the amount of \$2,653,614.84; DWI-410015-03-2 dated as of June 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,295,667.32; SRF-C280885-04, dated as of June 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,044,012.53; SRF-C280885-05, dated as of August 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,890,767.79; DWI-410015-04 dated as of November 2017, outstanding as of June 1, 2019 in the amount of \$3,933,778.50; and DWI-L410015-05 dated as of July 2018, outstanding as of June 1, 2019 in the amount of \$975,650.37.

**SECTION 5.10. Covenants Concerning Preservation of Tax Exemption.** The Bank hereby covenants and agrees to take all qualifying actions and to not fail to take any qualifying actions which are necessary in order to protect and preserve the exclusion from gross income for federal income tax purposes of the interest on the Bonds. For this purpose, the Bank shall

approve and deliver to the Trustee a certificate concerning the provisions of the Code necessary to protect and preserve such exclusion. Such certificate may only be amended from time to time upon the receipt by the Trustee of an Opinion of Bond Counsel to the effect that compliance by the Bank with such certificate will not adversely affect the exclusion of interest on the Bonds from gross income of the holders thereof for federal income tax purposes.

## ARTICLE VI.

### REVENUES AND FUNDS

**SECTION 6.01. Source of Payment of Bonds.** The Bonds and all payments by the Bank hereunder are limited obligations of the Bank payable solely out of the Trust Estate as authorized by the constitution and statutes of the State, including particularly the Bank Act and this Indenture, as provided herein.

**SECTION 6.02. Creation of Funds.** There are hereby created by the Bank and ordered established the following funds to be held by the Trustee: (a) the General Fund and (b) the Rebate Fund. There is hereby created and established in the General Fund a "General Account," a "Bond Issuance Expense Account," a "Capitalized Interest Account," a "Redemption Account," and a "Loan Account." Upon the written request of the Bank, the Trustee shall establish and maintain hereunder such additional Funds, Accounts or subaccounts as the Bank may specify from time to time to the extent that in the judgment of the Trustee the establishment of such Fund or Account is not to the material prejudice of the Trustee or the Bondholders.

**SECTION 6.03. Deposit of Net Proceeds of Bonds.**

(a) The Trustee shall deposit the proceeds from the sale of the Series 2019 Bonds in the manner provided in Section 2.02 hereof.

(b) The Trustee shall deposit the proceeds of any Refunding Bonds in the manner provided in the Supplemental Indenture authorizing the issuance thereof.

**SECTION 6.04. Deposit of Revenues and Other Receipts.** Upon receipt of any Revenues or other receipts (except the proceeds of the Bonds and monies received upon sale or prepayment prior to maturity of the Note), the Trustee shall deposit such amounts into the General Account.

**SECTION 6.05. Operation of General Account and Capitalized Interest Account.** The Trustee shall deposit in the General Account of the General Fund and Capitalized Interest Account of the General Fund all monies and funds required to be deposited therein pursuant to the provisions of this Article VI. On or before three (3) business days next preceding each Interest Payment Date described below, for the period from the date of closing through July 1, 2021, the Trustee shall transfer from the Capitalized Interest Account for deposit in the General Account the amount described below, less any other amount on deposit in the General Account for the payment of interest, as shall be necessary to pay all or a portion of the interest coming due on the Series 2019 Bonds on such Interest Payment Date to the extent there are available funds. The amounts on deposit in the Capitalized Interest Account, will be transferred by the Trustee to the General Account as follows: \$\_\_\_\_\_ (\$\_\_\_\_\_,000.00 of the January 1, 2020 Interest Payment Date for a portion of the interest due on the Series 2019 Bonds and \$\_\_\_\_\_ of the July 1, 2020 Interest Payment Date for a portion of the interest due on the Series 2019 Bonds and \$\_\_\_\_\_ of the January 1, 2021 Interest Payment Date for a portion of the interest due on the Series 2019 Bonds and \$\_\_\_\_\_ of the July 1, 2021 Interest Payment Date for a portion of the interest due on the Series 2019 Bonds). Any amounts remaining in the Capitalized Interest

Account on July 1, 2021, shall be transferred to the General Account for the next payment of interest coming due on the Series 2019 Bonds.

The Trustee shall invest such funds in the General Account in accordance with Article VIII hereof and shall make the following payments from the General Account on the specified dates and, if there are not sufficient funds to make all the payments required, with the following order of priority:

(a) On or before thirty (30) days after each anniversary of the issuance of the Bonds, the amounts to be transferred to the Rebate Fund;

(b) On or before each Interest Payment Date, to the Trustee such amount as shall be necessary to pay the principal and interest coming due on the Bonds on such Interest Payment Date;

(c) At such times as shall be necessary, to pay Program Expenses; and

(d) After making such deposits in subsections (a) through (c) above, the Trustee shall make a determination of the amounts reasonably expected to be received in the form of Note Payments in the succeeding twelve (12) months and shall transfer all moneys in the General Account, excluding capitalized interest remaining in General Account, which, together with such expected receipts for the succeeding twelve (12) months are in excess of the amounts needed to pay principal and interest on the Series 2019 Bonds within the immediately succeeding twelve month period, to the City at the request of the City with the prior written approval of the Bank.

**SECTION 6.06. Operation of the Redemption Account.** The Trustee shall deposit in the Redemption Account all monies received upon the prepayment prior to maturity of the Note and all other monies required to be deposited therein pursuant to the provisions of Article VI hereof, shall invest such funds pursuant to Article VIII hereof and shall disburse the funds held in the Redemption Account to redeem Bonds. Such redemption shall be made pursuant to a redemption under the provisions of Article IV hereof. The Trustee shall pay the interest accrued on the Bonds so redeemed to the date of redemption from the General Account and the Redemption Price from the Redemption Account.

**SECTION 6.07. Operation of the Loan Account.** The Trustee shall deposit in the Loan Account all monies required to be deposited therein pursuant to the provisions of Section 2.02 and Article VI hereof, shall invest such funds pursuant to Article VIII hereof, and shall disburse the funds held in the Loan Account to provide a loan to the City under the terms and provisions of the Loan Agreement said loan being secured by the Note all in accordance with the procedures established by the Bank as set forth in Article VII hereof upon the submission of requisitions of the Bank signed by an Authorized Officer stating that all requirements with respect to such loan set forth in the Indenture have been or will be complied with.

**SECTION 6.08. Operation of Bond Issuance Expense Account.** The Trustee shall deposit in the Bond Issuance Expense Account the monies required to be deposited therein pursuant to Section 2.02 of this Indenture, shall invest such funds pursuant to Article VIII hereof and shall disburse the funds held in the Bond Issuance Expense Account as follows:

(a) Upon receipt of acceptable invoices and the written authorization of an authorized representative of the City and an Authorized Officer of the Bank, to pay the Costs of Issuance of the City Project or to reimburse the Bank for amounts previously advanced for such costs; and

(b) On the date which is sixty (60) days after the date of issuance of the Bonds, any funds remaining in the Bond Issuance Expense Account shall be transferred to the General Account of the General Fund.

#### **SECTION 6.09. Operation of the Rebate Fund.**

(a) The Trustee is authorized to establish and maintain, so long as any Series 2019 Bonds are Outstanding and are subject to a requirement that arbitrage profits be rebated to the United States of America, a separate fund to be known as the "Rebate Fund." The Trustee shall make information regarding the Series 2019 Bonds and investments hereunder available to the Bank and shall make deposits and disbursements from the Rebate Fund in accordance with the Arbitrage Rebate Agreement received from the Bank pursuant to Sections 5.10 and 8.02 hereof, shall invest funds in the Rebate Fund as directed by the Bank and shall deposit income from such investments immediately upon receipt thereof in the Rebate Fund. Anything in this Indenture to the contrary notwithstanding, the provision of this Section may be superseded or amended by an amended Arbitrage Rebate Agreement delivered by the Bank and accompanied by an Opinion of Bond Counsel addressed to the Trustee to the effect that the use of the amended Arbitrage Rebate Agreement will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Series 2019 Bonds.

(b) If a deposit to the Rebate Fund is required as a result of the computations made by the City pursuant to the Arbitrage Rebate Agreement, the Trustee shall upon receipt of direction from the City accept such payment for the benefit of the Bank and make transfers of monies from the General Account to the Rebate Fund to comply with such direction. If amounts in excess of that required to be rebated to the United States of America accumulate in the Rebate Fund, the Trustee shall upon direction from the Bank transfer such amount to the General Account. Records of the determinations required by this Section and the investment instructions must be retained by the Trustee until six (6) years after the Series 2019 Bonds are no longer Outstanding.

(c) Not later than sixty (60) days after July 1, 2024, and every five (5) years thereafter, the Trustee shall pay to the United States of America ninety percent (90%) of the amount required to be on deposit in the Rebate Fund as of such payment date as required by the Arbitrage Rebate Agreement. Not later than sixty (60) days after the final retirement of the Series 2019 Bonds, the Trustee shall pay to the United States of America the amount required to be paid under the Arbitrage Rebate Agreement. Each payment required to be paid to the United States of America pursuant to this Section shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201. Each payment shall be accompanied by a copy of the Form 8038-G originally filed with respect to the Series 2019 Bonds, if any, and a statement of the Bank summarizing the determination of the amount to be paid to the United States of America.

(d) All payments under this Section 6.09 and the Arbitrage Rebate Agreement shall be paid in accordance with the terms and provisions of the Arbitrage Rebate Agreement.

**SECTION 6.10. Monies to be Held in Trust.** All monies required to be deposited with or paid to the Trustee for the account of any Fund or Account established under any provision of this Indenture shall be held by the Trustee in trust and applied in accordance with the provisions of this Indenture, except for monies held pursuant to the Rebate Fund and any Accounts created thereunder and except for monies deposited with or paid to the Trustee for the redemption of Bonds, notice of the redemption of which has been duly given, and shall, while held by the Trustee, constitute part of the Trust Estate and be subject to the security interest created hereby and shall not be subject to any lien or attachment by any creditor of the Bank.

**SECTION 6.11. Amounts Remaining in Funds or Accounts.** Any amounts remaining in any Fund or Account of the Bonds after full payment of the Bonds and the fees, charges (including any required rebate to the United States of America) and expenses of the Trustee (and all other amounts due and owing hereunder) shall be distributed to the City, except as provided in Section 3.08 hereof and except for any monies owing to the Bank which will be paid to the Bank.

**SECTION 6.12. Certain Verifications.** The Bank and/or the Trustee from time to time may cause a firm of independent certified public accountants of national standing or other nationally recognized experts to supply the Bank and the Trustee with such information as the Bank or the Trustee may request in order to determine in a manner reasonably satisfactory to the Bank and the Trustee all matters relating to (a) the sufficiency of projected cash flow receipts and disbursements with respect to the Funds and Accounts to pay the principal of and interest on the Bonds and Program Expenses; (b) the actuarial yields on the Outstanding Bonds as the same may relate to any data or conclusions necessary to verify that the Bonds are not arbitrage bonds within the meaning of Section 148 of the Code; (c) the yields on any obligations acquired and held by the Bank and/or the Trustee; and (d) the rebate calculation required by Section 6.09 hereof. The Bank and/or the Trustee from time to time may also obtain an Opinion of Bond Counsel concerning post-issuance compliance with any federal legislation applicable to the Bonds. The fees of such independent certified public accountants, other nationally recognized experts and Bond Counsel shall constitute reimbursable Program Expenses.

## ARTICLE VII.

### LOAN SECURED BY NOTE

**SECTION 7.01. Terms and Conditions of Loan.** The loan of funds to the City under the terms and provisions of the Loan Agreement secured by the Note shall be according to the terms and conditions of, and upon submission of the documents required by, this Article VII.

**SECTION 7.02. Loan.** The Trustee shall provide the funds for the loan to the City from the Loan Account upon receipt by the Trustee of:

(a) a written direction of the Bank signed by an Authorized Officer stating to whom the proceeds of the loan are to be paid;

(b) a certificate signed by an officer of the Bank, certifying that the City, pursuant to the Loan Agreement, has executed and delivered the Note to the Bank and is obligated to make the Note Payments and to pay all fees and charges required to be paid to the Bank under the Loan Agreement, and that to the knowledge of such officer, such City is not in default under the payment terms or other material terms or provisions of any other obligations of that City;

(c) a certified transcript of proceedings authorizing the issuance, execution and delivery of the Note, which transcript shall contain the certifications required by the Bank Act and such other certifications and representations which are reasonable and appropriate as determined by the Bank or Trustee;

(d) an Opinion of Counsel in form satisfactory to the Bank stating that the Note and Loan Agreement constitute valid and binding obligations enforceable in accordance with their terms, subject to such enforcement limitations customarily contained in such opinions;

(e) an executed Note, registered as to both principal and interest to the Bank and delivered in accordance with the Bank Act;

(f) an Opinion of Counsel in form satisfactory to the Bank stating that the City is a Local Governmental Unit within the meaning of the Bank Act;

(g) an executed Loan Agreement from the City;

(h) an executed Tax Intercept Agreement;

(i) an executed Arbitrage Rebate Agreement; and

(j) an amortization schedule for debt service on the Bonds.

Upon receipt of all the documents as listed above, the Trustee shall pay the loan proceeds directly to the City as specified in the directions received pursuant to subparagraph (a) above.

**SECTION 7.03. Retention and Inspection of Documents.** All requisitions, certificates, transcripts, Opinions of Bond Counsel, Opinions of Counsel, the Loan Agreement,

the Tax Intercept Agreement and the Note received by the Trustee, as required in this Article as conditions of payment may be relied upon by and shall be retained in the possession of the Trustee, subject at all times during normal business hours to the inspection of the Bank and, after written request received by the Trustee at least five (5) Business Days prior to the date of inspection, by any owner of at least five percent (5%) in principal amount of Outstanding Bonds. Any costs and expenses associated with such request shall be paid by the requesting bondholder.

**SECTION 7.04. Report.** The Trustee shall make a report to the Bank within sixty (60) days after the delivery of the Bonds covering all receipts and all disbursements made pursuant to the provisions of this Article VII in respect of the proceeds of the Bonds deposited in the Loan Account. If requested by the Bank, said report shall be supplemented at least once every sixty (60) days by the Trustee until all of the net proceeds of the Bonds deposited in the Loan Account shall have been expended. If applicable, each such report shall be mailed by the Trustee to the Bank.

## ARTICLE VIII.

### INVESTMENT OF MONIES

#### SECTION 8.01. General Provisions.

(a) Any monies held as part of any Fund or Account created under or pursuant to Article VI hereof and the Rebate Fund shall be invested or reinvested by the Trustee as continuously as reasonably possible in such Investment Securities as may be directed by the City (such direction to be confirmed in writing). All such investments shall at all times be a part of the Fund or Account in which the monies used to acquire such investments had been deposited and, except as provided in Article VI, all income and profits on such investments, other than from monies on deposit in the Rebate Fund or any Account created thereunder, shall be deposited as received in the General Account of the General Fund. The Trustee may make any and all such investments through its investment department or through the investment department of any financial institution which is an affiliate of the Trustee and may trade with itself or any of its affiliates in doing so. Monies in separate Funds and Accounts may be commingled for the purpose of investment or deposit. The Trustee and the Bank agree that all investments under this Indenture and all instructions of the Bank to the Trustee with respect thereto shall be made in accordance with prudent investment standards reasonably expected to produce the greatest investment yields while seeking to preserve principal without causing any of the Bonds to be arbitrage bonds as defined in Section 148 of the Code. Any investment losses shall be charged to the Fund or Account in which monies used to purchase such investment had been deposited. For so long as the Trustee is in compliance with the provisions of this Section 8.01, the Trustee shall not be liable for any investment losses. Monies in any Fund or Account shall be invested in Investment Securities with a maturity date, or a redemption date determined by the owner of the Investment Securities at said owner's option, which shall coincide as nearly as practicable with times at which monies in such Funds or Accounts will be required for the purposes thereof. The Trustee shall sell and reduce to cash a sufficient amount of such investments in the respective Fund or Account whenever the cash balance therein is insufficient to pay the amounts contemplated to be paid therefrom at the time those amounts are to be paid. All investment income from the assets held in any Fund or Account, except for the Rebate Fund and any Accounts created thereunder, will be added to the General Account of the General Fund.

(b) The Bank (1) certifies to the owners of the Bonds from time to time Outstanding that monies on deposit in any Fund or Account in connection with the Bonds, whether or not such monies were derived from the proceeds of the sale of the Bonds or from any other sources, are not intended to be used in a manner which will cause the interest on the Bonds to lose the exclusion from gross income for federal income tax purposes, and (2) covenants with the owners of the Bonds from time to time Outstanding that, so long as any of the Bonds remain Outstanding, monies on deposit in any Fund or Account established in connection with the Bonds, whether or not such monies were derived from the proceeds of the sale of the Bonds or from any other source, will not be used in any manner which will cause the interest on the Bonds to become subject to federal income taxation.

**SECTION 8.02. Arbitrage Restrictions; Bonds to Remain Tax Exempt.**

(a) The Arbitrage Rebate Agreement shall govern the investment of the Funds and Accounts and the application of Section 6.09 hereof.

(b) Without limiting subsection (a) of Section 8.01 hereof, the Bank further covenants and agrees that it will not take any action or fail to take any action with respect to the investment of the proceeds of any Bonds, or with respect to the investment or application of any payments under the Note or any other agreement or instrument entered into in connection therewith or with the issuance of the Bonds, including but not limited to the obligation, if any, to rebate certain funds to the United States of America, which would result in constituting any Bonds arbitrage bonds within the meaning of such term as used in Section 148 of the Code. The Bank further agrees that it will not act in any other manner which would adversely affect the exclusion from gross income tax for federal income tax purposes of the interest on any Bonds.

## ARTICLE IX.

### DISCHARGE OF INDENTURE

Except as provided in this Article IX, if payment or provision for payment is made, to the Trustee, of the principal of and interest due and to become due on the Bonds at the times and in the manner stipulated therein, and there is paid or caused to be paid to the Trustee and the Bank all sums of money due and to become due according to the provisions hereof, and all other amounts due hereunder have been paid in full, then these presents and the Trust Estate and rights hereby granted shall cease, terminate and be void, whereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the Bank such instruments in writing as shall be requisite to cancel and discharge the lien hereof, and release, assign and deliver unto the Bank any and all estate, right, title and interest in and to any and all rights assigned or pledged to the Trustee hereby or otherwise subject to the lien of this Indenture, except monies or securities held by the Trustee for the payment of the principal of and interest on the Bonds.

Any Bond shall be deemed to be paid within the meaning of this Indenture when (a) payment of the principal of (and premium, if any, on) such Bond and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided herein or otherwise), either (i) shall have been made or caused to have been made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Trustee or other financial institution (which must meet the requirements of Section 11.07 hereof) which provides services as escrow agent for the Bank (for purposes of this Article, an "**Escrow Agent**"), in trust and exclusively for such payment, (A) moneys sufficient to make such payment or (B) Governmental Obligations maturing as to principal and interest in such amounts and at such times, without consideration of any reinvestment thereof, as will insure the availability of sufficient moneys to make such payment, or (C) a combination of such moneys and Governmental Obligations, and (b) all necessary and proper fees and expenses of the Trustee and the Bank pertaining to the Bonds, including the amount, if any, required to be rebated to the United States of America, with respect to which such deposit is made, shall have been paid or deposited with the Trustee.

Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed prior to their stated maturity, no deposit under the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until the Bank shall have given the Trustee, in form satisfactory to the Trustee, irrevocable instructions:

(a) stating the date when the principal of each such Bond is to be paid, whether at maturity or on a redemption date (which shall be any redemption date permitted by this Indenture);

(b) to call for redemption pursuant to this Indenture any Bonds to be redeemed prior to maturity pursuant to (a) hereof; and

(c) to mail, as soon as practicable, in the manner prescribed by Article IV hereof, a notice to the owners of such Bonds satisfying the requirements thereof.

Any monies so deposited with the Trustee or the Escrow Agent as provided in this Article may at the direction of the Bank also be invested and reinvested in Governmental Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Governmental Obligations in the hands of the Trustee or the Escrow Agent pursuant to this Article which is not required for the payment of the Bonds and interest thereon with respect to which such monies shall have been so deposited, shall be deposited in the General Account, as and when collected, for use and application as are other monies deposited in such Account.

No such deposit under this Article shall be made or accepted hereunder and no use made of any such deposit unless the Trustee shall have received an Opinion of Bond Counsel to the effect that such deposit and use would not cause any of the Bonds to be treated as arbitrage bonds within the meaning of Section 148 of the Code. Moreover, no such deposit shall be deemed a payment of such Bonds unless the Trustee shall have received a verification from an accountant or firm of accountants appointed by the Bank and acceptable to the Trustee verifying the sufficiency of the deposit to pay the principal of, premium, if any, and interest on the Bonds to the due date, whether such due date be by reason of maturity or upon redemption.

Notwithstanding any provision of any other Article of this Indenture which may be contrary to the provisions of this Article, all monies or Governmental Obligations set aside and held in trust pursuant to the provisions of this Article for the payment of Bonds (including interest thereon but excluding any amounts set aside for rebate to the United States of America) shall be applied to and used solely for the payment of the particular Bonds (including interest thereon) with respect to which such monies or obligations have been so set aside in trust.

Upon the deposit with the Trustee or the Escrow Agent, in trust, at or before maturity, of money or Governmental Obligations in the necessary amount to pay or redeem all Outstanding Bonds as aforesaid (whether upon or prior to their stated maturity or the redemption date of such Bonds), provided that if such Bonds are to be redeemed prior to the stated maturity thereof, notice of such redemption shall have been given as hereinabove provided, or provisions satisfactory to the Trustee shall have been made for the giving of such notice, and compliance with the other payment requirements hereof, this Indenture may be discharged in accordance with the provisions hereof but the limited liability of the Bank in respect of such Bonds shall continue provided that the owners thereof shall thereafter be entitled to payment only out of the monies or Governmental Obligations deposited with the Trustee or the Escrow Agent as aforesaid.

**ARTICLE X.**

**DEFAULT PROVISIONS AND REMEDIES OF  
TRUSTEE AND BONDHOLDERS**

**SECTION 10.01. Defaults; Events of Default.** If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default" under this Indenture:

- (a) Default in the due and punctual payment of any interest on any Bond; or
  - (b) Default in the due and punctual payment of the principal or redemption premium, if any, of any Bond whether at the stated maturity thereof or on any date fixed for redemption; or
  - (c) Failure of the Bank to timely remit to the Trustee within the time limits prescribed herein any monies which are required by this Indenture to be so remitted; or
  - (d) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Bank contained in this Indenture or in the Bonds and failure to remedy the same within the time provided in, and after notice thereof pursuant to, Section 10.10 hereof; or
  - (e) Any warranty, representation or other statement by or on behalf of the Bank contained in this Indenture or in any instrument furnished in compliance with or in reference to this Indenture is false or misleading, when made, in any material respect, and failure to remedy the same within the time provided in, and after notice thereof pursuant to, Section 10.10 hereof; or
  - (f) A petition is filed against the Bank under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction whether now or hereafter in effect and is not dismissed within sixty (60) days after such filing; or
  - (g) The Bank files a petition in voluntary bankruptcy or seeking relief under any provisions of any bankruptcy, reorganization, arrangement, insolvency, adjustment of debt, dissolution or liquidation law of any jurisdiction whether now or hereafter in effect, or consents to the filing of any petition against it under such law; or
  - (h) The Bank is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a liquidator or trustee of the Bank or any of its property is appointed by court order or takes possession of such property and such order remains in effect or such possession continues for more than sixty (60) days; or
  - (i) Default in the due and punctual payment of any interest or principal on the Note;
- or

(j) The Bank for any reason shall be rendered incapable of fulfilling its obligations under this Indenture; or

(k) There is an "event of default" under the Loan Agreement.

**SECTION 10.02. Remedies; Rights of Bondholders.** Upon the occurrence of an Event of Default, the Trustee shall, in its discretion, except for Events of Default under paragraphs (a), (b), (i) and (k) above, notify the owners of all Bonds Outstanding of such Event of Default by registered or certified mail, and will have the following rights and remedies:

(a) The Trustee may pursue any available remedy at law or in equity or by statute to enforce the payment of the principal of and interest on the Bonds then Outstanding, including enforcement of any rights of the Bank or the Trustee under the Note or Loan Agreement.

(b) The Trustee, may by action or suit in equity require the Bank to account as if it were the trustee of an express trust for the holders of the Bonds and may, take such action with respect to the Note and Loan Agreement as the Trustee deems necessary or appropriate and in the best interest of the Bondholders, subject to the terms of the Note and Loan Agreement.

(c) Upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Bondholders under this Indenture, the Trustee will be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the Revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

(d) The Trustee may, and shall at the direction of the Bondholders, by written notice to the Bank, declare the principal of and accrued interest on all Bonds to be due and payable immediately in accordance with this Indenture and the Act, by notice to the Bank and the City.

Upon the occurrence of an Event of Default, if requested so to do by the owners of twenty-five percent (25%) or more in aggregate principal amount of all Bonds then Outstanding, or (b) if secured and/or indemnified as provided in Section 11.01(k) hereof, the Trustee shall be obligated to exercise such one or more of the rights, remedies and powers conferred by this Section as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

No right or remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other right or remedy, but each and every such right or remedy shall be cumulative and shall be in addition to any other right or remedy given to Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity or by statute. The assertion or employment of any right or remedy shall not prevent the concurrent or subsequent assertion or employment of any other right or remedy.

No delay or omission to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right or remedy may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

**SECTION 10.03. Rights of Bondholders to Direct Proceedings.** Subject to the provisions of this Indenture, including the rights of the owners of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time during the continuance of an Event of Default, by an instrument or instruments in writing executed and delivered to the Trustee to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

**SECTION 10.04. Appointment of Receivers.** Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce any rights of the Trustee and of the Bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the Revenues, issues, earnings, income, products and profits thereof, pending such proceedings with such powers as the court making such appointment shall confer.

**SECTION 10.05. Application of Monies.** All monies received by the Trustee pursuant to any right or remedy given or action taken under the provisions of this Article (including monies received by virtue of action taken under provisions of the Note or Loan Agreement) shall, after payment of the costs and expenses of the proceedings resulting in the collection of such monies and of the expenses, liabilities and advances incurred or made by Trustee and any other monies owed to Trustee hereunder, be deposited in the General Account and all monies in the General Account shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become due and payable, all such monies shall be applied:

**FIRST** - To the payment of any amounts owed under the Arbitrage Rebate Agreement;

**SECOND** - To the payment to the persons entitled thereto of all installments of interest then due on the Bonds, including interest on any past due principal of any Bond at the rate borne by such Bond, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to such payment ratably, according to the amounts due on such installments, to the persons entitled thereto, without any discrimination or privilege;

**THIRD** - To the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due either at maturity or pursuant to a call for redemption (other than Bonds called for redemption for the payment of which other monies are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay

in full the principal of Bonds due on any particular date, together with such interest, then to such payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege;

**FOURTH** - To be held for the payment to the persons entitled thereto as the same shall become due of the principal of and interest on the Bonds which may then become due either at maturity or upon call for redemption prior to maturity and, if the amount available shall not be sufficient to pay in full the principal of and interest on Bonds due on any particular date, such payment shall be made ratably according to the amount of principal and interest due on such date to the persons entitled thereto without any discrimination or privilege;

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such monies shall be applied to the payment of any amounts owed under the Arbitrage Rebate Agreement and then to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

Whenever monies are to be applied pursuant to the provisions of this Section, such monies shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard for the amount of such monies available for application and the likelihood of additional monies becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such monies and of the fixing of any such date, and shall not be required to make payment of principal to the owner of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Whenever all principal of and interest on all Bonds have been paid under the provisions of this Section and all expenses and charges of the Trustee have been paid and all other amounts due hereunder and under the Loan Agreement and the Note have been paid in full, any balance remaining in the General Account shall be paid as provided in Article VI hereof.

**SECTION 10.06. Remedies Vested in the Trustee.** All rights of action (including the right to file proof of claims) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding related thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any owners of the Bonds, and any recovery of judgment shall be for the equal and ratable benefit of the owners of all the Outstanding Bonds.

**SECTION 10.07. Rights and Remedies of Bondholders.** No owner of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (a) a Default has occurred, (b) such Default shall have become an Event of Default and the owners of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the remedies hereinbefore granted or to institute such action, suit or proceeding in its own name, (c) such Bondholders have offered to the Trustee security and/or indemnity as provided in Section 11.01(k) hereof, and (d) the Trustee has refused, or for sixty (60) days after receipt of such request and offer of security and/or indemnification, has failed to exercise the remedies hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such request and offer of security and/or indemnity are hereby declared in every case at the option of Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more owners of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his, her or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit of the owners of all Bonds then Outstanding. However, nothing contained in this Indenture shall affect or impair the right of any Bondholder to enforce the payment of the principal of and interest on any Bond at and after the maturity thereof, or the limited obligation of the Bank to pay the principal of and interest on each of the Bonds issued hereunder to the respective owners thereof at the time and place, from the source and in the manner expressed in the Bonds.

**SECTION 10.08. Termination of Proceedings.** In case the Trustee or any owner of any Bonds shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Bank, the Trustee and the Bondholders shall be restored their former positions and rights hereunder, respectively, and with regard to the property herein subject to this Indenture, and all rights, remedies and powers of the Trustee and the owners of Bonds shall continue as if no such proceedings had been taken.

**SECTION 10.09. Waivers of Events of Default.** The Trustee may at its discretion waive any Event of Default hereunder and its consequences, and shall do so upon the written request of the owners of (a) more than sixty-six and two thirds percent (66 2/3%) in aggregate principal amount of all the Bonds then Outstanding in respect of which an Event of Default in the payment of principal or interest exists, or (b) more than fifty percent (50%) in aggregate principal amount of all Bonds then Outstanding in the case of any other Event of Default; provided, however, that there shall not be waived (1) any Event of Default in the payment of the principal of any Outstanding Bond at the date of maturity specified therein, or (2) any Event of Default in the payment when due of the interest on any Outstanding Bond unless prior to such waiver all of the interest or all of the payments of principal when due, as the case may be, with

interest on overdue principal at the rate borne by such Bond, and all expenses of the Trustee in connection with such Event of Default shall have been paid or provided for, or (3) any Event of Default for nonpayment of Program Expenses; and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case the Bank, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or recession shall extend to any subsequent or other Event of Default, or impair any rights consequent thereon.

**SECTION 10.10. Notice of Defaults under Section 10.01(d) or (e); Opportunity of the Bank to Cure Such Defaults.** Anything herein to the contrary notwithstanding, no Default under Section 10.01(d) or (e) hereof shall constitute an Event of Default until actual notice of such Default by registered or certified mail shall be given to the Bank by the Trustee or the owners of not less than twenty-five percent (25%) in aggregate principal amount of all Bonds then Outstanding and the Bank shall have had sixty (60) days after receipt of such notice to correct the Default or cause the Default to be corrected, and shall not have corrected the Default or caused the Default to be corrected within the applicable period; provided, however, if the Default be such that it is correctable but cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Bank within the applicable period and diligently pursued until the Default is corrected. If a Default is cured under this Section 10.10, then it will not constitute an Event of Default.

With regard to any alleged Default for which notice is given to the Bank under the provisions of this Section, the Bank hereby grants to the Trustee full authority for the account of the Bank to perform any covenant or obligation the failure of performance which is alleged in said notice to constitute an Event of Default, in the name and stead of the Bank with full power to do any and all things and acts to the same extent that the Bank could do and perform any such things and acts and with power of substitution.

## ARTICLE XI.

### TRUSTEE

**SECTION 11.01. Acceptance of the Trusts.** The Trustee hereby accepts the trusts and duties imposed upon it by this Indenture, and agrees to perform said trusts and duties with the same degree of care and skill in their exercise, as a prudent corporate trustee would exercise or use under the circumstances in the conduct of its own affairs, but only upon and subject to the following express terms and conditions:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise the rights and powers vested in it by this Indenture in accordance with the standard specified above.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall not be answerable for the conduct of the same if appointed in accordance with the standard specified above, and shall be entitled to advice of its counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney or firm of attorneys (who may be the attorney or firm of attorneys for the Bank), approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds, other than the Certificate of Authentication required by Section 3.04 hereof, or for the validity of the execution by the Bank of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not the Trustee and Bonds owned by the Trustee shall be deemed Outstanding unless canceled pursuant to the provisions hereof.

(e) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Trustee shall not withhold unreasonably its consent, approval or action to any reasonable request of the Bank. Any action taken by the Trustee pursuant to this Indenture upon the request of the Bank or consent of any person who at the time of making such request or giving such consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled in good faith to rely upon a certificate signed by an Authorized Officer as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has become aware shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of an Authorized Officer of the Bank to the effect that a resolution in the form therein set forth has been adopted by the Bank as conclusive evidence that such resolution has been duly adopted and is in full force and effect.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its negligence or willful default.

(h) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect any and all of the books, papers and records of the Bank pertaining to the Revenues and receipts pledged to the payment of the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(i) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(j) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action, deemed desirable by the Trustee for the purpose of establishing the right of the Bank to the authentication of any Bonds, the withdrawal of any cash or the taking of any other action by the Trustee.

(k) Before taking any action referred to in Section 10.02, 10.03, 10.07 or 12.02 hereof, the Trustee may require that satisfactory security and/or indemnity be furnished the Trustee for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default, by reason of any action so taken.

(l) All monies received by the Trustee shall, until used, applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee shall not be under any liability for interest on any monies received hereunder except such as may be agreed upon.

(m) The Trustee for all purposes of this Indenture shall be deemed to be aware of any Event of Default in the payment of principal or interest on any of the Bonds.

**SECTION 11.02. Fees, Charges and Expenses of the Trustee.** The Trustee shall be entitled to prompt payment and reimbursement upon demand for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as paying agent and registrar for the Bonds but only as hereinabove provided. Upon any Event of Default, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of principal of or interest on any Bond upon the Trust Estate for the foregoing fees, charges and expenses incurred by it, respectively.

**SECTION 11.03. Intervention by the Trustee.** In any judicial proceeding to which the Bank is a party and which in the opinion of the Trustee and its Counsel has a substantial bearing on the interests of the owners of the Bonds, the Trustee may intervene on behalf of the Bondholders, and shall do so if requested in writing by the owners of at least twenty-five percent (25%) of the aggregate principal amount of Bonds then Outstanding upon receiving indemnification satisfactory to the Trustee.

**SECTION 11.04. Successor Trustee.** Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party ("Reorganization"), ipso facto shall be and become successor Trustee hereunder, if legally qualified to serve as such, and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided that within thirty (30) days of the effective date of such Reorganization, the Bank may object to such corporation or association becoming successor Trustee by filing written notice of such objection with the Trustee and by mailing such notice to each Bondholder whereupon a successor or temporary Trustee shall be appointed in accordance with Section 11.07 hereof.

**SECTION 11.05. Resignation by the Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby by giving thirty (30) days' written notice by registered or certified mail to the Bank and the owner of each Bond as shown by the Bond Register, and such resignation shall take effect upon the appointment of a successor Trustee in accordance with Section 11.07 hereof and acceptance of such appointment by the successor Trustee. Notwithstanding any other provision of this Indenture, no removal, resignation or termination of the Trustee shall take effect until a successor.

**SECTION 11.06. Removal of the Trustee.** The Trustee may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to the Trustee and to the Bank and signed by the owners of a majority in aggregate principal amount of all Bonds then Outstanding or their attorneys-in-fact duly authorized. Notice of the removal of the Trustee shall be given in the same manner as provided in Section 11.05 hereof with respect to the resignation of the Trustee. So long as no Event of Default or an event which, with the

passage of time would become an Event of Default, shall have occurred and be continuing, the Trustee may be removed at any time by resolution or other official action taken by the Bank with such action to be filed with the Trustee.

**SECTION 11.07. Appointment of Successor Trustee by the Bondholders; Temporary Trustee.** In case the Trustee shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the owners of a majority in aggregate principal amount of all Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys-in-fact duly authorized, a copy of which shall be delivered personally or sent by registered mail to the Bank. Nevertheless, in case of such vacancy the Bank by resolution may appoint a temporary Trustee to fill such vacancy. Within ninety (90) days after such appointment, the Bondholders may appoint a successor Trustee; and any such temporary Trustee so appointed by the Bank shall become the successor Trustee if no appointment is made by the Bondholders within such period, but in the event an appointment is made by the Bondholders, the temporary Trustee shall immediately and without further act be superseded by any Trustee so appointed by such Bondholders. Notice of the appointment of a temporary or successor Trustee shall be given in the same manner as provided by Section 11.05 hereof with respect to the resignation of the Trustee. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing located in or incorporated under the laws of the State duly authorized to exercise trust powers and be subject to examination by federal or State authority, having a reported capital and surplus of not less than \$75,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

**SECTION 11.08. Concerning Any Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to the Bank an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the Bank, after the payment of all fees, charges and expenses which may be due and owing to such predecessor pursuant to the provisions of Section 11.02 hereof, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities, monies and other property or documents held by it as Trustee hereunder to its or his successor hereunder. Should any instrument in writing from the Bank be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Bank. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the successor Trustee in each recording office where this Indenture shall have been filed or recorded.

**SECTION 11.09. Successor Trustee as Trustee of Funds, Paying Agent and Registrar.** In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or been removed shall cease to be Trustee of the funds provided hereunder and registrar and paying agent for principal of, premium, if any, and interest on the Bonds, and the successor Trustee shall become such Trustee, registrar and paying agent.

## ARTICLE XII.

### SUPPLEMENTAL INDENTURES

**SECTION 12.01. Supplemental Indentures not Requiring Consent of Bondholders.**

The Bank and the Trustee may, without the consent of, or notice to, any of the Bondholders, enter into an indenture or indentures supplemental to this Indenture for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Indenture;

(b) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Bondholders or the Trustee, or to make any change which, in the opinion of Bond Counsel, does not materially and adversely affect the interest of the owners of Outstanding Bonds and does not require unanimous consent of the Bondholders pursuant to Section 12.02 hereof;

(c) To subject to this Indenture additional Revenues, properties or collateral;

(d) To modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America, and, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute;

(e) To evidence the appointment of a separate or co-trustee or the succession of a new Trustee hereunder or the succession of a new registrar and/or paying agent; and

(f) In connection with issuance of Refunding Bonds.

**SECTION 12.02. Supplemental Indentures Requiring Consent of Bondholders.**

Exclusive of Supplemental Indentures provided for by Section 12.01 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding which are affected (exclusive of Bonds held by the Bank), shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Bank and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular manner, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing in this Section contained shall permit, or be construed as permitting, without the consent of the owners of all then Outstanding Bonds, (a) an extension of the maturity of the principal of or the interest or redemption date on any Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or change in the rate of interest or redemption premium of any Bond, or (c)

a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (d) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Indenture, or (e) the creation of any lien securing any Bonds other than a lien ratably securing all of the Bonds at any time Outstanding hereunder, or (f) any modification of the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of the Trustee without the written consent of the Trustee.

If at any time the Bank shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes set forth in this Section, the Trustee shall, upon being satisfactorily secured and/or indemnified in accordance with Section 11.01(k) hereof, cause notice of the proposed execution of such Supplemental Indenture to be mailed by registered or certified mail to each owner of a Bond at the address shown on the registration records maintained by the Trustee. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Bondholders. If, within sixty (60) days, or such longer period as shall be prescribed by the Bank, following the mailing of such notice, and the owners of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture (exclusive of Bonds held by the Bank) shall have consented to and approved the execution of such Supplemental Indenture as provided in Section 12.01 hereof, no owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Bank from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

## ARTICLE XIII.

### MISCELLANEOUS

**SECTION 13.01. Consents etc. of Bondholders.** Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number or concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it or them under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved (1) by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or (2) by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register maintained by the Trustee pursuant to Section 3.06 hereof.

**SECTION 13.02. Limitation of Rights.** With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person or company other than the parties hereto, the owners of the Bonds any legal or suitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the owners of the Bonds as herein provided.

**SECTION 13.03. Severability.** If any provision of this Indenture shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

**SECTION 13.04. Notices.** Any notice, request, complaint, demand, communication or other paper shall be sufficiently given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed to the appropriate Notice Address. A duplicate copy of each notice required to be given hereunder by the Trustee or the Bank to the City or the Underwriter shall also be given to the other. The Bank, the Trustee or the Underwriter may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**SECTION 13.05. Trustee as Paying Agent and Registrar.** The Trustee is hereby designated and agrees to act as paying agent and registrar for and in respect to the Bonds.

**SECTION 13.06. Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be in the city of payment a Saturday, Sunday or a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal may be made on the next Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption.

**SECTION 13.07. Counterparts.** This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 13.08. Receipt of Money or Revenues by Trustee.** The Trustee is an authorized agent of the Bank for purposes of receiving money and Revenues on behalf of the Bank. It is not the intent of this Section 14.08, or any other Section of this Indenture, to create a power of attorney relationship between the Bank and the Trustee.

**SECTION 13.09. Applicable Provisions of Law.** This Indenture shall be governed by and construed in accordance with the laws of the State.

[Signature Page to Follow]

**IN WITNESS WHEREOF**, the Bank has caused this Indenture to be executed on its behalf by its Executive Director and the seal of the Bank to be hereunto affixed and duly attested by its Secretary and the Trustee, to evidence its acceptance of the trusts created hereunder, has caused this Indenture to be executed in its name by its duly authorized officers and its corporate seal to be hereunto affixed and duly attested, all as of the day and year first above written.

(SEAL)

**MISSISSIPPI DEVELOPMENT BANK**

By \_\_\_\_\_  
Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

(SEAL)

**THE PEOPLES BANK, as Trustee**

By \_\_\_\_\_  
Title \_\_\_\_\_

EXHIBIT B  
FORM OF LOAN AGREEMENT

**LOAN AGREEMENT**

**By and Between**

**MISSISSIPPI DEVELOPMENT BANK**

**and**

**CITY OF TUPELO, MISSISSIPPI**

\_\_\_\_\_  
**DATED \_\_\_\_\_, 2019**  
\_\_\_\_\_

**Acknowledged and Accepted by:**

**The Peoples Bank, as Trustee**

**Secured By:**

**\$ \_\_\_\_\_,000**

**PROMISSORY NOTE**

**(TUPELO, MISSISSIPPI PUBLIC IMPROVEMENT REVENUE PROJECT)**

**The interest of the Mississippi Development Bank in this Loan Agreement, except for certain rights retained by it pursuant to Section 4.6 hereof, has been assigned to The Peoples Bank, Biloxi, Mississippi, as Trustee, under that certain Indenture of Trust, dated \_\_\_\_\_, 2019, by and between the Mississippi Development Bank and the Trustee and securing the \$ \_\_\_\_\_,000 Mississippi Development Bank Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project)**

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**THIS LOAN AGREEMENT**, dated \_\_\_\_\_, 2019 (this "**Loan Agreement**"), is by between the **MISSISSIPPI DEVELOPMENT BANK**, a public body corporate and politic of the State of Mississippi (the "**State**"), exercising essential public functions (the "**Bank**") and organized under the provisions of Sections 31-25-1 *et seq.*, Mississippi Code of 1972, as from time to time amended (the "**Bank Act**"), and the **CITY OF TUPELO, MISSISSIPPI**, a political subdivision organized and validly existing under the Constitution and laws of the State (the "**City**") and a "governmental unit" within the meaning of the Bank Act.

**WITNESSETH:**

**WHEREAS**, the Bank is authorized by the provisions of the Bank Act, to, among other things, loan money to local governmental units for any purposes set forth under the Bank Act and to finance such assistance to such local governmental units by the issuance of revenue bonds; and

**WHEREAS**, the Bank is further authorized to issue revenue bonds for the purpose of providing funds to pay all or a part of the cost of providing the aforementioned loans to local governmental units and to pledge or assign any money, rents, charges, fees or other revenues and any proceeds derived from the loans with such local governmental units; and

**WHEREAS**, the Bank has duly authorized as a project under the Bank Act the financing of the City Project (as hereinafter defined); and

**WHEREAS**, the Bank has duly authorized the issuance, as provided in the Indenture (as hereinafter defined), of its Mississippi Development Bank Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project) (the "**Series 2019 Bonds**") pursuant to the Bank Act in the aggregate principal amount of \$\_\_\_\_\_,000; and

**WHEREAS**, the Series 2019 Bonds are to be issued pursuant to and secured by an Indenture of Trust (the "**Indenture**") dated of even date herewith, by and between the Bank and the Trustee (as hereinafter defined); and

**WHEREAS**, in order to provide financing for the City Project, the proceeds of the Series 2019 Bonds will be loaned to the City by the Bank pursuant to this Loan Agreement which loan will be secured by a promissory note (the "**Note**") whereby the amount of payments to be made to the Bank by the City under the Note shall be sufficient to pay the principal of, premium, if any, and interest on the Series 2019 Bonds as and when the same shall become due and payable; and

**WHEREAS**, to further secure the payment of the Series 2019 Bonds, the Bank has or will assign its rights in the Note and this Loan Agreement (except certain rights retained by the Bank) to the Trustee; and

**WHEREAS**, to further secure the payment of the Series 2019 Bonds, the City will provide for the payment of debt service on the Series 2019 Bonds from (a) any lawfully available revenues of the City, including, without limitation, available amounts of the City's General Fund, and (b) certain Tax Monies as described in Section 4.8 hereof.

**NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THIS LOAN AGREEMENT WITNESSETH:**

That the parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, do hereby agree as follows:

## ARTICLE I.

### DEFINITIONS, EXHIBITS AND MISCELLANEOUS

**SECTION 1.1. Definitions.** Terms used herein, unless the context hereof shall require otherwise, shall have the following meanings, and any other terms used herein and not defined herein shall have the meanings given such terms in Section 1.01 of the Indenture unless the context or use thereof indicates another or different meaning or intent.

#### **Act**

“Act” shall mean the Bank Act and the City Act.

#### **Additional Charges**

“Additional Charges” shall mean the payments required by Section 4.4 of this Loan Agreement.

#### **Administrative Expenses**

“Administrative Expenses” shall mean the reasonable and necessary fees, costs or expenses incurred or payable by the City to the Bank pursuant to this Loan Agreement or the Indenture, including, compensation and expenses paid to or incurred by the Trustee or any paying agent under the Indenture.

#### **Annual Budget**

“Annual Budget” shall mean the budget or amended budget in effect as provided in or adopted pursuant to Section 6.6 hereof.

#### **Authorized City Representative**

“Authorized City Representative” shall mean any person or persons at the time designated to act on behalf of the City by a written certificate, signed on behalf of the City by the Mayor or other duly authorized Person and the City Clerk or other authorized member of the Governing Body or Person and furnished to the Bank and the Trustee, containing the specimen signature of each such person.

#### **Bank**

“Bank” shall mean the Mississippi Development Bank, a public body corporate and politic of the State, exercising essential public functions and organized under the provisions of the Bank Act.

#### **Bank Act**

“Bank Act” shall mean Sections 31-25-1 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time.

**Basic Payments**

“Basic Payments” shall mean the payments required by Section 4.2 of this Loan Agreement.

**Bond Counsel**

“Bond Counsel” shall mean an attorney or firm of attorneys approved by the City and the Bank that is nationally recognized in the area of municipal law and matters relating to the exclusion of interest on state and local government bonds from gross income under federal tax law, including particularly compliance with Section 148(f) of the Code. Bond Counsel shall initially mean Butler Snow LLP, Ridgeland, Mississippi.

**Bond Documents**

“Bond Documents” shall mean the Indenture, this Loan Agreement, the Note, the Tax Intercept Agreement, the Tax Certificate and all other agreements, instruments, documents, notices of assignment, schedules, assignments, pledges, powers of attorney, leases, trust account agreements, certificates, consents, contracts, notices, and all other written matter and all amendments, modifications, supplements, extensions and restatements thereof and thereto, and all agreements, notes, documents or instruments delivered in substitution therefor, or in lieu thereof, whether heretofore, now, or hereafter executed by or on behalf of the City, or any other person which are delivered to the Trustee, the Bank or any participant with respect to the transactions contemplated in the Indenture.

**Bond Purchase Agreement**

“Bond Purchase Agreement” shall mean the Bond Purchase Agreement, dated \_\_\_\_\_, 2019, by and among the Underwriter, the Bank and the City in connection with the Series 2019 Bonds.

**Bond Register**

“Bond Register” shall mean the registration records of the Bank kept by the Trustee to evidence the registration and transfer of the Series 2019 Bonds.

**Bondholder**

“Bondholder,” “Holder” or “holder of Series 2019 Bonds” or “owner of Series 2019 Bonds” or any similar term shall mean the Registered Owner of any Series 2019 Bond in whose name a Series 2019 Bond is registered in the Bond Register.

**Capital Improvements Fund**

“Capital Improvements Fund” shall mean the fund by that name established by Section 5.1 hereof.

**Certificate**

“Certificate” shall mean, as the case may be, either (a) a signed document attesting to or acknowledging the circumstances, representations or other matters therein stated or set forth or (b) a signed document setting forth matters to be determined by an Authorized City Representative pursuant to this Loan Agreement.

**City**

“City” shall mean the City of Tupelo, Mississippi.

**City Act**

“City Act” shall mean Sections 21-33-301 et seq., Mississippi Code of 1972, as amended and/or supplemented from time to time.

**City Clerk**

“City Clerk” shall mean the duly appointed and/or acting City Clerk of the City.

**City Project**

“City Project” shall mean together, providing projects as authorized under the City Act, including but not limited to erecting, repairing, improving, adorning, equipping, expanding and furnishing municipal buildings, including but not limited to, the convention center and related municipal buildings; and purchasing buildings and land therefor.

**City Revenues**

“City Revenues” shall mean any lawfully available revenues of the City, which include, without limitation, available amounts of the City’s General Fund.

**Closing Date**

“Closing Date” shall mean, in connection with the Series 2019 Bonds, the date on which the Series 2019 Bonds are delivered by the Bank to, and paid for by, the Underwriter and, in connection with the Loan, the date on which the Note is delivered to the Bank.

**Code**

“Code” or “Internal Revenue Code” shall mean the Internal Revenue Code of 1986, as amended, and all applicable Treasury Regulations promulgated thereunder.

**Costs of the City Project**

“Costs of the City Project” shall mean, to the extent permitted by the Act and the Code and as applicable, whether incurred prior to or after the date of this Loan Agreement, all moneys necessary to fund the City Project.

**Depository**

“Depository” shall mean any bank, trust company or national banking association selected by the City and approved by the Trustee as a depository of monies and securities held under the provisions of this Loan Agreement, and its successor or assign or successors or assigns.

**Discharge Date**

“Discharge Date” shall mean the date on which all Outstanding Series 2019 Bonds are discharged under Article IX of the Indenture.

**Event of Default**

“Event of Default” shall mean any of the events set forth in Section 9.1 hereof.

**Fiduciary**

“Fiduciary” or “Fiduciaries” shall mean the Trustee, the paying agent, the Depository or any or all of them, as may be appropriate.

**Fiscal Year**

“Fiscal Year” shall mean, when used with respect to the City, a period beginning on October 1 in any year and ending on September 30 of the following year or such other twelve-month period as may be adopted by the City in accordance with law.

**Fund**

“Fund” shall mean any fund described in Article VI of the Indenture.

**General Account**

“General Account” shall mean the account by that name established by Section 6.02 of the Indenture.

**Governing Body**

“Governing Body” shall mean the Mayor and City Council of the City.

**Indenture**

“Indenture” shall mean the Indenture of Trust, dated \_\_\_\_\_, 2019, by and between the Bank and Trustee, as the same may from time to time be amended or supplemented as therein provided.

**Interest Payment Date**

“Interest Payment Date” shall mean each January 1 and July 1, commencing January 1, 2020, and ending on the date of payment in full of the Series 2019 Bonds.

**Investment Securities**

“Investment Securities” shall have the meaning ascribed thereto in the Indenture.

**Issuance Expenses**

“Issuance Expenses” shall mean any and all costs and expenses relating to the issuance, sale and delivery of the Series 2019 Bonds, and the execution and delivery of this Loan Agreement, the Indenture and the Note, including, but not limited to, all fees and expenses of legal counsel, financial consultants, feasibility consultants and accountants, the initial fees and expenses of the Trustee, any fee to be paid to the Bank, bond or reserve fund insurance premiums, credit enhancements or liquidity facility fees, the preparation and printing of this Loan Agreement, the Note, the Indenture, the Tax Intercept Agreement, any preliminary official statement and final official statement, the Series 2019 Bonds, and all other related closing documents, and all other expenses relating to the issuance, sale and delivery of the Series 2019 Bonds required to be paid from the proceeds of the Series 2019 Bonds and any other costs which are treated as “issuance costs” within the meaning of Section 147(g) of the Code.

**Loan**

“Loan” shall mean the loan of the Net Proceeds by the Bank to the City as described in Section 4.1 hereof.

**Loan Agreement**

“Loan Agreement” shall mean this Loan Agreement, dated \_\_\_\_\_, 2019, by and between the Bank and the City, as the same may from time to time be amended or supplemented as provided herein and in the Indenture.

**Loan Proceeds**

“Loan Proceeds” shall mean the Net Proceeds of the sale of the Series 2019 Bonds and investment earnings thereon, if any, held by the City.

**Mayor**

“Mayor” shall mean the duly elected and/or acting Mayor of the City.

**Net Bond Proceeds**

“Net Bond Proceeds” shall mean proceeds from the sale of the Series 2019 Bonds at the public offering price including accrued interest, if any, from the dated date of the Series 2019 Bonds to the date of delivery thereof, including interest earnings thereon.

### **Net Proceeds**

“Net Proceeds” shall mean Net Bond Proceeds, including any interest earnings thereon, less (a) accrued interest, if any, (b) capitalized interest, if any and (c) such Net Bond Proceeds used to pay or reimburse for the payment of Issuance Expenses and any other neutral costs paid under the Indenture.

### **Note**

“Note” shall mean that certain Promissory Note (Tupelo, Mississippi Public Improvement Revenue Project), dated \_\_\_\_\_, 2019, delivered by the City payable to the order of the Bank in the original principal amount of \$\_\_\_\_\_,000 in the form set forth in **Exhibit A**.

### **Note Payments**

“Note Payments” shall mean all payments required to be paid by the City under the Note.

### **Opinion of Bond Counsel**

“Opinion of Bond Counsel” shall mean an opinion by a nationally recognized firm experienced in matters relating to the tax exemption for interest payable on obligations of states and their instrumentalities and political subdivisions under federal law, and which is acceptable to the Bank and the Trustee.

### **Outstanding**

“Outstanding” shall mean all Series 2019 Bonds which have been authenticated and delivered by the Trustee under the Indenture, including any Series 2019 Bonds held by the Bank, except:

- (a) Series 2019 Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity;
- (b) Series 2019 Bonds deemed paid under Article IX of the Indenture; and
- (c) Series 2019 Bonds in lieu of which other Series 2019 Bonds have been authenticated under Section 3.05, 3.06 or 3.10 of the Indenture.

### **Parity Indebtedness**

“Parity Indebtedness” shall mean indebtedness of the City, the payments of which are secured by a lien on City Revenues on a parity with the lien securing the Note, but excluding the Note.

### **Redemption Account**

“Redemption Account” shall mean the account by that name established by Section 6.02 of the Indenture.

### **Redemption Price**

“Redemption Price,” when used with respect to any Series 2019 Bond to be redeemed, shall mean the price at which it is to be redeemed pursuant to the Indenture.

### **Series 2019 Bonds**

“Series 2019 Bonds” shall mean the \$\_\_\_\_\_,000 Mississippi Development Bank Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project) issued pursuant to the Indenture.

### **State**

“State” shall mean the State of Mississippi.

### **Tax Certificate**

“Tax Certificate” shall mean the Tax Regulatory Agreement and Arbitrage Certificate by and between the Bank and the City delivered as of the Closing Date.

### **Tax Intercept Agreement**

“Tax Intercept Agreement” shall mean the Tax Intercept Agreement, dated \_\_\_\_\_, 2019, by and between the City and the Bank and accepted by the Trustee, as set forth in Section 4.8 hereof, securing the Series 2019 Bonds.

### **Tax Monies**

“Tax Monies” shall have the meaning given to it in Section 4.8 hereof.

### **Term of this Loan Agreement**

“Term of this Loan Agreement” shall mean the period of time commencing on the date of this Loan Agreement and terminating on the final maturity date of the Series 2019 Bonds or upon earlier termination of this Loan Agreement under Section 8.1 hereto, whichever date occurs sooner.

### **Treasury Regulations**

“Treasury Regulations” shall mean all proposed, temporary or permanent federal income tax regulations then in effect and applicable.

### **Trustee**

“Trustee” shall mean The Peoples Bank, Biloxi, Mississippi, or any successor trustee appointed, qualified and then acting as such under the provisions of the Indenture.

## Underwriter

“Underwriter” shall mean Raymond James & Associates, Inc., as the initial purchaser of the Series 2019 Bonds.

**SECTION 1.2. Exhibits.** The form of the Note is attached as **Exhibit A** hereto and by reference made a part of this Loan Agreement:

**SECTION 1.3. City’s Acts.** Where the City is permitted or required to do or accomplish any act or thing hereunder, the City may cause the same to be done or accomplished by a third party selected by the City with the same force and effect as if done or accomplished by the City.

### **SECTION 1.4. Rules of Interpretation.**

(a) The words “herein” and “hereof” and “hereunder” and words of similar import, without reference to any particular section or subdivision, refer to this Loan Agreement as a whole rather than to any particular section or subdivision of this Loan Agreement.

(b) References in this Loan Agreement to any particular article, section or subdivision hereof are to the designated article, section or subdivision of this Loan Agreement as originally executed.

(c) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles; and all computations provided for herein shall be made in accordance with generally accepted accounting principles consistently applied and applied on the same basis as in prior years.

(d) The Table of Contents and titles of articles and sections herein are for convenience only and are not a part of this Loan Agreement.

(e) Unless the context hereof clearly requires otherwise, the singular shall include the plural and vice versa and the masculine shall include the feminine and vice versa.

(f) Articles, sections, subsections and clauses mentioned by number only are those so numbered which are contained in this Loan Agreement.

(g) For purposes of this Loan Agreement and the Indenture, a petition in bankruptcy shall be deemed dismissed only if either (a) the petition is dismissed by order of a court of competent jurisdiction and no further appeal rights exist from such order or (b) the City notifies the Trustee that such a dismissal has occurred.

(h) Any opinion of counsel required hereunder shall be a written opinion of such counsel.

## ARTICLE II.

### REPRESENTATIONS OF THE BANK AND CITY

**SECTION 2.1.** Representations by the Bank. The Bank makes the following representations as the basis for the undertakings on the part of the City herein contained:

(a) The Bank is a public body corporate and politic of the State, exercising essential public functions and organized under the provisions of the Bank Act.

(b) The Bank has full power and authority to enter into the transactions contemplated by this Loan Agreement, the Indenture and the other Bond Documents to which it is a party and to perform its obligations hereunder and thereunder.

(c) The Bank is not in default under any provisions of the laws of the State material to the performance of its obligations under this Loan Agreement, the Indenture, the Tax Intercept Agreement and the other Bond Documents.

(d) The Bank has been duly authorized to execute and deliver this Loan Agreement, the Indenture, the Tax Intercept Agreement and the assignment of the Note to the Trustee and by proper action has duly authorized the execution and delivery hereof and thereof and as to the Bank, this Loan Agreement, the Indenture, the Tax Intercept Agreement, the assignment of the Note to the Trustee and the other Bond Documents to which it is a party are valid and legally binding and enforceable in accordance with their terms, except to the extent that the enforceability thereof may be limited (1) by bankruptcy, reorganization, or similar laws limiting the enforceability of creditors' rights generally or (2) by the availability of any discretionary equitable remedies.

(e) The loan of the Net Proceeds by the Bank to the City in order to provide financing for the City Project, as provided by this Loan Agreement, will further the purposes of the Bank Act, to wit: to assist local governmental units in obtaining financing for those purposes set forth under the Bank Act in furtherance of its governmental purpose.

(f) Under existing statutes and decisions no taxes on income or profits are imposed on the Bank.

(g) There is not pending any suit, action or proceeding against the Bank before or by any court, arbitrator, administrative agency or other governmental authority which materially and adversely affects the validity, as to the Bank, of this Loan Agreement or the Indenture, any of its obligations hereunder or thereunder or any of the transactions contemplated hereby or thereby.

(h) No public official of the Bank has either a direct or indirect financial interest in this Loan Agreement nor will any public official either directly or indirectly benefit financially from this Loan Agreement.

**SECTION 2.2. Representations and Warranties of the City.** The City represents, covenants and warrants as follows:

(a) The City is a political subdivision of the State duly organized and validly existing under the Constitution and the laws of the State and the City is a "local governmental unit" within the meaning of the Bank Act.

(b) The execution, delivery and performance by the City of this Loan Agreement, the Tax Intercept Agreement and the Note and each of the other Bond Documents to which it is a party are (1) within the City's governmental powers, and (2) have been duly authorized by all necessary actions of the governing body of the City.

(c) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the City of this Loan Agreement, the Tax Intercept Agreement, the Note and the other Bond Documents to which the City is a party.

(d) The City Project comprises an authorized purpose within the meaning of the Act.

(e) The Net Proceeds, together with any other funds to be contributed to the City Project by the City or otherwise in accordance with this Loan Agreement, will be sufficient to pay the Costs of the City Project.

(f) The City has reviewed and approved the provisions of the Indenture.

(g) To the best of City's knowledge, no public official of the City has either a direct or indirect financial interest in this Loan Agreement nor will any public official either directly or indirectly benefit financially from this Loan Agreement.

(h) This Loan Agreement, the Tax Intercept Agreement, the Note and the other Bond Documents to which the City is a party are legal, valid and binding obligations of the City, and are enforceable against the City, in accordance with their respective terms, except to the extent that the enforceability thereof may be limited (1) by bankruptcy, reorganization, or similar laws limiting the enforceability of creditors' rights generally or (2) by the availability of any discretionary equitable remedies.

(i) There is no pending action or proceeding before any court, governmental agency or arbitrator against or directly involving the City and, to the best of the City's knowledge, there is no threatened action or proceeding affecting the City or any of its assets before any court, governmental agency or arbitrator (1) which, in any case, may materially and adversely affect the financial condition or operations of the City, (2) which seeks to restrain or would otherwise have a material adverse effect on the transactions contemplated herein, or (3) which would affect the validity or enforceability of this Loan Agreement, the Tax Intercept Agreement, the Note or the other Bond Documents.

(j) The City is not in default in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which it is a party or by which it or any of its assets may be bound, which default would have a material and adverse effect on the governmental functions, operations, assets or condition, financial or otherwise, of the City, either individually or taken as a whole. No Event of Default hereunder or an "event of default" under the Note or any other Bond

Document has occurred and is continuing. The City is not in default under any order, award or decree of any court, arbitrator, or governmental authority binding upon or affecting it or by which any of its assets may be bound or affected which default would have a material adverse effect on the governmental functions, operations, assets or condition, financial or otherwise, of the City, either individually or taken as a whole, and no such order, award or decree adversely affects the ability of the City to carry on its governmental functions as currently conducted or the ability of the City to perform its obligations under this Loan Agreement, the Tax Intercept Agreement, the Note and the other Bond Documents to which it is a party.

(k) The City is not a party to any contract or agreement or subject to any restriction which materially and adversely affects its governmental functions, its property or assets, or financial condition. The City is not a party to, or otherwise subject to any provision contained in, any instrument evidencing indebtedness of the City, any agreement relating thereto or any other contract or agreement (including their charters) which restricts or otherwise limits the incurring of the indebtedness to be represented by this Loan Agreement, the Note and the other Bond Documents to which it is a party.

(l) The City is in compliance with all laws, orders, regulations and ordinances of all federal, foreign, state and local governmental authorities binding upon or affecting the governmental functions, operation or assets of the City, except for laws, orders, regulations and ordinances the violation of which would not, in the aggregate, have a material and adverse effect on the City's financial condition.

(m) There is no fact known to the City which materially adversely affects or in the future may (so far as the City can now foresee) materially adversely affect the property, assets or financial condition of the City which has not been set forth in this Loan Agreement, the Note or in the other Bond Documents, prior to the date hereof in connection with the transactions contemplated hereby.

(n) The City hereby incorporates herein and makes each of the representations and warranties contained in the other Bond Documents to which it is a party, operative and applicable for the benefit of the Bank and the Trustee as if the same were set forth at length herein.

(o) The City has approved the terms and provisions of the Indenture and the other Bond Documents.

**SECTION 2.3. Survival.** The foregoing representations, covenants and warranties of the City shall be continuing and shall survive the execution and delivery of this Loan Agreement, the Tax Intercept Agreement, the Note and the other Bond Documents. The disbursement of Loan Proceeds from the Capital Improvements Fund shall constitute a certification by the City that the aforesaid representations, covenants and warranties are true and correct in all material respects as of the date of such disbursement.

### ARTICLE III.

#### APPLICATION OF LOAN PROCEEDS; PAYMENT OF COSTS OF CITY PROJECT

##### SECTION 3.1. Application of Loan Proceeds.

Simultaneously with the delivery of the Series 2019 Bonds by the Trustee on the Closing Date, the Net Proceeds will be transferred by the Trustee, as the assignee for the Bank under the Loan Agreement and the Note, as follows:

\$\_\_\_\_\_.00 of Net Proceeds shall be paid to the City for deposit in the Capital Improvements Fund to be held by the City and used to pay the Costs of the City Project.

##### SECTION 3.2. Payment of Costs of the City Project.

(a) Payments of Costs of the City Project by the City shall be made by the City out of the Capital Improvements Fund.

(b) Money in the Capital Improvements Fund, except as otherwise provided herein, shall be used solely for making disbursements by the City for payment of the Costs of the City Project as provided in this Article.

**SECTION 3.3. Disposition of Surplus Funds.** (a) If any monies remain in the Capital Improvements Fund (excluding monies earned on investments made pursuant to the Indenture) after payment of all costs then due and payable, such monies (except for amounts retained in the Capital Improvements Fund for payment of Costs of the City Project incurred but not then due and payable, which amounts shall be disbursed by the City on the terms and conditions set forth in Section 3.2 hereof) shall be deposited in the General Account and used to pay debt service on the Series 2019 Bonds.

**SECTION 3.4. Insufficient Proceeds from Series 2019 Bonds.** If the monies in the Capital Improvements Fund including interest earned thereon, if any, are not sufficient to pay fully the Costs of the City Project, the City will nonetheless consummate the City Project and will, at its sole expense, pay all such additional expenses as may be necessary to accomplish the City Project. The Bank does not make any warranty, either express or implied, that the monies which will be paid into the Capital Improvements Fund and which, under the provisions of this Loan Agreement, will be available for payment of the Costs of the City Project, will be sufficient to pay all such costs. If after exhaustion of the monies in the Capital Improvements Fund, including the interest earned thereon, if any, the City pays any portion of the Costs of the City Project, it shall not be entitled to any reimbursement therefor from the Bank, the Trustee or the Bondholders, nor shall it be entitled to any diminution or postponement of the Basic Payments or Additional Charges payable hereunder and under the Note.

**SECTION 3.5. Issuance of Series 2019 Bonds.** Upon execution of this Loan Agreement and the Indenture, or as soon thereafter as practicable, the Bank will execute the Series 2019 Bonds and cause them to be authenticated by the Trustee and delivered to the

Underwriter in accordance with the Bond Purchase Agreement upon payment of the purchase price and filing with the Trustee of the opinion of Bond Counsel as to the legality of the Series 2019 Bonds and the furnishing of all other documents required by this Loan Agreement and the Indenture to be furnished before delivery. The Bank will then cause the proceeds of the Series 2019 Bonds to be transmitted to the Trustee.

## ARTICLE IV.

### THE LOAN, BASIC PAYMENTS AND ADDITIONAL CHARGES

**SECTION 4.1. The Loan.** The Bank agrees, upon the terms and conditions herein specified, to lend to the City the Net Proceeds received by the Bank from the sale of the Series 2019 Bonds, by causing such Net Proceeds to be deposited with the Trustee and the City, as applicable, for disposition as provided herein and in the Indenture. The amount of the Loan shall also be deemed to include any "discount" or any other amount by which the aggregate price at which the Bank sells the Series 2019 Bonds to the Underwriter is less than the aggregate principal amount of the Series 2019 Bonds, plus accrued interest. The obligation of the Bank to make the Loan shall be deemed fully discharged upon so depositing the Net Proceeds with the Trustee as set forth herein and in the Indenture.

**SECTION 4.2. Basic Payments.** Subject to the provisions for prepayment set forth in Section 8.1 hereof, the City agrees to pay the Loan as follows:

(a) The City shall pay to the Trustee for the account of the Bank an amount equal to the aggregate principal amount of the Series 2019 Bonds Outstanding and, as interest on its obligation to pay such amount, an amount equal to interest on the Series 2019 Bonds, such amounts to be due (1) semiannually as to interest, as provided for in the Indenture, no later than January 1 and July 1 of each year, commencing January 1, 2020, in the amounts and in the manner provided in the Indenture for the payment of interest on the Series 2019 Bonds on such dates, and (2) annually as to principal as provided for in the Indenture, no later than July 1 of each year, commencing July 1, 2024, to and including July 1, 2049, all in order that the Bank can cause amounts to be deposited in the General Account under the Indenture for the payment of the principal of, premium, if any, and interest on the Series 2019 Bonds, whether at maturity, upon redemption, upon purchase or otherwise; provided, however, that the obligation of the City to make any such payment hereunder shall be reduced by the amount of any reduction under the Indenture of the amount of the corresponding payment required to be made by the Bank thereunder.

(b) The City shall timely remit to the Trustee for deposit into the Redemption Account the amounts required for the payment of the purchase or Redemption Price including accrued interest on Outstanding Series 2019 Bonds being redeemed or purchased for retirement, and in each such case, such amounts shall be applied by the Trustee to such payments.

**SECTION 4.3. Pledge of City Revenues.** The Note will be an obligation of the City payable solely from the monies, rights and interests pledged under this Loan Agreement as set forth in the immediately succeeding paragraph. The Note will never constitute a general obligation of the City or, within the meaning of any constitutional or statutory limitation, a debt, liability, or obligation of the State or any political subdivision of the State other than the City, and neither the full faith and credit nor taxing power of the State or any political subdivision thereof, including the City, is pledged to the payment of such principal, premium, if any, and interest except as set forth herein. The City has not pledged the levy of any taxes for the repayment of the Note. The Note initially issued under this Loan Agreement shall be issued for

the purposes of providing funds to finance the Costs of the City Project and paying Issuance Expenses for the Series 2019 Bonds and the Note.

Pursuant to the terms of this Loan Agreement, the principal of and interest on the Note and other amounts due under this Loan Agreement are to be paid from City Revenues. The City has covenanted in this Loan Agreement to take such action as may be necessary to include all the Note Payments and amounts due under this Loan Agreement in its Annual Budget. However, the Bank Act and this Loan Agreement provide for the intercept of certain monies owed the City by the Mississippi Department of Revenue and any other State agency if the City is deficient in its payments.

The obligation of the City to make Note Payments and pay amounts due under this Loan Agreement constitutes a binding obligation of the City in accordance with the terms of the Note and this Loan Agreement, respectively. The Governing Body, in its sole discretion, may make said payments with any City Revenues. Except as stated in the Indenture, nothing in this Loan Agreement or the Note creates a lien of any kind or character whatsoever upon any funds, income or revenue now existing or hereafter held, collected, received, anticipated by, or available to the Governing Body, or prevents or restricts the Governing Body at any time from pledging, obligating or creating specific liens upon funds, income or revenues, to or for the payment of any bonds, notes or certificates of the Governing Body or for any other purpose whatsoever. The City has not pledged or levied and will not pledge or levy any form of taxation for the payment of the Note or amounts due under this Loan Agreement.

The obligations of the City under the Note and this Loan Agreement are not general obligations and do not constitute a pledge of the full faith and credit of the City, the State or any political subdivision or agency thereof within the meaning of any constitutional or statutory provision or limitation.

**SECTION 4.4. Additional Charges.** The City agrees to pay as additional charges, when due, each and all of the following:

(a) all Issuance Expenses to the extent not paid from the proceeds of the Series 2019 Bonds;

(b) to or upon the order of the Trustee, upon demand, all fees of the Trustee for services rendered under the Indenture and all fees and charges of the paying agent, registrars, legal counsel, accountants, public agencies and others incurred in the performance on request of the Trustee of services required under the Indenture for which the Trustee and such other persons are entitled to payment or reimbursement; provided that after payment in full thereof the City may, without creating a default hereunder, contest in good faith the necessity or reasonableness of any such services, fees or expenses other than the Trustee's fees for ordinary services as set forth in the Indenture, paying agency fees and any fees or charges of public agencies;

(c) to the Bank and the Trustee, the Administrative Expenses, and all other reasonable expenses incurred by the Bank and the Trustee in relation to the Series 2019 Bonds which are not otherwise specifically required to be paid by the City under the terms of this Loan Agreement and all indemnity payments required to be made under Section 7.3;

(d) any and all out-of-pocket costs and expenses (including, without limitation, the reasonable fees and expenses of any counsel, accountants or other professionals) incurred by the Trustee or the Bank at any time, in connection with (1) the preparation, negotiation and execution of this Loan Agreement, the Indenture, the Tax Intercept Agreement, the Note, and all other Bond Documents, any amendment of or modification of this Loan Agreement, the Indenture, the Tax Intercept Agreement, the Note or the other Bond Documents (including in connection with any sale, transfer, or attempted sale or transfer of any interest herein to a participant or assignee); (2) any litigation, contest, dispute, suit, proceeding or action, whether instituted by the Bank, the Trustee, the City or any other person in any way relating to the Series 2019 Bonds, the Note or the other Bond Documents; (3) any attempt to enforce any rights of the Trustee or the Bank against the City or any other person which may be obligated to the Trustee and/or the Bank by virtue of this Loan Agreement, the Note, the other Bond Documents or any other Series 2019 Bonds related documents; and (4) performing any of the obligations relating to or payment of any obligations of the City hereunder in accordance with the terms hereof or any other Bond Documents; and

(e) All amounts owed under the Tax Certificate.

**SECTION 4.5. City's Obligations Unconditional.** The City will not suspend or discontinue any Basic Payments or Additional Charges, and will perform and observe all of its other agreements in this Loan Agreement, and, except as expressly permitted in Section 8.1 hereof, will not terminate this Loan Agreement for any cause, including, but not limited to, the invalidity or unenforceability or lack of due authorization or other infirmity of this Loan Agreement or the Note, or lack of right, power or authority of the Bank to enter into this Loan Agreement, commercial frustration of purpose, bankruptcy or insolvency of the Bank or the Trustee, change in the tax or other laws or administrative rulings or actions of the United States of America or of the State or any political subdivision thereof, or failure of the Bank to perform and observe any agreement, whether express or implied or any duty, liability or obligation arising out of or connected with this Loan Agreement or the Note, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Basic Payments, Additional Charges and other amounts payable by the City hereunder shall be paid in full when due without any delay or diminution whatever.

**SECTION 4.6. Assignment of the Bank's Rights.** As security for the payment of the Series 2019 Bonds, the Bank will pledge the amounts payable hereunder and under the Note and assign, without recourse or liability, to the Trustee, the Bank's rights under this Loan Agreement (except certain rights retained by the Bank) and under the Note. The rights pledged and assigned by the Bank hereunder will include the right to receive payments hereunder (except the right to receive payments, if any, under Section 4.4, 6.7, 7.3, 9.5, 10.8 and 10.11 hereof) and the Bank hereby directs the City to make said payments directly to the Trustee. The City herewith assents to such assignment and will make payments under this Loan Agreement directly to the Trustee without defense or setoff by reason of any dispute between the City and the Trustee.

**SECTION 4.7. City's Remedies.** Nothing contained in this Article shall be construed to release the Bank from the performance of any of its agreements herein, and if the Bank should fail to perform any such agreements, the City may institute such action against the Bank as the

City may deem necessary to compel the performance so long as such action for specific performance shall not violate the City's agreements in Section 4.5 or diminish or delay the amounts required to be paid by the City pursuant to Sections 4.2 and 4.4 of this Loan Agreement. The City acknowledges however and agrees that any pecuniary obligation of the Bank created by or arising out of this Loan Agreement shall be payable solely out of the proceeds derived from this Loan Agreement or the sale of the Series 2019 Bonds upon a default by the City or otherwise.

**SECTION 4.8. Agreement Withholding City Monies to Satisfy Delinquent Payments.** As provided for in the Bank Act, the City and the Bank have entered into and the Trustee has accepted the Tax Intercept Agreement, whereby the City has covenanted, agreed and authorized the Mississippi Department of Revenue or any other State agency, department or commission to (a) withhold all or any part of any monies which the City is entitled to receive from time to time pursuant to any law and which is in possession of the Mississippi Department of Revenue or any other State agency, department or commission (the "**Tax Monies**") subject to the following existing Tax Intercept Agreement with the Bank: Mississippi Development Bank loan, dated April 10, 2018 outstanding in the principal amount of \$13,960,000 as of June 1, 2019, and (b) pay same over to the Trustee (as assignee of the Bank) to satisfy any delinquent payment (the "**Delinquent Payment**") under Section 4.2 and 4.4(e) of this Loan Agreement.

In addition, the City has entered into the following loan agreements with agencies of the State: Drinking Water ("**DWI**") Loan No. DWI-280090-01-02 dated as of September 1, 2005, outstanding as of June 1, 2019 in the amount of \$410,823.49; DWI-H280090-02-2 dated as of April 1, 2008, outstanding as of June 1, 2019 in the amount of \$241,559.32; State Revolving Fund ("**SRF**") from the Mississippi Department of Environmental Quality loan No. C280885-02, dated as of September 1, 2010, outstanding as of June 1, 2019 in the amount of \$11,337,929.86; SRF-C280885-01-3, dated as of September 1, 2006, outstanding as of June 1, 2019 in the amount of \$2,653,614.84; DWI-410015-03-2 dated as of June 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,295,667.32; SRF-C280885-04, dated as of June 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,044,012.53; SRF-C280885-05, dated as of August 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,890,767.79; DWI-410015-04 dated as of November 2017, outstanding as of June 1, 2019 in the amount of \$3,933,778.50; and DWI-L410015-05 dated as of July 2018, outstanding as of June 1, 2019 in the amount of \$975,650.37.

If on the fifteenth (15<sup>th</sup>) day of December and June of each year, beginning December 15, 2019, the Trustee has not received sufficient City Revenues pursuant to Section 4.2(a) of this Loan Agreement to timely make the payments under Sections 4.2 and/or 4.4(e) hereof, the Bank has authorized and directed the Trustee under the Tax Intercept Agreement to file the Tax Intercept Agreement and a statement of deficiency setting forth the amount of any Delinquent Payment with the Mississippi Department of Revenue or any other State agency, department or commission, thereby directing the Mississippi Department of Revenue or any other State agency, department or commission to pay any Tax Monies directly to the Trustee on behalf of the Bank to satisfy any Delinquent Payment, all as permitted under the Bank Act. The Trustee is hereby directed to pay any Tax Monies into the General Account of the General Fund to be applied in accordance with Section 6.05 of the Indenture.

## ARTICLE V.

### CAPITAL IMPROVEMENTS FUND

**SECTION 5.1. Establishment of Capital Improvements Fund.** The Capital Improvements Fund is hereby created and established as funds under this Loan Agreement. The amounts in the Capital Improvements Fund shall be held by the City. Monies held by the City shall be deposited with one or more Depositories in accordance with applicable law. All monies or securities received by the City pursuant to this Loan Agreement shall be held and applied only in accordance with the provisions hereof.

#### **SECTION 5.2. Application of Monies Held in Capital Improvements Fund.**

(a) There shall be deposited into the Capital Improvements Fund, the amount required to be so deposited by the provisions of Section 3.1 hereof. There may also be paid into the Capital Improvements Fund, at the option of the City, any monies received by the City from any other source, unless required to be otherwise applied as provided by this Loan Agreement. All earnings, if any, on the investment of monies in the Capital Improvements Fund shall be accumulated therein for the purposes set out in this Section 5.2.

(b) Except as otherwise provided in this Loan Agreement and the Indenture, amounts in the Capital Improvements Fund shall be applied only to pay the Costs of the City Project.

(c) To the extent that amounts available to make payments on the Note are insufficient or unavailable therefor, amounts on deposit in the Capital Improvements Fund may be applied to pay the Note when due, but only in the event that there shall have been filed with the Trustee (1) a Certificate of an Authorized City Representative in form and substance satisfactory to the Trustee stating (A) that the City Revenues expected to be received thereafter together with such other specified amounts as are expected to be made available therefor by the City will not be sufficient to pay in full all Outstanding Series 2019 Bonds when and as the same shall become due in accordance with their terms, (B) that such payment will not result in a violation of the provisions of Section 7.4 hereof, and (C) in reasonable detail, the basis for such certification, and (2) an Opinion of Bond Counsel satisfactory to the Trustee that such payment will not result in a violation of any applicable existing law including the Code.

**SECTION 5.3. Investment of Monies Held by Any Fiduciary.** Monies in the Capital Improvements Fund, if any, shall be invested to the fullest extent possible in Investment Securities, provided that the maturity date or the date on which such Investment Securities may be redeemed at the option of the holder thereof shall coincide as nearly as practicable with (but in no event later than) the date or dates on which monies in the Capital Improvements Fund for which the investments were made will be required for the purpose thereof.

Any Fiduciary may make any investment permitted by this Section 5.3 through its own investment department.

The income or interest earned by or increment to the Capital Improvements Fund due to the investment thereof shall be retained therein and applied toward the purposes set forth in Section 5.2 hereof.

The City or any Fiduciary shall sell at the best price obtainable, or present for redemption, any obligation purchased by it as an investment whenever it shall be necessary in order to provide monies to meet any payment or transfer from the Capital Improvements Fund.

**SECTION 5.4. Liability of Fiduciaries for Investments.** A Fiduciary shall not be liable or responsible for the making of any investment authorized by the provisions of this Article V in the manner provided in this Article V or for any loss resulting from any such investment so made, except for its own negligence or willful misconduct.

## ARTICLE VI.

### COVENANTS

**SECTION 6.1. Affirmative Covenants of the City.** Until the termination date and thereafter until no amount is due or owing to the Bank hereunder, the City shall comply with each of the covenants, undertakings and agreements set forth in this Article VI unless the Trustee and the Bank shall otherwise consent in writing which consent may be withheld in their sole and absolute discretion.

**SECTION 6.2. Covenants in Bond Documents.** The City shall keep and perform all covenants and agreements set forth in the Indenture and each and every other Bond Document to which it is a party, which covenants are incorporated herein by reference as if fully set forth herein.

**SECTION 6.3. Conduct of Government Operations.** The City shall maintain its existence as a political subdivision and "local governmental unit" within the meaning of the Bank Act organized and validly existing under the Constitution and laws of the State. The City will comply with all applicable laws and regulations of any federal, state or local governmental authority, except for such laws and regulations, the violation of which would not, in the aggregate, have a material adverse effect on the City's financial condition.

**SECTION 6.4. Payment of Indebtedness.** The City shall pay any indebtedness for which it is liable when due and shall not permit any default to occur under any document evidencing or securing any such indebtedness.

**SECTION 6.5. Performance of Obligations.** The City shall observe and perform its obligations under this Loan Agreement, the Note, the other Bond Documents to which it is a party and the other agreements relating to the transaction contemplated hereby to which it is a party or by which it is bound and shall not suffer or permit any default or Event of Default to exist hereunder or an "event of default" thereunder. The City shall use its good faith efforts to cause the other parties to the other Bond Documents to deliver notices and documents required to be delivered to the Bank and cause such parties to observe and perform those obligations and covenants contained in the Bond Documents required to be observed and performed thereunder.

**SECTION 6.6. Annual Budget.** The City shall before the beginning of any Fiscal Year, prepare and file with the Trustee its Annual Budget showing estimated operating expenses, debt service and City Revenues for such Fiscal Year. Such Annual Budget may set forth such additional material as the City may determine and may be amended during the Fiscal Year if determined necessary by the City or as a result of unforeseen circumstances.

**SECTION 6.7. Environmental Indemnity.** Without limitation on any other provision hereof or in the other Bond Documents, the City, to the extent permitted by law, hereby agrees to indemnify and hold the Trustee and the Bank harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any kind whatsoever (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the following (collectively, "**Environmental Laws**"): the Comprehensive

Environmental Response, Compensation, and Liability Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, now or hereafter in force, regulating, relating to, or imposing liability or standards of conduct concerning any hazardous material) paid, incurred, suffered by or asserted against the Bank and/or the Trustee as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of, the City: (a) the presence of any hazardous material on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release of any hazardous material at (1) the City Project, (2) any other real property in which the City holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust the beneficial interest in which is owned, in whole or in part, by the City) or (3) an off-site location if the liability or obligation relates to the prior generation or use of hazardous material at the City Project or (b) any liens against the City Project, or any part of either of them, permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligations of the City or under any Environmental Laws, or (c) any actual or asserted liability or obligations of the Bank under any Environmental Law relating to the City Project or the City's, or any of the predecessors' possession, use or activities at or relating to the City Project. Notwithstanding any other provision of this Loan Agreement, the covenants, indemnities and obligations provided for in this paragraph shall be continuing and shall survive the payment, performance, satisfaction, discharge, cancellation, termination and release of the other obligations of the City under this Loan Agreement.

Without limitation on any other provision hereof, the City shall use and maintain the City Project or cause the City Project to be used and maintained in accordance and compliance with all applicable Environmental Laws.

## ARTICLE VII.

### CITY'S COVENANTS

**SECTION 7.1. Covenant for the Benefit of the Trustee and the Bondholders.** The City recognizes the authority of the Bank to assign its interest in and pledge monies receivable under this Loan Agreement (other than certain payments required to be made to the Bank under Sections 4.4, 6.7, 7.3, 9.5, 10.8 and 10.11) to the Trustee as security for the payment of the principal of and interest and redemption premium, if any, on the Series 2019 Bonds, and the payment of all fees and expenses of the Trustee; and hereby agrees to be bound by, and joins with the Bank in the grant of a security interest to the Trustee in any rights and interest the City may have in sums held in the Funds described in Article VI of the Indenture pursuant to the terms and conditions of the Indenture, all to secure payment of the Series 2019 Bonds. Each of the terms and provisions of this Loan Agreement is a covenant for the use and benefit of the Trustee and the Holders of the Series 2019 Bonds, so long as any thereof shall remain Outstanding; but upon payment in full of the Series 2019 Bonds in accordance with Article IX of the Indenture and of all fees and charges of the Trustee and any paying agent, all references in this Loan Agreement to the Series 2019 Bonds, the Holders thereof and the Trustee shall be ineffective, and neither the Trustee nor the Bondholders shall thereafter have any rights hereunder, save and except those that shall have theretofore vested or that arise from provisions hereunder which survive termination of this Loan Agreement.

**SECTION 7.2. Certificate of Compliance and Other Reports.** The City will at the request of the Trustee, and at the City's expense, furnish to the Trustee and the Bank at such times and in such form as the Trustee may reasonably require a copy of reports containing such information as is necessary to comply with any lawful reporting or continuing registration requirements imposed by any agency of the State under the Bank Act, the State's Blue Sky Laws or any other applicable State law as it now exists or may hereafter be amended or any agency of any other state in which the Series 2019 Bonds have been sold, or such information as necessary to comply with federal securities law.

**SECTION 7.3. Indemnification.** The City, will, to the fullest extent permitted by law, protect, indemnify and save the Bank and Trustee and their elected and appointed officials, board members, officers, agents, and employees and any person who controls the Bank or Trustee within the meaning of the Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses of the Bank), taxes, causes of action, suits, claims, demands and judgments of any nature arising from:

- (a) violation of any agreement, provision or condition of this Loan Agreement, the Series 2019 Bonds or the Indenture except a violation by the Bank;
- (b) any statement or information relating to the expenditure of the proceeds of the Series 2019 Bonds contained in the Tax Certificate or similar document furnished by the City to the Bank which, at the time made, is misleading, untrue or incorrect in any material respect; and
- (c) any untrue statement or alleged untrue statement of a material fact contained in any offering material relating to the sale or remarketing of the Series 2019 Bonds (as from time

to time amended or supplemented) or arising out of or based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein not misleading, or failure to properly register or otherwise qualify the sale of the Series 2019 Bonds or failure to comply with any licensing or other law or regulation which would affect the manner whereby or to whom the Series 2019 Bonds could be sold.

Promptly after receipt by the Bank or any such other indemnified person, as the case may be, of notice of the commencement of any action with respect to which indemnity may be sought against the City under this Section, such person will notify the City in writing of the commencement thereof, and, subject to the provisions hereinafter stated, the City shall assume the defense of such action (including the employment of counsel, who shall be counsel reasonably satisfactory to the Bank, or such other person as the case may be, and the payment of expenses). Insofar as such action shall relate to any alleged liability with respect to which indemnity may be sought against the City, the Bank or any such other indemnified person shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the City unless the employment of such Counsel has been specifically authorized by the City. The City shall not be liable to indemnify any person for any settlement of any such action effected without its consent.

The provisions of this Section 7.3 shall survive the payment and discharge of the Series 2019 Bonds.

#### **SECTION 7.4. Tax Covenants.**

(a) In order to maintain the exclusion of interest on the Series 2019 Bonds from gross income of the holders thereof for federal income tax purposes, and for no other purpose, the City covenants to comply with the applicable requirements of the Code. In furtherance of the covenant contained in the preceding sentence, the City agrees to comply with the Tax Certificate executed by the City on the date of the issuance and delivery of the Series 2019 Bonds, as such Tax Certificate may be amended from time to time.

(b) The City covenants and agrees with the Trustee and the Bondholders that the City shall not take any action or omit to take any action, which action or omission, if reasonably expected on the date of initial issuance and delivery of the Series 2019 Bonds, would cause the Series 2019 Bonds to be "private activity bonds" or "arbitrage bonds" within the meaning of Sections 141(a) and 148(a), respectively, of the Code, or any successor provisions.

(c) Upon the authentication and delivery of the Series 2019 Bonds, the City shall furnish to the Trustee certificates of the Authorized City Representative of the City to the effect that, on the basis of the facts, estimates and circumstances in existence on the date of such authentication and delivery, it is not expected that the proceeds of the Series 2019 Bonds will be used in a manner that would cause such Series 2019 Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and Treasury Regulations thereunder, and in such certificates the City shall set forth such facts and circumstances which may be in brief and summary terms, and shall state that to the best of the knowledge and belief of such Authorized

City Representative, there are no other facts or circumstances that would materially change the expectations expressed in such certificate.

(d) The City shall operate the City Project in such a manner as is necessary in order to maintain the exclusion of interest on the Series 2019 Bonds from gross income of the Holders thereof for federal income tax purposes under Section 103(a) of the Code.

(e) Notwithstanding any other provisions of this Loan Agreement to the contrary, so long as necessary in order to maintain the exclusion of interest on the Series 2019 Bonds from gross income of the Holders thereof for federal income tax purposes under Section 103(a) of the Code, the covenants contained in this Section 7.4 shall survive the payment of the Series 2019 Bonds and the interest thereon, including any payment or defeasance thereof pursuant to Articles IV and IX of the Indenture.

## ARTICLE VIII.

### CITY'S OPTIONS

#### **SECTION 8.1. Prepayment of the Note and Termination of the Loan Agreement.**

(a) Unless an Event of Default has occurred and is continuing, the City shall have the option to direct the Trustee to call for redemption prior to maturity the Outstanding Series 2019 Bonds, in whole or in part, as provided in Section 4.01 of the Indenture. The Series 2019 Bonds to be redeemed shall be redeemed at a price equal to their principal amount plus accrued interest as set forth in Section 4.01 of the Indenture upon not less than thirty (30) but no more than forty-five (45) days prior written notice. In the event the Series 2019 Bonds are called for redemption in whole or in part under the Indenture, a Basic Payment shall be made by the City in the amount of principal plus accrued interest and all other fees due hereunder and under the Indenture to effectuate said redemption.

(b) If, after the City exercises its option to redeem all Series 2019 Bonds, no Series 2019 Bonds remain Outstanding, the Indenture is discharged, and the City has satisfied all of its obligations hereunder and under the Note, the Trustee and the Bank shall execute and deliver to the City such instruments as the City reasonably determines are necessary to terminate this Loan Agreement. All further obligations of the City hereunder, except as set forth in Sections 6.7, 7.3, 7.4, 9.5, 10.8 and 10.11, shall thereupon terminate.

(c) The City shall pay to the Trustee at least five (5) days prior to the Discharge Date, an amount equal to the Trustee's and any paying agent's fees and expenses owed under the Indenture, accrued and to accrue until final payment and redemption of the Series 2019 Bonds and all other advances, fees, costs and expenses reasonably incurred and to be incurred on or before the termination date by the Trustee and any paying agent under the Indenture and by the Bank under this Loan Agreement.

(d) On the Discharge Date, a closing shall be held at the principal office of the Trustee, or any other office mutually agreed upon. Upon termination of this Loan Agreement as provided for in this Section 8.1, the Bank will cause the Trustee to deliver a release of the Indenture and the estate created by this Loan Agreement and the Note, and all further obligations of the City hereunder, except under Sections 6.7, 7.3, 7.4, 9.5, 10.8 and 10.11 shall thereupon terminate; provided, however, that the City shall also remain obligated to pay or reimburse the Bank and Trustee for the payment of all other fees, costs and expenses unaccounted for in the sum paid in accordance with subsection (c) above and reasonably incurred before or subsequent to such closing in connection with the Series 2019 Bonds.

**SECTION 8.2. Direction of Investments.** Except during the continuance of an Event of Default, the City shall have the right during the Term of this Loan Agreement to direct the Trustee to invest or reinvest all monies held for the credit of the Funds established by Article VI of the Indenture and held by the Trustee, in Investment Securities, subject, however, to the further conditions of Article VIII of the Indenture.

## ARTICLE IX.

### EVENTS OF DEFAULT AND REMEDIES

**SECTION 9.1. Events of Default.** Any one or more of the following events is an Event of Default under this Loan Agreement, and the term “Event of Default,” wherever used herein, means any one of the following events, whatever the reason for such default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body:

- (a) if the City shall fail to pay any Basic Payments due under this Loan Agreement;
- (b) if the City shall fail to pay any Additional Charges on or before the date that the payment is due and shall continue to be in arrears for fifteen (15) days after the due date thereof;
- (c) if the City shall fail to observe and perform or shall breach any other covenant, condition or agreement on its part under this Loan Agreement for a period of fifteen (15) days after mailing of a notice to it by the Bank or the Trustee, specifying such default or breach and requesting that it be remedied; and provided that if the failure stated in the notice cannot be corrected within fifteen (15) days, the Bank and Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the City within said fifteen (15) days and is diligently pursued, for an additional thirty (30) days;
- (d) if the City shall be dissolved or is no longer a “local governmental unit” within the meaning of the Bank Act;
- (e) if any representation or warranty made by the City herein, or by an officer or representative of the City in any document or certificate furnished the Trustee or the Bank in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to be, in any material respect, incorrect or misleading as of the date made;
- (f) the occurrence of an “event of default” under any other Bond Document which is not cured within the time period provided therefor, if any; and/or
- (g) if there is a declaration or proceeding in bankruptcy regarding the City.

### **SECTION 9.2. Remedies.**

(a) Whenever any Event of Default specified in Section 9.1(a) above shall have happened and be continuing, the Trustee shall declare all the Basic Payments payable for the remainder of the Term of this Loan Agreement (an amount equal to that necessary to pay in full the Note and the interest thereon assuming acceleration of the Series 2019 Bonds under the Indenture and to pay all other indebtedness thereunder) to be immediately due and payable whereupon the same shall become immediately due and payable by the City to the Trustee but only if the acceleration of payment of Series 2019 Bonds has been declared by the Trustee under Section 10.02 of the Indenture.

(b) Whenever any Event of Default shall have occurred and be continuing any one or more of the following remedial steps may also be taken to the extent permitted by law:

(1) the Trustee or the Bank may take whatever action at law or in equity may appear necessary or appropriate to collect all sums then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement, covenant, representation or warranty of the City, under this Loan Agreement, the Note or other Bond Document; or to otherwise compensate the Bank, the Trustee or the Bondholders for any damages on account of such Event of Default; and

(2) the Bank with prior notice to the Trustee (without the prior written consent of the Trustee if the Trustee is not enforcing the Bank's right in a manner to protect the Bank or is otherwise taking action that brings adverse consequences to the Bank) may take whatever action at law or in equity may appear necessary or appropriate to enforce its rights of indemnification under Section 7.3 hereof and to collect all sums then due and thereafter to become due to the Bank under Section 4.4, 6.7, 7.3, 9.5, 10.8 and 10.11 of this Loan Agreement. Notwithstanding the foregoing, the Bank is not precluded from exercising any of its rights reserved to it as set forth in this Section, even if the Trustee is exercising the rights of the Bank hereunder.

**SECTION 9.3. Disposition of Funds.** Any amounts collected pursuant to action taken under Section 9.2 above (other than sums collected for the Bank on account of its rights to indemnification and certain direct payments to be made to the Bank under Sections 4.4, 7.3 and 9.5 hereof) shall be applied in accordance with the provisions of the Indenture.

**SECTION 9.4. Nonexclusive Remedies.** No remedy herein conferred upon or reserved to the Bank or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Bank (or the Trustee) to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required or be required by law.

**SECTION 9.5. Attorney's Fees and Expenses.** If an Event of Default shall exist under this Loan Agreement and the Bank or the Trustee should employ attorneys or incur other expenses for the collection of any amounts due hereunder, or the enforcement of performance of any obligation or agreement on the part of the City, the City will upon demand pay to the Bank or the Trustee the reasonable fees of such attorneys and such other expenses so incurred.

**SECTION 9.6. Effect of Waiver.** In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**SECTION 9.7. Waiver of Stay or Extension.** The City covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any appraisal, valuation, stay, or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Loan Agreement and the City (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Bank or the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

**SECTION 9.8. Bank May File Proofs of Claim.** In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the City or the City Project, the Trustee or the Bank with the prior consent of the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Bank and the Trustee (for themselves and on behalf of Bondholders) (including any claim for the reasonable compensation, expenses, disbursements and advances of the Bank and Trustee, their agents and counsel) allowed in such judicial proceeding, and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same.

**SECTION 9.9. Restoration of Positions.** If the Bank or the Trustee have instituted any proceeding to enforce any right or remedy under this Loan Agreement or the Note, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Bank or the Trustee, then and in every such case the City and the Bank shall, subject to any determination in the proceeding, be restored to the positions they held prior to commencement of such proceedings, and thereafter all rights and remedies of the Bank and the Trustee shall continue as though no such proceeding had been instituted.

**SECTION 9.10. Suits to Protect the City Project.** If the City shall fail to do so after thirty (30) days prior written notice from the Bank or the Trustee, the Bank shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the City Project or any portion thereof, by any acts which may be unlawful or in violation of this Loan Agreement, and such suits and proceedings as the Bank may deem expedient to protect its interests in the City Project or any portion thereof, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of, or compliance with, such enactment, rule or order would impair or adversely affect the City Project or be prejudicial to the interests of the Bondholders.

**SECTION 9.11. Performance by Third Parties.** The Bank may permit third parties to perform any and all acts or take such action as may be necessary for and on behalf of the City to cure any Event of Default hereunder. The acceptance by the Bank or the Trustee of any such

performance by third parties shall not in any way diminish or absolve the City of primary liability hereunder.

**SECTION 9.12. Exercise of the Bank's Remedies by Trustee.** Whenever any Event of Default shall have happened and be subsisting the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the Bank under this Article IX.

## ARTICLE X.

### GENERAL

**SECTION 10.1. Amounts Remaining in Funds.** Except during the continuance of an Event of Default, any amounts remaining in the Funds created under Article VI of the Indenture and held by the Trustee, upon expiration or earlier termination of this Loan Agreement, as provided herein, and after adequate provision has been made for payment in full of the Series 2019 Bonds, in accordance with Article IX of the Indenture, any Additional Charges payable to the Trustee and the Bank, including paying agent's fees and expenses, and all other amounts required to be paid under this Loan Agreement, the Indenture and the other Bond Documents, shall forthwith be paid to the City by the Trustee except as provided in Section 3.08 of the Indenture.

**SECTION 10.2. Notices.** All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given five (5) days following mailing when mailed by registered or certified mail or commercially expedited delivery service, with proper address as indicated below. The Bank, the City and the Trustee may, by written notice given by each of them to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Loan Agreement. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the Bank:	Mississippi Development Bank 723 Riverside Drive, Suite 300 Jackson, Mississippi 39202 Attention: Executive Director
To the City:	City of Tupelo, Mississippi 71 East Troy Street Tupelo, Mississippi 38804 Attention: City Clerk
To the Trustee:	The Peoples Bank 758 Vieux Marche Mall Biloxi, MS 39530-3820 Attention: Corporate Trust Department

**SECTION 10.3. Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Bank and the City and their respective successors and assigns.

**SECTION 10.4. Severability.** In the event any provisions of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 10.5. Amendments, Changes, and Modifications.** Except as otherwise provided in this Loan Agreement or in the Indenture, subsequent to the issuance of the Series 2019 Bonds and before the lien of the Indenture is satisfied and discharged in accordance with its

terms, this Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee, the City and the Bank.

**SECTION 10.6. Execution Counterparts.** This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 10.7. Required Approvals.** Consents and approvals required by this Loan Agreement to be obtained from the City, the Bank or the Trustee shall be in writing.

**SECTION 10.8. Limitation on the Bank's Liability.** It is understood and agreed by the City and the Holders that no covenant, provision or agreement of the Bank herein or in the Series 2019 Bonds or in any other document executed by the Bank in connection with the issuance, sale and delivery of the Series 2019 Bonds, or any obligation herein or therein imposed upon the Bank or breach thereof, shall give rise to a pecuniary liability of the Bank or a charge against its general credit or shall obligate the Bank financially in any way except with respect to this Loan Agreement and the Note and the application of revenues therefrom and the proceeds of the Series 2019 Bonds. No failure of the Bank, unless wrongful, to comply with any term, condition, covenant or agreement herein or therein shall subject the Bank to liability for any claim for damages, costs or other financial or pecuniary charges except to the extent that the same can be paid or recovered from this Loan Agreement and the Note or revenues therefrom or proceeds of the Series 2019 Bonds. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit or general funds of the Bank. In making the agreements, provisions and covenants set forth herein, the Bank has not obligated itself except with respect to this Loan Agreement and the application of revenues hereunder as hereinabove provided. The Series 2019 Bonds constitute special obligations of the Bank, payable solely from City Revenues pursuant to this Loan Agreement and the Indenture, and do not now and shall never constitute an indebtedness or a loan of the credit of the Bank, the State or any political subdivision thereof or a charge against general taxing powers within the meaning of any constitutional or statutory provision whatsoever. It is further understood and agreed by the City and the Holders that the Bank shall incur no pecuniary liability hereunder and shall not be liable for any expenses related hereto. If, notwithstanding the provisions of this Section, the Bank incurs any expense, or suffers any losses, claims or damages or incurs any liabilities, the City, to the extent allowed by law, will indemnify and hold harmless the Bank from the same and will reimburse the Bank for any legal or other expenses incurred by the Bank in relation thereto, and this covenant to indemnify, hold harmless and reimburse the Bank shall survive delivery of and payment for the Series 2019 Bonds. All references to the Bank under this Section 10.8 shall include its employees, directors, attorneys and/or agents as applicable.

**SECTION 10.9. Representations of City.** All representations made in this Loan Agreement by the City are based on the City's independent investigation of the facts and law, and accordingly no such representations are made in reliance upon any representations made or legal advice given by the Bank, Bond Counsel, or any of its appointed or elected officials, agents, officers or employees.

**SECTION 10.10. Survivorship of Obligations.** All obligations of the City under Sections 4.4, 6.7, 7.3, 7.4, 10.8 and 10.11 hereof shall survive payment of the Series 2019 Bonds or earlier termination of this Loan Agreement.

**SECTION 10.11. Administrative Fees, Attorney's Fees and Costs.** The City shall reimburse the Bank, upon demand, for all costs and expenses, including without limitation attorneys' fees, paid or incurred by the Bank in connection with (a) the discussion, negotiation, preparation, approval, execution and delivery of the Series 2019 Bonds, the Indenture, this Loan Agreement, the Note, the Tax Intercept Agreement and the documents and instruments related hereto or thereto; (b) any amendments or modifications to any of the foregoing documents, instruments or agreements and the discussion, negotiation, preparation, approval, execution and delivery of any and all documents necessary or desirable to effect such amendments or modifications; (c) the servicing and administration of the Loan during the term hereof or thereafter; and (d) the enforcement by the Bank during the term hereof or thereafter of any of the rights or remedies of the Bank hereunder or under the foregoing documents, or any document, instrument or agreement related hereto or thereto, including, without limitation, costs and expenses of collection in the Event of Default, whether or not suit is filed with respect thereto.

**SECTION 10.12. Release.** The City hereby acknowledges and agrees that the Bank shall not be liable to the City, and, to the extent allowed by law, hereby releases and discharges the Bank from any liability, for any and all losses, costs, expenses (including attorneys' fees), damages, judgments, claims and causes of action, paid, incurred or sustained by the City as a result of or relating to any action, or failure or refusal to act, on the part of the Bank, the Trustee or any other party with respect to the City Project, the Series 2019 Bonds, the Indenture, this Loan Agreement, the Note, the Tax Intercept Agreement, or the documents and transactions related hereto or thereto or contemplated hereby or thereby, including, without limitation, the exercise by the Trustee or any third party of any of its rights or remedies pursuant to any of such documents.

**SECTION 10.13. Choice of Law; Venue.** This Loan Agreement has been delivered in Jackson, Mississippi. The provisions of this Loan Agreement and all rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State and to the extent they preempt such laws, the laws of the United States of America.

**IN WITNESS WHEREOF**, the Bank and the City have caused this Loan Agreement to be executed by their duly authorized officers.

(SEAL)

**MISSISSIPPI DEVELOPMENT BANK**

By \_\_\_\_\_  
Executive Director

ATTEST:

By \_\_\_\_\_  
Secretary

(SEAL)

**CITY OF TUPELO, MISSISSIPPI**

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

**ACKNOWLEDGED AND ACCEPTED BY:**

**THE PEOPLES BANK, as Trustee**

By \_\_\_\_\_  
Authorized Signatory

**EXHIBIT A**

**FORM OF NOTE**

\$ \_\_\_\_\_,000

**PROMISSORY NOTE**

**(TUPELO, MISSISSIPPI PUBLIC IMPROVEMENT REVENUE PROJECT)**

**Dated \_\_\_\_\_, 2019**

City of Tupelo, Mississippi (the "**City**"), a political subdivision organized and validly existing under the Constitution and laws of the State of Mississippi (the "**State**"), for value received, hereby promises to pay, in immediately available funds, to the order of the Mississippi Development Bank (the "**Bank**") or its assigns, the aggregate principal sum equal to the outstanding principal amount of the Series 2019 Bonds (as hereinafter defined) outstanding up to a maximum principal amount of \$ \_\_\_\_\_,000 together with interest on the unpaid principal balance thereof from the date hereof until fully and finally paid, premium, if any, together with all taxes levied or assessed on this Note or the debt evidenced hereby against the holder hereof and all other amounts payable by the City under the Loan Agreement (as hereinafter defined). This Note shall bear interest at the Interest Rate (as such terms are defined in the Indenture, as hereinafter defined) on the Series 2019 Bonds except as otherwise provided hereunder.

This Note has been executed under and pursuant to a Loan Agreement, dated, \_\_\_\_\_, 2019, between the Bank and the City (the "**Loan Agreement**") which Loan Agreement is incorporated herein in its entirety by reference. This Note is issued to evidence the obligation of the City under the Loan Agreement to repay the loan made by the Bank to the City from the proceeds of its \$ \_\_\_\_\_,000 Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project), dated as of their date of delivery (the "**Series 2019 Bonds**"), together with interest thereon at the interest rate or rates as defined and set forth in the Indenture, premium, if any, and all other amounts, fees, penalties, premiums, adjustments, expenses, counsel fees and other payments of any kind required to be paid by the City under the Loan Agreement. The Loan Agreement includes provisions permitting the City, at its election, to prepay this Note, in whole or in part, all as more particularly described in the Indenture and the Loan Agreement. The Loan Agreement includes provisions permitting the Trustee (as hereinafter defined), at the direction of the Bondholders, to require mandatory prepayment of this Note at certain times and under certain circumstances, all as set forth in the Indenture. In the event that the terms of this Note conflict with the terms of the Indenture or the Loan Agreement, the terms of the Indenture or the Loan Agreement shall control.

If the City shall fail to pay on the due date therefor, whether by acceleration or otherwise, any principal, premium, if any, or interest owing hereunder, then interest shall accrue on such unpaid amounts from the date due until and including the date on which such amounts are paid in full.

The Loan Agreement and this Note have been assigned to The Peoples Bank, Biloxi, Mississippi, as Trustee (the "**Trustee**") pursuant to an Indenture of Trust, dated \_\_\_\_\_, 2019,

by and between the Bank and the Trustee (the “**Indenture**”). Such assignment is made as security for the payment of the Series 2019 Bonds issued by the Bank pursuant to the Indenture and is subject to the reservation of certain unassigned rights of the Bank under the Loan Agreement.

As provided in the Loan Agreement and subject to the provisions thereof, payments hereon are to be made at the principal office of the Trustee as shown in the Loan Agreement in an amount which, together with other monies available therefor pursuant to the Indenture, will equal the amount payable as principal of, premium, if any, and interest on the Series 2019 Bonds outstanding on such due date.

The City shall make payments on this Note on the dates and in the amounts specified herein and in the Loan Agreement and in addition shall make such other payments as are required pursuant to the Loan Agreement, the Indenture and the Series 2019 Bonds. Upon the occurrence of an “event of default”, as defined in the Indenture or the Loan Agreement, the principal of, premium, if any, and interest on this Note may be declared immediately due and payable as provided in the Loan Agreement. Upon any such declaration the City shall pay all costs, disbursements, expenses and reasonable counsel fees of the Bank and the Trustee in seeking to enforce their rights under the Loan Agreement and this Note.

The City waives diligence, demand, presentment for payment, notice of nonpayment, protest and notice of protest, notice of any renewals or extension of this Note, and all rights under any statute of limitations. Any delay on the part of the Bank or the Trustee in exercising any right hereunder shall not operate as a waiver of any such right, and any waiver granted with respect to one default shall not operate as a waiver in the event of any subsequent or continuing default.

All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by registered or certified mail or commercially expedited delivery service, with proper address as indicated below. The Bank, the City and the Trustee may, by written notice given by each of them to the others, designate any address or addresses to which notices, certificates or other communications to them shall be sent when required as contemplated by this Note. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them shall be addressed as follows:

To the Bank:	Mississippi Development Bank 723 Riverside Drive, Suite 300 Jackson, Mississippi 39202 Attention: Executive Director
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To the City: City of Tupelo, Mississippi  
71 East Troy Street  
Tupelo, Mississippi 38804  
Attention: City Clerk

To the Trustee: The Peoples Bank  
758 Vieux Marche Mall  
Biloxi, MS 39530-3820  
Attention: Corporate Trust Department

This Note has been delivered in Jackson, Mississippi. The provisions of this Note and all rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State and to the extent they preempt such laws, the laws of the United States.

The City agrees that Trustee shall have the right to proceed against the City or its property in a court in any location to enable the Trustee to realize on such property, or to enforce a judgment or other court order entered in favor of Trustee. The City, to the extent allowed by law, agrees that it shall not assert any permissive counterclaims in any proceeding brought in accordance with this provision by the Trustee or the Bank to realize on such property, or to enforce a judgment or other court order in favor of Trustee and waives any objection that it may have to the location of the court in which the Trustee has commenced a proceeding described in this paragraph.

**IN WITNESS WHEREOF**, the undersigned has caused this Note to be executed in its name and, if applicable, its corporate seal to be hereunto affixed and attested to by its duly authorized officers all as of the day and year first above written.

(SEAL)

**CITY OF TUPELO, MISSISSIPPI**

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Clerk

**ASSIGNMENT OF NOTE**

**FOR VALUE RECEIVED**, the Mississippi Development Bank hereby assigns and transfers, without recourse, this Note to The Peoples Bank, Biloxi, Mississippi, as Trustee under the Indenture herein mentioned, provided, however, that the rights pledged and assigned hereunder do not include unassigned rights reserved by the Mississippi Development Bank in Sections 4.4, 6.7, 7.3, 9.5, 10.8 or 10.11 of the Loan Agreement, dated \_\_\_\_\_, 2019, by and between the Mississippi Development Bank and City of Tupelo, Mississippi.

Date: \_\_\_\_\_, 2019

(SEAL)

**MISSISSIPPI DEVELOPMENT BANK**

By \_\_\_\_\_  
Executive Director

47145906.v1

EXHIBIT C  
FORM OF TAX INTERCEPT AGREEMENT

## TAX INTERCEPT AGREEMENT

This **TAX INTERCEPT AGREEMENT**, dated \_\_\_\_\_, 2019 (this "**Agreement**"), is by and between the **MISSISSIPPI DEVELOPMENT BANK**, a public body corporate and politic (the "**Bank**"), created pursuant to the provisions of Sections 31-25-1 *et seq.*, Mississippi Code of 1972, as amended (hereinafter referred to as the "**Act**") and the **CITY OF TUPELO, MISSISSIPPI** (hereinafter referred to as the "**City**"), a "local governmental unit" under the Act.

### WITNESSETH

**WHEREAS**, pursuant to the Act, the Bank is authorized to loan money (as set forth in the Act) to "local governmental units" (as defined in the Act); and

**WHEREAS**, the Bank has duly authorized a loan between the Bank and the City (the "**Loan**") pursuant to the terms of a Loan Agreement, dated \_\_\_\_\_, 2019 (the "**Loan Agreement**"), by and between the Bank and the City secured by a Promissory Note (Tupelo, Mississippi Public Improvement Revenue Project), of the City, in the principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_,000) (the "**Note**") and the Bank expects to provide the funds for the Loan from the proceeds of the Bonds of the Bank as hereinafter set forth; and

**WHEREAS**, pursuant to the Indenture of Trust, dated \_\_\_\_\_, 2019 (the "**Indenture**"), by and between the Bank and The Peoples Bank, as Trustee (the "**Trustee**"), the Bank has duly authorized the issuance of its bonds designated as \$\_\_\_\_\_,000 Mississippi Development Bank Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project), dated as of delivery thereof (the "**Bonds**"), the proceeds of which will be used to provide the funds for the Loan between the Bank and the City; and

**WHEREAS**, any local governmental unit is authorized under Section 31-25-28(5) of the Act to agree in writing with the Bank that the Mississippi Department of Revenue (the "**Department**") or any other agency, department or commission of the State of Mississippi (the "**State**") shall (a) withhold all or any part (as agreed by the local governmental unit) of any monies which such local governmental unit is entitled to receive from time to time pursuant to any law and which is in the possession of the Department, or any State agency, department or commission created pursuant to State law and (b) pay the same over to the Trustee to satisfy any delinquent payments on any loan made to such local governmental unit under provisions of the Act and any other delinquent payments due and owing the Bank by such local governmental unit, all as the same shall occur.

**NOW, THEREFORE**, the Bank and the City agree as follows:

1. As authorized by the Act, the City hereby covenants, agrees and authorizes the Department or any other state agency, department or commission created pursuant to State law to (a) withhold all or any part of any monies which the City is entitled to receive from time to time pursuant to any law and which is in possession of the Department or any other State agency, department or commission created (the "**Tax Monies**") subject to the following existing Tax Intercept Agreement with the Bank: Mississippi Development Bank loan, dated April 10, 2018 outstanding in the principal amount of \$13,960,000 as of June 1, 2019, and (b) pay same over to

the Trustee to satisfy any delinquent payment (the "Delinquent Payment") under Sections 4.2 and/or 4.4(e) of the Loan Agreement.

In addition, the City has entered into the following loan agreements with agencies of the State: Drinking Water ("DWI") Loan No. DWI-280090-01-02 dated as of September 1, 2005, outstanding as of June 1, 2019 in the amount of \$410,823.49; DWI-H280090-02-2 dated as of April 1, 2008, outstanding as of June 1, 2019 in the amount of \$241,559.32; State Revolving Fund ("SRF") from the Mississippi Department of Environmental Quality loan No. C280885-02, dated as of September 1, 2010, outstanding as of June 1, 2019 in the amount of \$11,337,929.86; SRF-C280885-01-3, dated as of September 1, 2006, outstanding as of June 1, 2019 in the amount of \$2,653,614.84; DWI-410015-03-2 dated as of June 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,295,667.32; SRF-C280885-04, dated as of June 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,044,012.53; SRF-C280885-05, dated as of August 1, 2016, outstanding as of June 1, 2019 in the amount of \$3,890,767.79; DWI-410015-04 dated as of November 2017, outstanding as of June 1, 2019 in the amount of \$3,933,778.50; and DWI-L410015-05 dated as of July 2018, outstanding as of June 1, 2019 in the amount of \$975,650.37.

2. Subject to paragraph 1 above, if on the fifteenth (15th ) day of December and June of each year, beginning December 15, 2019, the Trustee has not received sufficient City Revenues (as defined in the Loan Agreement) to timely make the payments under Sections 4.2 and/or 4.4(e) of the Loan Agreement, the Bank hereby authorizes and directs the Trustee under the provisions of this Agreement to file this Agreement and a statement of deficiency setting forth the amount of any Delinquent Payment with the Department or any other State agency, department or commission, thereby directing the Department or any other State agency, department or commission to pay any Tax Monies directly to the Trustee on behalf of the Bank to satisfy any Delinquent Payment, all as permitted under the Act.

3. The Trustee is hereby directed under the Indenture to pay any Tax Monies into the General Account of the General Fund to be applied in accordance with Section 6.05 under the Indenture.

4. The term Tax Monies as defined herein shall exclude any monies held by the Department or any other State agency, department or commission created pursuant to State law to the extent amounts are to be paid to the City for the benefit of a separate school district or any other political subdivision other than the City.

5. This Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute one and the same instrument. The Bank and City each agree that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Agreement.

6. No waiver by either the Bank or the City of any term or condition of this Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Agreement.

7. This Agreement merges and supersedes all prior negotiations, representations, and agreements between the Bank and the City relating to the subject matter hereof and constitutes the entire Agreement between the Bank and the City in respect hereof.

[Remainder of page intentionally left blank; signatures to follow.]

IN WITNESS WHEREOF, we have hereunto set our hands as of the date first above written.

**MISSISSIPPI DEVELOPMENT BANK**

By \_\_\_\_\_  
Executive Director

ATTEST:

\_\_\_\_\_  
Secretary

**CITY OF TUPELO, MISSISSIPPI**

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ACCEPTED BY:

**THE PEOPLES BANK,  
AS TRUSTEE**

By \_\_\_\_\_  
Authorized Signatory

S-1

[Signature Page to Tax Intercept Agreement]

EXHIBIT D  
FORM OF BOND PURCHASE AGREEMENT

## BOND PURCHASE AGREEMENT

Regarding the

\$ \_\_\_\_,000

**MISSISSIPPI DEVELOPMENT BANK  
SPECIAL OBLIGATION BONDS, SERIES 2019  
(TUPELO, MISSISSIPPI CAPITAL IMPROVEMENT REVENUE PROJECT)**

Mississippi Development Bank  
735 Riverside Drive, Suite 300  
Jackson, Mississippi 39202

Mayor and City Council  
City of Tupelo, Mississippi  
71 East Troy Street  
Tupelo, Mississippi 38802

Ladies and Gentlemen:

The undersigned, Raymond James & Associates, Inc. (the "**Underwriter**"), being duly authorized, offers to enter into the following agreement with the Mississippi Development Bank (the "**Bank**") and the City of Tupelo, Mississippi (the "**City**"), which, upon your acceptance of this offer, will be binding upon the Bank and the City and upon the Underwriter. This offer is made subject to your written acceptance of this Bond Purchase Agreement on or before 5:00 o'clock p.m., Central Daylight Time, on \_\_\_\_, 2019, and, if not so accepted, will be subject to withdrawal by the Underwriter upon written notice delivered by the Underwriter to the Bank and the City at the above addresses, at any time prior to the acceptance hereof by you.

### 1. Purchase.

(a) Upon the terms and conditions and upon the basis of the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase from the Bank for offering to the public, and the Bank hereby agrees to sell and deliver to the Underwriter for such purpose, an aggregate of \$\_\_\_\_,000 principal amount of the Bank's Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Capital Improvement Revenue Project) (the "**Bonds**"), dated the date of delivery thereof, and having maturities and bearing interest at the rates per annum as set forth in Exhibit A hereto, and payable as described in the resolution concerning the Bonds adopted on \_\_\_\_, 2019, by the Board of Directors of the Bank (the "**Bank Resolution**"), an Indenture of Trust under which the Bonds will be issued and by which they will be secured, dated \_\_\_\_, 2019 (the "**Indenture**"), by and between the Bank and \_\_\_\_ Bank, \_\_\_\_, Mississippi, as trustee (the "**Trustee**"), and otherwise having such terms as are described in the Preliminary Official Statement (as hereinafter defined). The purchase price for the Bonds shall be \$\_\_\_\_.00, being comprised of the principal amount of the Bonds of \$\_\_\_\_,000.00, plus an original issue premium of \$\_\_\_\_, and less an Underwriter's discount of

\$ \_\_\_\_\_, which purchase price, subject to the terms and conditions of this Bond Purchase Agreement, will be paid to the Trustee on behalf of the Bank on the date of the payment for and delivery of the Bonds (herein called the "**Closing**"). The Bonds will be subject to optional and mandatory sinking fund redemption prior to maturity as set forth in Exhibit A hereto.

(b) The proceeds of the Bonds will be loaned to the City (the "**Loan**") under a Loan Agreement between the City and the Bank, dated \_\_\_\_\_, 2019 (the "**Loan Agreement**") which Loan Agreements includes a promissory note from the City to the Bank (the "**Note**").

(c) It is intended that interest on the Bonds will be excluded from gross income for federal income tax purposes under existing statutes, regulations, rulings and court decisions and as set forth in the Preliminary Official Statement, and in reliance thereon, the Underwriter may offer the Bonds without registration under the Securities Act of 1933, as amended.

(d) All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Indenture and the Preliminary Official Statement.

(e) The principal of, premium, if any, and interest on the Bonds shall be payable solely and only from those revenues and funds of the Bank under the Indenture, and payments made by the City under the Loan Agreement and the Note, as more particularly described in the Preliminary Official Statement. The City authorized the Loan pursuant to a resolution of the City adopted by the Mayor and City Council of the City (the "**Governing Body**") on May 7, 2019, approving the Loan Agreement and the Note, and approving the sale and issuance of the Bonds (the "**City Bond Resolution**" and collectively with the Bank Resolution, the "**Bond Resolutions**"). The Loan is payable from available revenues of the City and is not a pledge of its full faith, credit and taxing power.

(f) The Bonds are further secured by a Tax Intercept Agreement between the City and the Bank, dated \_\_\_\_\_, 2019 (the "**Tax Intercept Agreement**").

**2. Preliminary Official Statement and Official Statement.** A Preliminary Official Statement of the Bank, dated \_\_\_\_\_, 2019 (the "**Preliminary Official Statement**"), has been distributed in connection with the Bonds, and an Official Statement of the Bank, to be dated \_\_\_\_\_, 2019, will be delivered as hereinafter set forth in this Paragraph 2. The final Official Statement as it may be amended or supplemented, with the written consent of the Bank and the Underwriter, is hereinafter called the "**Official Statement**."

The Bank and the City hereby authorize the use of the Preliminary Official Statement, the Official Statement and the information therein contained by the Underwriter in connection with the public offering and the sale of the Bonds. As required by Rule 15c2-12 promulgated by the Securities and Exchange Commission under Section 15 of the Securities Exchange Act of 1934, as amended ("**Rule 15c2-12**"), the Underwriter shall deliver the Official Statement to the Municipal Securities Rulemaking Board (the "**MSRB**"). The Bank and the City hereby approve

of and ratify the use by the Underwriter on or before the date hereof of the Preliminary Official Statement in connection with the prospective offering of the Bonds prior to the date hereof. The Bank and the City have duly authorized, approved and delivered the Preliminary Official Statement to the Underwriter; the Bank and the City have previously deemed the Preliminary Official Statement final, except for the omission of the following information: offering, prices, interest rates, selling compensation, aggregate principal amount of the Bonds, principal amount per maturity, delivery date, ratings and other terms of the Bonds depending on such matters permitted to be omitted in accordance with Paragraph (b)(1) of Rule 15c2-12; and the Bank has duly authorized, approved and will execute the Official Statement on or prior to the Closing and shall deliver the same in final printed form subject to the provisions of Paragraph 9 hereof to permit the Underwriter to comply with Paragraph 9(b)(4) of Rule 15c2-12 and the rules of the MSRB, within seven (7) business days from the date hereof. The Bank and the City have delivered a "deemed final" certificate to the Underwriter, dated the date hereof, to evidence compliance with Rule 15c2-12 to the date hereof (the "**Deemed Final Certificate**"), in substantially the form attached hereto as Exhibit B.

### 3. **Establishment of Issue Price.**

(a) The Underwriter agrees to assist the Bank in establishing the issue price of the Securities and shall execute and deliver to the Bank at Closing an "issue price" or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as **Exhibit C**, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the Bank and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Securities. All actions to be taken by the Bank under this section to establish the issue price of the Securities may be taken on behalf of the Bank by the Bank's municipal advisor identified herein and any notice or report to be provided to the Bank may be provided to the Bank's municipal advisor.

(b) Except as otherwise set forth in Schedule A attached to Exhibit D hereto, the Bank will treat the first price at which 10% of each maturity of the Securities (the "**10% test**") is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Bond Purchase Agreement, the Underwriter shall report to the Bank the price or prices at which it has sold to the public each maturity of Securities. If at that time the 10% test has not been satisfied as to any maturity of the Securities, the Underwriter agrees to promptly report to the Bank the prices at which it sells the unsold Securities of that maturity to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Securities of that maturity or until all Securities of that maturity have been sold to the public.

(c) The Underwriter confirms that it has offered the Securities to the public on or before the date of this Bond Purchase Agreement at the offering price or prices (the "**initial offering price**"), or at the corresponding yield or yields, set forth in Schedule [A] attached to Exhibit C hereto, except as otherwise set forth therein. Schedule A attached to Exhibit C also sets forth, as of the date of this Bond Purchase Agreement, the maturities, if any, of the Securities for which the 10% test has not been satisfied and for which the Bank and the Underwriter agree that

the restrictions set forth in the next sentence shall apply, which will allow the Bank to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the "**hold-the-offering-price rule**"). So long as the hold-the-offering-price rule remains applicable to any maturity of the Securities, the Underwriter will neither offer nor sell unsold Securities of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5<sup>th</sup>) business day after the sale date; or
- (2) the date on which the Underwriter has sold at least 10% of that maturity of the Securities to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the Bank when it has sold 10% of that maturity of the Securities to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5<sup>th</sup>) business day after the sale date.

(d) The Underwriter confirms that any selling group agreement and any retail distribution agreement relating to the initial sale of the Securities to the public, together with the related pricing wires, contains or will contain language obligating each dealer who is a member of the selling group and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Securities of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Securities of that maturity or all Securities of that maturity have been sold to the public and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter. The Bank acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on (i) in the event a selling group has been created in connection with the initial sale of the Securities to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, if applicable, as set forth in a selling group agreement and the related pricing wires, and (ii) in the event that a retail distribution agreement was employed in connection with the initial sale of the Securities to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, if applicable, as set forth in the retail distribution agreement and the related pricing wires. The Bank further acknowledges that the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement, to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Securities.

(e) The Underwriter acknowledges that sales of any Securities to any person that is a related party to the Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

- (i) "public" means any person other than an underwriter or a related party,

- (ii) "underwriter" means (A) any person that agrees pursuant to a written contract with the Bank (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Securities to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Securities to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Securities to the public),
- (iii) a purchaser of any of the Securities is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (H) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and
- (iv) "sale date" means the date of execution of this Bond Purchase Agreement by all parties.

4. **Representations and Warranties of the Bank.** The Bank represents and warrants to, and agrees with the Underwriter that:

(a) The Bank is a public body corporate and politic of the State of Mississippi (the "**State**"). The Board of Directors of the Bank (the "**Board**") is duly organized and existing under the Constitution and laws of the State with the powers and authority, among others, set forth in Sections 31-25-1 *et seq.*, Mississippi Code of 1972, as amended (the "**Bank Act**"), and is authorized to issue the Bonds and otherwise to act on behalf of the Bank in connection with the sale and issuance of the Bonds.

(b) The Board, on behalf of the Bank, has full legal right, power and authority to enter into or accept this Bond Purchase Agreement, the Loan Agreement, the Tax Intercept Agreement and the Indenture, to adopt the Bank Resolution, and to sell, issue and deliver the Bonds to the Underwriter as provided herein and to carry out, to accept and assign the Note, and consummate all other transactions contemplated by this Bond Purchase Agreement, the Bonds, the Loan Agreement, the Indenture, the Tax Intercept Agreement, the Bank Resolution and the Official Statement.

(c) By official action of the Board prior to or concurrently with the acceptance hereof, the Board has duly adopted the Bank Resolution, has duly authorized and approved the execution and delivery of or acceptance of, and the performance by the Bank of the obligations of the Bank contained in the Bank Resolution, the Indenture, the

Loan Agreement, the Bonds, the Tax Intercept Agreement and this Bond Purchase Agreement and the consummation by it of all other transactions contemplated by the Official Statement and this Bond Purchase Agreement.

(d) Neither the Bank nor the Board is in breach of or default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any agreement or other instrument to which either the Bank or the Board is a party or is otherwise subject, which breach or default would in any way materially adversely affect the official existence or powers of the Bank or the Board, the Bank Resolution, the Indenture, the Loan Agreement, the Tax Intercept Agreement or the issuance of the Bonds, and no event has occurred and is continuing, which with the passage of time or the giving of notice, or both, would constitute such a breach of or default under any such instrument; and the execution and delivery of or acceptance of this Bond Purchase Agreement, the Indenture, the Loan Agreement, the Tax Intercept Agreement and the Bonds and the adoption of the Bank Resolution and compliance with the provisions of each thereof will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, agreement or other instrument to which either the Bank or the Board is a party or is otherwise subject.

(e) At the time of the Bank's acceptance hereof, the Preliminary Official Statement as it pertains to the Bank does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) No summons or complaint or any other notice or document has been served upon or delivered to the Bank or the Board or any of their officers or employees relating to any litigation, and there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the best knowledge of the Bank or the Board, threatened against the Bank or the Board, affecting the existence of the Bank or the Board, the titles of their officers to their respective offices or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or in any way contesting or affecting the validity or enforceability of the Bonds or the tax exempt status of the Bonds, the Bank Resolution, the Indenture, or this Bond Purchase Agreement, the acceptance and assignment of the Note, or contesting in any way the completeness or accuracy of the Preliminary Official Statement, or contesting the powers of the Bank or the Board or any authority for the issuance of the Bonds, the adoption of the Bank Resolution, the assignment of the Loan Agreement or the execution or acceptance of this Bond Purchase Agreement, the Indenture, the Loan Agreement, the Tax Intercept Agreement or the Bank's performance thereunder, nor is there any controversy or litigation pending or, to the best knowledge of the Bank or the Board, threatened, nor, to the best of the knowledge of the Bank and the Board, is there any basis therefore, wherein an unfavorable decision, ruling or finding would materially adversely affect the tax exempt status of the interest on the Bonds or the validity or enforceability of the Bonds, the Bank Resolution, the Indenture, the Loan Agreement, the Note, the Tax Intercept Agreement or this Bond Purchase Agreement.

(g) Except as otherwise provided herein, (i) the Bank Resolution, the Indenture, the Loan Agreement, the Tax Intercept Agreement and the Bonds conform to the description thereof contained in the Preliminary Official Statement, and (ii) the Bonds and the Indenture will constitute valid, legally binding and enforceable obligations of the Bank.

(h) The proceeds from the sale of the Bonds will be used or applied as is provided in the Bond Resolutions, the Indenture and the Preliminary Official Statement.

**5. Representations and Warranties of the City.** The City represents and warrants to, and agrees with the Underwriter that:

(a) The City is a public body corporate and a political subdivision of the State and a "local governmental unit" within the meaning of the Bank Act. The Governing Body is duly organized and existing under the Constitution and laws of the State and is authorized, pursuant to the provisions of \_\_\_\_\_ (the "**City Act**" and together with the Bank Act, the "**Act**"), to issue the Note under the terms and provisions of the City Bond Resolution, under which the City's obligations in connection with the Loan arise, and otherwise to act on behalf of the City in connection with the execution of the Loan Agreement.

(b) The Governing Body, on behalf of the City, have full legal right, power and authority to enter into or accept this Bond Purchase Agreement, the Continuing Disclosure Certificate executed by the City (the "**Continuing Disclosure Certificate**"), the Tax Intercept Agreement and the Loan Agreement, to execute, issue and deliver the Loan Agreement and the Note to the Bank as provided in the City Bond Resolution and to carry out and consummate all other transactions contemplated by this Bond Purchase Agreement, the Loan Agreement, the City Bond Resolution, the Continuing Disclosure Certificate, the Tax Intercept Agreement and the Official Statement.

(c) By official action of the Governing Body prior to or concurrently with the acceptance hereof, the Governing Body has duly adopted the City Bond Resolution and has duly approved the execution and delivery by the Mayor of the City (the "**Mayor**") and/or the City Clerk (the "**Clerk**") of this Bond Purchase Agreement, the Loan Agreement, the Note, the Tax Intercept Agreement and the Continuing Disclosure Certificate, has duly authorized and approved the execution and delivery of or acceptance of, and the performance by the City of the obligations of the City contained in, the Loan Agreement, the Note, the Continuing Disclosure Certificate, the Tax Intercept Agreement and this Bond Purchase Agreement and the consummation by it of all other transactions contemplated by the Preliminary Official Statement and this Bond Purchase Agreement.

(d) Neither the City nor the Governing Body is in breach of or default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any agreement or other instrument to which either the City or the Governing Body is a party or is otherwise subject, which breach or default would in any way materially adversely affect the official existence or powers of the City or the Governing Body, the City Bond Resolution, the Note, the Tax

Intercept Agreement and the Loan Agreement and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a breach of or default under any such instrument; and the execution and delivery of or acceptance of this Bond Purchase Agreement, the Note, the Loan Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement, the adoption of the City Bond Resolution and compliance with the provisions of each thereof will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, agreement or other instrument to which either the City or the Governing Body is a party or is otherwise subject.

(e) The Preliminary Official Statement does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein in connection with the City, the City Bond Resolution, the Loan Agreement, the Note, the Tax Intercept Agreement and the Continuing Disclosure Certificate, in the light of the circumstances under which they were made, not misleading, and as of the Closing, the Official Statement will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein in connection with the City, the City Bond Resolution, the Loan Agreement, the Note, the Tax Intercept Agreement and the Continuing Disclosure Certificate, in the light of the circumstances under which they were made, not misleading.

(f) Between the date of this Bond Purchase Agreement and the Closing, neither the City nor the Governing Body on behalf of the City, will, without the prior written consent of the Underwriter, which consent will not be unreasonably withheld, issue any bonds, notes or other obligations for borrowed money.

(g) No summons or complaint or any other notice or document has been served upon or delivered to the City or the Governing Body or any of their officers or employees relating to any litigation, and there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the best knowledge of the City or the Governing Body, threatened against the City or the Governing Body, affecting the existence of the City or the Governing Body, the titles of their officers to their respective offices or seeking to prohibit, restrain or enjoin the issuance or delivery of the Note, or in any way contesting or affecting the validity or enforceability of the City Bond Resolution, the Bond Purchase Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement, the Note and the Loan Agreement, the tax exempt status of the interest on the Bonds, or this Bond Purchase Agreement or contesting in any way the completeness or accuracy of the Preliminary Official Statement, or contesting the powers of the City or the Governing Body or any authority for the issuance of the Note, the Loan Agreement, the adoption of the City Bond Resolution, the Bond Purchase Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement and this Bond Purchase Agreement, or the City's performance thereunder, nor is there any controversy or litigation pending, or to the best knowledge of the City or the Governing Body, threatened, nor, to the best of the knowledge of the City and the Governing Body, is there any basis therefore, wherein an unfavorable decision, ruling or finding would materially adversely affect the tax exempt status of the Bonds, the validity or enforceability of the Note, the City Bond Resolution,

the Bond Purchase Agreement, the Loan Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement or this Bond Purchase Agreement.

(h) The proceeds from the Loan will be used or applied as provided in the City Bond Resolution, the Loan Agreement and the Preliminary Official Statement.

(i) The City will undertake, pursuant to the Continuing Disclosure Certificate, to provide financial information and notices of certain events in connection with the Bonds. A description of this undertaking is set forth in the Preliminary Official Statement.

(j) Except as otherwise provided herein, (i) the City Bond Resolution, the Loan Agreement, the Note, the Tax Intercept Agreement and the Continuing Disclosure Certificate conform to the descriptions thereof contained in the Preliminary Official Statement, and (ii) this Bond Purchase Agreement, the Continuing Disclosure Certificate, the Note, the Tax Intercept Agreement and the Loan Agreement will constitute valid, legally binding and enforceable obligation of the City.

**6. Further Representations and Warranties of the Bank.** The Bank further represents and warrants to, and agrees with the Underwriter that:

(a) The Bank will furnish such information, execute such instruments and take such other reasonable action in cooperation with the Underwriter as the Underwriter may reasonably request to qualify the Bonds for offer and sale under the Blue Sky or other securities laws or regulations of such states and other jurisdictions of the United States of America as the Underwriter may designate; provided, however, that the Bank shall not be required to consent to service of process in any state or place where such is not provided by the laws of such state.

(b) No consent, approval, authorization or order of or filing, registration or declaration with any court or government agency or body is required for the sale, issuance or delivery of the Bonds or the consummation of the other transactions effected or contemplated herein or thereby, except such as may be required under the Blue Sky or other securities laws or regulations of any jurisdiction in connection with the offer and sale of the Bonds by the Underwriter, or if any such consent, approval or authorization is required, the Bank will obtain it prior to the date of the Closing and will provide reasonable evidence to the Underwriter that the same has been obtained.

(c) Except as otherwise provided herein, (i) the Bank Resolution, the Indenture, the Note, the Loan Agreement, the Tax Intercept Agreement and the Bonds conform to the descriptions thereof contained in the Preliminary Official Statement, (ii) the Bonds, when validly issued, authenticated and delivered in accordance with the Bank Resolution and the Indenture and sold to the Underwriter as provided herein, will be validly issued and outstanding limited obligations of the Bank entitled to the benefits and security of the Bank Resolution and the Indenture, all as more fully described in the Preliminary Official Statement and as to be more fully described in the Official Statement, and will constitute valid, legally binding and enforceable limited obligations

of the Bank, and (iii) the Bank Resolution and the Indenture will constitute valid, legally binding and enforceable obligations of the Bank.

(d) In order for the Underwriter to comply with Rule 15c2-12, the Bank:

(i) Represents and warrants that, if, after the date of this Bond Purchase Agreement and until twenty-five (25) days after the "end of the underwriting period", as such term is defined in Rule 15c2-12, any event shall occur, and be known to the Bank, as a result of which it is necessary to amend or supplement the Official Statement in order to make the statements therein, in light of the circumstances when the Official Statement is delivered to a purchaser, not misleading, or if it is necessary to amend or supplement the Official Statement to comply with law, it will notify the Underwriter (and for the purposes of this paragraph (i) of this subsection (d) to provide the Underwriter with such information as it may from time to time reasonably request), and it will forthwith prepare and furnish, at the expense of the City (in a form and manner reasonably acceptable to the Underwriter), a reasonable number of copies of either amendments or supplements to the Official Statement so that the statements in the Official Statement as so amended and supplemented will not, in light of the circumstances when the Official Statement is delivered to a purchaser, be misleading or so that the Official Statement will comply with all applicable laws and regulations;

(ii) Represents and warrants that, at the time of the Bank's acceptance hereof, and unless an event of the nature described in paragraph (i) of this subsection (d) occurs, at all times subsequent thereto during the period up to and including twenty-five (25) days subsequent to the end of the underwriting period, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and

(iii) Represents and warrants that, if the Official Statement is supplemented or amended pursuant to paragraph (i) of this subsection (d), at the time of each supplement or amendment thereto and (unless an event of the nature described in paragraph (i) of this subsection (d) subsequently occurs ) at all times subsequent thereto during the period up to and including twenty-five (25) days subsequent to the end of the underwriting period, the Official Statement as so supplemented or amended will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and

(iv) Unless otherwise notified in writing by the Underwriter by the date of Closing, the Bank can assume that the "end of the underwriting period" for purposes of Rule 15c2-12 is the Closing. In the event such notice is so given in writing by the Underwriter, the Underwriter agrees to notify the Bank in writing following the occurrence of the "end of the underwriting period" as defined in Rule 15c2-12. The "end of the underwriting period" as used in this Bond Purchase Agreement shall mean the date of Closing or such later date as to which notice is given by the Underwriter in accordance with the preceding sentence.

7. **Closing.** The Bank will deliver the Bonds by delivery thereof to Cede & Co., as nominee of The Depository Trust Company ("**DTC**") as directed by the Underwriter against payment of the purchase price therefore by wire transfer of immediately available funds to the Trustee at or prior to 9:00 o'clock a.m., Central Standard Time, on \_\_\_\_, 2019, or such other place, time or date as shall be mutually agreed upon by the Bank and the Underwriter. The Bonds will be delivered in fully registered form in such denominations and registered to such persons as the Underwriter shall request at least three (3) days prior to the date of the Closing. The Bonds may be in printed, engraved, typewritten or photocopied form and each such form shall constitute "definitive form." The legal documents required by this Bond Purchase Agreement and the Official Statement shall be delivered to the parties hereto at the offices of Bond Counsel on such date or such other date corresponding with the payment for and delivery of the Bonds, and contemporaneously with such payment and delivery.

8. **Closing Conditions.** The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations, warranties and agreements of the Bank and the City contained herein and to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Bank and the City of their obligations hereunder, both as of the date hereof and as of the date of Closing. Accordingly, the Underwriter's obligations under this Bond Purchase Agreement to purchase and pay for the Bonds shall be subject to the performance by the Bank and the City of their obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following conditions:

(a) The representations and warranties of the Bank and the City contained herein shall be true, complete and correct as of the date hereof, and on and as of the date of Closing with the same effect as if made on the date of Closing.

(b) At the time of the Closing, the Indenture, the Loan Agreement, the Note, the Tax Intercept Agreement and the Bond Resolutions shall be in full force and effect, and shall not have been amended, modified or supplemented, and the Official Statement shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter.

(c) At the time of Closing, all official action of the Bank and the City relating to this Bond Purchase Agreement, the Indenture, the Bonds, the Bond Resolutions, the Note, the Tax Intercept Agreement and the Loan Agreement shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter.

(d) The Bank and the City shall not have, subsequent to the date hereof and prior to Closing, failed to pay principal or interest when due on any of their obligations for money borrowed wherein such failure, if any, would have a material adverse impact on their ability to perform in accordance with this Bond Purchase Agreement, the Indenture, the Bonds, the Bond Resolutions, the Note, the Tax Intercept Agreement or the Loan Agreement except as set forth in the Official Statement.

(e) The Underwriter shall have the right to terminate its obligations under this Bond Purchase Agreement to purchase and pay for the Bonds by notifying the Bank and the City of its election to do so if, after the execution hereof and prior to the Closing: (i) legislation shall have been introduced in or enacted by the Congress of the United States of America or enacted by the State, or legislation pending in the Congress of the United States of America shall have been amended, or a decision shall have been rendered by a court of the United States of America or the State, including the Tax Court of the United States of America or a ruling shall have been made or a regulation shall have been proposed or made or a press release or other form of notice shall have been issued by the Treasury Department of the United States of America or the Internal Revenue Service or other federal or State authority, with respect to federal or State taxation upon revenues or other income of the general character to be derived by the State or by a similar body, or upon interest on the Bonds or obligations of the general character of the Bonds which may have the purpose or effect, directly or indirectly, of affecting the tax status of the Bank and the City, the Bank's property or income, its securities (including the Bonds) or the interest thereon, or any tax exemption granted or authorized by the Act, in the sole reasonable opinion of the Underwriter, affects materially and adversely the market for the Bonds, or the market price generally of obligations of the general character of the Bonds; (ii) the outbreak or escalation of hostilities involving the United States of America or the declaration by the United States of America of a national emergency or war, if the effect of any such event specified in this clause (iii) in the reasonable judgment of the Underwriter makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Bonds on the terms and in the manner contemplated by the Official Statement; (iv) there shall have occurred a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States of America, New York State or State authorities; (v) there shall have been issued a stop order, ruling, or regulation affecting the validity or tax exempt status of the Bonds by the Securities and Exchange Commission; (vi) an event described in subsection (d) of Paragraph 5 hereof occurs which, in the reasonable opinion of the Underwriter, requires or has required the preparation and distribution of a supplement or amendment to the Official Statement and which in the reasonable opinion of the Underwriter affects materially and adversely the market for the Bonds; or (vii) there shall have occurred or any notice shall have been given of any intended downgrading, suspension, withdrawal or negative change in credit watch status by any national rating service to any of the City's obligations.

(f) At or prior to the Closing, the Underwriter shall have received each of the following documents:

(i) The Official Statement, together with any supplements or amendments to the Official Statement in the event that the Official Statement has been supplemented or amended, executed on behalf of the Bank by the Executive Director of the Bank (the "**Executive Director**") or the Chairman/President of the Board of Directors of the Bank (the "**Chairman**");

(ii) A copy of the Bank Resolution certified as of the date of the Closing by the Secretary of the Bank (the "**Secretary**") or the Assistant Secretary

of the Bank (the "Assistant Secretary") of the Bank as having been duly adopted by the Board and as being in effect, with such amendments, modifications and supplements as may have been agreed to by the Underwriter;

(iii) A copy of the City Bond Resolution certified as of the date of the Closing by the Clerk as having been duly adopted by the Governing Body and as being in effect, with such amendments, modifications and supplements as may have been agreed to by the Underwriter;

(iv) Executed copies of the Indenture, the Note, the Loan Agreement, the Tax Intercept Agreement and the Continuing Disclosure Certificate, with such amendments, modifications and supplements as may have been agreed to by the Underwriter;

(v) The unqualified opinion, dated the date of the Closing, of Bond Counsel in substantially the form attached to the Preliminary Official Statement and incorporated herein by this reference thereto, and a letter from such Bond Counsel, dated the date of the Closing and addressed to the Underwriter, to the effect that such opinion may be relied upon by the Underwriter to the same extent as if such opinion were addressed to the Underwriter;

(vi) An opinion, dated the date of the Closing and addressed to the Underwriter, of Balch & Bingham LLP (the "Bank's Counsel"), to the effect that (A) the Bank and the Board are duly organized and existing under the laws of the State, including the Bank Act; (B) the Bank Resolution has been duly adopted by the Board on behalf of the Bank which has full power and authority to perform its obligations thereunder; (C) this Bond Purchase Agreement, the Bonds, the Loan Agreement, the Tax Intercept Agreement and the Indenture have been duly authorized, executed and delivered, or accepted, by the Board on behalf of the Bank; (D) the Bank Resolution, the Bonds, this Bond Purchase Agreement, the Tax Intercept Agreement and the Indenture constitute, assuming the valid authorization, execution and delivery by the other parties thereto, legal and binding obligations of the Bank, enforceable in accordance with their respective terms, subject to (1) applicable bankruptcy, insolvency or other similar laws of the State or federal government affecting the enforcement of creditors' rights generally, and (2) the fact that specific performance and other equitable remedies are granted only in the discretion of a court; (E) neither the execution, delivery or performance by the Bank of this Bond Purchase Agreement, the Bonds, the Loan Agreement, the Tax Intercept Agreement or the Indenture conflicts with or results in a breach of the terms or provisions of the Constitution of the State or any State law including the Act; (F) all consents, approvals and other action required by any governmental authority or agency in connection with the execution, delivery and performance, or acceptance of, by the Bank of this Bond Purchase Agreement, the Bonds, the Loan Agreement, the Tax Intercept Agreement and the Indenture have been obtained or accomplished; (G) the Board on behalf of the Bank has duly approved the form of and authorized the use by the Underwriter of the Preliminary Official Statement and the Official Statement in connection with the

offering and sale of the Bonds by the Underwriter; (H) the Bonds, the Indenture, the Loan Agreement, the Tax Intercept Agreement and the Bank Resolution conform as to form and tenor with the terms and provisions thereof as summarized and set out in the Official Statement; and (I) without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, such counsel has no reason to believe that, as of the date of the Closing, the Official Statement (except for financial statements and other financial and statistical data and "TAX MATTERS" or Appendices A and B, included therein, as to which no view need be expressed) contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or that the Official Statement, as the same may have been amended or supplemented to the date of the Closing pursuant to subsection (d) of Paragraph 6 hereof (except as aforesaid), as of the date of the Closing contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(vii) An opinion, dated the date of the Closing and addressed to the Underwriter of Ben Logan, Esquire, Tupelo, Mississippi, Counsel to the City (the "City's Counsel"), to the effect that (A) the City and the Governing Body are duly organized and existing under the laws of the State; (B) the City Bond Resolution has been duly adopted by the Governing Body on behalf of the City which has full power and authority to perform its obligations thereunder; (C) this Bond Purchase Agreement, the Note, the Loan Agreement, the Tax Intercept Agreement and the Continuing Disclosure Certificate have been duly authorized, executed and delivered, or approved, by the Governing Body on behalf of the City; (D) the Note, the Loan Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement and the City Bond Resolution constitute, assuming the valid authorization, execution and delivery by the other parties thereto, if any, legal and binding obligations of the City, enforceable in accordance with their respective terms, subject to (1) applicable bankruptcy, insolvency or other similar laws of the State or federal government affecting the enforcement of creditors' rights generally, and (2) the fact that specific performance and other equitable remedies are granted only in the discretion of a court; (E) neither the execution, delivery nor performance by the City of this Bond Purchase Agreement, the Note, the Loan Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement or the City Bond Resolution conflicts with or results in a breach of the terms or provisions of the Constitution of the State or any State law; (F) all consents, approvals and other action required by any governmental authority or agency in connection with the execution, delivery and performance by the City of this Bond Purchase Agreement, the Loan Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement and the Note have been obtained or accomplished; (G) the Note, the Loan Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement and the City Bond Resolution conform as to form and tenor with the terms and provisions thereof as summarized and set

out in the Official Statement; and (H) without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, he has no reason to believe that, as of the date of the Closing, the Official Statement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein in connection with the City, the City Bond Resolution, the Note, the Loan Agreement, the Tax Intercept Agreement and the Continuing Disclosure Certificate, in the light of the circumstances under which they were made, not misleading, or that the Official Statement, as the same may have been amended or supplemented to the date of the Closing pursuant to subsection (d) of Paragraph 6 hereof (except as aforesaid), as of the date of the Closing contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein in connection with the City, the City Bond Resolution, the Note, the Loan Agreement, the Tax Intercept Agreement and the Continuing Disclosure Certificate, in the light of the circumstances under which they were made, not misleading;

(viii) The opinion, dated the date of the Closing and addressed to the Underwriter of Bond Counsel to the effect that (A) the Bonds constitute exempt securities within the meaning of Section 3(a)(2) of the Securities Act of 1933, as amended, and it is not necessary, in connection with the public offering and sale of the Bonds, to register the Bonds under said Securities Act or to qualify the Indenture under the Trust Indenture Act of 1939; (B) without having undertaken to determine independently the accuracy or completeness of the statements contained in the Official Statement, such counsel has no reason to believe that, as of the date of the Closing, the Official Statement (except for financial statements and other financial and statistical data or Appendices A and B included therein, as to which no view need be expressed) contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, or that the Official Statement, as the same may have been amended or supplemented to the date of the Closing pursuant to subsection (d) of Paragraph 6 hereof (except as aforesaid), as of the date of the Closing contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and (C) the Continuing Disclosure Certificate satisfies Section (b)(5)(i) of Rule 15c2-12, which requires an undertaking for the benefit of the holders, including beneficial owners, of the Bonds to provide certain annual financial information and event notices to various information repositories at the time and in the manner required by Rule 15c2-12;

(ix) A certificate, dated the date of the Closing and signed by the Executive Director or Chairman and Secretary or Assistant Secretary of the Bank to the effect that (A) the representations and warranties of the Bank contained herein are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing; (B) no

summons or complaint or any other notice or document has been served upon or delivered to the Bank or any of their officers or employees relating to any litigation, and there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the best of their knowledge, threatened against the Bank or the Board, affecting the existence of the Bank or the Board, or the titles of their officers to their respective offices, or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds, or in any way contesting or affecting the tax exempt status of the interest on the Bonds or the validity or enforceability of the Bonds, the Bank Resolution, the Loan Agreement, the Indenture, the Tax Intercept Agreement or this Bond Purchase Agreement, or contesting in any way the completeness or accuracy of the Official Statement, or contesting the powers of the Bank, the Board or any authority for the issuance of the Bonds, the adoption of the Bank Resolution or the execution or acceptance of this Bond Purchase Agreement, the Loan Agreement, the Tax Intercept Agreement and the Indenture, nor is there any controversy or litigation pending or, to the best of their knowledge, threatened, nor to the best of their knowledge is there any basis therefor, wherein any unfavorable decision, ruling or finding would materially adversely affect the tax exempt status of the interest on the Bonds or the validity or enforceability of the Bonds, the Bank Resolution, the Loan Agreement, the Indenture, the Tax Intercept Agreement or this Bond Purchase Agreement (but in lieu of or in conjunction with such certificate the Underwriter may, in their sole discretion, accept certificates or opinions of the Bank's Counsel, that in its opinion the issues raised in any such pending or threatened litigation are without substance or that the contentions of all plaintiffs therein are without merit); (C) to the best of their knowledge, no event affecting the Bank or Board has occurred since the date of the Official Statement that should be disclosed in the Official Statement, as the same may be supplemented or amended, in order that the Official Statement shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and (D) the Bank and the Board have complied with all the agreements and satisfied all the conditions on their respective parts to be performed or satisfied at or prior to the Closing;

(x) A certificate, dated the date of the Closing and signed by the Mayor and the Clerk to the effect that (A) the representations and warranties of the City contained herein are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing; (B) no summons or complaint or any other notice or document has been served upon or delivered to the City or any of their officers or employees relating to any litigation, and there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the best of their knowledge, threatened against the City or the Governing Body, affecting the existence of the City or the Governing Body, or the titles of their officers to their respective offices, or seeking to prohibit, restrain or enjoin the execution or delivery of the Note, the Loan Agreement, or in any way contesting or affecting

the tax exempt status of the interest on the Bonds or the validity or enforceability of the Note, the City Bond Resolution, the Loan Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement or this Bond Purchase Agreement, or contesting in any way the completeness or accuracy of the Official Statement, or contesting the powers of the City, the Governing Body or any authority for the delivery of the Note, the Loan Agreement, the adoption of the City Bond Resolution or the execution or approval of this Bond Purchase Agreement, the Continuing Disclosure Certificate, the Tax Intercept Agreement and the Loan Agreement nor is any controversy or litigation pending or, to the best of their knowledge, threatened, nor to the best of their knowledge is there any basis therefor wherein any unfavorable decision, ruling or finding would materially adversely affect the validity or enforceability of the Note, the Loan Agreement, the City Bond Resolution, the Tax Intercept Agreement, the Continuing Disclosure Certificate or this Bond Purchase Agreement (but in lieu of or in conjunction with such certificate the Underwriter may, in its sole discretion, accept certificates or opinions of the City's Counsel, that in its opinion the issues raised in any such pending or threatened litigation are without substance or that the contentions of all plaintiffs therein are without merit); (C) to the best of their knowledge, no event affecting the City or Governing Body has occurred since the date of the Official Statement that should be disclosed in the Official Statement, as the same may be supplemented or amended, in order that the Official Statement shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and (D) the City and the Governing Body have complied with all the agreements and satisfied all the conditions on their respective parts to be performed or satisfied at or prior to the Closing;

(xi) A certificate or agreement, dated the date of Closing, signed by the Executive Director of the Bank, in a form acceptable to Bond Counsel and the Underwriter with respect to the compliance by the Bank with applicable arbitrage and other applicable requirements of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder (hereinafter called the "**Code**"), to support the conclusion that the Bonds will not be "arbitrage bonds" under the Code;

(xii) A certificate or agreement, dated the date of Closing, signed by the Mayor, in a form acceptable to Bond Counsel and the Underwriter with respect to the compliance by the City with applicable arbitrage and other applicable requirements of the Code to support the conclusion that the Bonds will not be "arbitrage bonds" under the Code;

(xiii) The unqualified final decree of the Chancery Court of the First Judicial District of Hinds County, Mississippi validating the Bonds, in customary form;

(xiv) A certified copy of a transcript of all proceedings taken by the Bank relating to the authorization and issuance of the Bonds and the execution and delivery of the Indenture, this Bond Purchase Agreement, the Note, the Tax Intercept Agreement and the Loan Agreement;

(xv) A certified copy of a transcript of all proceedings taken by the City and relating to the authorization of the Note, the Loan Agreement and the execution and delivery of this Bond Purchase Agreement, the Continuing Disclosure Certificate, the Note, the Tax Intercept Agreement and the Loan Agreement;

(xvi) The Underwriter shall have received a certificate, dated the date of Closing and signed by an authorized officer of the Trustee, to the effect that (A) such officer is an authorized officer of the Trustee, (B) the Indenture and the Continuing Disclosure Certificate have been duly executed and delivered by the Trustee, (C) the Trustee has all necessary corporate and trust powers required to carry out the trust created by the Indenture, (D) to the best of such officer's knowledge, the acceptance by the Trustee of the duties and obligations of the Trustee under the Indenture and the Continuing Disclosure Certificate and compliance with the provisions thereof will not conflict with or constitute a breach of or default under any law, administrative regulation, consent decree or any agreement or other instrument to which the Trustee is subject or by which the Trustee is bound, and (E) the Trustee has duly authenticated the Bonds, and the person signing the certificate of authentication on each Bond has been duly authorized to do so;

(xvii) A certificate, dated the date of the Closing, signed by the Executive Director and the Secretary or the Assistant Secretary of the Bank, certifying that on the date of the execution of the certificate (A) they are the duly chosen, qualified and acting officers of the Bank occupying the offices indicated opposite their names, (B) the members of the Governing Body at all times relevant to the sale and issuance of the Bonds are as set forth therein, (C) the Executive Director and the Secretary or the Assistant Secretary of the Bank have executed the Bonds by causing their signatures to be affixed to each Bond, (D) they do thereby recognize the said signatures as their true and lawful signatures, and (E) further certifying that the seal, which is imprinted on each of said Bonds and on such certificate is the official seal of the Bank;

(xviii) A certificate, dated the date of the Closing, signed by the Mayor and the Clerk, certifying that on the date of the execution of the certificate (A) they are the duly chosen, qualified and acting officers of the City occupying the offices indicated opposite their names, (B) the members of the Governing Body at all times relevant to the execution and delivery of the Note, the Loan Agreement and the issuance thereof, are as set forth therein, (C) the Mayor and the Clerk have executed the Note, the Loan Agreement, the Tax Intercept Agreement and this Bond Purchase Agreement by causing their signatures to be affixed to the Note, the Loan Agreement and this Bond Purchase Agreement, (D) they do

thereby recognize the said signatures as their true and lawful signatures, and (E) further certifying that the seal which is imprinted on the Note, the Loan Agreement, and on such certificate, is the official seal of the City;

(xix) A certificate, dated the date of the Closing, signed by the Executive Director or Chairman and the Secretary or the Assistant Secretary of the Bank, to the effect that nothing has come to their attention which would lead them to believe that the Official Statement, as of its date and as of the date of the Closing, contains any untrue statement of a material fact or omits to state any material fact which should be included therein for the purpose for which the Official Statement is to be used, or which is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading and in providing such certificate, the Executive Director or Chairman and the Secretary or the Assistant Secretary of the Bank may state that they have not undertaken to independently verify information outlined or derived from the various publications or other similar sources as presented therein;

(xx) A certificate, dated the date of the Closing, signed by the Mayor and the Clerk, to the effect that nothing has come to their attention that would lead them to believe that the Official Statement, as of its date and as of the date of the Closing, contains any untrue statement of a material fact or omits to state any material fact that should be included therein for the purpose for which the Official Statement is to be used, or which is necessary to make the statements therein, in light of the circumstances under which they were made, not misleading and in providing such certificate, the Mayor and the Clerk may state that they have not undertaken to independently verify information outlined or derived from the various publications or other similar sources as presented therein;

(xxi) On or before the date of the Closing, evidence that there shall be in effect an underlying rating of "\_\_\_\_" by Moody's Investors Service. Letters of confirmation of such ratings shall be made available at the Closing;

(xxii) A copy of the Letter of Representation to DTC from the Bank;

(xxiii) Evidence satisfactory to the Underwriter of the filing of any financing statement necessary to perfect (to the extent perfection can be obtained by filing) a security interest in favor of the Trustee in the Trust Estate (as defined in the Indenture);

(xxiv) To the extent not otherwise included herein, a copy of each of the documents described in Section 2.04 of the Indenture; and

(xxv) Such additional legal opinions, certificates, instruments and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the date of the Closing, of the representations and warranties contained herein and of the statements and information of the Bank and the City contained in the Official Statement and the

due performance or satisfaction by the Bank and the City at or prior to the date of the Closing of all agreements then to be performed and all the conditions then to be satisfied by the Bank and the City.

All the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Bond Purchase Agreement shall be deemed to be in compliance with the provisions hereof but only if they are delivered to the Underwriter in form and substance satisfactory to the Underwriter.

If the Bank and the City, in good faith, shall be unable to satisfy the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement (unless the Underwriter waives and/or consents to the inability to satisfy such conditions), or if such obligations of the Underwriter shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Underwriter, nor the Bank and the City shall be under further obligation hereunder.

**9. Expenses.** Expenses incident to the performance of the obligations of the Bank and the City hereunder including but not limited to: (a) the cost of the preparation of the Indenture, the Loan Agreement, the Note, the Bond Resolutions, the Preliminary Official Statement and the Official Statement; (b) the cost of the preparation and printing of the definitive Bonds; (c) the fees and disbursements of Bond Counsel and City's Counsel; (d) the fees and disbursements of the Bank's Counsel and experts, the City's Financial Advisor or consultants retained by the Bank or the City; (e) fees for bond ratings; (f) the cost of preparation and printing of the Preliminary Official Statement and the Official Statement in sufficient quantity (but not to exceed 150 copies) to permit the Underwriter to comply with the requirements of Rule 15c2-12; and (h) the cost of the preparation of this Bond Purchase Agreement, shall be paid from the proceeds of the Bonds. Neither the Bank nor the City shall be required to pay any such costs or to reimburse any party for any such expenses other than from the proceeds of the Bonds. Except as provided in this Paragraph 9, the Underwriter shall pay: (x) all advertising expenses in connection with the public offering of the Bonds; (y) the cost of any copies of the Official Statement in excess of said copy limitations; and (z) all other expenses incurred by it in connection with its public offering and distribution of the Bonds. The City shall pay for expenses (included in the expense component of the spread) incurred on behalf of City's employees which are incidental to implementing this Bond Purchase Agreement, including, but not limited to, meals, transportation, lodging and entertainment of those employees.

**10. Indemnification.** If and to the extent permitted by State law, the Bank and the City agree to indemnify the Underwriter (or any person who controls the Underwriter within the meaning of the Securities Act of 1933, as amended) and hold the Underwriter harmless against any loss, damage, claim, liability or expense (including reasonable cost of defense) arising out of or based upon any allegation that any of the information contained in the Preliminary Official Statement includes any untrue statement of a material fact or omits to state any material fact necessary in order to make statements therein in the light of the circumstances under which they were made not misleading, and will reimburse the Underwriter for any legal or other expenses reasonably incurred by them in investigating, defending or preparing to defend any such action or claim. The indemnity agreement in this paragraph shall be in addition to any liability that the Bank and/or the City may otherwise have to the Underwriter and shall extend upon the same

terms and conditions to the officers, directors, agents or employees of the Underwriter and to each person, if any, who controls the Underwriter within the meaning of the Securities Act of 1933, as amended. Promptly after receipt by the Underwriter of notice of the commencement of any action, the Underwriter shall, if a claim in respect thereof is to be made against the Bank and/or the City under this paragraph, notify the Bank and the City in writing of the commencement thereof, but the omission so to notify the Bank and the City shall not relieve the Bank and/or the City from any liability which it may have to the Underwriter otherwise than under this paragraph. In case any such action shall be brought against the Underwriter and the Underwriter shall notify the Bank and the City of the commencement thereof, the Bank and/or the City shall be entitled to participate therein and, to the extent that one or both wish, to assume the defense thereof, with counsel reasonably satisfactory to such Underwriter and after notice from the Bank and/or the City to the Underwriter of their election so to assume the defense thereof, the Bank and/or the City shall not be liable to the Underwriter under this paragraph for any legal or other expenses subsequently incurred by such Underwriter in connection with the defense thereof other than reasonable out-of-pocket costs of any investigation; provided, however, that if the named parties to any such action (including any impleaded parties) include the Underwriter (or its officers, directors, agents or employees, or any person so controlling the Underwriter), the Bank and/or the City, and the Underwriter (or such officers, directors, agents or employees or any person so controlling the Underwriter) shall have reasonably concluded that there may be one or more legal defenses available to it which are different from or additional to those available to the Bank or the City, the Underwriter (or such officers, directors, agents or employees or such person so controlling the Underwriter) shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of the Underwriter (or such officers, directors, agent or employees or such person so controlling the Underwriter), and in such event the said fees and expenses of the Underwriter in defending such action shall be borne by the Bank and/or the City.

**11. Notices.** Any notice or other communication to be given to the Bank and the City under this Bond Purchase Agreement may be given by delivering the same in writing at the addresses set forth above and any notice or other communication to be given to the Underwriter under this Bond Purchase Agreement may be given by delivering the same in writing to Raymond James & Associates, Inc., 50 North Front Street, Memphis, Tennessee, 38103, Attention Ms. Lindsey Rea.

**12. Parties in Interest.** This Bond Purchase Agreement is made solely for the benefit of the Bank, the City and the Underwriter (including the successors or assigns of the Underwriter), and no other person shall acquire or have any right hereunder or by virtue hereof. All the representations, warranties and agreements of the Bank, the City and the Underwriter contained in this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of (a) any investigation made by or on behalf of the Underwriter, the Bank and the City; (b) delivery of any payment for the Bonds hereunder; and (c) any termination of this Bond Purchase Agreement.

**13. Governing Law.** This Bond Purchase Agreement shall be governed by, and construed in accordance with, the laws of the State. This Bond Purchase Agreement shall become effective upon the execution of the acceptance hereof by duly authorized officers of the Bank and the City and shall be valid and enforceable as of the time of such acceptance.

**14. Counterparts.** This Bond Purchase Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

**15. Entire Agreement.** This Bond Purchase Agreement, when accepted by the Bank and the City in writing as heretofore specified, shall constitute the entire agreement among the parties hereto with respect to the offer and sale of the Bonds and the transactions related thereto, as set forth herein.

**16. Underwriter has No Advisory or Fiduciary Role.** The Bank and the City acknowledge and agree that:

(a) The primary role of the Underwriter is to purchase securities, for resale to investors, in an arm's length commercial transaction between the Bank and the Underwriter and that the Underwriter has financial and other interests that differ from those of the Bank and the City;

(b) The Underwriter is not acting as a municipal advisor, financial advisor, or fiduciary to the Bank or the City and has not assumed any advisory or fiduciary responsibility to the Bank or the City with respect to the transaction contemplated by this Bond Purchase Agreement and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Bank or the City on other matters;

(c) The only obligations the Underwriter has to the Bank and the City with respect to the transaction contemplated hereby are expressly set for in this Bond Purchase Agreement; and

(d) The Bank and the City have consulted their own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent they deem appropriate. If the Bank would like a municipal advisor in this transaction that has legal fiduciary duties to the Bank, then the Bank is free to engage a municipal advisor to serve in that capacity. The City has employed Government Consultants, Inc. as its financial advisor.

[The remainder of this page left blank intentionally.]

If you agree with the foregoing, please sign this Bond Purchase Agreement in the space provided below and return one copy so executed to each of the Underwriter, the Bank and the City, whereby this Bond Purchase Agreement shall then become a binding agreement among the Underwriter, the Bank and the City.

Very truly yours,

**RAYMOND JAMES & ASSOCIATES,  
INC., as Underwriter**

By \_\_\_\_\_  
Managing Director

ACCEPTED:

This \_\_\_ day of \_\_\_\_, 2019.

**MISSISSIPPI DEVELOPMENT BANK**

By \_\_\_\_\_  
Executive Director

ACCEPTED:

**CITY OF TUPELO, MISSISSIPPI**

By \_\_\_\_\_  
Mayor

**EXHIBIT A**  
**MATURITY SCHEDULE**

Date of Maturity (July 1)	Principal Amount	Interest Rate	Yield	Price
	\$,000	.000%	%	%
	,000	.000		
	,000	.000		
	,000	.000		
	,000	.000		
	,000	.000		
	,000	.000		
	,000	.000		
	,000	.000		*
	,000	.000		*
	,000	.000		*
	,000	.000		*
	,000	.000		*
	,000	.000		*
	,000	.000		*
	,000	.000		*

\* Priced to the par call date of \_\_\_ 1, 20\_\_.

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## REDEMPTION PROVISIONS

**Redemption Generally.** If the City directs the Bank to redeem the Bonds in accordance with the Loan Agreement, the Bank has agreed under the Indenture to accept redemption and to redeem the Bonds in accordance with the Indenture.

**Optional Redemption.** The Bonds (or any portions thereof in integral multiples of \$5,000 each) maturing on or after July 1, 20\_\_, are subject to optional redemption, prior to their stated dates of maturity, in whole or in part, in principal amounts and maturities selected by the Bank on any date on or after July 1, 20\_\_, at par, plus accrued interest to the date of redemption. Under the Indenture, selection of Bonds to be redeemed within a maturity will be made by lot by the Trustee. In accordance with DTC's standard practices and its agreement with the Bank, DTC and the DTC Participants will make this selection so long as the Bonds are in book-entry form.

**Notice of Redemption.** Notice of the call for any redemption, identifying the Bonds (or any portions thereof in integral multiples of \$5,000 each) to be redeemed, will be given by the Trustee at least 30 days but not more than 45 days prior to the date fixed for redemption by mailing a copy of the redemption notice by registered or certified mail to the registered owner of each Bond to be redeemed at the address shown on the Bond Register (as defined in the Indenture) and to the Underwriter of the Bonds. Failure to mail such notice to any particular owner of Bonds, or any defect in the notice mailed to any such owner of Bonds, will not affect the validity of the call for the redemption of any other Bonds. So long as DTC or its nominee is the Registered Owner of the Bonds, notice of the call for any redemption will be given to DTC, and not directly to Beneficial Owners (as defined in the Indenture).

**Redemption Payments.** Prior to the date fixed for redemption, there must be on deposit with the Trustee sufficient funds to pay the Redemption Price (as defined in the Indenture) of the Bonds called, together with accrued interest on the Bonds to the Redemption Date (as defined in the Indenture). After the Redemption Date, if proper notice of redemption by mailing has been given and sufficient funds have been deposited with the Trustee, interest will cease to accrue on the Bonds that have been called for redemption.

**EXHIBIT B****DEEMED FINAL CERTIFICATE**

\$\_\_\_\_,000

**MISSISSIPPI DEVELOPMENT BANK  
SPECIAL OBLIGATION BONDS, SERIES 2019  
(TUPELO, MISSISSIPPI CAPITAL IMPROVEMENT REVENUE PROJECT)****Rule 15c2-12 Certificate of the Bank and the City**

The undersigned hereby certify to Raymond James & Associates, Inc. (the "**Underwriter**"), that they are authorized to execute and deliver this Certificate and further certify on behalf of the Bank and the City:

1. This Certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12, as amended, under the Securities Exchange Act of 1934 (the "**Rule**") in connection with the offering and sale of the Bank's \$\_\_\_\_,000 Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Capital Improvement Revenue Project) (the "**Bonds**").
2. In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated \_\_\_\_, 2019, setting forth information concerning the Bonds, the Bank and the City and certain other matters (the "**Preliminary Official Statement**").
3. As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery date, ratings and other terms of the Bonds depending on such matters, all with respect to the Bonds.
4. The information contained in the Preliminary Official Statement is final within the meaning of the Rule as of its date except for the Permitted Omissions.
5. To the best of the knowledge of the Bank and the City, the information contained in the Preliminary Official Statement pertaining to the Bank and the City does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made in the Preliminary Official Statement, in the light of the circumstances under which they were made, not misleading.

If, at any time before the earlier of (1) receipt of notice from the Underwriter that Final Official Statements (as defined in the Rule) with respect to the Bonds are no longer required to be delivered under the Rule or (2) 90 days after the underwriting period of the Bonds by the Underwriter, any event occurs as a result of which the information contained in the Final Official Statement would no longer be true and correct or would no longer be the most recently available information, the Bank or the City shall promptly notify the Underwriter of such event or shall

update such information so that it is the most recent available and provide such updated information to the Underwriter.

IN WITNESS WHEREOF, we have hereunto set our hands to be effective this \_\_\_\_ day of \_\_\_\_\_, 2019.

**MISSISSIPPI DEVELOPMENT BANK**

By \_\_\_\_\_  
Executive Director

**CITY OF TUPELO, MISSISSIPPI**

By \_\_\_\_\_  
Mayor

**EXHIBIT C**

\$\_\_\_\_,000

**MISSISSIPPI DEVELOPMENT BANK  
SPECIAL OBLIGATION BONDS, SERIES 2019  
(TUPELO, MISSISSIPPI CAPITAL IMPROVEMENT REVENUE PROJECT)**

**ISSUE PRICE CERTIFICATE**

The undersigned, on behalf of Raymond James & Associates, Inc., Memphis, Tennessee ("**Raymond James**"), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned obligations (the "**Bonds**").

**1. Sale of the General Rule Maturities.** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule A.

**2. Initial Offering Price of the Hold-the-Offering-Price Maturities.**

(a) Raymond James offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the "**Initial Offering Prices**") on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) As set forth in the Bond Purchase Agreement, Raymond James has agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the "**hold-the-offering-price rule**"), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

**3. Defined Terms.**

(a) *General Rule Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the "General Rule Maturities."

(b) *Hold-the-Offering-Price Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the "Hold-the-Offering-Price Maturities."

(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date (\_\_\_\_, 2019), or (ii) the date on which Raymond James has sold at least 10%

of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) *Issuer* means the Mississippi Development Bank.

(e) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is \_\_\_\_, 2019.

(h) *Underwriter* means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

### 3. Yield.

The yield on the Bonds has been calculated to be not less than \_\_\_\_%. The 20\_\_ through 20\_\_ maturities were treated as having been redeemed on the optional redemption date that produces the lowest yield on such maturities.

### 4. Weighted Average Maturity.

The weighted average maturity of the Bonds has been calculated to be \_\_\_\_ years.

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents Raymond James' interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer and the City of Tupelo, Mississippi (the "City") with respect to certain of the representations set forth in the Arbitrage Certificate of the Issuer and the City and with respect to compliance with the federal income tax rules affecting the Bonds, and by Butler Snow LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038, and other federal income tax advice that it may give to the Issuer and the City from time to time relating to the Bonds.

[Signature Page Follows]

**RAYMOND JAMES & ASSOCIATES, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_, 2019

**SCHEDULE A**

**SALE PRICES OF THE GENERAL RULE MATURITIES AND  
INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES**

<b>Hold the Price Maturities</b>				
<b>MATURITY (MAY 1)</b>	<b>PRINCIPAL AMOUNT</b>	<b>INTEREST RATE</b>	<b>YIELD</b>	<b>REOFFERING PRICE</b>
<b>General Rule Maturities</b>				
<b>MATURITY ( ) 1)</b>	<b>PRINCIPAL AMOUNT</b>	<b>INTEREST RATE</b>	<b>YIELD</b>	<b>REOFFERING PRICE</b>

**SCHEDULE B**  
**PRICING WIRE OR EQUIVALENT COMMUNICATION**

5-7-19  
6.4 468

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TUPELO, MISSISSIPPI (THE "CITY") AUTHORIZING THE EXECUTION AND DELIVERY OF A PROMISSORY NOTE (TUPELO, MISSISSIPPI PUBLIC IMPROVEMENT REVENUE PROJECT) IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED SIXTEEN MILLION DOLLARS (\$16,000,000) (THE "NOTE") TO SECURE A LOAN (THE "LOAN") FROM THE MISSISSIPPI DEVELOPMENT BANK TO THE CITY FOR THE PURPOSES OF PROVIDING FUNDS FOR ERECTING, REPAIRING, IMPROVING, ADORNING, EQUIPPING, EXPANDING AND FURNISHING MUNICIPAL BUILDINGS, INCLUDING BUT NOT LIMITED TO, THE CONVENTION CENTER AND RELATED MUNICIPAL BUILDINGS; AND PURCHASING BUILDINGS AND LAND THEREFOR AND FOR OTHER AUTHORIZED PURPOSES UNDER MISSISSIPPI CODE ANN. SECTIONS 21-33-301 ET SEQ., AS AMENDED AND/OR SUPPLEMENTED FROM TIME TO TIME, THE ACT AND SECTIONS 31-25-1 ET SEQ., MISSISSIPPI CODE OF 1972, AS AMENDED AND SUPPLEMENTED FROM TIME TO TIME AND OTHER APPLICABLE LAWS OF THE STATE OF MISSISSIPPI, INCLUDING PAYING FOR THE COST OF SUCH BORROWING; APPROVING THE FORM OF AN INDENTURE OF TRUST AND THE FORM OF AND THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT, A TAX INTERCEPT AGREEMENT AND A PRELIMINARY OFFICIAL STATEMENT IN CONNECTION WITH THE ISSUANCE OF THE NOTE AND THE ISSUANCE BY THE MISSISSIPPI DEVELOPMENT BANK OF ITS NOT TO EXCEED \$16,000,000 SPECIAL OBLIGATION BONDS, SERIES 2019 (TUPELO, MISSISSIPPI PUBLIC IMPROVEMENT REVENUE PROJECT) FOR THE PURPOSE OF FUNDING THE LOAN TO THE CITY; AUTHORIZING THE SALE OF SAID MISSISSIPPI DEVELOPMENT BANK BONDS; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION OF CERTAIN OTHER DOCUMENTS IN CONNECTION WITH THE LOAN AND SAID MISSISSIPPI DEVELOPMENT BANK BONDS; AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and the City Council (the "Governing Body") of the City of Tupelo, Mississippi (the "City"), acting for and on behalf of the City, is authorized by Sections 21-33-301 et seq., Mississippi Code of 1972, as amended and/or supplemented from time to time (the "City Bond Act"), and Sections 31-25-1 et seq., Mississippi Code of 1972, as amended (the "Bank Act" and together with the City Act, the "Act"), and other applicable laws of the State of Mississippi (the "State") to enter into a loan with the Mississippi Development Bank (the "Bank") for the purposes set forth therein, including, but not limited to, erecting, repairing, improving, adorning, equipping, expanding and furnishing municipal buildings, including but not limited to, the convention center and related municipal buildings; and purchasing buildings and land therefor and for other authorized purposes under the City Act, including paying for the cost of such borrowing (the "City Project"); and

**WHEREAS**, the City is a political subdivision duly created and validly existing pursuant to the Constitution and laws of the State and constitutes a "local governmental unit" under the Bank Act; and

**WHEREAS**, on April 2, 2019, the Governing Body adopted a resolution (the "**Intent Resolution**") declaring its intention to enter into a loan (the "**Loan**") with the Bank in an amount not to exceed \$16,000,000, all for the purpose of providing financing for the City Project, and for the Bank to issue its not to exceed \$16,000,000 Special Obligation Bonds, Series 2019 (Tupelo, Mississippi Public Improvement Revenue Project) (the "**Bank Bonds**") to finance the Loan and the Note (as defined herein); and

**WHEREAS**, pursuant to applicable law and as directed by the Intent Resolution, the Intent Resolution was published once a week for at least three (3) consecutive weeks in the *Northeast Mississippi Daily Journal*, a newspaper published in and having general circulation in the City and qualified under the provisions of Section 13-3-31, Mississippi Code of 1972, as amended and supplemented from time to time, the first publication having been made not less than twenty-one (21) days before May 7, 2019, and the last publication to be not more than seven (7) days prior to such date, said notice was published in said newspaper on April 15, 22, 29 and May 6, 2019; and

**WHEREAS**, on or prior to the hour of 6:00 o'clock p.m. on May 7, 2019, no written protest objecting to and protesting against the Loan, the Note and the Bank Bonds nor any other objection of any kind or character against the Loan, the Note and the Bank Bonds described in the Intent Resolution had been filed with the City Clerk of the City (the "**City Clerk**") or presented by the qualified electors of the City; and

**WHEREAS**, on May 7, 2019, at the usual meeting place of the Governing Body, the Governing Body convened and adopted a resolution finding and determining that the Intent Resolution was duly published as required by law and that no written protest or other objection of any kind or character against the issuance of the Loan, the Note and the Bank Bonds was filed by qualified electors of the City and the Governing Body did authorize and approve the issuance of such Loan to raise money for the City Project, all in accordance with the Act; and

**WHEREAS**, the City is authorized under the provisions of the Act to borrow from the Bank in such amounts as it may find necessary and proper in order to provide (a) funding for the City Project, (b) paying capitalized interest, if applicable and (c) paying the costs incurred by the City and the Bank in connection with such Loan, Note and the Bank Bonds (together, the "**Project**"); and

**WHEREAS**, it would be in the best interest of the City for the Governing Body to provide funding for the costs of the Project by entering into the Loan with the Bank in accordance with the Act; and

**WHEREAS**, the Loan will be secured by the City's Promissory Note (Tupelo, Mississippi Public Improvement Revenue Project) (the "**Note**") in an aggregate principal amount of not to exceed \$16,000,000, payable by the City to the Bank; and

**WHEREAS**, the Loan and Note shall not constitute an indebtedness of the City within the meaning of any statutory or charter restriction, limitation, or provision, and the taxing power of the City will not be pledged to the payment of said Loan and Note, but the same, together with the interest thereon, shall be payable solely from legally available revenues of the City; and

**WHEREAS**, pursuant to an Indenture of Trust, dated as of the date of delivery (the "**Indenture**"), between the Bank and The Peoples Bank, Biloxi, Mississippi as trustee (the "**Trustee**"), the Bank will issue its Bank Bonds in an aggregate principal amount of not to exceed \$16,000,000 to fund the Loan and will assign the Note to the Trustee as security for the Bank Bonds; and

**WHEREAS**, the City will enter into a Loan Agreement, dated as of the date of delivery, with the Bank (the "**Loan Agreement**") pursuant to which the Bank will loan the proceeds of the Bank Bonds to the City to pay the costs of the City Project and the costs incurred by the City and the Bank in connection with the Loan and the Bank Bonds; and

**WHEREAS**, under the Loan Agreement and the Note, the City will agree to make payments on the Note in amounts sufficient to pay the principal of, premium, if any, and interest on the Bank Bonds, as and when the same shall become due and payable; and

**WHEREAS**, the City and the Bank will, under the Bank Act, enter into a Tax Intercept Agreement, dated as of the date of delivery (the "**Tax Intercept Agreement**"), securing payment of the Note and the Bank Bonds, pursuant to which the City will agree to the withholding of certain monies to which it may be entitled from the State in order to satisfy any delinquent payments on the Note; and

**WHEREAS**, the Bank Bonds will be sold to Raymond James & Associates, Inc. (the "**Underwriter**"), pursuant to the terms and provisions of a Bond Purchase Agreement, to be dated as of the date of the sale of the Bank Bonds (the "**Bond Purchase Agreement**"), by and among the Bank, the Underwriter and the City; and

**WHEREAS**, there have been submitted to this meeting forms of

- (a) the Indenture under which the Bank Bonds will be issued and by which they will be secured,
- (b) the Loan Agreement between the City and the Bank providing for the Loan,
- (c) the Note from the City to the Bank, securing payment of the Loan,
- (d) the Bank's Preliminary Official Statement (the "**Preliminary Official Statement**") describing the Bank Bonds, the terms of the Indenture and other matters in connection with the sale and issuance of the Bank Bonds,
- (e) the Tax Intercept Agreement providing security for the Note and the Bank Bonds,
- (f) the Bond Purchase Agreement providing for the terms and conditions of the sale of the Bank Bonds to the Underwriter;

(g) a continuing disclosure certificate (the "Continuing Disclosure Certificate"), of the City, in connection with the Bank Bonds, dated the date of issuance and delivery of the Bank Bonds; and

**WHEREAS**, it appears that each of the documents above referred to, which documents are now before the Governing Body, is in appropriate form and is an appropriate document for the purposes identified; and

**WHEREAS**, it would be in the best interest of the City for the Bank to proceed with the sale and issuance of the Bank Bonds because the interest payable on the Note will be the same as the interest payable on the Bank Bonds as set forth in detail in the Bond Purchase Agreement; and

**WHEREAS**, the Loan and the Bank Bonds shall be conditioned upon the approval by the Board of Directors of the Bank; and

**WHEREAS**, all other conditions, acts and things required by the Act and the Constitution and laws of the State to have existed, to have happened and to have been performed precedent to and in connection with the adoption of this resolution, the issuance of the Note, the execution of the Loan Agreement, the Tax Intercept Agreement and the Bond Purchase Agreement have happened and have been performed in regular and due time, form and manner as required by law; and

**WHEREAS**, it is proposed that the City should take all such additional actions, authorize the preparation and distribution of such documents and authorize such other actions and proceedings as shall be necessary in connection with the issuance of the Note, the sale and issuance of the Bank Bonds and the financing of the Project and the costs incurred by the City and the Bank in connection with the Loan and the Bank Bonds; and

**WHEREAS**, the issuance of the Note will not exceed any limitation upon indebtedness which may be incurred by the City; and

**WHEREAS**, it has now become necessary that the Governing Body proceed to make provision for the execution, issuance and delivery of the Note and the Bank Bonds.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY:**

**SECTION 1.** This resolution is adopted pursuant to the provisions of the Act and the Constitution and laws of the State.

**SECTION 2.** The Governing Body hereby authorizes the execution and delivery of the Note in the principal amount of not to exceed \$16,000,000 in accordance with the Act and subject to the provisions of this resolution and the Loan Agreement. All terms and provisions of the Note, including the repayment thereof, shall be as set forth in the Loan Agreement and the Note.

**SECTION 3.** The principal of and interest on the Note shall be payable over a period of not to exceed thirty (30) years solely from legally available revenues of the City and shall be subject to prepayment as set forth in the Loan Agreement. The Note shall not constitute a general obligation of the City within the meaning of any constitutional or statutory restrictions, limitations, or provisions, and the taxing power of the City will not be pledged to the payment of the Note, but the same, together with the interest thereon, shall be payable solely from legally available revenues of the City and the terms and provisions of the Tax Intercept Agreement.

**SECTION 4.** The Governing Body does hereby find and determine that the Bank Bonds are being issued to fund the Loan, the proceeds of which will be used to finance the City Project, to pay capitalized interest, if applicable and to pay the costs incurred by the City and the Bank in connection with the sale and issuance of the Bank Bonds and the execution and delivery of the Loan Agreement, the Note, the Tax Intercept Agreement and the Bond Purchase Agreement.

**SECTION 5.** The Indenture by and between the Bank and the Trustee in the form submitted to this meeting and attached hereto as **EXHIBIT A**, is hereby made a part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The Mayor of the City (the "Mayor"), the City Clerk and the President of the Governing Body (together, the "Authorized Officers") are authorized to approve such additional changes thereto as may be requested by the Bank. The City hereby approves and acknowledges the Indenture and the terms and provisions thereof and recognizes that many items governing the terms and conditions of the Note are based upon terms, limitations and conditions provided in the Indenture.

**SECTION 6.** The form of the Loan Agreement by and between the City and the Bank in the form submitted to this meeting and attached hereto as **EXHIBIT B**, is hereby made a part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by such officers, said execution being conclusive evidence of such approval.

**SECTION 7.** The form of the Note from the City to the Bank in the form attached to the Loan Agreement, shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute and deliver the Note to the Bank with such changes, insertions and omissions as may be approved by such officers, said execution being conclusive evidence of such approval.

**SECTION 8.** The form of the Tax Intercept Agreement by and between the Bank and the City in the form submitted to this meeting and attached hereto as **EXHIBIT C**, is hereby made a part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute and deliver the Tax Intercept Agreement with such changes, insertions and omissions as may be approved by such officers, said execution being conclusive evidence of such approval.

**SECTION 9.** The Bond Purchase Agreement, in the form submitted to this meeting is and attached hereto as **EXHIBIT D** is hereby made a part of this resolution as though set forth in

full herein and, shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute the Bond Purchase Agreement for and on behalf of the City, subject to the following conditions: (a) compliance by the City with the provisions of the Bank Act regarding the issuance of the Note; (b) the aggregate principal amount of the Note and the Bank Bonds shall not exceed \$16,000,000; (c) the Bank Bonds will bear interest at the rates to be provided in the Bond Purchase Agreement and the Bank Bonds shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101, Mississippi Code of 1972, as amended and supplemented from time to time; (d) the term of Bank Bonds does not exceed thirty (30) years; and (e) the terms and provisions of the Bank Bonds are in compliance with the Bank Act.

**SECTION 10.** The Preliminary Official Statement, in the form submitted to this meeting and attached hereto as **EXHIBIT E**, is hereby made part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The distribution by the Bank of the Preliminary Official Statement to the Underwriter is hereby authorized and approved. The City hereby deems the Preliminary Official Statement to be "final" as described in the SEC Rule 15c2-12(b)(1). The Mayor or the City Clerk are hereby, authorized and directed to approve the form of a final Official Statement (the "**Official Statement**") in substantially the form of the Preliminary Official Statement in connection with the sale and issuance of the Bank Bonds with such changes, insertions and omissions as may be approved by the Mayor or the City Clerk.

**SECTION 11.** The Continuing Disclosure Certificate, in the form attached to the Preliminary Official Statement, is hereby made part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute and deliver the Continuing Disclosure Certificate with such changes, insertions and omissions as may be approved by such officers, said execution being conclusive evidence of such approval.

**SECTION 12.** If in the opinion of Butler Snow, LLP (the "**Bond Counsel**"), the Underwriter and Government Consultants, Inc., as Municipal Advisor, a supplement or amendment to the Preliminary Official Statement and/or Official Statement is necessary to provide proper disclosure for the Bank Bonds, the Governing Body of the City hereby authorizes (a) Bond Counsel to prepare and distribute such supplement or amendment to the Preliminary Official Statement and/or the Official Statement in a form and in a manner approved by the Underwriter, and (b) the Underwriter to provide distribution of such supplement or amendment to the Preliminary Official Statement and/or Official Statement, as the case may be, in connection with the sale of the Bank Bonds, with the distribution of such supplement or amendment being conclusive evidence of the approval of the Governing Body.

**SECTION 13.** The Authorized Officers, and any other officer of the Governing Body are each hereby authorized and directed to do all such acts and things and to execute all such documents as may be necessary or advisable in connection with the Project and the authorization, sale, preparation, execution, issuance and delivery of the Loan Agreement, the Note, the Tax Intercept Agreement and the Bond Purchase Agreement.

**SECTION 14.** The Authorized Officers and any other officer of the Governing Body are each hereby authorized and directed to cooperate with the Bank and to take all such actions and do all such things and to execute all such documents as may be necessary or advisable in connection with the authorization, sale, preparation, execution, issuance and delivery of the Bank Bonds.

**SECTION 15.** The City Clerk is hereby directed to forward a certified copy of this resolution to the Bank.

**SECTION 16.** If any one or more of the provisions of this resolution, the Loan Agreement, the Tax Intercept Agreement, the Note or the Bond Purchase Agreement shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this Resolution, the Loan Agreement, the Tax Intercept Agreement, the Note or the Bond Purchase Agreement but this resolution, the Loan Agreement, the Tax Intercept Agreement, the Note and the Bond Purchase Agreement shall be construed and enforced as if such illegal or invalid provision or provisions had not been contained herein or therein.

**SECTION 17.** The previous actions of the Mayor, the City Clerk and the Governing Body in connection with the City Project and preparation for the issuance of the Note and the sale and issuance of the Bank Bonds shall be, and the same hereby are, approved, ratified and confirmed.

**SECTION 18.** The Governing Body hereby approves The Peoples Bank, Biloxi, Mississippi as the trustee for the Bank Bonds under to the Indenture.

**SECTION 19.** No stipulation, obligation or agreement herein contained or contained in the Loan Agreement, the Tax Intercept Agreement, the Bond Purchase Agreement or other documents necessary to conclude the issuance of the Note shall be deemed to be a stipulation, obligation or agreement of any officer, agent or employee of the City in his individual capacity, and no such officer, agent or employee shall be personally liable on the Note or be subject to personal liability or accountability by reason of the issuance thereof.

**SECTION 20.** When the Note is issued, the City Clerk is hereby authorized and directed to prepare and furnish to the Bank certified copies of all of the proceedings and records of the City relating to the Note and the Loan, and such other affidavits and certificates as may be required to show the facts relating to the legality of the Note and the Loan as such facts appear from the books and records in the City Clerk's custody and control or as otherwise known to her; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

**SECTION 21.** From and after the execution and delivery of the documents hereinabove authorized, the proper officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the issuance of the Note, the issuance and delivery of the Bank Bonds and the execution and delivery of the

Loan Agreement, the Tax Intercept Agreement, the Bond Purchase Agreement or other documents necessary to conclude the issuance of the Note, from time to time.

**SECTION 22.** The City covenants to comply with each requirement of the Internal Revenue Code of 1986 as amended (the "**Code**") necessary to maintain the exclusion of interest on the Bank Bonds from gross income for federal income tax purposes, and in furtherance thereof, to comply with a certificate of the City to be executed and delivered concurrently with the issuance of the Bank Bonds, or such other covenants as may, from time to time, be required to be complied with in order to maintain the exclusion of interest on the Bank Bonds from gross income for federal income tax purposes. The City shall not use or permit the use of any of the proceeds of the Bank Bonds, or any other funds of the City, directly or indirectly, to acquire any securities, obligations or other investment property, and shall not take or permit to be taken any other action or actions, which would cause any Bank Bond to be an "arbitrage bond" as defined in Section 148 of the Code. Notwithstanding any other provisions to the contrary, so long as necessary in order to maintain the exclusion of interest on the Bank Bonds from gross income for federal income tax purposes under the Code, the covenants contained in this Section 22 shall survive the payment of the Bank Bonds and the interest thereon, including any payment or defeasance thereof.

**SECTION 23.** The City represents as follows:

(a) The City shall take no action that would cause the Bank Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code;

(b) The City shall take all necessary action to have the Bank Bonds registered within the meaning of Section 149(a) of the Code; and

(c) The City will not employ any device or abusive transaction with respect to the investment of the proceeds of the Bank Bonds.

**SECTION 24.** The City hereby covenants that it shall make, or cause to be made to the United States of America, the rebate payments required by Section 148(f) of the Code and the regulations promulgated thereunder and to that end, to enter into the Arbitrage Rebate Agreement (as defined in the Indenture) with the Bank and the Trustee.

**SECTION 25.** The Authorized Officers are hereby authorized to sign and file or cause to be filed a completed I.R.S. Form 8038-G "Information Return for Governmental Obligations" if required by Section 149(e) of the Code, if applicable.

**SECTION 26.** The Authorized Officers are hereby authorized to execute a non-arbitrage certification or similar document in order to comply with Section 148 of the Code and the applicable regulations thereunder.

**SECTION 27.** The City is an "obligated person" under Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the "**Rule**"). The City covenants and agrees to execute the Continuing Disclosure Certificate setting forth the City's agreement with regard to continuing disclosure and to comply with the covenants set forth therein and carry out all of the provisions

of the Continuing Disclosure Certificate. In the event the City fails to comply with the provisions of the Continuing Disclosure Certificate, the beneficial owners of the Bank Bonds may take such actions as may be necessary and appropriate, including mandamus or specific performance by court order, to cause the City to comply with its obligations set forth in the Continuing Disclosure Certificate and this Section.

**SECTION 28.** If the Bank executes a commitment for the provision of municipal bond insurance for the Bank Bonds and any additional documents and certificates which are required by any provider of such municipal bond insurance elected to provide credit enhancement in connection with the issuance of the Bank Bonds, the Authorized Officers are hereby authorized to approve any changes, insertions and omissions as may be required by the provider of the municipal bond insurance to the Indenture, the Loan Agreement, the Note, the Bond Purchase Agreement, the Tax Intercept Agreement, the Preliminary Official Statement or Official Statement as are approved by the Executive Director of the Bank or an authorized officer of the Bank, evidenced by the execution of the commitment for said municipal bond insurance and other additional documents and certificates. The Governing Body hereby authorizes and approves the execution of said commitment by the Executive Director of the Bank, the President of the Board of Directors of the Bank or an authorized officer of the Bank, for and on behalf of the City, if applicable.

**SECTION 29.** The Authorized Officers are hereby authorized to execute a requisition and perform such other acts as may be necessary to authorize the payment by the Trustee under the Indenture on the closing date of the Bank Bonds, the costs of issuance for the Bank Bonds and costs of issuance for the Note; provided, however, total costs of issuance for said Bank Bonds and the Note shall not exceed five (5%) percent of the par amount of the Bank Bonds (excluding Underwriters' discount and any premiums for municipal bond insurance, if applicable).

**SECTION 30.** All orders, resolutions or proceedings of the Governing Body in conflict with the provisions of this resolution shall be and are hereby repealed, rescinded and set aside, but only to the extent of such conflict.

[Remainder of page left blank intentionally.]

The above and foregoing resolution, after having been first reduced to writing, was introduced by Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_ and was adopted by the following roll call vote, to wit:

**YEAS:**

**NAYS:**

**ABSENT:**

The motion having received the affirmative vote of a majority of the members present, being a quorum of said members, the President thereby declared the motion carried and the resolution adopted, this the 7th day of May, 2019.

**ATTEST:**

**ADOPTED:**

/s/  
\_\_\_\_\_  
**CLERK OF COUNCIL**

/s/  
\_\_\_\_\_  
**PRESIDENT**

The above and foregoing resolution having been submitted to and approved by the Mayor, this the 7th day of May, 2019.

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**MAYOR**

EXHIBIT A  
FORM OF INDENTURE

EXHIBIT B  
FORM OF LOAN AGREEMENT

EXHIBIT C  
FORM OF TAX INTERCEPT AGREEMENT

EXHIBIT D  
FORM OF BOND PURCHASE AGREEMENT

EXHIBIT E  
FORM OF PRELIMINARY OFFICIAL STATEMENT

46992525.v1

4-2-19  
B.1

**PURCHASE AGREEMENT**

**THIS PURCHASE AGREEMENT** (“Agreement”) made and entered as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the **NORTHEAST MISSISSIPPI REGIONAL WATER SUPPLY DISTRICT**, a public agency, (the “Water District” or “Purchaser”), and the **CITY OF TUPELO, MISSISSIPPI**, a municipality of the State of Mississippi (the “City” or “Seller”);

**WITNESSETH:**

**WHEREAS**, the Water District was established by Lee County and the City of Tupelo pursuant to Section 51-8-1 *et. seq.* of the Mississippi Code and was given additional powers and duties under Chapter 920, Local and Private Laws of 1988 Chapter 967, Local and Private Laws of 1994 Chapter 903, and Local and Private Laws of 2007 Chapter \_\_\_\_\_ (collectively, the “Water District Legislation”); and

**WHEREAS**, Section 51-8-31 authorizes the Water District to “acquire by purchase, gift, devise, lease or any other mode of acquisition, and to hold or dispose of, real and personal property of every kind within or without the district...” and Section 17(1) of the Water District Legislation provides, *inter alia*, that the district “ is authorized to contract with any agency, department or other office of government or any individual, partnership, corporation, utility or water management district, county or municipality, and each of those entities are authorized to contract with the district for the acquisition, treatment or furnishing of water or providing of property, equipment or services by or to the district regarding the construction, funding or operation of the project...”; and

**WHEREAS**, Lee County is developing a large industrial park to be known as the “Hive” within and immediately west of the City, and has requested the City and the

Water District to cooperate in providing high volume water service to the area encompassing the Hive; and

**WHEREAS**, the Water District desires to expand its distribution system in cooperation with the City so as to provide high-volume water service in the area encompassing the Hive to assure maintenance and improvement of living conditions of the people of Northeast Mississippi and the continuation of industrial, commercial and economic opportunities in the area; and

**WHEREAS**, to expand its distribution system to provide service to the area of the Hive and potentially to serve rural water systems in that vicinity, the Water District desires to purchase from the City a twelve-inch water transmission line that connects to the Water District's water supply line near the intersection of U.S. 145 and Eason Boulevard and runs westward to a point near Harrisburg Baptist Church as well as an extension of that line to be constructed by the City from a point near Harrisburg Baptist Church to a point near Bissell Road(together, the "Western Lateral"), and the City desires to construct the extension of its existing line and to sell the combined Western Lateral to the Water District; and

**WHEREAS**, the sale and purchase transactions described in this Agreement are to be carried out in two phases as set out in this Agreement; and

**WHEREAS**, by resolution adopted at a meeting on \_\_\_\_\_, the Seller's governing authorities approved and authorized the sale of the Purchased Assets on substantially the same terms as set out in this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises and the agreements contained herein and of the payment of the Purchase Price, the parties hereto do hereby agree as follows:

1. Definitions. As used in this Agreement the following terms shall have the meanings set forth below:

(a) Existing Line. "Existing Line" shall mean that 12-inch water transmission line that connects to the Water District's water supply line at a point located at approximately Latitude 34° 14' 08" and Longitude 88° 42'39" near the intersection of U.S. Highway 145 and Eason Boulevard and running westward to a point located at approximately Latitude 34° 14'15" and Longitude 88° 46'02" near Harrisburg Baptist Church, as depicted on the drawing attached as Exhibit A to this Agreement, together with all rights-of-way, easements, rights, valves, machinery, equipment and other real and personal property of any kind associated therewith and belonging to Seller.

(b) Line Extension. "Line Extension" shall mean that 12-inch water transmission line to be constructed by the City of Tupelo and that connects to the Existing Line at approximately Latitude 34°14'15" and Longitude 88° 46'02' near Harrisburg Baptist Church and runs westward to a point located at approximately Latitude 34° 14'03" and Longitude 88° 47'15" at a booster station on the west side of Bissell Road at Coonewah Creek, as depicted on the drawing attached as Exhibit A to this Agreement, together with all the rights-of-way, easements, rights, valves, machinery, equipment and other real and personal property of any kind associated therewith and belonging to Seller.

(c) Western Lateral. "Western Lateral" shall mean the Existing Line together with the Line Extension.

(d) First Phase. "First Phase" shall mean the sale and purchase of the Existing Line.

(e) First Phase Closing. "First Phase Closing" shall mean the closing of the transaction for sale and purchase of the Existing Line to be held in the offices of Mitchell, McNutt & Sams, 105 S. Front Street, Tupelo, Mississippi on the First Phase Closing Date, as defined hereinafter, or at such other place as may be mutually agreed upon by the parties hereto.

(f) First Phase Closing Date. "First Phase Closing Date" shall mean April 30, 2019, or such other date as the parties might determine for the First Phase Closing.

(g) Second Phase. "Second Phase" shall mean the sale and purchase of the Line Extension.

(h) Second Phase Closing. "Second Phase Closing" shall mean the execution of such documents as shall be necessary to complete the sale and purchase of the Line Extension in the offices of Mitchell, McNutt & Sams, 105 S. Front Street, Tupelo, Mississippi on the Second Phase Closing Date, as defined hereinafter, or at such other place as may be mutually agreed upon by the parties hereto.

(i) Second Phase Closing Date. "Second Phase Closing Date" shall mean such date after completion of construction of the Line Extension as the parties may agree for the Second Phase Closing.

2. Sale of Assets.

(a) At the First Phase Closing, Seller will sell, transfer, assign, convey and deliver to Purchaser, and Purchaser will purchase, accept and acquire from Seller, the Existing Line free and clear of all liens or encumbrances of any kind as well as enter into an Operations and Maintenance Agreement with the City pursuant to which the City will be obligated to operate and maintain in perpetuity the Existing Line as well as the Line Extension. Purchaser shall not, by virtue of this Agreement, the consummation of the transactions contemplated herein or otherwise, assume any liabilities or obligations of Seller or any liabilities or obligations constituting a charge, lien, encumbrance or security interest on the Existing Line, regardless of whether such liabilities or obligations are absolute or contingent, liquidated or unliquidated, or otherwise.

(a) At the Second Phase Closing, Seller will sell, transfer, assign, convey and deliver to Purchaser, and Purchaser will purchase, accept and acquire from Seller, the Line Extension free and clear of all liens or encumbrances of any kind. Purchaser shall not, by virtue of this Agreement, the consummation of the transactions contemplated herein or otherwise, assume any liabilities or obligations of Seller or any liabilities or obligations constituting a charge, lien, encumbrance or security interest on the Line Extension, regardless of whether such liabilities or obligations are absolute or contingent, liquidated or unliquidated, or otherwise.

3. Purchase Price/Inspection.

(a) Purchase Price.

(i) The purchase price for the Existing Line together with the Operations and Maintenance Agreement shall be One Million Six Hundred Eighty-Five

Thousand and No/100th Dollars (\$1,685,000.00), and shall be referred to hereinafter as the "First Phase Purchase Price."

(ii) The purchase price for the Line Extension shall be One Million Four Hundred Ninety-Four Thousand and No/100th Dollars (\$1,494,000.00), and shall be referred to hereinafter as the "Second Phase Purchase Price."

(b) Inspection. Purchaser shall have the right to inspect and view the Existing Line and the Line Extension during reasonable business hours and upon adequate and reasonable notice to Seller.

4. Closing Documents and Requirements; Further Assurances.

(a) Closing Responsibilities of Seller. At each of the the First Phase Closing and the Second Phase Closing, Seller shall deliver to Purchaser:

(i) A bill of sale conveying the assets being purchased and sold in that phase of the transaction (the "Purchased Assets") in form and substance satisfactory to Purchaser;

(ii) An instrument or instruments satisfactory to Purchaser assigning all easements and rights-of-way of Seller with respect to the Purchased Assets; and

(iii) Such other instrument or instruments of transfer as shall be reasonably necessary or appropriate to vest in Purchaser good and marketable title to the Purchased Assets.

(b) Closing Responsibilities of Purchaser. At the First Phase Closing, Purchaser shall deliver to Seller the First Phase Purchase Price, as set out in Section 3(a)(i) of this Agreement, in cash or by check or warrant or wire transfer of funds, and at

the Second Phase Closing, Purchaser shall deliver to Seller the Second Phase Purchase Price, as set out in Section 3(a)(ii) of this Agreement, in cash or by check or warrant or wire transfer of funds, .

(c) Further Assurances. Following the First Phase Closing or the Second Phase Closing, at the request of Purchaser, Seller shall deliver any further instruments of transfer and take all reasonable action as may be necessary or appropriate (i) to vest in Purchaser good and marketable title to the Purchased Assets, and (ii) to assign all easements and rights-of-way of Seller with respect to the Purchased Assets.

5. Representations and Warranties of Seller. Seller represents and warrants to Purchaser as follows:

(a) Organization; Good Standing. Seller is a municipal corporation duly organized and validly existing under the laws of the State of Mississippi with all requisite power to own and operate its assets and to enter into and perform any obligations hereunder.

(b) Title and Authority. Seller is the valid, true and actual owner of the Purchased Assets, including the rights of possession and/or use of certain real property through the easements and rights-of-way associated therewith. Seller has full and actual authority to transfer and convey the Purchased Assets to Purchaser. Upon consummation of the First Phase Closing and consummation of the Second Phase Closing, as the case may be, Purchaser shall have full right, title and interest in and to the Purchased Assets.

(c) Sole Ownership. Seller is the sole owner of the Purchased Assets, and no other person or entity has any interest or ownership therein.

(d) Information. None of the schedules or other written material required under this Agreement contain, nor will they contain, any statement which is false or misleading with respect to any material fact, or omit, nor will they omit, to state a material fact necessary in order to make the statements therein not false or misleading.

(e) Litigation and Absence of Undisclosed Liabilities.

(i) With respect to the Existing Line, Seller does not have as of the date hereof, and will not have as of the First Phase Closing, any material liabilities or obligations of any nature, whether accrued, absolute, contingent or otherwise, and whether due or to become due. Except as set forth in Schedule 1-A, Seller does not know of any basis for assertion against Seller, as of the date hereof, of any material claim or liability of any nature in any amount not fully reflected in the schedule hereto. Except to the extent set forth in Schedule 1-A, there is no suit, action or litigation, administrative, arbitration, or other proceeding or governmental investigation or inquiry affecting in any material respect the Existing Line, pending or, to the knowledge of Seller, threatened which could severally or in the aggregate, materially and adversely affect the Existing Line.

(ii) With respect to the Line Extension, Seller will not have as of the Second Phase Closing, any material liabilities or obligations of any nature, whether accrued, absolute, contingent or otherwise, and whether due or to become due. Except as set forth in Schedule 1-B, Seller does not know of any basis for assertion against Seller, as of the Second Phase Closing Date, of any material claim or liability of any nature in any amount not fully reflected in the schedule hereto. Except to the extent set forth in Schedule 1-B, there is no suit, action or litigation, administrative, arbitration, or other

proceeding or governmental investigation or inquiry affecting in any material respect the Line Extension, pending or, to the knowledge of Seller, threatened which could severally or in the aggregate, materially and adversely affect the Line Extension. (f) Title to Assets. Seller has good and marketable title to the Existing Line, subject to no mortgage, pledge, lien, security interest, lease, charge, encumbrance or conditional sale or other title retention agreement, and at the Second Phase Closing, Seller will have good and marketable title to the Line Extension, subject to no mortgage, pledge, lien, security interest, lease, charge, encumbrance or conditional sale or other title retention agreement .

(g) Condition of Property.

(i) Seller will not suffer or permit the deterioration or degradation of the Existing Line from the condition of same as of the date hereof, reasonable wear and tear and accidental damage or destruction covered by Section 14(a) hereof excepted. The transmission lines, fixtures and appurtenances thereto have no known structural defects or other known material defects. The Existing Line is free of any defect, contamination or condition that could require remediation, removal, clean-up or replacement under any law, ordinance, regulation or order for the protection of health or the environment.

(ii) Seller will cause the Line Extension to be constructed in a good and workmanlike manner and in accordance with standards and specifications approved by Purchaser and consistent with the specifications and build of the Existing Line. As of the Second Phase Closing, the transmission lines, fixtures and appurtenances of the Line Extension will have no known structural defects or other known material defects, and the Line Extension will be free of any defect, contamination or condition

that could require remediation, removal, clean-up or replacement under any law, ordinance, regulation or order for the protection of health or the environment.

(h) Insurance. Seller carries insurance for its benefit in amounts deemed adequate by its management, against those risks Seller deems appropriate and proper to insure under valid and enforceable policies issued by reputable insurers. Seller shall maintain all insurance policies currently covering the Existing Line through and including the First Phase Closing Date. During construction of the Line Extension, Seller shall maintain and shall cause its construction contractors to maintain insurance coverage with such insurers and in such amounts and protecting from such risks as shall be satisfactory to Purchaser.

(i) Authority. Seller has taken all necessary action to approve this Agreement, and the performance of its obligations hereunder.

(j) Compliance with Other Instruments, Etc. Neither the execution nor the delivery of this Agreement nor the consummation of the transactions contemplated hereby will conflict with or result in any violation of or constitute a default under any term of any agreement, mortgage, indenture, franchise, license, permit, authorization, lease or other instrument, judgment, decree, order, law or regulation by which Seller is bound or to which the Existing Line or the Line Extension are, or at the time of the Second Phase Closing, will be, subject.

6. Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller as follows:

(a) Organization; Good Standing. Purchaser is a governmental entity duly organized and validly existing under the laws of the State of Mississippi with all requisite power to perform its obligations hereunder.

(b) Litigation. There is no suit, action or litigation, administrative, arbitration or other proceeding or governmental investigation pending or, to the knowledge of the officers of Purchaser, threatened, which might, severally or in the aggregate, materially and adversely affect the financial condition or prospects of Purchaser or prevent the purchase hereunder.

(c) Authority. Purchaser has taken all necessary corporate action to approve this Agreement and the performance of its obligations hereunder.

(d) Compliance with Instruments, Consents, Adverse Agreements. Neither the execution nor the delivery of this Agreement nor the consummation of the transactions contemplated hereby will conflict with or result in any violation of or constitute a default under any term of any material agreement, mortgage, indenture, license, permit, lease or other instrument, judgment, decree, order, law or regulation by which Purchaser is bound. No consent, approval or authorization of or designation, declaration or filing with any governmental authority or other persons or entities on the part of Purchaser is required in connection with the execution or delivery of this Agreement or the consummation of the transactions contemplated hereby.

7. Covenants of Seller. Seller covenants and agrees that from and after the date hereof:

(a) Cooperation; Construction. Seller shall use its best efforts to cause the sale contemplated by this Agreement to be consummated. As soon as is reasonably

practicable after the First Phase Closing, Seller shall begin construction of the Line Extension pursuant to the specifications approved by the Purchaser. (b)

Maintenance of Properties, etc. Seller will maintain the Existing Line and the Line Extension in accordance with the terms and conditions of the Operations and Maintenance Agreement described in Section 2(a) hereof.

(c) Access to Purchased Assets. Seller will give to Purchaser and to Purchaser's agents and representatives full access during normal business hours to the Existing Line and to the Line Extension and will furnish to Purchaser all information related to the Existing Line and to the Line Extension as Purchaser may request that shall not materially interrupt or interfere with Seller's normal operations.

(d) Dispositions of Encumbrances on Purchased Assets. Seller will not, directly or indirectly, dispose of or encumber the Existing Line or the Line Extension.

8. Covenants of Purchaser. Purchaser covenants and agrees that:

(a) Consummation of Sale. Purchaser shall use its best efforts to cause the sale contemplated by this Agreement to be consummated.

9. Conditions Precedent to the Obligations of Seller.

(a) All obligations of Seller under this Agreement related to the First Phase are subject to the fulfillment, at the option of Seller, at or prior to the First Phase Closing Date, of each of the following conditions:

(i) Representations and Warranties True. The representations and warranties of Purchaser herein contained and related to the First Phase shall be true on and as of the Closing Date.

(ii) Performance of Purchaser. Purchaser shall have performed all its obligations and agreements and complied with all its covenants contained in this Agreement to be performed and complied with by Purchaser related to the First Phase prior to the First Phase Closing Date.

(iii) Purchaser's Certificate. Seller shall have received a certificate of Purchaser, executed on behalf of Purchaser by the authorized representative of Purchaser, dated the First Phase Closing Date, in form and substance satisfactory to Seller, certifying as to the fulfillment of the matters mentioned in paragraphs (a) (i) and (a)(ii) of this Section 9.

(b) All obligations of Seller under this Agreement related to the Second Phase are subject to the fulfillment, at the option of Seller, at or prior to the Second Phase Closing Date, of each of the following conditions:

(i) Representations and Warranties True. The representations and warranties of Purchaser herein contained and related to the Second Phase shall be true on and as of the Closing Date.

(ii) Performance of Purchaser. Purchaser shall have performed all its obligations and agreements and complied with all its covenants contained in this Agreement to be performed and complied with by Purchaser related to the Second Phase prior to the Second Phase Closing Date.

(iii) Purchaser's Certificate. Seller shall have received a certificate of Purchaser, executed on behalf of Purchaser by the authorized representative of Purchaser, dated the First Phase Closing Date, in form and substance satisfactory to Seller, certifying as to the fulfillment of the matters mentioned in paragraphs (b)(i) and

(b)(ii) of this Section 9. 10. Conditions Precedent to the Obligations of Purchaser.

(a) All obligations of Purchaser under this Agreement related to the First Phase are subject to the fulfillment, at the option of Purchaser, at or prior to the First Phase Closing Date, of each of the following conditions:

(i) Representations and Warranties True. The representations and warranties of Seller herein contained and related to the First Phase shall be true on and as of the First Phase Closing Date.

(ii) Performance of Seller. Seller shall have performed all of its obligations and agreements and complied with all of its covenants contained in this Agreement to be performed and complied with by Seller related to the First Phase prior to the First Phase Closing Date.

(iii) Seller's Certificate. Purchaser shall have received a certificate of Seller, dated the First Phase Closing Date, in form and substance satisfactory to Purchaser, certifying as to the fulfillment of the matters mentioned in paragraphs (a)(i) and (a)(ii) of this Section 10.

(b) All obligations of Purchaser under this Agreement related to the Second Phase are subject to the fulfillment, at the option of Purchaser, at or prior to the Second Phase Closing Date, of each of the following conditions:

(i) Representations and Warranties True. The representations and warranties of Seller herein contained and related to the Second Phase shall be true on and as of the Second Phase Closing Date.

(ii) Performance of Seller. Seller shall have performed all of its obligations and agreements and complied with all of its covenants contained in this Agreement to be performed and complied with by Seller related to the Second Phase prior to the Second Phase Closing Date.

(iii) Seller's Certificate. Purchaser shall have received a certificate of Seller, dated the Second Phase Closing Date, in form and substance satisfactory to Purchaser, certifying as to the fulfillment of the matters mentioned in paragraphs (b)(i) and (b)(ii) of this Section 10.

11. Survival of Covenants, Representations, and Warranties. The respective representations and warranties set forth in this Agreement shall survive the First Phase Closing and the Second Phase Closing and thereafter shall be fully effective and enforceable. The respective representations and warranties set forth in this Agreement shall not be affected by any investigation, verification or approval by any party hereto or by anyone on behalf of any such party. The respective covenants and agreements set forth in this Agreement, except those covenants and agreements that are required by this Agreement to be fully kept, performed, and discharged on or before the First Phase Closing Date or the Second Phase Closing Date, as the case may be shall survive the respective First Phase Closing and Second Phase Closing and thereafter shall be fully effective and enforceable.

12. Expenses. Seller and Purchaser shall each pay its own expenses, including, without limitation, fees and expenses of agents, representatives, counsel, accountants and other experts, incidental to the preparation and consummation of this Agreement.

13. Destruction or Condemnation of Property.

(a) Damage or Destruction of First Phase. In the event any portion of the Existing Line is destroyed by casualty prior to the First Phase Closing, Purchaser shall have the option to: (i) cancel this Agreement, or (ii) proceed to the First Phase Closing and accept the Existing Line subject to the damage. In such latter event, Seller shall assign to Purchaser all of its rights to insurance proceeds payable due to such destruction. Except as may be required by the Operation and Maintenance Agreement described in Section 2(a) of this Agreement, Seller shall be under no obligation to restore or repair any part of the damaged Existing Line.

(b) Damage or Destruction of Second Phase. In the event any portion of the Line Extension is destroyed by casualty prior to the Second Phase Closing, Purchaser shall have the option to: (i) cancel this Agreement, or (ii) require Seller to repair and replace the destroyed portion of the Line Extension, and thereafter proceed to the Second Phase Closing.

(c) Cancellation. In the event Purchaser elects to cancel this Agreement pursuant to Section 14(a) or 14(b), the parties shall have no further rights or obligations hereunder.

14. Addresses. All notices shall be sent to the addresses listed below:

SELLER:

The City of Tupelo, Mississippi  
c/o Ben Logan, City Attorney  
Post Office Box 1485  
Tupelo, MS 38802-1485

PURCHASER:

Northeast Mississippi Regional  
Water Supply District  
P.O. Box 2709  
Tupelo, MS 38803

with a copy to:

Otis Tims  
Mitchell McNutt & Sams, PA  
P.O. Box 7120  
Tupelo, MS 38802

15. Miscellaneous. The following also shall apply to this Agreement:

(a) Notice. Any notice, permission, approval, demand, or request affecting any obligations or terms must be in writing and shall be deemed to be given on the date: (i) delivered by hand, or (ii) mailed by certified mail.

(b) Change of Address. All mailings shall be to the address of the party shown or to any subsequent address in the United States of America designated in writing.

(c) Gender. The singular and plural and any gender shall include the other.

(d) No Waiver. No waiver of any condition, obligation, or term shall constitute a waiver of any other, or a waiver of a subsequent right to demand strict compliance with all conditions, obligations, and terms.

(e) Choice of Law. The laws of the State of Mississippi shall apply.

(f) Copies. Any executed copy or photocopy hereof shall be as effective for any purpose as the original.

(g) Specific Performance. This Agreement shall be specifically enforceable.

(h) Entire agreement. This Agreement, including the documents and instruments referred to herein:

(i) constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter of this Agreement;

(ii) is not intended to confer upon any other person any rights or remedies;

(iii) is not assignable by operation of law or otherwise;

(iv) may be executed in two or more counterparts which together shall constitute a single agreement;

(v) shall inure to the benefit of, be binding upon and enforceable against the legal representatives, successors, transferees, heirs and assigns of the parties hereto; and

(vi) may be amended or terminated only by mutual agreement of the parties hereto in writing.

(i) Headings. The headings contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement.

(j) Survival. All representations, warranties, and covenants, contained in this Agreement or any document executed in connection with the Closing shall survive

the Closing and be binding upon the parties hereto, their legal representatives, successors, transferees and assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above personally or by officers and agents duly authorized so to do.

SELLER:

CITY OF TUPELO, MISSISSIPPI

By: \_\_\_\_\_  
Jason Shelton, Mayor

PURCHASER:

NORTHEAST MISSISSIPPI REGIONAL  
WATER SUPPLY DISTRICT

By: \_\_\_\_\_  
Bob Baughn, Chairman, Board of

Commissioners