

TUPELO CITY COUNCIL MEETING AGENDA

TUESDAY, FEBRUARY 3, 2015

6:00 P.M.

INVOCATION: COUNCILMAN LYNN BRYAN
PLEDGE OF ALLEGIANCE: COUNCILMAN TRAVIS BEARD

CALL TO ORDER: PRESIDENT MIKE BRYAN

CONFIRMATION OR AMENDMENT
OF AGENDA AND AGENDA ORDER

4. PROCLAMATIONS, RECOGNITIONS AND REPORTS AGENDA

- JS 4.1 RECOGNITION OF BOY/GIRL SCOUTS
JS 4.2 RECOGNITION OF CITY EMPLOYEES
4.3 PUBLIC RECOGNITIONS
JS 4.4 MAYOR'S REPORT

(CLOSE REGULAR MEETING AND OPEN PUBLIC AGENDA.)

5. PUBLIC AGENDA

(NO ITEMS)

(CLOSE PUBLIC AGENDA AND RETURN TO REGULAR SESSION.)

6. ACTION AGENDA

(NO ITEMS)

7. ROUTINE AGENDA

- 7.1 REVIEW/APPROVE MINUTES OF REGULAR COUNCIL
MEETING OF TUESDAY, JANUARY 20, 2015
7.2 REVIEW/PAY BILLS
AF 7.3 REVIEW/APPROVE APPOINTMENTS
AND REAPPOINTMENTS TO TUPELO PARKS
ADVISORY BOARD

- AF 7.4 REVIEW/REJECT ALL BIDS FOR TUPELO AQUATIC STORAGE BUILDING
- AF 7.5 REVIEW/AMEND ROB LEAKE CITY PARK TENNIS CONTRACT
- SH 7.6 REVIEW/APPROVE EXECUTION OF AGREEMENT BETWEEN CITY AND MRS CONSULTANTS, LLC, FOR PROPOSED SAFE ROUTES TO SCHOOL PROJECT
- SH 7.7 REVIEW/ACCEPT MINUTES OF HISTORIC PRESERVATION COMMISSION MEETING OF DECEMBER 11, 2014
- KH 7.8 REVIEW/APPROVE REQUEST TO WITHDRAW FUNDS FROM THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY PLANNING ACCOUNT (3747) FUNDS
- JT 7.9 REVIEW/APPROVE CHANGE ORDER No. 1 FOR TUPELO SRF FY13 WATER SYSTEM IMPROVEMENTS – AREA 2 SOUTH – DEER PARK
- JT 7.10 REVIEW/RATIFY CONTRACTS FOR:
- (A) TUPELO SRF FY13-SANITARY SEWER SYSTEM IMPROVEMENTS – AREA 1 – BEECH SPRINGS
 - (B) TUPELO SRF FY13-SANITARY SEWER SYSTEM IMPROVEMENTS – AREA 2 NORTH – INDIAN HILLS
- JT 7.11 REVIEW/APPROVE AMENDMENT TO WATER POLLUTION CONTROL REVOLVING LOAN FUND AGREEMENT

8. STUDY AGENDA

9. ADJOURNMENT

7.1
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MUNICIPAL MINUTES, CITY OF TUPELO
STATE OF MISSISSIPPI

JANUARY 20, 2015

Be it remembered that the regular meeting of the Tupelo City Council was held in Council Chambers at the City Hall Building on Tuesday, January 20, 2015, at 6:00 p.m. with the following in attendance: Council Members Markel Whittington, Lynn Bryan, Travis Beard, Nettie Y. Davis, Buddy Palmer, Mike Bryan and Willie Jennings; City Attorney Ben Logan, and Glenda Muse, Clerk of the Council.

The invocation was led by Fire Chief Thomas Walker, followed by the Pledge of Allegiance led by Councilman Buddy Palmer.

IN THE MATTER OF CALLING THE MEETING TO ORDER

President Mike Bryan called the regular City Council meeting to order at 6:00 p.m.

IN THE MATTER OF CONFIRMATION OR
AMENDMENT OF AGENDA AND AGENDA ORDER

Upon a motion by Councilman Palmer, seconded by Councilman Whittington, the council voted unanimously to confirm the agenda and agenda order, amended as follows:

ADD: Executive Session
DELETE: Routine Item #7.10

4. **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 city employees were present for recognition.

IN THE MATTER OF PUBLIC RECOGNITIONS

The following public recognitions were made:

Councilwoman Davis – Expressed appreciation to everyone who assisted in the various events honoring the birthday of Dr. Martin Luther King, Jr. the past weekend. Many people attended the tributes to Dr. King over the four days of events held in the

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city, the largest celebration in the State of Mississippi. Councilwoman Davis, also, mentioned that Ora Baldwin, Retirement Director, would be receiving an award at the upcoming Mississippi Municipal League meeting in Jackson during the last week in January.

Councilman Jennings – Echoed Councilwoman Davis' remarks concerning the Dr. Martin Luther King, Jr. events and especially expressed his appreciation to Councilwoman Davis for her help, specifically her art work at some of the events.

President Mike Bryan recognized Mr. Fred Pitts, former City Councilman, who was present at the meeting.

IN THE MATTER OF PROCLAMATION IN RECOGNITION OF "KIWANIS INTERNATIONAL MONTH"

Mayor Jason Shelton read a proclamation in recognition of "Kiwans International Month" being observed worldwide during January 2015. This organization is one of the largest service organizations in the world with more than 600,000 members in more than 80 nations. Kiwanians are devoted to improving the world, one child and one community at a time, by seeking primacy to the human and spiritual rather than the material values of life. The first Kiwanis club started in Detroit, Michigan, in 1915 and that chapter is celebrating its Centennial Anniversary of its founding this year. The proclamation encourages all citizens of Tupelo, Mississippi, to render support to the members of this organization and to make themselves aware of the services it provides. Mr. Fred Pitts of the local Kiwanis Club accepted the proclamation from Mayor Shelton.

IN THE MATTER OF MAYOR'S REPORT

Following are highlights of Mayor Shelton's report for this meeting:

...Congratulated the Convention & Visitors Bureau and the Elvis Presley Birthplace for hosting a number of successful events around the 80th birthday of Elvis. Each one was a huge success that brought tourists and locals alike out to commemorate the life of Tupelo's Native Son.

...Tupelo once again hosted the largest program in the state to commemorate the life and work of Dr. Martin Luther King, Jr. He congratulated the Committee for the King, chaired by Ms. Zell Long.

...The Mayor and Councilwoman Nettie Davis have been invited by Senator Roger Wicker to attend the 2015 National Prayer Breakfast and Leadership Institute on

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February 5 and 6 in Washington, D.C. They will, also, be attending in support of Tupelo's Lane Chapel Quintet who will be performing at the event.

...An executive session at tonight's City Council meeting will include the discussion of prospective building of affordable housing in the city through a Federal program that was not recently available in the City of Tupelo. Mayor Shelton stated he had listened to a number of presentations from developers asking for the support of his office for their applications to the Mississippi Home Corporation. Mayor Shelton stated he wanted to be absolutely clear that he had given each a great amount of thought. He said he had met with council members as well as members of the administrative staff. He further stated he felt that an agreement could be met on common ground that will be the best for the entire city. Again, he stated he stood by his goal of bringing young, working families back to the city but wanted to be certain that the best approach is taken that has the greatest potential for long-term success.

...The Mississippi Municipal League will hold its Mid-Winter Conference in Jackson, Mississippi, on January 27 – 29. He and several council members plan to attend this event.

...A new pediatric clinic will have its grand opening on Wednesday, January 21. This clinic is being offered by the University of Mississippi Medical Center through a collaboration with North Mississippi Medical Center and will provide care to children in subspecialties that include cardiology and endocrinology.

...Again, Mayor Shelton reminded everyone of his "open door" policy at City Hall and said he would be happy to schedule regular monthly meetings with City Council members and Department Heads.

(President Bryan then closed the regular meeting and opened the Public Agenda.)

5. PUBLIC AGENDA

No items appeared on the Public Agenda.

(President Bryan then closed the Public Agenda and the City Council returned to regular session.)

6. ACTION AGENDA

No items appeared on the Action Agenda.

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7. ROUTINE AGENDA

IN THE MATTER OF REVIEW/APPROVE MINUTES OF REGULAR COUNCIL MEETING

Upon a motion by Councilman L. Bryan and a second by Councilwoman Davis, the council voted unanimously to approve the minutes of the regular City Council meeting of Tuesday, January 6, 2015.

IN THE MATTER OF REVIEW/APPROVE MINUTES OF SPECIAL CALLED CITY COUNCIL MEETING

Upon a motion by Councilman Whittington, seconded by Councilman Palmer, the council voted unanimously to approve the minutes of a special called City Council meeting of Tuesday, January 13, 2015.

IN THE MATTER OF REVIEW/PAY BILLS

Upon a motion by Councilman Jennings and a second by Councilman Whittington, the council voted unanimously to approve payment of the following checks, bills having been reviewed at 4:30 p.m. by Council Members Whittington, Davis, Palmer, M. Bryan and Jennings:

Check Nos. 126942 through 127269 (Pool Cash Fund)
Electronic transfers as shown on the face of the docket.
Invoices as shown on the face of the docket.
Requests made by AFLAC to reimburse employees under Flex-One Plan
as shown on the face of the docket.

IN THE MATTER OF REVIEW/APPROVE APPOINTMENT TO TUPELO PLANNING COMMITTEE

Mayor Shelton had recommended Mr. Ted Moll to serve on the Tupelo Planning Committee to replace Mr. Mitch Ellett whose term expires February 2015. Mr. Moll will serve a four-year term on this committee, ending February 2019. The Mayor requested the City Council to consider this recommendation.

Upon a motion by Councilwoman Davis, seconded by Councilman Jennings, the council voted unanimously to approve the appointment of Mr. Ted Moll to serve a four-year term on the Tupelo Planning Committee. His bio is attached to these minutes as

APPENDIX A.

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IN THE MATTER OF REVIEW/APPROVE FY2015 BUDGET REVISION #3

Councilman Jennings moved to approve FY2015 Budget Revision #3, which includes the acceptance of two donations, i.e., \$1,350 from AT&T for sponsorship of the Mayor's Youth Council Program and a donation from Freds in the amount of \$420 each for the Fire Department and Police Department. The motion was seconded by Councilman Palmer and unanimously approved by a vote of the council. An executed copy is attached to these minutes and incorporated herein as **APPENDIX B.**

IN THE MATTER OF REVIEW/APPROVE RESOLUTION TO APPLY FOR
MDOT'S TRANSPORTATION ALTERNATIVES PROGRAM

By memorandum dated January 20, 2015, Terri Blissard, Grant Administrator, submitted to the Mayor and City Council a resolution authorizing the submittal of an application to the Mississippi Department of Transportation for 2015 Transportation Alternatives Program grant funding. This application involves two types of downtown improvements:

- (1) Completion of the existing sidewalk around the Bancorpsouth Arena
- (2) Intersection improvements on Troy Street between Front and Green Streets, and on Court Street between Front and Green Streets

According to Ms. Blissard, these improvements will improve pedestrian access to the downtown area, enhance pedestrian safety at intersections, and increase handicap accessibility. The estimated cost of the combined projects is \$583,495. Grant funding, if awarded, would pay for 80 percent (\$466,796) of that total, and the City of Tupelo would be responsible for the remaining twenty percent (\$116,699). The Arena would contribute \$12,569 toward the match, and the remaining \$104,130 would come from the City's capital project fund.

Upon a motion by Councilwoman Davis, seconded by Councilman Beard, the council voted unanimously to approve a Resolution of Authorization to Submit Application for 2015 Transportation Alternatives Grant Program to the Mississippi Department of Transportation for funding the above projects. An executed copy of the resolution is attached to these minutes and incorporated herein as **APPENDIX C.**

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IN THE MATTER OF REVIEW/APPROVE 2015 MEMORANDUM OF AGREEMENT WITH MISSISSIPPI MAIN STREET ASSOCIATION

Upon a motion by Councilman Whittington, seconded by Councilman Jennings, the council voted unanimously to approve a 2015 Memorandum of Agreement for Continuation in the Mississippi Main Street Association Main Street Program. The agreement is entered into by the Mississippi Main Street Association and the City of Tupelo and sponsoring organization Downtown Tupelo Main Street Association.

According to memorandum from Director Debbie Brangenberg, this agreement is entered into each year and signed by the Mayor and the President of the Board of Directors for Mississippi Main Street. An executed copy of the same is attached to these minutes and incorporated herein as **APPENDIX D.**

IN THE MATTER OF REVIEW/ACCEPT MINUTES OF TUPELO MAJOR THOROUGHFARE PROGRAM MEETING

Upon a motion by Councilman Beard and a second by Councilman Whittington, the council voted unanimously to accept the minutes of the Tupelo Major Thoroughfare Program meeting of December 8, 2014, a copy being attached hereto as **APPENDIX E.**

IN THE MATTER OF REVIEW/AWARD/REJECT BID FOR TUPELO PUBLIC WORKS DEPARTMENT

Upon a motion by Councilman Whittington and a second by Councilman Palmer, the council voted unanimously to award the following bid for Tupelo Public Works Department, as recommended by Director Chuck Williams:

Bid 1354PW Milling & Overlay

Recommendation: APAC, Mississippi, with an overall bid of \$837,000.00

Only one bidder responded to request for bids. A copy of the bid package is attached to these minutes and made a part hereof as **APPENDIX F.**

IN THE MATTER OF REVIEW/RATIFY CONTRACT FOR TUPELO SRF FY13 SANITARY SEWER SYSTEM IMPROVEMENTS – AREA 3 – AUBURN

Upon a motion by Councilman Whittington and a second by Councilman Palmer, the council voted unanimously to ratify a contract between the City of Tupelo and Enscor, LLC, for the following project, as recommended by Johnny Timmons, Manager, Tupelo Water and Light Department:

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Tupelo SRF FY13 Sanitary Sewer System Improvements – Area 3 – Auburn.

Bid for this project was awarded by the City Council at a regular meeting on December 16, 2014, in the amount of \$1,970,411.00. A copy of the contract is attached to these minutes and made a part hereof as **APPENDIX G.**

8. **STUDY AGENDA**

No items on the Study Agenda for consideration.

9. **EXECUTIVE SESSION**

IN THE MATTER OF EXECUTIVE SESSION

Upon a motion by Councilman Palmer, seconded by Councilwoman Davis, the council voted unanimously of those present to close the regular meeting to determine the need for an executive session. (NOTE: Councilman Whittington left the meeting before the beginning of the executive session.)

Upon a motion by Councilman Jennings, seconded by Councilman Beard, the council voted unanimously of those present to go into executive session to discuss the following matter as stated by the City Attorney:

The Miss. Code, Annotated, Sec. 25-41-7, Subpart (4)(J), states that the transaction of business and discussions or negotiations regarding the location of a business is a proper matter for an executive session. Specifically, there are five (5) businesses proposing the location of Section 42 tax credit housing in certain locations of the City of Tupelo and to look at those specific proposals with any amount of detail would warrant an executive session.

Upon a motion by Councilman Palmer, seconded by Councilman Jennings, the council voted unanimously of those present to come out of executive session with no action to be taken in the regular meeting.

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IN THE MATTER OF ADJOURNMENT

There being no further business to come before the City Council, upon a motion by Councilman L. Bryan, seconded by Councilman Beard, the council voted unanimously of those present to adjourn the regular meeting at 7:40 p.m.

PRESIDENT

ATTEST:

CLERK OF THE COUNCIL

APPROVED:

MAYOR

2, 3

City of Tupelo
Department of Parks and Recreation



MEMO

Alex Farned, M.S.
Director

To: Mayor Jason Shelton and City Council
From: Alex Farned
CC: Don Lewis, Kim Hanna and Glenda Muse
Date: 1/28/2015
Re: Appointments to the Tupelo Park Advisory Board

I would like to request/recommend to the City Council that they approve the following citizens to be appointed to the Tupelo Park Advisory Board:

New members to be appointed:

Tara Cayson – Ward 7 (bio is attached)
Jack Keene – Ward 3 (bio is attached)

Current members up for re-appointment:

Davey Cole – Ward 5
Joe Washington – Ward 4

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Tara Cayson

Biography

Tara Cayson is a graduate of Tupelo High School and Virginia Commonwealth University with a degree in Mass Communications/Public Relations. She has resided in Tupelo for the last 15 years. She is married to Bart Cayson who serves with the National Guard's 834th Aviation Brigade and currently works in operations at the Army Aviation Support Facility. He is an Iraq War Veteran. They are the proud parents of Madeliene who is a kindergartener at Parkway Elementary School.

Mrs. Cayson is a member of the Southern Heights Action Committee as well as the Southern Heights Neighborhood Association, an active participant in Parkway's Parent and Teacher Organization, the Army Family Readiness Organization, and recipient of the Parent of the Year Award 2014 for the Early Childhood Education Center in Tupelo.

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Jack Keene is a current resident of Tupelo in the Lee Acres neighborhood with his wife Vicki. He is a retired Quality Assurance Engineer and previous resident of Dallas, Texas.

Prior to moving to Tupelo, he has served as an adult Boy Scout leader as well as YMCA youth program leader. Most recently, he has been an officer of his Dallas neighborhood association and served on the Bishop Davis re-zoning study. The study promoted major revision to continued revitalization of the century old neighborhood.

As a member the Friends of Oak Cliff Parks he supported and advocated for the historic parks in the north Oak Cliff area of Dallas as well as his Kidd Springs neighborhood. He was instrumental in the establishment of a public art project, a butterfly garden, and promoting the unique history of Kidd Springs Park.

Jack is particularly interested in being a member of the Park And Recreation Advisory Board for Tupelo to support this valuable community asset.

For your reference I provide the following:

<http://www.kiddspringscentral.org/> KSC Neighborhood Association

<https://www.flickr.com/photos/focp/collections> Friends of Oak Cliff Parks photos

Phone: (214)202-0542

e-mail: whatknot@sbcglobal.net

Address: 3404 Kimbrough Avenue

Tupelo, MS 38801-6251

Regards,

Jack

7.4

City of Tupelo
Department of Parks and Recreation



MEMO

Alex Farned, M.S.
Director

To: Mayor Jason Shelton and City Council
From: Alex Farned
CC: Don Lewis, Kim Hanna and Glenda Muse
Date: 1/28/2015
Re: Reject Bids – Tupelo Aquatic Storage Building

I would like to recommend to the City Council that they reject all bids for the Tupelo Aquatic Storage Building. JBHM anticipates the project will re-advertise in the next two to three weeks.

See attachments (1)

JBHM Architects, PA
105 Court Street
Tupelo, Mississippi 38804

662 844 1822
FAX 662 844 0971
EMAIL info@jbhm.com

January 26, 2015

Alex Farned, Director
City of Tupelo Department of Parks & Recreation
655 Rutherford Road
Tupelo, MS 38801

Dear Alex:

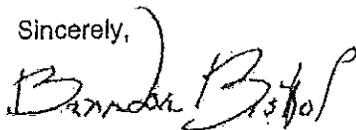
TUPELO AQUATIC CENTER, STORAGE BUILDING, TUPELO, MISSISSIPPI

Attached is the Certified Bid Tabulation for the referenced project.

After reviewing this information, it is our recommendation that the City consider rejecting all bids. I suggest that after additional analysis, proposed changes and reductions be reviewed with the Committee and incorporated into the documents. I anticipate that the project could re-advertise in two to three weeks.

If you have any questions, please feel free to contact me.

Sincerely,



Brandon Bishop, AIA

lh

Attachments: (1)

pc JBHM File #09074.03.01

OFFICES
Bloom, (C.A.)
Columbus
Jackson
Tupelo

PRINCIPALS
JOSEPH S. HENDERSON, AIA
WILLIAM M. LEWIS, AIA
RICHARD H. MCNEEL, AIA



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JBHM Architects, P.A.

105 Court Street

PO Box 1643

Tupelo, MS 38804

662-844-1822

662-844-0971

Project Number 09074.03

Project Name: Tupelo Aquatic Center, Stor:

Opening Date 1/13/2015

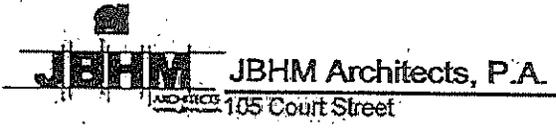
Opening Time 2:00 p.m.

Contractor	Century Construction & Realty	Murphy & Sons, Inc.	Roberts Builder, Inc.	Southland Construction, Inc	Timbo's Construction, Inc.
Certificate of Responsibility	11403-MC	06062-MC	04854-MC	NO BID	NO BID
Surety Company	Western Surety Company	Berkley Insurance Co.	Travelers Casualty and Surety Company of America		
Addendum 1	x	x	x		
Clarification 1	x	x			
No. of Days	60	90	200		
BASE BID	\$ 212,740.00	\$ 191,500.00	\$ 245,800.00	\$ -	\$ -
Unit Price per cubic yard	\$26.00/cu.yd.	\$22.00/cu.yd.	\$20.00/cu.yd.	\$ -	\$ -
Total Bid	\$ 212,740.00	\$ 191,500.00	\$ 245,800.00	\$ -	\$ -

Certified Correct By:

[Handwritten Signature]

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PO Box 1643

Tupelo, MS 38804

662-844-1822

662-844-0971

Project Number 09074.03

Project Name: Tupelo Aquatic Center, Stor

Opening Date 1/13/2015

Opening Time 2:00 p.m.

Contractor	Worsham Brothers, Inc.				
ificate of Responsibility	00034-MC				
Surety Company	Berkley Insurance Co.				
Addendum 1	X				
Clarification 1					
No. of Days	120				
BASE BID	\$161,000.00				
U Price per cubic yard	\$35.00/cu.yd.				
Total Bid	\$161,000.00				

Certified Correct By: Brandon Bishop

7.5

City of Tupelo
Department of Parks and Recreation



MEMO

Alex Farned, M.S.
Director

To: Mayor Jason Shelton and City Council
From: Alex Farned
CC: Don Lewis, Kim Hanna and Glenda Muse
Date: 1/28/2015
Re: Amend Rob Leake City Park Tennis Contract

I would like to request to the City Council that they amend the Rob Leake City Park Tennis contract to keep their monthly fee at \$250.00 instead of \$500.00 for the remainder of the contract. The contract will be renewed in December 2018.

Contract is attached

MANAGEMENT AGREEMENT
ROB LEAKE CITY PARK TENNIS FACILITY

THIS AGREEMENT is made and entered into this the 15th day of October, 2013 between the City of Tupelo, Mississippi, a municipal corporation ("the City") and Baldwin & Associates Tennis, LLC, a corporation organized and existing under the laws of the State of Mississippi with its principal place of business in Lee County, Mississippi ("Baldwin").

WHEREAS, the City is the owner of tennis facilities located at Rob Leake City Park; and

WHEREAS, Baldwin is willing to undertake the obligations herein set forth in order to provide operation, maintenance and management services for the tennis facilities at Rob Leake City Park.

NOW, THEREFORE, in consideration of the promises and of the covenants herein expressed, the City and Baldwin mutually agree as follows:

SECTION I
GENERAL TERMS AND CONDITIONS

1.0 TERMS OF AGREEMENT

1.1 The Agreement shall commence on or about December 1, 2013, and shall end December 31, 2018, unless terminated earlier under provisions set out herein. This Agreement shall be renewed for two (2) consecutive five (5) year terms unless either party gives notice of its intent not to renew 180 days prior to the date of termination.

1.2 All operations of the tennis facilities at Rob Leake City Park, including, but not limited to operation of a pro shop, hours of operation, scheduling of special events, tournaments and advertising related thereto and any fees charged pursuant to this agreement will be subject to the approval of the Tupelo Parks and Recreation Department, but such approval shall not be unreasonably withheld.

2.0 TERMINATION AND CANCELLATION

2.1 The City may terminate this contract at any time by delivery of written notice stating the contract will terminate within ninety (90) days from the date of receipt of said notice.

2.2 Baldwin may terminate this contract at any time by delivery of written notice stating the contract will terminate within ninety (90) days from date of receipt of said notice.

2.3 At termination of the Agreement, Baldwin will remove, without damage to Rob Leake City Park, all of its personal property.

3.0 NEGOTIATIONS

- 3.1 The City reserves the right to negotiate all elements which comprise Baldwin's proposal to ensure that the best possible consideration is afforded to all concerned.

4.0 LEGAL RELATIONSHIPS

- 4.1 It is understood and agreed by the parties that Baldwin is and shall be an independent contractor and shall control all ways, means and details incident to the performance of any of its agents, servants, representatives and employees under this Agreement. Neither Baldwin nor his agents, servants, representatives or employees shall be subject to the personnel policies of the City, nor participate in the benefits which accrue to City employees. Both parties agree to indemnify and hold each other harmless to the extent allowed by law from any and all claims or losses which may result from any negligence or misconduct on the part of either party, or their agents, servants, representatives or employees.

5.0 LAWS, STATUS AND OTHER GOVERNMENTAL PROVISIONS

- 5.1 Baldwin shall at all times observe and comply with all federal and state laws and city ordinances and regulations which affect the operation of Rob Leake City Park and will comply with all orders, laws, ordinances and regulations which may be enacted by any body or organization having jurisdiction over such facility.
- 5.2 Baldwin agrees further to procure all permits and licenses, pay all charges and fees, and give all notices necessary to the lawful operation of Rob Leake City Park.

6.0 EQUAL OPPORTUNITY

- 6.1 Baldwin agrees to comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to that title, to the end that, in accordance with Title VI of the Act and its regulations, no person in the United States shall, on the grounds of race, color, age, sex, disability or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination as a result of any use or activity at the stated premises.
- 6.2 In the event Baldwin does not comply with the non-discrimination clauses of the Agreement, the Agreement may be cancelled, terminated or suspended in whole or in part, and Baldwin may be barred from further contracts with the City of Tupelo, Mississippi.

SECTION II
GENERAL DUTIES

1.0 PRIVILEGES

- 1.1 The City of Tupelo, Mississippi, hereby grants to Baldwin the following exclusive privileges at Rob Leake City Park:
- a. The right to give instructions in tennis, subject to the limitations and conditions hereinafter stated.
 - b. The right to sell tennis equipment and merchandise, string tennis rackets and sell food and beverages, subject to the limitations and conditions hereinafter stated.
 - c. The right to collect fees for all services provided through the facility and to retain such fees, subject to the limitations and conditions hereinafter stated.
 - d. The right to operate tennis tournaments and events, including one (1) annual tournament for the benefit of the Tupelo Tennis Association ("TTA").

2.0 PERSONNEL

- 2.1 Baldwin shall hire, at its own cost and expense, train and supervise a staff and employees to assist it in the performance of this Agreement.
- 2.2 Baldwin shall endeavor to employ only persons who by appearance, manner and character will reflect credit on the City and will be acceptable to the users of Rob Leake City Park.

3.0 INSURANCE COVERAGE

- 3.1 Baldwin shall procure, and thereafter keep in force and effect during the term of this Agreement, liability coverage in the amount of at least \$1,000,000. The City shall be named as an additional insured on said insurance.
- 3.2 Baldwin shall maintain at its own expense workers' compensation and employee's liability insurance required under the laws of the State of Mississippi.
- 3.3 A Certificate of Insurance evidencing such coverages shall be provided by Baldwin prior to assuming operation of the tennis facilities at Rob Leake City Park and each year thereafter.

4.0 TRANSFER OF RIGHTS

- 4.1 Baldwin shall not transfer or assign its rights or obligations herein to any party without a signed written authorization of the City of Tupelo.

5.0 STRUCTURAL CHANGE

5.1 Baldwin shall not make any structural alterations of the premises without written permission from the City of Tupelo, Mississippi through its Director of Parks and Recreations. Such structural changes shall become the property of the City of Tupelo, Mississippi.

6.0 UTILITIES

6.1 The City agrees to pay electrical and water bills for the pro shop, tennis courts and parking lot.

7.0 SALE OF MERCHANDISE

7.1 Baldwin shall be permitted to sell new and used merchandise normally found in a tennis pro shop, including food and beverages.

7.2 Baldwin will be permitted to sell food and beverages at Rob Leake City Park which comply with city, state and federal health laws.

8.0 FEES

8.1 Baldwin shall not charge a usage fee for use of a tennis court other than in conjunction with the seasonal bubble dome.

8.2 Baldwin may charge fees for administration and operation of tennis leagues, tennis tournaments, tennis ladders and similar events.

8.3 As stated hereinabove, all fees will be subject to the approval of the Tupelo Parks and Recreation Department, which approved shall not be unreasonably withheld.

SECTION III
SPECIFIC DUTIES

1.0 SPECIFIC DUTIES

In consideration of the rights and privileges granted herein by the City to Baldwin, Baldwin agrees and binds itself to perform the following duties in a competent manner:

1.1 Baldwin shall organize and manage the tennis concession at Rob Leake City Park.

1.2 Baldwin shall hire at its own cost and expense, train and supervise employees to assist it in the performance of this Agreement.

1.3 Baldwin shall insure that the appearance of Rob Leake City Park is well maintained (buildings and courts).

- 1.4 Baldwin shall provide daily pickup of paper and other light debris on the courts, grounds and pro shop.
- 1.5 Baldwin shall provide custodial services for the building at Rob Leake City Park.
- 1.6 Performance reports are to be provided by Baldwin to the City quarterly and reported to the Director of the City's Parks and Recreation Department. Records to be kept will also be used to measure performance from one year to the next and include:
 - a. Percentage use of the courts by day, month and year for prime and non-prime time, use during lessons, leagues, open play and tournaments.
 - b. Participation in all lessons, tournaments, leagues and other programs of the tennis center.
 - c. Type and participation in all special events and programs other than those listed in a and b of this section.
- 1.7 Baldwin will work with TTA to promote and establish sponsorship rights for both Baldwin and TTA pertinent to events held at the Rob Leake City Park tennis facilities.
- 1.8 Baldwin will work with TTA and area community tennis associations to promote and increase multi-site tournaments among and between various community facilities, to include state and regional events.
- 1.9 Baldwin shall work with the Tupelo High School tennis coaches and athletic director in an effort to advance the sport of tennis in Tupelo. Practice and match schedules for these entities are limited to non-prime time hours when available. Practice and match schedules during prime time hours shall be negotiated between Baldwin and representatives of Tupelo High School. No fee shall be charged for use of the tennis facilities at the Rob Leake City Park for Tupelo High School. Fees can be charged to other schools subject to approval of the Tupelo Parks and Recreation Department, which approved shall not be unreasonably withheld.
- 1.10 Baldwin shall be responsible for having on staff at the Rob Leake City Park a U.S. Tennis Association trained tennis professional or a member of the U.S. Professional Tennis Registry with a minimum of 4.0 USTA rating and at least three (3) years experience in instructing and coordinating programs for adult and junior tennis players.
- 1.11 Baldwin shall promptly inform the director of the Tupelo Parks and Recreation Department of any and all damage or need for repair to Rob Leake City Park and to pay promptly for all damage thereto for which Baldwin is responsible under this Agreement.
- 1.12 Baldwin shall indemnify and hold harmless the City from all expenses, damages, attorneys' fees and other costs arising from any claim or suit, in whole or part, from any alleged failure or negligence of Baldwin in operation of Rob Leake City Park and/or any

tort committed by Baldwin and/or any of Baldwin's representatives, agents, servants or employees, subject to the provisions of Paragraph 4.1 of Section I.

2.0 SUPPLY AND MAINTENANCE OF EQUIPMENT

- 2.1 All equipment owned by Baldwin will be maintained at its own expense.
- 2.2 Baldwin shall notify the director of Tupelo's Parks and Recreation Department when City owned equipment is in need of maintenance. The City shall perform such maintenance at its own cost and expense.
- 2.3 Baldwin agrees to surrender City owned equipment in good condition, normal wear and tear excepted, at the termination of this Agreement or when Baldwin vacates the premises.
- 2.4 Any equipment that becomes a permanent fixture of the tennis facility (such as wind screens, tennis nets and divider nets) becomes the property of the City after they are installed for use.

3.0 MAINTENANCE OF PREMISES

- 3.1 The City shall maintain the court nets, court poles, exterior poles and lights, trees, streets, walks and curbs, the air conditioning and heating systems of the building, all plate glass doors of the building, interior and exterior paint, all lighting and other fixtures, all equipment such as bleachers and water fountains and shall mow the lawns.
- 3.2 All maintenance will be performed pursuant to the park's regular maintenance schedule and at the complete discretion of the City. Failure to maintain shall not expose the City to liability to Baldwin, except as provided for in Paragraph 4.1 of Section I.

SECTION IV
COMPENSATION

Baldwin shall pay the sum of \$250.00 per month for the duration of the contract which is December 31, 2018. The monthly payment to be made to the City under this Agreement for any renewed term shall be subject to negotiation and agreement between Baldwin and the City. All such payments shall be due on the tenth day of each month.

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IN WITNESS WHEREOF, the City of Tupelo, Mississippi and Baldwin & Associates Tennis, LLC. have executed this Agreement on the day and year first above written.

CITY OF TUPELO, MISSISSIPPI

BY: _____
JASON L. SHELTON, MAYOR

ATTEST:

BY: _____
KIM HANNA

BALDWIN & ASSOCIATES TENNIS, LLC

BY: _____

Memorandum

Department of Development Services
City Engineer

Date: January 22, 2015

To: City Council Members

From: John Crawley, PE
City Engineer

Subject: Professional Services Agreement
MRS Consultants, LLC.
Cultural Resources Survey, Safe Routes to School

Council:

Attached is a proposed professional services agreement between the City and MRS Consultants, LLC of Tuscaloosa, AL. The proposed agreement is for the amount of \$7,763.94. The scope of the agreement is for the consultant to conduct a cultural resources survey of the proposed Safe Routes to School Project extending from Hancock Park to Thomas Street Elementary School along Monument and Bryan Streets. This study is being required of us by MDOT as a condition of their grant to the city for this project in the amount of \$206,000. I recommend the council approve and give the mayor authority to execute this agreement so that the consultant may begin work as soon as possible. If you have questions, please do not hesitate to seek me out.

John



MRS Consultants, LLC.

Cultural Resource Specialists · Phase I Assessments · Section 106 Compliance

PERSONAL SERVICES AGREEMENT

This Agreement is made and entered into this the 14th day of January 2015 by MRS Consultants, L.L.C. and The City of Tupelo, Mississippi, hereafter called "client" for the purposes of providing cultural resource personal services. Client hereby employs MRS Consultants, L.L.C. to provide cultural resource personal services and to perform other related personal services which MRS Consultants, L.L.C. in its professional judgment believes is reasonable and necessary. In consideration of the services rendered client agrees to pay MRS Consultants, L.L.C. as follows.

Client agrees to pay MRS Consultants, L.L.C. a total of \$ \$7,763.94 to conduct a Phase I archaeological and historic standing structures survey for a proposed sidewalk project in Tupelo, Mississippi, as described in the MRS August 21st, 2014 proposal. MRS Consultants, L.L.C. will maintain sufficient insurances throughout the project and will provide client Certificates of Insurance.

Client understands and agrees that MRS Consultants, L.L.C. may hire other professionals or other persons, which MRS Consultants deems necessary for services to be rendered. Client authorizes MRS Consultants to advance costs and expenses in connection with its work. Client's payment for each invoice must be made to MRS Consultants, L.L.C. in full within 45 days of invoice dates. Client further agrees that in the event that MRS Consultants, L.L.C. hires an attorney to collect any past due amounts, client will pay reasonable attorneys fees, court costs, and all costs of collections incurred by MRS Consultants, L.L.C. for collection of past due amounts.

Client agrees that the term of this Agreement commences on the date of this contract and concludes on the completion of requested services. Client further understands and agrees this Agreement constitutes the entire agreement between the parties and there are no other agreements, either oral or in writing, between the parties. Any modification to this Agreement shall be in writing and signed by both parties. If any action at law or in equity is brought to enforce or interpret any provisions in this Agreement, the prevailing party shall be entitled to reasonable attorneys fees, costs and expenses incurred, in addition to any other relief that may be available. In the event that any one or more of the provisions contained in this Agreement shall be held to be invalid or illegal or unenforceable in any respect, this shall not affect any of the other provisions of this Agreement and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision was not contained herein.

Client understands and agrees that either party may terminate this Agreement by delivering a notice of termination of this Agreement in writing to the other party. By signing below, the client agrees to the terms of this Agreement. In the event Client is an agency, entity, or company other than a proprietorship, then any individual signing on behalf of client represents and warrants that express authority has been given to bind Client to this Agreement.

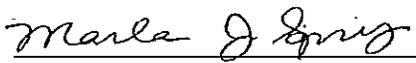
Client:

City of Tupelo Mississippi
P.O. Box 1485
Tupelo, MS 38802-1485

By: _____

Title: _____

Date: _____


Member- MRS Consultants, L.L.C.

#17.7



City of Tupelo

Jason L. Shelton
Mayor

Department of Development Services
Shane Hooper, Director

MEMO

COUNCIL

Markel Whittington
Ward One

Lynn Bryan
Ward Two

James (Jim) Newell
Ward Three

Nettie Y. Davis
Ward Four

Buddy Palmer
Ward Five

Mike Bryan
Ward Six

Willie Jennings
Ward Seven

TO: Mayor, City Council members

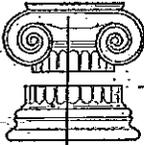
FROM: Pat Falkner

DATE: January 27, 2015

RE: Routine agenda item: Minutes of December 11, 2014
Historic Preservation Commission regular meeting

Attached are the minutes of the Historic Preservation Commission meetings of December 11, 2014.

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TUPELO HISTORIC PRESERVATION COMMISSION
TUPELO, MS

December 11, 2014

BOARD MEMBERS

MARY CONNOR ADCOCK
DOYCE DEAS, CHAIR
PHYLLIS GREGORY
AMY REPULT
PHYLLIS SIMS, SECRETARY
WILLIAM SMITH, VICE CHAIR
KATIE WRIGHT
KATIE WRIGHT

Members in attendance: Mrs. Doyce Deas, Mrs. Mary Connor Victoria, Ms. Phyllis Sims, Mrs. Katie Wright, new member, Councilman Buddy Palmer, Mr. Bill Smith, Mr. Pat Falkner, and Mr. Rufus Van Horn, visitor from Mill Village Neighborhood Association.

No meeting was held in November.

EX OFFICIO MEMBERS

MARY CARNATHAN
PAT FALKNER
JILL MARTIN
BUDDY PALMER
REN C. KEENEY

The Commission was led by Mr. Pat Falkner on a very enlightening driving tour of historic Tupelo Mill Village by Mr. Pat Falkner, of the Tupelo Planning Department.

On the tour Mr. Falkner provided information about the general make-up of the Community ranging from neighborhood improvement needs, from vacant factories, neglected/unoccupied homes, and home values. The neighborhood now has apparently 60% rental property and few to no children. Mr. Falkner noted that the old Cotton Gin was presently being restored.

Upon our return Mrs. Deas thanked Mr. Falkner for the very informative tour; welcomed Mr. Van Horn a Mill Village resident and Mrs. Katie Wright, a new Commission member.

Mrs. Deas informed the Commission that work on the Spain House would be starting soon and this is a rather long drawn out process, but it will be accomplished.

The Commission brainstormed about ways to help promote the importance of preservation in the city and neighborhood. Some ideas were: developing a pamphlet/brochure with restoration information such as tax credits, resourceful projects, possible Bread & Breakfast, community gardens, etc. Various suggestions were welcomed from Mrs. Katie Wright, new member.

Our next meeting will be in January, 2015 with Mrs. Deas requested Phyllis Sims to Chair the nomination committee and work with her for recommendations of officers for 2015.

With no additional business it was motioned by Bill Smith and seconded by Pat Falkner to adjourn. The motion was unanimously approved by the Commission to adjourn.

CONTACT:

DOYCE DEAS, CHAIR
Highland Cr.
Tupelo, MS 38804
401-7891
as123@aol.com
P.O. Box 3115
Tupelo, MS 38803
844-7327

#1.8

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MEMO

To: Mayor & City Council
From: Kim Hanna
Date: February 3, 2015
Re: REQUEST OF FUNDS #6 (DPS FUND 3747)

I am requesting your approval for the request of \$90,000 from the Mississippi Department of Public Safety for the purchase of digital video equipment for the police vehicles. Your approval will secure this as a source of revenue for the purchase of the video equipment needed.

These funds represent court assessments sent to the State of Mississippi each month. The money that is sent by the City of Tupelo is held by the State for purchases of wireless communication equipment by the Tupelo Police Department and can only be released with your approval.

I appreciate your consideration of this request.

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City Of Tupelo Requisition Form
Intergovernmental Public Safety Wireless
Radio Communication and Related Computer
Equipment Program Funds
Payment Request No. 6

Department of Public Safety
Office of the Comptroller
P.O. Box 958
Jackson, MS 39205

The undersigned, acting for and on behalf of the City Of Tupelo, Mississippi hereby request payment be made from amounts held on deposit in the Department of Public Safety clearing funds for and on behalf of the City Of Tupelo pursuant to Chapter 569, House Bill Number 469, Mississippi Legislature, 2001 Regular Session effective July 1, 2001.

Amount of Payment \$ 90,000.00

Purpose of Payment: To purchase digital in-car video systems for each of our patrol cars.

(These funds will be used in accordance with House Bill Number 469)

Date: February 3, 2015

Signature: _____

Title: Mayor, City of Tupelo



City of Tupelo

Jason L. Shelton
Mayor

Water and Light
Johnny Timmons, Director

COUNCIL

Markel Whittington
Ward One

Lynn Bryan
Ward Two

Travis Beard
Ward Three

Nettie Y. Davis
Ward Four

Buddy Palmer
Ward Five

Mike Bryan
Ward Six

Willie Jennings
Ward Seven

January 27, 2015

Mayor Jason Shelton and Council of the City of Tupelo
City of Tupelo
Tupelo, Mississippi 38804

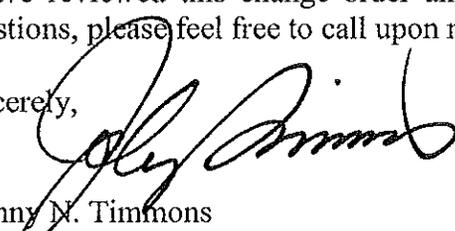
Dear Mayor Shelton and Council Members:

The following change order is submitted for approval at your regular meeting on Tuesday, February 3, 2015:

Tupelo SRF FY13 Water System Improvements – Area 2 South – Deer Park
– Change Order No. 1 – This change order results in a contract change amount of \$1,930.20 due to an addition of 30 feet of 10” HDPE DR11 water pipe. This pipe is needed for a directional bore which was originally set to be an open cut. This change order brings the construction amount to \$1,903,403.40.

I have reviewed this change order and find it to be correct. If you have any questions, please feel free to call upon me.

Sincerely,


Johnny N. Timmons
Manager

Attachments

OWNER: City of Tupelo
 CONTRACTOR: Paul Smithey Construction Company, Inc.
 LOAN NUMBER: DWI L-410015-03-0
 PROJECT NAME: **Tupelo SRF FY13, Water System Improvements Area 2 South - Deer Park**
 CHANGE ORDER NO. 1 CONTRACT NUMBER: 3-08823

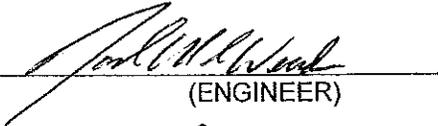
REASON FOR CHANGE: See Attached
 YOU ARE HEREBY REQUESTED TO COMPLY WITH THE FOLLOWING CHANGES FROM THE CONTRACT PLANS,
 SPECIFICATIONS AND CONTRACT DOCUMENTS: (USE ADDITIONAL SHEETS IF REQUIRED)

ITEM NUMBER	DESCRIPTION OF CHANGES(S)	ORIGINAL COST		REVISED CONTRACT COST	
		Total	Eligible	Total	Eligible
Add 41	10" HDPE DR11 DIPS Water Pipe Line PR200 (includes bore)			\$1,930.20	\$1,930.20

TOTAL CONTRACT CHANGE _____

ORIGINAL CONTRACT AMOUNT:	\$1,901,473.20	
CURRENT CONTRACT AMOUNT:	\$1,901,473.20	
THIS CONTRACT CHANGE:	\$ 1,930.20	
REVISED CONTRACT AMOUNT:	\$1,903,403.40	
CURRENT CONTRACT COMPLETION DATE:	June 12, 2015	
TIME EXTENSION REQUIRED BY CHANGE:	0	
REVISED CONTRACT COMPLETION DATE:	June 12, 2015	

THIS DOCUMENT SHALL BECOME AN AMENDMENT TO THE CONTRACT AND ALL PROVISIONS OF THE CONTRACT SHALL APPLY.

REVIEWED BY:  (ENGINEER) 1/16/15 (DATE)

ACCEPTED BY:  (CONTRACTOR) 1/23/15 (DATE)

APPROVED BY: _____ (OWNER) _____ (DATE)

APPROVED BY: _____ (MSDH REPRESENTATIVE) _____ (APPROVAL LETTER DATE)

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CHANGE ORDER #1

Add Bid Item #41 – 10” HDPE DR11 DIPS Water Pipe Line PR200 (includes bore)

- Needed to cross Deer Park Road just east of Intersection of Stone Creek Blvd. Traffic cannot be diverted to allow for open cut. The location of the proposed bore is shown on Plan Sheet #3, which is attached.



City of Tupelo

Jason L. Shelton
Mayor

Water and Light
Johnny Timmons, Director

COUNCIL

Markel Whittington
Ward One

Lynn Bryan
Ward Two

Travis Beard
Ward Three

Nettie Y. Davis
Ward Four

Buddy Palmer
Ward Five

Mike Bryan
Ward Six

Willie Jennings
Ward Seven

January 27, 2015

Mayor Jason Shelton and Council of the City of Tupelo
City of Tupelo
Tupelo, Mississippi 38801

Dear Mayor Shelton and Council Members:

I recommend the following contracts for award at your regular meeting on Tuesday, February 3rd, 2015:

Tupelo SRF FY13 Sanitary Sewer System Improvements – Area 1 – Beech Springs – The bid for this project was awarded through your meeting on January 6, 2015 to Prairie Construction, LLC in the amount of \$1,391,745.49.

Tupelo SRF FY13 Sanitary Sewer System Improvements – Area 2 North – Indian Hills – The bid for this project was awarded through your meeting on January 6, 2015 to Buz Plaxico Dozer Service, Inc. in the amount of \$574,571.57.

If you have any questions, please call upon me.

Yours very truly,

Johnny N. Timmons
Manager

Attachments

CONTRACT AGREEMENT

This Agreement, made this the _____ day of _____, 2015, by and between PRAIRIE Construction, LLC, hereinafter called the Contractor, and the City of Tupelo, Mississippi, hereinafter called the Owner.

WITNESSETH:

That the Contractor and Owner for the consideration hereinafter named agree as follows:

Article 1. SCOPE OF WORK

The Contractor shall furnish all equipment, materials, labor, and perform fully the construction of Tupelo SRF FY13 Sanitary Sewer System Improvements Area 1 - Beech Springs, SRF-C280885-05-0 for the Owner, all in the manner provided for in the Specifications and Contract Documents, dated April 2014 and Construction Plans entitled Tupelo SRF FY 13 Sanitary Sewer System Improvements Area 1 - Beech Springs, SRF-C280885-05-0, Sheets 1 through 20, dated 2014, which are fully incorporated herein as if hereto attached or herein repeated. All defined terms shall have the same meaning herein as set forth in Article 1 of the General Conditions unless indicated herein to the contrary.

Article 2. TIME OF COMPLETION

The Contractor shall commence work at the time stated in the Notice to Proceed issued by the Owner and shall complete the work within 210 consecutive calendar days from and including the starting date stated in said notice unless this period is extended by Modification by the Owner and the Engineers, due to delays beyond the control of the Contractor and/or extensions to the Contract.

It is mutually agreed between the parties hereto that time is the essence of this contract; and in the event construction of the work is not completed within the time specified herein, it is agreed that from the compensation otherwise to be paid to the Contractor, the Owner may retain the sum of \$ 500.00 per day for each calendar day thereafter that the work remains uncompleted, which sum shall represent the actual damages which the Owner will have sustained per day by failure of the Contractor to complete the work within the time stipulated; and this sum is not a penalty, being the stipulated damage the Owner will have sustained in event of such default by the Contractor.

Article 3. THE CONTRACT SUM

The Owner shall pay the Contractor for the complete performance of this Contract a total amount of One million three hundred ninety one thousand seven hundred forty five and .49/100 Dollars (\$ 1,391,745.49) being the amount of the accepted proposal for Tupelo SRF FY 13 Sanitary Sewer System Improvements Area 1 - Beech Springs, SRF-C280885-05-0 subject to proper additions and/or deductions at the unit price as stated in the proposal or otherwise provided for by Modification, the corrected amount referred to being full compensation for furnishing, installing and connecting all of the items of materials, labor and equipment necessary for the Work and the completion of the Project in full accordance with the Plans and Specifications and Contract Documents.

Payment therefore to be made in accordance with applicable specifications, provided: That the Engineers have certified to the Owner that all of the work has been completed and that payment is due therefore and provided further that the Contractor has submitted evidence satisfactory to the Owner and all payrolls, materials bills and other indebtedness, labor and materials liens connected with the work have been paid.

Article 4. ADDITIONAL SURETY

It is further mutually agreed between the parties hereto that if, at any time after the execution of this agreement and the Surety Bond hereto attached for its faithful performance, the Owner shall deem the surety or sureties upon such bond to be unsatisfactory, or if for any reason such bond, in the opinion of the Owner, ceases to be adequate to cover the performance of the work, the Contractor, at his expense, within five days after receipt of the notice from the Owner to do so, shall furnish additional bond or bonds in such form and amount, not in excess of the original amount, and with surety or sureties as shall be satisfactory to the Owner.

Article 5. ROYALTIES AND PATENTS

It is further mutually agreed between the parties hereto that the contract price of the Contractor shall include payment by the Contractor of all royalties and license fees, if any; and the Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof.

Article 6. DAMAGE TO PERSONS AND PROPERTY

It is further mutually agreed that the Contractor shall indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against any and all liability of every nature, kind and character which may be incurred in connection with the performance or fulfillment of the Work or such other liability resulting from negligence or otherwise on the part of the Contractor, including but not limited to injury to persons and damage to properties, and the structures and improvements thereon, adjacent to the Project, and shall indemnify and hold harmless the Owner from all costs and damages, including attorney's fees, which may be suffered by reason of the failure to fully and completely perform under the Contract Documents and shall fully reimburse Owner for all expenditures of every kind, character and description, including attorney's fees, which may be incurred by Owner in making good any and every default which may exist on the part of the Contractor in connection with its performance under the Contract Documents.

Article 7. GENERAL CONDITIONS

The Contractor has read, understands and accepts the General Conditions and Special Conditions as set forth in the Specifications and Contract Documents.

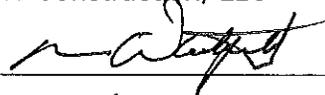
In witness whereof, the parties hereto have executed this Agreement on the day and year first mentioned in 4 counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

OWNER: City of Tupelo, MS

By _____

Title Mayor

CONTRACTOR:
Prairie Construction, LLC

By 

Title Vice President, Secretary

CONTRACT AGREEMENT

This Agreement, made this the ____ day of _____, 2015, by and between _____
Buz Plaxico Dozer Service, Inc., hereinafter
called the Contractor, and the City of Tupelo, Mississippi, hereinafter called the Owner.

WITNESSETH:

That the Contractor and Owner for the consideration hereinafter named agree as follows:

Article 1. SCOPE OF WORK

The Contractor shall furnish all equipment, materials, labor, and perform fully the construction of Tupelo SRF FY13 Sanitary Sewer System Improvements Area 2 North - Indian Hills, SRF-C280885-05-0, for the Owner, all in the manner provided for in the Specifications and Contract Documents, dated November 2014 and Construction Plans entitled Tupelo SRF FY13 Sanitary Sewer System Improvements Area 2 North - Indian Hills, SRF-C280885-05-0 Sheets 1 through 11, dated 2014, which are fully incorporated herein as if hereto attached or herein repeated. All defined terms shall have the same meaning herein as set forth in Article 1 of the General Conditions unless indicated herein to the contrary.

Article 2. TIME OF COMPLETION

The Contractor shall commence work at the time stated in the Notice to Proceed issued by the Owner and shall complete the work within 180 consecutive calendar days from and including the starting date stated in said notice unless this period is extended by Modification by the Owner and the Engineers, due to delays beyond the control of the Contractor and/or extensions to the Contract.

It is mutually agreed between the parties hereto that time is the essence of this contract; and in the event construction of the work is not completed within the time specified herein, it is agreed that from the compensation otherwise to be paid to the Contractor, the Owner may retain the sum of \$ 500.00 per day for each calendar day thereafter that the work remains uncompleted, which sum shall represent the actual damages which the Owner will have sustained per day by failure of the Contractor to complete the work within the time stipulated; and this sum is not a penalty, being the stipulated damage the Owner will have sustained in event of such default by the Contractor.

Article 3. THE CONTRACT SUM

The Owner shall pay the Contractor for the complete performance of this Contract a total amount of Five hundred seventy four thousand five hundred seventy one and .57/100 Dollars (\$ 574,571.57) being the amount of the accepted proposal for Tupelo SRF FY13 Sanitary Sewer System Improvements Area 2 North - Indian Hills, SRF-C280885-05-0, subject to proper additions and/or deductions at the unit price as stated in the proposal or otherwise provided for by Modification, the corrected amount referred to being full compensation for furnishing, installing and connecting all of the items of materials, labor and equipment necessary for the Work and the completion of the Project in full accordance with the Plans and Specifications and Contract Documents.

Payment therefore to be made in accordance with applicable specifications, provided: That the Engineers have certified to the Owner that all of the work has been completed and that payment is due therefore and provided further that the Contractor has submitted evidence satisfactory to the Owner and all payrolls, materials bills and other indebtedness, labor and materials liens connected with the work have been paid.

Article 4. ADDITIONAL SURETY

It is further mutually agreed between the parties hereto that if, at any time after the execution of this agreement and the Surety Bond hereto attached for its faithful performance, the Owner shall deem the surety or sureties upon such bond to be unsatisfactory, or if for any reason such bond, in the opinion of the Owner, ceases to be adequate to cover the performance of the work, the Contractor, at his expense, within five days after receipt of the notice from the Owner to do so, shall furnish additional bond or bonds in such form and amount, not in excess of the original amount, and with surety or sureties as shall be satisfactory to the Owner.

Article 5. ROYALTIES AND PATENTS

It is further mutually agreed between the parties hereto that the contract price of the Contractor shall include payment by the Contractor of all royalties and license fees, if any; and the Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof.

Article 6. DAMAGE TO PERSONS AND PROPERTY

It is further mutually agreed that the Contractor shall indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against any and all liability of every

nature, kind and character which may be incurred in connection with the performance or fulfillment of the Work or such other liability resulting from negligence or otherwise on the part of the Contractor, including but not limited to injury to persons and damage to properties, and the structures and improvements thereon, adjacent to the Project, and shall indemnify and hold harmless the Owner from all costs and damages, including attorney's fees, which may be suffered by reason of the failure to fully and completely perform under the Contract Documents and shall fully reimburse Owner for all expenditures of every kind, character and description, including attorney's fees, which may be incurred by Owner in making good any and every default which may exist on the part of the Contractor in connection with its performance under the Contract Documents.

Article 7. GENERAL CONDITIONS

The Contractor has read, understands and accepts the General Conditions and Special Conditions as set forth in the Specifications and Contract Documents.

In witness whereof, the parties hereto have executed this Agreement on the day and year first mentioned in 4 counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

OWNER: City of Tupelo, MS

CONTRACTOR:

Buz Plaxico Dozer Service, Inc.

By _____

By Mike D. [Signature]

Title Mayor

Title President



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City of Tupelo

Jason L. Shelton
Mayor

Water and Light
Johnny Timmons, Director

January 28, 2015

COUNCIL

Markel Whittington
Ward One

Lynn Bryan
Ward Two

Travis Beard
Ward Three

Nettie Y. Davis
Ward Four

Buddy Palmer
Ward Five

Mike Bryan
Ward Six

Willie Jennings
Ward Seven

Mayor Jason Shelton and Council of the City of Tupelo
City of Tupelo
Tupelo, Mississippi 38801

Dear Mayor Shelton and Council Members:

I respectfully request your approval of the attached loan amendment:

Wastewater Treatment Facilities Improvements – Chemical System Additions –
SRF loan in the amount of \$3,495,000 (Loan # SRF-C280885-04-1)

This amendment reflects as-bid construction cost, final amounts for professional services contracts, and a construction contingency. This amendment results in an increase of \$760,000 to the original loan amount.

If you have any questions or need further information, please let me know.

Yours very truly,



Johnny N. Timmons
Manager

Attachment

LOAN NUMBER: SRF-C280885-04-1

**AMENDED
WATER POLLUTION CONTROL
REVOLVING LOAN FUND LOAN AGREEMENT**

THIS AGREEMENT is executed by the STATE OF MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY (Commission) acting through the DEPARTMENT OF ENVIRONMENTAL QUALITY (Department) and the CITY OF TUPELO, existing as a local government or agency (Loan Recipient) under the laws of the State of Mississippi.

WITNESSETH:

WHEREAS, pursuant to Sections 49-17-81, et seq. Mississippi Code Annotated (1972), the Department is authorized to make loans to certain local government agencies to finance the construction of eligible pollution control projects; and

WHEREAS, the Loan Recipient has submitted a facilities plan and has made application for the financing of the Project, and the Department has determined that, based upon these submittals, such Project appears to meet all requirements for a loan;

NOW, THEREFORE, in consideration of the Department loaning money to the Loan Recipient, in the principal amount and the covenants hereinafter set forth, it is agreed as follows:

ARTICLE I - DEFINITIONS

1.01. WORDS AND TERMS. Words and terms used herein shall have the meanings set forth in the Water Pollution Control Revolving Loan Fund Regulations and as set forth below:

- (1) "Agreement" or "Loan Agreement" shall mean this Agreement, as amended.
- (2) "Loan" shall mean the amount of money to be loaned pursuant to this Agreement.
- (3) "Loan Repayment" shall mean the monthly payment due from the Loan Recipient to the Department, comprised of principal and interest.

(4) "Project" shall mean facilities funded under this Agreement as described in Article IX.

(5) "Revenues" shall mean all income or earnings received by the Loan Recipient from the ownership or operation of its facilities, including investment income, all as calculated in accordance with generally accepted accounting principles as prescribed by the State Auditor. Revenues shall not include proceeds from the sale or other disposition of any part of the facilities, condemnation awards or proceeds of insurance, except use and occupancy or business interruption insurance, received with respect to the facilities.

(6) "WPCRLF Regulations" shall mean the Water Pollution Control Revolving Loan Fund Program Regulations effective for projects funded on and after December 19, 2004.

1.02. CORRELATIVE WORDS. Words of the masculine gender shall be understood to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural and the word "person" shall include corporations and associations, including public bodies, as well as natural persons.

ARTICLE II - WARRANTIES, REPRESENTATIONS AND COVENANTS

2.01. WARRANTIES, REPRESENTATIONS AND COVENANTS. The Loan Recipient warrants, represents and covenants that:

(1) The Loan Recipient has full power and authority to enter into this Agreement and to comply with the provisions hereof.

(2) The Loan Recipient is not subject to bankruptcy, insolvency, or reorganization and is not in default of, or otherwise subject to, any agreement or any law, administrative regulation, judgment, decree, note, resolution, charter or ordinance which would restrain or enjoin it from entering into, or complying with this Agreement.

(3) There is no material action, suit, proceeding, inquiry or investigation, at law or in equity, before any court or public body pending which seeks to restrain or enjoin the Loan Recipient from entering into or complying with this Agreement.

(4) The Loan Recipient knows of no reason why any future required permits, real property interests, or approvals for the Project cannot be obtained within the time frame required by this loan agreement.

(5) The Loan Recipient shall undertake the Project on its own responsibility. The Loan Recipient is responsible for the proper planning, design, construction, operation, maintenance, replacement, performance, and fiscal integrity of the project. The Department's approval of any document does not relieve the Loan Recipient or any others of any liabilities or responsibilities. Such approval of any document is for loan eligibility

or allowability purposes only and does not establish or convey any such liability or responsibility.

(6) The Loan Recipient has, or will have prior to advertisement of the project for bids, a procurement protest procedure in accordance with Appendix I of the WPCRLF Regulations for dealing with third parties and shall independently resolve any bid protest or other dispute between the Loan Recipient and a third party.

(7) The financial information delivered by the Loan Recipient to the Department is current and correct. The Loan Recipient shall provide the Department with additional financial information via the audits required by Section 49-17-87 of the Mississippi Code and other notification of changing conditions relating to the Loan Recipient's ability to repay this Loan.

(8) The Loan Recipient agrees to design, acquire land and easements, and construct the Project in accordance with the Project schedule, delays incident to strikes, riots or acts of God beyond the reasonable control of the Loan Recipient excepted.

(9) The Loan Recipient covenants that this Agreement is entered into for the purpose of borrowing moneys to design, acquire land and easements, construct, and place in operation the Project which will in all events serve a public purpose. The Loan Recipient covenants that it will, under all conditions, complete and place the Project in operation to the end that the public need will be met.

(10) The Loan Recipient must accept flows from any community or area designated in the approved facilities plan to be served by the system funded by the WPCRLF loan, generally without regard to any condition other than user charges developed on an equitable cost basis and the terms of the interlocal agreements required by the WPCRLF Regulations.

2.02. COMPLIANCE WITH STATE STATUTES AND REGULATIONS. The Loan Recipient agrees to comply with all applicable state statutes and regulations including, but not limited to, the WPCRLF Regulations. The WPCRLF Regulations are attached hereto and made a part hereof for all purposes.

2.03. PROHIBITION AGAINST ENCUMBRANCES. The Loan Recipient is prohibited from selling, leasing or disposing of any part of the Project which would materially reduce its operational integrity unless the written consent of the Department is first secured. The Loan Recipient is also prohibited from selling, leasing or transferring ownership of all or a substantial portion of the Project to another entity unless the written consent of the Department is first secured.

2.04. LOCAL FUNDS. In addition to the proceeds of this Loan, the Loan Recipient covenants that it has obtained, or will obtain sufficient moneys from other sources to complete and place the Project in operation. Should the Department not award additional loan funds, this

shall not constitute a waiver of the Loan Recipient's covenants to complete and place the Project in operation.

ARTICLE III - OPERATION AND FISCAL INTEGRITY OF THE SYSTEM

3.01. OPERATION AND MAINTENANCE OF THE PROJECT. The Loan Recipient shall operate and maintain the Project in a proper, sound and economical manner and shall promptly make all necessary repairs and replacements.

3.02. ADDITIONS AND MODIFICATIONS. The Loan Recipient may make any additions, modifications or improvements to the Project which it deems desirable and which do not materially reduce the operational integrity of any part of the Project. All such additions, modifications, or improvements must be approved by the Department and, if approved, shall become part of the Project.

3.03. COLLECTION OF REVENUES. The Loan Recipient shall use its best efforts to collect all rates, fees and other charges due to it. The Loan Recipient shall establish liens on premises served by the Project for the amount of all delinquent rates, fees and other charges where such action is permitted by law. The Loan Recipient shall, to the full extent permitted by law, cause to discontinue the services of the Project and use its best efforts to shut off water service furnished to persons who are delinquent beyond customary grace periods in the payment of Project rates, fees and other charges. The Loan Recipient shall comply and require compliance with its approved User Charge System during the life of the Project.

3.04. LOAN RECIPIENT ACCOUNTING AND AUDITING PROCEDURES. The Loan Recipient shall maintain project accounts in accordance with generally accepted accounting principles as prescribed by the State Auditor.

ARTICLE IV - DEFAULTS AND REMEDIES

4.01. EVENTS OF DEFAULT. Each of the following events is hereby declared an event of default:

(1) Failure of the Loan Recipient to make any loan repayment when it is due and such failure shall continue for a period of thirty (30) days.

(2) Failure to comply with the provisions of this Agreement or in the performance or observance of any of the covenants or actions required by this Agreement.

(3) Any warranty, representation or other statement by, or on behalf of, the Loan Recipient contained in this Agreement or in any information furnished in compliance with, or in reference to, this Agreement, which is false or misleading in any material respect.

(4) An order or decree entered, with the acquiescence of the Loan Recipient, appointing a receiver of any part of the Project or Revenues thereof; or if such order or decree, having been entered without the consent or acquiescence of the Loan Recipient,

shall not be vacated or discharged or stayed on appeal within sixty (60) days after the entry thereof.

(5) Any proceeding instituted, with the acquiescence of the Loan Recipient, for the purpose of effecting a compromise between the Loan Recipient and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from Revenues of the Project.

(6) Any bankruptcy, insolvency or other similar proceeding instituted by, or against, the Loan Recipient under federal or state bankruptcy or insolvency laws now or hereafter in effect and, if instituted against the Loan Recipient, is not dismissed within sixty (60) days after filing.

(7) Failure to give timely notice of default as required below when such failure shall continue for a period of thirty (30) days.

4.02. NOTICE OF DEFAULT. The Loan Recipient shall give the Department immediate written notice of an event of default.

4.03. REMEDIES. Upon any event of default and subject to the rights of bondholders with prior liens, the Department may enforce its rights by utilizing one or more of the following remedies:

(1) By mandamus or other proceeding at law or in equity, cause to establish and collect fees and charges for use of the Project and to require the Loan Recipient to fulfill this Agreement.

(2) By action or suit in equity, require the Loan Recipient to account for all moneys received from the Department or from the ownership of the Project and to account for the receipt, use, application or disposition of the Revenues.

(3) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Department.

(4) By applying to a court of competent jurisdiction, cause to appoint a receiver to manage the Project, establish and collect fees and charges, and apply the Revenues to the reduction of the obligations under this Agreement.

(5) By certifying to the Commissioner of the Mississippi Department of Revenue delinquency on loan repayments, the Department may intercept the delinquent amount, plus ten (10) percent annual penalty interest on the amount due to the Department, from any unobligated funds due to the Loan Recipient under any revenue or tax sharing fund established by the State. Penalty interest shall accrue on any amount due and payable beginning on the thirtieth (30th) day following the date upon which payment is due. The penalty interest shall be compounded monthly.

(6) By notifying financial market credit rating agencies.

(7) By administratively charging or suing for payment of amounts due, or becoming due, plus ten (10) percent annual penalty interest which shall accrue on any amount due and payable beginning on the thirtieth (30th) day after such notification by the Department, together with all costs of collection, including attorneys' fees. The penalty interest shall be compounded monthly.

(8) By accelerating the repayment schedule or increasing the interest rate in accordance with the WPCRLF Regulations.

(9) By withholding payments to the Loan Recipient.

(10) By terminating the Loan Agreement, after providing thirty (30) days written notice of such intent to terminate the Loan Agreement. Such termination will not affect the duty of the Loan Recipient to repay loan funds paid thus far.

4.04. DELAY AND WAIVER. No delay or omission to exercise any right or power accruing upon event of default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient. No waiver or any default under this Agreement shall extend to or affect any subsequent event of default, whether of the same or different provision of this Agreement, or shall impair consequent rights or remedies.

ARTICLE V - GENERAL PROVISIONS

5.01. DISCHARGE OF OBLIGATIONS. All loan repayments required to be made under this Agreement shall be cumulative. Any deficiencies in any month shall be added to the repayment due in the succeeding month and all months thereafter until fully repaid. Repayments shall continue to be secured by this Agreement until all of the repayments required shall be fully repaid to the State Water Pollution Control Revolving Fund. If, at any time, the Loan Recipient shall have repaid the Loan and interest required, the pledge of, and lien on, the Revenues to the State Water Pollution Control Revolving Fund shall be no longer in effect.

5.02. PROJECT RECORD AND STATEMENT. Books, records, reports, design documents, contract documents, and papers related to the Project shall be available to the authorized representatives of the Department and the U.S. Environmental Protection Agency for inspection at any reasonable time after the Loan Recipient has executed a loan agreement and before one year has elapsed after the Loan Recipient repays the loan in full. If litigation, a claim, an appeal, or an audit is begun before the end of the one year period, all records must be kept for one year after the litigation, appeal, claim, or audit is complete or resolved.

5.03. ASSIGNMENT OF RIGHTS UNDER AGREEMENT. The Department may assign any part of its rights under this Agreement without the consent of the Loan Recipient. The Loan Recipient shall not assign rights created by this Agreement without the consent of the Department.

5.04. AMENDMENT OF AGREEMENT. Modification, changes or amendments to this Agreement may be made upon mutual agreement of the parties hereto. However, any change, supplement, modification or amendment of any term, provision or condition of this Agreement shall be (1) in writing and signed by both parties, and (2) consistent with applicable statutes, rules, regulations, executive orders, or written agreements between the Department and the U.S. Environmental Protection Agency.

5.05. SEVERABILITY CLAUSE. If any provision of this Agreement shall be held invalid or unenforceable, the remaining provisions shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

5.06. CONFLICTS CLAUSE. In the event that any provision of this Agreement conflicts with the WPCRLF Regulations, the Regulations will govern unless this Agreement specifically provides otherwise.

5.07. EXECUTION OF AGREEMENT. This Agreement becomes effective upon execution by the Department and the Loan Recipient. This Agreement will not be altered by the Loan Recipient after execution by the Department.

5.08. BONDS AND INSURANCE REQUIRED. The Loan Recipient shall require contractors to provide performance and payment bonds for the full amount of the contracts. Insurance against all risks during the period of construction shall be provided. Builder's risk or similar types of insurance in the amount of the full replacement cost of the Project shall be provided to the extent that such insurance is obtainable from time to time against any one or more of such risks.

The Loan Recipient shall cause insurance to be obtained and maintained against such risks as is customary during construction. Insurance requirements include workers' compensation, comprehensive general liability, contractors' indemnification obligations, vehicle liability, flood and property insurance. The Department reserves the right to require business interruption insurance when the Project includes revenue producing facilities and when such revenue produced therefrom is to be used for repayment of the loan. Any such requirement shall be included in the Project Specific Loan Conditions. The proceeds of insurance policies received as a result of damage to, or destruction of, facilities or structures shall be used to restore or replace damaged portions of the facilities. If such proceeds are insufficient, the Loan Recipient shall provide such restoration or replacement of the damaged portions of the facilities. Such restoration or replacement shall be promptly completed.

The Loan Recipient shall cause the Project, as each part thereof is certified by the engineer responsible for overseeing construction as completed, to be insured by an insurance company or companies licensed to do business in the State of Mississippi against such risks as are customary in connection with the operation of facilities of like size, type and location in customary amounts to the extent such insurance is obtainable from time to time against any one or more of such risks. Such insurance shall be maintained at least until such time as the loan amount has been completely repaid.

ARTICLE VI - CLEAN WATER ACT AND OTHER FEDERAL REQUIREMENTS

6.01. TITLE VI PROVISIONS. The Loan Recipient shall comply with all provisions of Title VI of the Clean Water Act and regulations thereunder.

6.02. APPLICABLE STATE AND FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS. The Loan Recipient shall comply with all applicable state and federal laws, regulations, and executive orders as required by the WPCRLF Regulations, Appendix J.

6.03. SINGLE AUDIT ACT. The Loan Recipient shall comply with all provisions of the Single Audit Act Amendments of 1996 and regulations thereunder. When required by the Act, the Loan Recipient must submit the required copies of its Single Audit to the Department and the designated Federal Clearinghouse, within the time frames allowed in the Act.

ARTICLE VII - DETAILS OF FINANCING

7.01. AMOUNT OF LOAN. The amount of the Loan authorized is \$3,495,000.

7.02. PROJECT BUDGET. The Loan Recipient agrees to the following Project Budget. Payments to the Loan Recipient for each cost item may not exceed the sum of that project budget line item and any remaining contingency. Payments out of the contingency line item may be further limited if the Department determines that such payments could jeopardize completion of the Project. Amendments to the project budget must be requested by the Loan Recipient and approved by the Department, and must be in accordance with the WPCRLF Regulations.

	<u>Loan Amount</u>
(1) Planning and Loan Application Phase Professional Services	\$ <u>20,000</u>
(2) Design and Land Acquisition Phase Professional Services	\$ <u>261,000</u>
(3) Land and Easement Costs	\$ <u>0</u>
(4) Construction	\$ <u>2,882,000</u>
(5) Construction Phase Professional Services	\$ <u>188,000</u>
(6) Contingency	\$ <u>144,000</u>
(7) TOTAL LOAN AMOUNT	\$ <u>3,495,000</u>

7.03. INTEREST RATE AND ACCRUAL. The rate of interest on the unpaid principal of the Loan is 1.75 percent per annum, to be compounded monthly. Interest on amounts paid to the Loan Recipient shall commence on July 22, 2015, the last construction contract completion date

as established in the initial loan agreement in accordance with WPCRLF Regulation Rule 7.3.I (1). Interest accrued prior to initiation of the repayment process will be added to the final allowable project costs to determine the principal amount to be repaid by the Loan Recipient.

7.04. REPAYMENT SCHEDULE. The Loan Recipient hereby authorizes the Mississippi Department of Revenue to withhold \$17,452.43 monthly from the amount of sales tax reimbursement it is to remit to said Loan Recipient under Section 27-65-75, Mississippi Code of 1972, as amended, for repayment of the loan amount as specified in Article 7.01. of this Agreement for a period of 237 months, to begin January, 2016, subject to amendment in accordance with the WPCRLF Regulations. The monthly repayments to be made by the Mississippi Department of Revenue to the State Water Pollution Control Revolving Fund from the Loan Recipient for the repayment of the loan amount as specified in Article 7.01. of this Agreement made to said Loan Recipient are hereby determined to be \$17,452.43 for a period of 237 months, to begin February, 2016, with the exception of that portion of the repayments specified in Article 7.05. below as the administrative fee. The Mississippi Department of Revenue will deposit the administrative fee portion of the loan repayments into State Treasury Fund #3588 until such time that the administrative fee is collected in full. This repayment schedule is subject to amendment in accordance with the WPCRLF Regulations.

7.05. ADMINISTRATIVE FEE. An administrative fee of \$174,750, which is five percent (5%) of the final loan principal amount, will be collected from the loan repayment amounts described in Article 7.04. to defray the costs of administering the fund. Beginning with the initiation of the repayment process and until such time that the total administrative fee is collected, the interest portion of each repayment will not be charged, and in lieu of the interest portion, an equal amount of the repayment will be collected as the administrative fee.

7.06. BIDS IN EXCESS OF BUDGET AMOUNTS. Should the bids for construction, equipment and supplies, and testing for this project exceed the budget amounts for these items plus construction contingency, the Department may terminate this loan agreement in accordance with the procedures described in Article 4.03(10).

7.07. AVAILABILITY OF FUNDS. The Loan Recipient understands and agrees that this loan award is based upon anticipated federal, state match, and other funds being made available to the Department. The Loan Recipient agrees that should such anticipated funds not be made available to the Department, the Department may delay payments to the Loan Recipient, may terminate the loan agreement, and/or may recover any previous payments made to the Loan Recipient. The Loan Recipient releases the Department from all liability for any claims or damages related to such actions and further agrees not to take any legal or other actions against the Department in regard to such claims, damages, or actions by the Department.

7.08. PROHIBITION OF DUPLICATE FUNDING. The Loan Recipient hereby agrees that all costs requested for reimbursement from the State Revolving Fund have not been, and will not be, also requested or received from other State or Federal agency funding sources.

ARTICLE VIII - PROJECT BUDGET PERIOD

8.01. PROJECT BUDGET PERIOD. Unless amended, the budget period for this project begins on January 1, 2011, and expires on November 30, 2015. No costs that are incurred or requested after the expiration date will be eligible. The expiration date was determined based on 30 days after the Department's final construction observation. Department approval of loan eligible time extension change orders will automatically extend the budget period through such loan eligible date.

ARTICLE IX - PROJECT DESCRIPTION

9.01. PROJECT DESCRIPTION. The Project shall mean facilities funded in whole or in part under this Loan Agreement described as follows:

Chemical system additions needed for the existing wastewater treatment facility to meet NPDES permit limitations for Phosphorus and Nitrogen. The chemical system additions include components such as chemical handling, storage, pumping facilities and related appurtenances for the alum, polymer and alkalinity supplement.

The loan eligible scope is specifically limited to that identified as eligible in the approved facilities plan, and as further described by plans, specifications, contract documents, and contract change orders approved as eligible by the Department. The Loan Recipient hereby agrees that no additional eligible scope will be added to this Project Description.

ARTICLE X - PROJECT SPECIFIC LOAN CONDITIONS

10.01. PROJECT SPECIFIC LOAN CONDITIONS. The Loan Recipient shall comply with the following Project Specific Loan Conditions and any amendments made thereto pursuant to the provisions of the WPCRLF Regulations.

(1) The Loan Recipient agrees to the following schedule in accordance with the WPCRLF Regulations. Earlier completion of certain actions may require earlier completion of other actions.

- a. By January 28, 2014, submit a complete set of plans, specifications and contract documents on each construction contract, limited site certificates from the Loan Recipient and title counsel for all real property (eligible and ineligible), and other submittals if required by WPCRLF Regulation Rule 7.3.D.(2)(c) (**Submitted January 9, 2014**);
- b. By April 28, 2014, secure approval of plans, specifications and contract documents on each construction contract by the Department (**Approved August 14, 2014**);
- c. By July 27, 2014, but prior to advertisement for bids on each construction contract, submit clear site certificates from the Loan Recipient and title

counsel for all real property (eligible and ineligible), secure necessary local funds for the project and submit proof of such funds, and submit any other required permits or clearances (**Submitted January 27, 2014**);

- d. By July 27, 2014, advertise each construction contract for bids (**Advertised September 4, 2014**);
- e. By September 10, 2014, but no later than 45 days after advertisement for construction bids on each construction contract, receive bids (**Received October 9, 2014**);
- f. By September 24, 2014, but no later than 14 days after receipt of bids on each construction contract, submit the completed MBE/WBE documentation (**Submitted October 21, 2014**);
- g. By October 1, 2014, but no later than 21 days after receipt of bids on each construction contract, submit the bid package, a loan amendment request, and all necessary executed professional services contracts (**Submitted October 29, 2014**);
- h. By November 9, 2014, but no later than 60 days after receipt of bids on each construction contract, execute and submit construction contract documents and issue and submit a copy of the notice to proceed (**Executed November 18, 2014**);
- i. By September 4, 2015 (90% of construction contract time), enact the approved user charge system and ordinance and submit proof of enactment;
- j. By October 1, 2015 (date may change due to approved change orders), but no later than the contract completion date on each construction contract, complete construction;
- k. By October 11, 2015, but no later than 10 days after completion on each construction contract, notify the Department of construction completion;
- l. By October 31, 2015, but no later than 30 days after the contract completion date on each construction contract, submit all change orders which include time extensions, or a request and justification for delaying Department's final construction observation;
- m. By October 31, 2015, but no later than 30 days after the contract completion date on each construction contract, the Department will perform a final construction observation;
- n. By November 30, 2015, but no later than 30 days after the Department's final construction observation on each construction contract, the Loan Recipient

must submit the following: final loan payment requests; approvable summary change order; record drawings for the entire project funded in whole or in part with WPCRLF funds; the engineer's certification of compliance with plans, specifications, and contract documents; final professional services contract amendments, if any; and all other administrative forms and documents required by the Loan Agreement. *Loan payment requests submitted after this date are not allowable, regardless of when the costs were incurred;*

(2) Should the Loan Recipient be subject to any administrative order, court order, or other enforcement action presently or in the future, the Loan Recipient shall comply with such enforcement action regardless of any schedules, document submittals or approvals, or any other requirements under this Loan Agreement. Any such schedules, document submittals or approvals, or any other requirements under this Loan Agreement which vary from the enforcement action requirements shall in no way relieve the Loan Recipient from compliance with such enforcement action, nor shall such enforcement action relieve the Loan Recipient from compliance with any Loan Agreement requirement.

(3) If any ineligible construction, equipment, supplies, or testing are added to this Project, the final payment for related services shall be reduced to reflect eligible costs using one of the following methods.

- a. The Loan Recipient shall submit separate invoices for eligible and ineligible work. Contracts for all related services shall have separate compensation clauses and cost ceilings for eligible and ineligible work.
- b. The payments shall be prorated by the eligibility ratio shown below. The final ratio shall be based on actual, final costs for construction, equipment and supplies, and testing; an interim ratio may be used as needed.

$$\text{Eligibility Ratio} = \frac{\text{Eligible Construction/Equipment/Supplies/Testing Cost}}{\text{Total Construction/Equipment/Supplies/Testing Cost}}$$

If it becomes apparent that the payments for related services will exceed the eligible amount, the Department may limit payments prior to the final payment.

(4) The Loan Recipient shall undertake the six affirmative steps as stated in Appendix D, of the WPCRLF Regulations and as further described in the Department's MBE/WBE Utilization Guidance to assure minority and women's business enterprises have the maximum feasible opportunity to participate in a fair share of the subagreements awarded under this Project. The fair share objectives negotiated for this Project are 3.6% minority and 2.1% women's business enterprises.

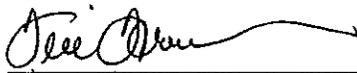
(5) Wage Rate (Davis-Bacon and Related Acts) Compliance. The Loan Recipient shall comply with all applicable wage rate requirements in accordance with Section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372).

IN WITNESS WHEREOF, the Commission has caused this Agreement to be executed on its behalf by the Executive Director of the Department and the Loan Recipient has caused this Agreement to be executed on its behalf by its Authorized Representative. It is agreed that this Agreement No. SRF-C280885-04-1 supersedes and replaces the previous Agreement No. SRF-C280885-04-0.

CITY OF TUPELO

**STATE OF MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL
QUALITY**

By: _____
Johnny Timmons
Manager, Water & Light Department

By:  _____
for Gary C. Rikard
Executive Director

(Date)

January 9, 2015

(Date)

**STATE OF MISSISSIPPI
DEPARTMENT OF REVENUE**

Commissioner

(Date)