

**STATE OF MISSISSIPPI
COUNTY OF PEARL RIVER
CITY OF PICAYUNE**

Be It Remembered that the Mayor and City Council of the City of Picayune, Pearl River County, Mississippi, met at City Hall, 203 Goodyear Blvd., in said City, Tuesday, March 4, 2014, at 5:00 p.m. in regular session with the following officials present: Mayor Ed Pinero, Council Members Tammy Valente, Lynn Bumpers, Jan Stevens, Larry Breland and Wayne Gouguet, and City Clerk Amber Hinton. City Manager Jim Luke was absent.

It Being Determined a quorum was present, the following proceedings were held.

Opening prayer was given by Father John Filken, followed by the Pledge of Allegiance led by Mayor Ed Pinero.

ORDER TO APPROVE MINUTES

Motion was made by Council Member Valente, seconded by Council Member Stevens to approve the Minutes for the City of Picayune dated February 18, 2014.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

ACKNOWLEDGE RECEIPT OF MONTHLY BUDGET REPORT

Motion was made by Council Member Valente, seconded by Council Member Stevens to acknowledge receipt of monthly budget report for the month of February 2014.

AF Statement of Activity - MTD and YTD with Budget
 City of Picayune
 For 2/28/2014

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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
Revenues						
351-000-232.14-000-000 FAA-REHABILITATE RUNWAY	600,000	0	0	250,000	(250,000)	0
351-000-341.01-000-000 RENT T-HANGARS	78,660	3,562	58,112	32,775	25,337	74
351-000-341.02-000-000 GROUND LEASES	12,480	0	7,350	5,200	2,150	59
351-000-355.00-000-000 MISCELLANEOUS INCOME	0	30	30	0	30	0
351-000-374.00-000-000 FUEL SALES	6,000	213	1,680	2,500	(820)	28
Total Revenues	697,140	3,805	67,172	290,475	(223,303)	10
Expenditures						
Airport Expenses						
PERSONNEL	57,519	4,099	20,455	23,966	3,511	36
SUPPLIES	500	0	192	208	16	38
OUTSIDE SERVICES	55,640	1,039	17,730	23,184	5,454	32
CAPITAL OUTLAY	660,000	0	0	275,000	275,000	0
Total Airport Expenses	773,659	5,138	38,377	322,358	283,981	5
Total Expenditures	773,659	5,138	38,377	322,358	283,981	5
Excess Revenue Over (Under) Expenditures	(76,519)	(1,333)	28,795	(31,883)	(607,284)	38

CF Statement of Activity - MTD and YTD with Budget
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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
Revenues						
406-000-211.00-000-000 RECORDING FEES	300	72	324	125	199	108
406-000-340.00-000-000 INTEREST INCOME	250	0	61	104	(43)	24
406-000-380.01-000-000 TRANSFER FROM GENERAL FUND	69,000	5,750	24,167	28,750	(4,583)	35
406-000-392.00-000-000 SALE OF LOTS	20,000	2,680	14,699	8,333	6,366	74
Total Revenues	89,550	8,502	39,251	37,312	1,939	44
Expenditures						
Cemetery Expenses						
PERSONNEL	69,644	3,565	18,904	29,018	10,114	27
SUPPLIES	7,880	78	1,703	3,284	1,581	22
OUTSIDE SERVICES	3,269	171	644	1,362	718	20
CAPITAL OUTLAY	76,300	0	11,857	72,100	60,243	16
Total Cemetery Expenses	157,093	3,814	33,108	105,764	72,656	21
Total Expenditures	157,093	3,814	33,108	105,764	72,656	21
Excess Revenue Over (Under) Expenditures	(67,543)	4,688	6,143	(68,452)	(70,717)	9

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**ED Statement of Activity - MTD and YTD with Budget
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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
Revenues						
110-043-340.00-000-000 INTEREST INCOME	250	0	304	104	200	122
110-043-340.01-000-000 INTEREST INCOME - FARMER FRESH	0	1,411	7,100	0	7,100	0
110-043-341.00-000-000 RENT	48,790	0	0	20,329	(20,329)	0
110-043-341.02-000-000 MANNA MINISTRIES LEASE	0	0	1	0	1	0
110-043-341.03-000-000 RAIL SPUR LEASE - SHALE SUPPORT SERV	19,085	0	0	7,952	(7,952)	0
110-402-260.00-000-000 SALES TAX-TOURISM	440,000	33,985	164,647	183,333	(18,686)	37
110-402-314.00-000-000 PARK BLDG RENTAL FEES	2,500	360	2,180	1,042	1,138	87
110-402-314.06-000-000 PARK TOURNAMENT FEES	1,000	0	0	417	(417)	0
110-402-314.07-000-000 PARK CONCESSION REVENUE	100	0	0	42	(42)	0
110-402-340.00-000-000 INTEREST INCOME-TOURISM	500	0	98	208	(110)	20
110-402-346.00-000-000 DONATIONS	0	0	1,000	0	1,000	0
110-402-380.00-000-000 TRANSFER FROM OTHER FUNDS	28,000	0	0	11,667	(11,667)	0
Total Revenues	540,225	35,756	175,330	225,094	(49,764)	32
Expenditures						
Sale of Lots Expenses						
OUTSIDE SERVICES	0	160	4,127	0	(4,127)	0
Total Sale of Lots Expenses	0	160	4,127	0	(4,127)	0
Recreation Expenses						
PERSONNEL	127,352	9,972	39,015	53,064	14,049	31
SUPPLIES	53,500	2,125	19,121	37,808	18,687	36
OUTSIDE SERVICES	114,000	9,763	19,950	47,500	27,550	18
Total Recreation Expenses	294,852	21,860	78,086	138,372	60,286	26
Retirement Development Expenses						
Total Expenditures	294,852	22,020	82,213	138,372	56,159	28
Excess Revenue Over (Under) Expenditures	245,373	13,736	93,117	86,722	(105,923)	38

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GF Statement of Activity - MTD and YTD with Budget
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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
Revenues						
001-000-200.00-000-000 AD VALOREM TAXES-CURRENT	1,299,183	0	417,079	541,326	(124,247)	32
001-000-201.00-000-000 AUTO AND MOBILE HOME	225,871	0	65,814	94,113	(28,299)	29
001-000-202.00-000-000 PERSONAL TAXES	414,947	0	50,741	172,895	(122,154)	12
001-000-203.00-000-000 AD VALOREM-DELINQUENT	1,000	0	1,346	417	929	133
001-000-210.00-000-000 PENALTIES & INTEREST	30,000	0	2,304	12,500	(10,196)	8
001-000-214.00-000-000 TAX COLLECTION COSTS	65,300	0	18,173	27,208	(9,035)	28
001-000-220.00-000-000 PRIVILEGE LICENSES	40,000	770	5,446	16,667	(11,221)	14
001-000-220.01-000-000 LIQUOR PRIVILEGE TAX	3,825	0	1,350	1,594	(244)	35
001-000-221.00-000-000 FRANCHISE CHARGES-UTILITIES	615,000	6,902	304,413	256,250	48,163	50
001-000-222.00-000-000 BUILDING PERMITS	46,000	2,682	46,679	19,167	27,512	101
001-000-223.00-000-000 PLANNING/ZONING APPLICATIONS	3,450	650	3,982	1,438	2,544	115
001-000-224.00-000-000 LOT CLEAN UP	20,000	0	3,095	8,333	(5,238)	15
001-000-225.00-000-000 SPECIAL USE RESORT ZONING PERMITS	0	0	3,300	0	3,300	0
001-000-226.00-000-000 RECYCLED MATERIALS REVENUE	0	0	637	0	637	0
001-000-241.00-000-000 FEDERAL PAYMENT IN LIEU OF	27,500	0	0	11,458	(11,458)	0
001-000-245.01-000-000 STATE WIRELESS FUND	8,657	0	0	3,607	(3,607)	0
001-000-247.02-000-000 BULLET PROOF VEST	8,060	0	1,420	3,358	(1,938)	18
001-000-250.00-000-000 MUNICIPAL-STATE AID	17,500	0	12,856	7,292	5,564	73
001-000-251.00-000-000 HOMESTEAD EXEMPTION REIMB.	140,000	0	0	58,333	(58,333)	0
001-000-253.25-000-000 USM PROJECT SAFE	0	0	4,636	0	4,636	0
NEIGHBORHOOD GRANT						
001-000-260.00-000-000 GENERAL SALES TAX	4,078,000	385,047	1,701,532	1,699,167	2,365	42
001-000-262.01-000-000 MUN. FIRE REBATE FUND - FOR LTD	56,136	0	0	23,390	(23,390)	0
001-000-262.02-000-000 1/4 MILL LEVY FIRE PROTECTION	19,987	0	5,706	8,328	(2,622)	29
001-000-262.03-000-000 MUN. FIRE REBATE FUNDS-FOR CODE	1,831	0	0	763	(763)	0
001-000-263.00-000-000 POLICE MINIMUM STANDARDS	15,000	0	12,600	6,250	6,350	84
001-000-264.00-000-000 PRC ANIMAL SHELTER	6,500	752	3,192	2,708	484	49
001-000-271.00-000-000 ROAD & BRIDGE TAXES	220,000	0	60,819	91,667	(30,848)	28
001-000-276.00-000-000 SCHOOL PATROL	120,696	0	0	50,290	(50,290)	0
001-000-289.00-000-000 MUN COURT WARRANT OFFICER	13,000	170	4,078	5,417	(1,339)	31
001-000-330.00-000-000 COURT FINES & FEES	350,000	2,906	82,392	145,833	(63,441)	24
001-000-334.00-000-000 SPECIAL POLICE SERVICE	22,500	1,600	8,920	9,375	(455)	40
001-000-335.00-000-000 POLICE EQUIP ASSESSMENTS	1,200	151	932	500	432	78
001-000-336.05-000-000 COLLECTION FEE	100	0	69	42	27	69
001-000-336.10-000-000 MUNICIPAL COURT EVIDENCE	10,200	170	3,917	4,250	(333)	38
001-000-340.00-000-000 INTEREST EARNED	20,000	743	6,929	8,333	(1,404)	35
001-000-346.10-000-000 SUMMER YOUTH CAMP DONATION	0	0	500	0	500	0
001-000-348.02-000-000 ADOPT A FLOWERBED	0	820	820	0	820	0
001-000-355.00-000-000 MISCELLANEOUS INCOME	14,000	2,776	7,059	5,833	1,226	50
001-000-380.07-000-000 TRANSFER FROM CAPITAL PROJECTS FUND	74,879	0	0	31,200	(31,200)	0
001-000-380.08-000-000 TRANSFER FROM SP POLICE DRUG FUND	0	0	52,348	0	52,348	0
001-000-393.00-000-000 SALE OF PROPERTY	0	0	10	0	10	0

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**GF Statement of Activity - MTD and YTD with Budget
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For 2/28/2014**

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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
001-092-301.00-000-000 BRICK BY BRICK PROGRAM	0	50	350	0	350	0
PROCEEDS						
001-092-302.00-000-000 DEPOT BRICK PROGRAM	0	350	750	0	750	0
PROCEEDS						
001-350-400.60-000-000 FEMA HAZARD MITIGATION	(412,800)	0	0	(172,000)	172,000	0
Total Revenues	7,577,522	406,539	2,896,194	3,157,302	(261,106)	38
Expenditures						
<u>Municipal Council Expenses</u>						
PERSONNEL	66,113	5,016	24,603	27,547	2,944	37
SUPPLIES	500	0	237	208	(29)	47
OUTSIDE SERVICES	64,150	1,218	19,624	26,729	7,105	31
CAPITAL OUTLAY	0	45,000	184,350	0	(184,350)	0
Total Municipal Council Expenses	130,763	51,234	228,814	54,484	(174,330)	175
<u>Municipal Court Expenses</u>						
PERSONNEL	269,077	19,015	95,587	112,116	16,529	36
SUPPLIES	4,000	0	1,147	1,667	520	29
OUTSIDE SERVICES	54,750	5,657	35,894	22,813	(13,081)	66
Total Municipal Court Expenses	327,827	24,672	132,628	136,596	3,968	40
<u>City Attorney Expenses</u>						
PERSONNEL	9,450	718	3,511	3,939	428	37
OUTSIDE SERVICES	20,000	838	9,268	8,333	(935)	46
Total City Attorney Expenses	29,450	1,556	12,779	12,272	(507)	43
<u>City Manager Expenses</u>						
PERSONNEL	97,355	8,198	37,790	40,565	2,775	39
SUPPLIES	7,500	0	1,146	3,124	1,978	15
OUTSIDE SERVICES	16,300	893	5,995	6,791	796	37
Total City Manager Expenses	121,155	9,091	44,931	50,480	5,549	37
<u>General Services Expenses</u>						
PERSONNEL	16,920	1,266	6,292	7,051	759	37
SUPPLIES	7,700	281	3,695	3,208	(487)	48
OUTSIDE SERVICES	219,200	7,917	155,445	91,332	(64,113)	71
Total General Services Expenses	243,820	9,464	165,432	101,591	(63,841)	68
<u>Financial Expenses</u>						
PERSONNEL	138,675	12,346	60,620	57,782	(2,838)	44
SUPPLIES	7,500	65	3,000	3,125	125	40
OUTSIDE SERVICES	69,400	10,780	27,129	28,916	1,787	39
Total Financial Expenses	215,575	23,191	90,749	89,823	(926)	42
<u>Code Enforcement Expenses</u>						
PERSONNEL	135,346	11,489	57,636	56,394	(1,242)	43
SUPPLIES	4,300	168	2,517	1,792	(725)	59
OUTSIDE SERVICES	21,650	858	9,073	9,020	(53)	42
Total Code Enforcement Expenses	161,296	12,515	69,226	67,206	(2,020)	43

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**GF Statement of Activity - MTD and YTD with Budget
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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
<u>Police Administration Expenses</u>						
PERSONNEL	160,493	12,503	61,557	66,872	5,315	38
SUPPLIES	7,500	470	1,568	3,125	1,557	21
OUTSIDE SERVICES	61,013	3,810	22,233	26,642	4,409	36
CAPITAL OUTLAY	8,657	0	0	3,607	3,607	0
Total Police Administration Expenses	237,663	16,783	85,358	100,246	14,888	36
<u>Patrol & Investigations Expenses</u>						
PERSONNEL	1,355,857	120,859	588,306	564,941	(23,365)	43
SUPPLIES	136,250	3,891	53,376	56,771	3,395	39
OUTSIDE SERVICES	103,500	6,374	47,266	43,125	(4,141)	46
CAPITAL OUTLAY	7,568	166	1,383	3,153	1,770	18
Total Patrol & Investigations Expenses	1,603,175	131,290	690,331	667,990	(22,341)	43
<u>Domestic Violence Grant Expenses</u>						
<u>Custody of Prisoners Expenses</u>						
PERSONNEL	133,554	11,925	63,391	55,647	(7,744)	47
SUPPLIES	39,000	4,833	30,795	16,251	(14,544)	79
OUTSIDE SERVICES	15,500	237	4,652	6,458	1,806	30
Total Custody of Prisoners Expenses	188,054	17,055	98,838	78,356	(20,482)	53
<u>Alcohol Countermeasures Grant Expenses</u>						
<u>Records & Communications Expenses</u>						
PERSONNEL	389,410	31,191	142,176	162,254	20,078	37
SUPPLIES	8,500	0	2,804	3,541	737	33
OUTSIDE SERVICES	20,800	1,528	9,785	8,667	(1,118)	47
Total Records & Communications Expenses	418,710	32,719	154,765	174,462	19,697	37
<u>School Patrol Expenses</u>						
PERSONNEL	118,810	14,288	66,350	49,505	(16,845)	56
SUPPLIES	6,500	0	4,277	2,709	(1,568)	66
OUTSIDE SERVICES	2,750	434	1,278	1,146	(132)	46
Total School Patrol Expenses	128,060	14,722	71,905	53,360	(18,545)	56
<u>Animal Control Expenses</u>						
PERSONNEL	30,131	2,294	11,341	12,555	1,214	38
SUPPLIES	1,280	64	1,039	534	(505)	81
OUTSIDE SERVICES	48,150	4,054	20,790	20,063	(727)	43
Total Animal Control Expenses	79,561	6,422	33,170	33,152	(18)	42
<u>Fire Department Expenses</u>						
PERSONNEL	2,042,241	157,418	776,681	850,934	74,253	38
SUPPLIES	52,600	144	10,979	21,917	10,938	21
OUTSIDE SERVICES	73,063	4,636	41,551	30,443	(11,106)	57
Total Fire Department Expenses	2,167,904	162,198	829,211	903,294	74,083	38
<u>Streets & Drainage Expenses</u>						

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**GF Statement of Activity - MTD and YTD with Budget
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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
PERSONNEL	441,228	33,033	160,144	183,844	23,700	36
SUPPLIES	140,001	4,026	83,860	58,334	(25,526)	60
OUTSIDE SERVICES	321,200	29,803	179,983	133,833	(46,150)	56
CAPITAL OUTLAY	0	0	(1,576)	0	1,576	0
Total Streets & Drainage Expenses	902,429	66,862	422,411	376,011	(46,400)	47
Grounds & Beautification Expenses						
PERSONNEL	386,345	30,957	148,005	160,976	12,971	38
SUPPLIES	101,344	2,376	23,259	42,226	18,967	23
OUTSIDE SERVICES	20,950	1,642	13,090	8,729	(4,361)	62
Total Grounds & Beautification Expenses	508,639	34,975	184,354	211,931	27,577	36
Equipment Maintenance Expenses						
PERSONNEL	45,987	2,472	12,222	19,161	6,939	27
SUPPLIES	16,110	179	1,079	6,713	5,534	7
OUTSIDE SERVICES	10,300	826	4,296	4,291	(5)	42
Total Equipment Maintenance Expenses	72,397	3,477	17,597	30,165	12,568	24
Total Expenditures	7,536,478	618,246	3,332,499	3,141,419	(191,080)	44
Excess Revenue Over (Under) Expenditures	41,044	(211,707)	(436,305)	15,883	(70,028)	(1,063)

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**UF Statement of Activity - MTD and YTD with Budget
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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
Revenues						
405-000-340.00-000-000 INTEREST INCOME	7,500	0	3,269	3,125	144	44
405-000-340.04-000-000 2013 REVENUE BOND INTEREST EARNED	0	0	783	0	783	0
405-000-351.02-000-000 MISC TAP INCOME	20,000	150	10,072	8,333	1,739	50
405-000-352.00-000-000 PRCUA BILLING/AMR PAYMENTS	54,000	4,560	22,820	22,500	320	42
405-000-355.00-000-000 MISC INCOME	112,000	6,612	31,981	46,667	(14,686)	29
405-000-355.01-000-000 MISC INCOME BAGS	4,000	200	1,169	1,667	(498)	29
405-000-360.01-000-000 METERED SALES WATER	1,666,138	131,881	648,926	690,058	(41,132)	39
405-000-360.02-000-000 METERED SALES GAS	1,818,615	344,494	1,128,343	757,756	370,587	62
405-000-362.00-000-000 SERVICE CONNECTION CHARGES	2,000	200	775	833	(58)	39
405-000-364.00-000-000 UTILITY LATE CHARGES	145,000	12,432	63,178	60,417	2,761	44
405-000-365.00-000-000 GARBAGE REVENUE	915,000	80,814	403,555	381,250	22,305	44
405-000-383.02-000-000 SALE OF EQUIPMENT & MACHINERY	0	0	42,181	0	42,181	0
Total Revenues	4,734,253	581,343	2,357,052	1,972,606	384,446	50
Expenditures						
Intrafund Transfers Expenses						
TRANSFERS	100,000	8,333	43,750	41,667	(2,083)	44
Total Intrafund Transfers Expenses	100,000	8,333	43,750	41,667	(2,083)	44
Utility Administration Expenses						
PERSONNEL	595,519	45,193	217,565	248,133	30,568	37
SUPPLIES	30,000	196	4,635	12,500	7,865	15
OUTSIDE SERVICES	220,250	12,200	107,170	91,772	(15,398)	49
Total Utility Administration Expenses	845,769	57,589	329,370	352,405	23,035	39
Director of Public Works Expenses						
PERSONNEL	161,940	13,844	62,800	67,476	4,676	39
SUPPLIES	15,930	0	1,743	6,638	4,895	11
OUTSIDE SERVICES	77,483	728	10,047	32,284	22,237	13
CAPITAL OUTLAY	70,904	0	68,650	69,737	1,087	97
Total Director of Public Works Expenses	326,257	14,572	143,240	176,135	32,895	44
Water Regulations Expenses						
PERSONNEL	40,780	3,514	18,058	16,991	(1,067)	44
SUPPLIES	23,511	27	3,068	9,796	6,728	13
OUTSIDE SERVICES	6,300	50	655	2,625	1,970	10
Total Water Regulations Expenses	70,591	3,591	21,781	29,412	7,631	31
Well and Pump Maintenance Expenses						
SUPPLIES	33,358	3,605	15,696	13,900	(1,796)	47
OUTSIDE SERVICES	67,216	6,755	37,524	28,007	(9,517)	56
Total Well and Pump Maintenance Expenses	100,574	10,360	53,220	41,907	(11,313)	53

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**UF Statement of Activity - MTD and YTD with Budget
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Financial Report	Annual Budget	M-T-D Actual	Y-T-D Actual + Encumbrances	Y-T-D Budget	Variance	Percent YTD
<u>Sewer Construction Expenses</u>						
<u>Utility Construction Expenses</u>						
PERSONNEL	107,276	7,625	29,340	44,699	15,359	27
SUPPLIES	38,631	315	19,629	16,180	(3,449)	51
OUTSIDE SERVICES	34,149	367	8,991	14,229	5,238	26
CAPITAL OUTLAY	0	5,280	5,280	0	(5,280)	0
Total Utility Construction Expenses	180,256	13,587	63,240	75,108	11,868	35
<u>Water Operations Expenses</u>						
PERSONNEL	249,222	20,346	96,768	103,426	6,658	39
SUPPLIES	107,381	1,229	75,546	44,741	(30,805)	70
OUTSIDE SERVICES	19,981	523	13,440	8,325	(5,115)	67
CAPITAL OUTLAY	54,992	0	(31,952)	22,914	54,866	(58)
Total Water Operations Expenses	430,576	22,098	153,802	179,406	25,604	36
<u>Gas Operations Expenses</u>						
PERSONNEL	219,413	18,353	84,297	91,423	7,126	38
SUPPLIES	1,073,079	147,506	556,189	447,116	(109,073)	52
OUTSIDE SERVICES	83,336	12,799	33,322	34,723	1,401	40
CAPITAL OUTLAY	3,000,000	0	26,223	1,250,000	1,223,777	1
Total Gas Operations Expenses	4,375,828	178,658	700,031	1,823,262	1,123,231	16
<u>Garbage Expenses</u>						
GARBAGE EXPENSES	810,000	72,518	437,096	337,500	(99,596)	54
Total Garbage Expenses	810,000	72,518	437,096	337,500	(99,596)	54
<u>Loan Interest Expenses</u>						
INTEREST EXPENSE	0	44,344	68,348	0	(68,348)	0
Total Loan Interest Expenses	0	44,344	68,348	0	(68,348)	0
Total Expenditures	7,239,851	425,650	2,013,878	3,056,802	1,042,924	28
Excess Revenue Over (Under) Expenditures	(2,505,598)	155,993	343,174	(1,064,196)	(658,478)	14

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gougnet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

AUTHORIZE MAYOR'S SIGNATURE ON QUITCLAIM DEED

Motion was made by Council Member Valente, seconded by Council Member Stevens to authorize Mayor's signature on quitclaim deed to Larry Smith for 1986 taxes that matured to the City of Picayune.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

ORDER TO APPROVE DOCKET

Motion was made by Council Member Gouguet, seconded by Council Member Stevens to approve the docket for March 4, 2014 in the amount of \$1,068,904.21.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

APPOINT CURTIS GASPER TO THE PEARL RIVER COUNTY LIBRARY SYSTEM BOARD OF TRUSTEES

Motion was made by Council Member Valente, seconded by Council Member Stevens to appoint Curtis Gasper to the Pearl River County Library System Board of Trustees.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

AT THIS TIME MAYOR PINERO RECUSED HIMSELF FROM THE MEETING

APPOINT FRANK FORD TO PICAYUNE SCHOOL BOARD

Motion was made by Council Member Bumpers, seconded by Council Member Stevens to appoint Frank Ford to the Picayune School Board of Trustees

The following roll call was made:

VOTING YEA: Council Members Valente, Bumpers, Stevens, Breland and

VOTING NAY: None

ABSENT AND NOT VOTING: Mayor Ed Pinero

ABSTAINING AND NOT VOTING: Council Member Gouguet

The motion was declared carried.

AT THIS TIME MAYOR PINERO RETURNED TO THE MEETING

APPROVE THE FY 2014 GENERAL FUND BUDGET AMENDMENT #1

Motion was made by Council Member Gouguet, seconded by Council Member Valente to approve the FY 2014 General Fund Budget Amendment # 1.



	<u>ADOPTED</u> FY 2014 <u>GENERAL FUND</u>	<u>AMENDMENT #1</u> FY 2014 <u>GENERAL FUND</u>
<u>RECEIPTS:</u>		
LICENSE & PERMITS	\$ 701,000	701,000
INTERGOVERNMENTAL REVENUES	5,554,781	5,554,781
CHARGES FOR SERVICES	23,550	23,550
FINES & FORFEITS	396,900	396,900
MISCELLANEOUS	20,500	20,500
TRANSFERS	74,879	74,879
INTEREST EARNINGS	20,000	20,000
PROCEEDS FROM LOANS		
TOTAL FROM ALL SOURCES, OTHER THAN TAXES	<u>6,791,610</u>	<u>6,791,610</u>
AMOUNT TO BE RAISED BY AD VALOREM TAX	<u>2,056,287</u>	<u>2,056,287</u>
TOTAL REVENUES	8,847,897	8,847,897
BEGINNING CASH RESERVE (CD)	<u>957,006</u> <u>1,500,000</u>	<u>957,006</u> <u>1,500,000</u>
TOTAL FROM ALL SOURCES	\$ <u>11,304,903</u>	<u>11,304,903</u>
<u>EXPENDITURES:</u>		
<u>GENERAL GOVERNMENT</u>		
PERSONNEL	\$ 788,383	788,383
SUPPLIES	35,500	35,500
OTHER SERVICES & CHARGES	477,400	477,400
CAPITAL OUTLAY	<u>0</u>	<u>40,000</u> Chiller-Historic City Hall
TOTALS	<u>1,301,283</u>	<u>1,301,283</u>
<u>PUBLIC SAFETY - POLICE</u>		
PERSONNEL	\$ 2,217,175	2,217,175
SUPPLIES	199,030	202,530 Reclassed funds from Services
OTHER SERVICES & CHARGES	249,620	245,120 Reclassed funds to Supplies
CAPITAL OUTLAY	<u>16,225</u>	<u>16,225</u>
TOTALS	<u>2,682,050</u>	<u>2,682,050</u>
<u>PUBLIC SAFETY - FIRE</u>		
PERSONNEL	\$ 2,042,241	2,042,241
SUPPLIES	52,600	52,600
OTHER SERVICES & CHARGES	73,063	73,063
CAPITAL OUTLAY		
TOTALS	<u>2,167,904</u>	<u>2,167,904</u>
<u>PUBLIC WORKS</u>		
PERSONNEL	\$ 873,561	873,561
SUPPLIES	257,455	257,455
OTHER SERVICES & CHARGES	352,450	352,450
CAPITAL OUTLAY	<u>0</u>	<u>10,000</u> SPCA Parking Lot
TOTALS	<u>1,483,466</u>	<u>1,493,466</u>

REGULAR MEETING MARCH 4, 2014

	ADOPTED FY 2014 GENERAL FUND	AMENDMENT #1 FY 2014 GENERAL FUND
GRANTS		
CAPITAL OUTLAY	835,680	835,680
TOTALS	<u>835,680</u>	<u>835,680</u>
AID TO OTHER GOVERNMENTS	24,880	24,880
TRANSFERS TO OTHER FUNDS	359,785	359,785
OTHER	<u>0</u>	<u>0</u>
TOTAL EXPENDITURES	8,855,048	8,855,048
ENDING CASH BALANCE	<u>2,449,855</u>	<u>2,439,855</u>
TOTAL EXPENDITURES & ENDING CASH BALANCE	\$ <u>11,304,903</u>	<u>11,304,903</u>

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouquet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

ACKNOWLEDGE MEMORANDUMS OF UNDERSTANDINGS FOR THE SAFE ROUTES TO SCHOOL PROJECT AT WEST SIDE ELEMENTARY AND THE HWY 43 LIGHTING/MEMORIAL BLVD OVERLAY PROJECT

Motion was made by Council Member Breland, seconded by Council Member Gouguet to acknowledge Memorandums of Understandings for the Safe Routes to School Project at West Side Elementary (SRSP-0400-00(029)LPA/106711-40100) and the Hwy 43 Lighting/Memorial Blvd Overlay Project (STP-0400-00(030)LPA/106715-701000).

1.6.2014 Bookpage

REPLACEMENT
Memorandum of Understanding

STP-0400-00(030)LPA/106715-701000
Lighting along SR43 and Mill & Overlay Memorial Boulevard
Picayune, MS

This Replacement Agreement is made between the Mississippi Transportation Commission, a body Corporate of the State of Mississippi (hereinafter referred to as the "COMMISSION"), acting by and through the duly authorized Executive Director of the Mississippi Department of Transportation ("MDOT") and City of Picayune, a Local Public Agency, "LPA" (hereinafter referred to as the "LPA"), for the purpose of establishing the agreed conditions under which the LPA may utilize STP funds and subsequent acts to complete the proposed project as described below, effective as of the date of the last execution below.

WHEREAS, the LPA has announced its intentions to make improvements including, but not limited to, installation of lighting along SR43 between Interstate 59 and Hwy 11, mill & overlay Memorial Boulevard from approximately 300 feet west of Blanks Avenue to Interstate 59; (hereinafter referred to as the "PROJECT"); and

WHEREAS, it is anticipated that approximately \$ 248,000.00 in federal funds (80% federal match and 20% local match) for the construction of the PROJECT, and the above mentioned federal funds will expire if they are not obligated on or before September 15, 2014. The above funds are subject to normal reductions and obligational limitations; and

WHEREAS, the LPA agrees that if funds from FHWA are utilized that the LPA will be bound by, and will comply with, any and all federal requirements and the MDOT operating procedures, even though the federal requirements, when coupled with MDOT procedures, specify that no retainage is to be withheld; and

WHEREAS, the LPA will be responsible for all PROJECT cost over and above the maximum amount of Federal Funds allocated to the PROJECT by the COMMISSION, and

WHEREAS, the MDOT requires the LPA to provide the local share previously stated; and

WHEREAS, the COMMISSION is hereby consenting to allow the LPA to manage the PROJECT under the terms and provisions of this Memorandum of Understanding; and

WHEREAS, the COMMISSION and the LPA desire to set forth more fully the understanding of the parties with respect to the process by which this will be accomplished, and this document supersedes all other agreements unless herein specified.

NOW, THEREFORE, for and in consideration of the premises and agreements of

REGULAR MEETING MARCH 4, 2014

STP-0400-00(030)LPA/106715-701000
Lighting along SR43, Mill & Overlay Memorial Blvd
City of Picayune

1.6.2014 (Revised)

the parties as hereinafter contained, the LPA and the COMMISSION mutually enter into the following Memorandum of Understanding for these and any future federal funds that may be allocated to this PROJECT

ARTICLE I. DUTIES AND RESPONSIBILITIES

A. The LPA, which is hereby designated as the Local Sponsor for the purposes herein, will:

1. Designate a full time employee of the LPA as the Project Director, who will serve as the person of responsible charge for the PROJECT and will coordinate all PROJECT activities with the MDOT District LPA Coordinator.
2. Follow the procedures set out in the latest online version of the Project Development Manual (PDM) for Local Public Agencies necessary for the PROJECT including, but not limited to, project activation, consultant selection, request and/or develop and follow all necessary permits, environmental process, preliminary design, Right of Way acquisition (if required), advertisement for and selection of a contractor, construction oversight, and project close out.
3. Submit to the MDOT four (4) complete sets of "as-built" plans in printed form and the original electronic files in a format that is compatible with Microstation prior to MDOT acceptance. Upon request, MDOT may waive this requirement for selected projects.
4. Be responsible for all maintenance of the PROJECT during and after completion.
5. Agree to be bound by any and all federal requirements and the MDOT operating procedures, even though the federal requirements, when coupled with MDOT procedures, specify that no retainage is to be withheld.
6. Agree that if any act of omission or commission on the part of the LPA causes loss of Federal funding from FHWA or any other source, or any penalty being imposed by the United States of America under the Clean Water Act, 33 U.S.C. § 1251, et seq. or any other provision of law, the LPA will be solely responsible for all additional costs.
7. Promptly pay any consultants or contractors monies due them within 30 days of submittal of invoice from the consultant or contractor. MDOT reserves the right to withhold Federal reimbursement until adequate proof of payment has been produced should the above not be followed.
8. If there is any requirement for "matching" funds, or if the anticipated cost of construction will exceed the available Federal-aid funds, the LPA shall be solely responsible for providing said local share or any funds above the Federal-aid funds at such time as the funds may be required.
9. All contracts and subcontracts shall include a provision for compliance with Senate Bill 2988 from the 2008 Session of the Mississippi Legislature entitled "The Mississippi Employment Protection Act," as published in the General Laws of 2008 and codified in the Mississippi Code of 1972, as amended (Sections 71-11-1 and 71-11-3), and any rules or regulations promulgated by the COMMISSION, the Department of

REGULAR MEETING MARCH 4, 2014

STP-0400-00(030)LPA/106715-701000
Lighting along SR43, Mill & Overlay Memorial Blvd
City of Prayune

1.6.2014 11:00:00

Employment Security, the State Tax Commission, the Secretary of State, or the Department of Human Services in accordance with the Mississippi Administrative Procedures Law (Section 25-43-1, et seq., Mississippi Code of 1972, as amended) regarding compliance with the Act. Under this Act, the LPA and every sub-recipient or subcontractor shall register with and participate in a federal work authorization program operated by the United States Department of Homeland Security to electronically verify information of newly hired employees pursuant to the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208., Division C, Section 403(a); 8 USC, Section 1324a.

10. The LPA will be required to acknowledge the MDOT and the FHWA for their participation in the project in any news releases or other promotional material for the PROJECT. The PROJECT sponsor shall notify the MDOT LPA Division of any ceremonies related to the PROJECT.

11. In the event right-of-way acquisition for, or actual construction of, the road for which this preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the fiscal year in which this preliminary engineering project is obligated, the LPA may be required to repay to the FHWA the sum or sums of Federal funds reimbursed to the LPA for this preliminary engineering work; and (2) in the event that right-of-way acquisition is started by the close of the tenth federal fiscal year, but construction is not started by the close of the twentieth federal fiscal year following the fiscal year in which this preliminary engineering project is obligated, the LPA may be required to repay to the FHWA the sum or sums of Federal funds reimbursed to the City for this preliminary engineering work and right-of-way acquisition.

12. The LPA will be required to submit to the District LPA Coordinator monthly progress reports through the Notice to Proceed for construction, which shall include, but not be limited to, the work which has been completed that month and the planned work for the upcoming month. The LPA will also provide a project progress schedule which will report project milestones and the target date for the LPA's request for Ad Authority. These project milestones are to be updated once any milestones are missed.

13. The LPA agrees that any project that uses federal funds shall be properly maintained at all times. If such required maintenance is not performed, as appropriate, future federal funds may be withheld for any projects in the jurisdiction of the local agency.

14. The LPA agrees to maintain, and make available to Commission, a sufficient accounting system with proper internal controls and safeguards. The accounting system and its controls should at all times maintain adequate recording and reporting of federal funds received by the LPA. If sufficient internal controls over the LPA's federal funding are not maintained, federal funds may be withheld and future transportation projects will not be considered.

B. THE COMMISSION WILL:

1. Allow the LPA to design and construct the proposed transportation improvements provided that the design meets with MTC and FHWA approval and that all costs of the

REGULAR MEETING MARCH 4, 2014

STP-0400-00(030)LPA/106715-701000
Lighting along SR43, Mill & Overlay Memorial Blvd
City of Picayune

L.6.2014

improvements that are not covered by federal funds are borne by the LPA.

2. Enter into cooperative agreements or permits necessary to allow the LPA access to the property of the COMMISSION for the purposes of constructing the proposed transportation improvements.
3. Work with the LPA, through the District LPA Coordinator, during the various phases of the work with the goal of producing a project that will be acceptable to the COMMISSION upon completion.
4. Review all submittals in a timely manner, in accordance with the PDM, to allow the project to progress in an orderly fashion.
5. During the progress of the PROJECT, assist the LPA in obtaining reimbursements of federal funding for any phase that is eligible for reimbursement. All costs associated with this process, and any other involvement by the MDOT staff in this PROJECT, will be charged as a project cost.
6. Submit all documents to the Federal Highway Administration (FHWA) when required or requested by the FHWA.

ARTICLE II. GENERAL PROVISIONS

- A. Should the LPA fail to complete the construction of the proposed transportation improvements as contemplated by this agreement after construction is commenced, the LPA agrees that it will bear all costs of completion over and above the funds supplied by the FHWA through MDOT. The COMMISSION shall have the right to audit all accounts associated with the PROJECT, and should there be any overpayment by the COMMISSION to the LPA, the LPA agrees to refund any such overpayment within 30 days of written notification. Should the LPA fail to reimburse the COMMISSION, the COMMISSION shall have the right to offset the amount due from any other funds in its possession that are due the LPA on this or any other project, current or future.
- B. This Memorandum of Understanding shall be subject to termination at any time upon thirty (30) days written notice by either party. Such notice shall not, however, cancel any contract made in reliance upon this agreement and underway at the time of termination. Any contract underway shall be allowed to conclude under its own terms. The LPA agrees to bear complete and total legal and financial responsibility for any such agreement. Additionally, funds may be suspended/terminated under the provisions of Section F.
- C. It is understood that this is a Memorandum of Understanding and that more specific requirements for the conduct of the design of the transportation improvement project are contained in the Federal Statutes, the Code of Federal Regulations, the Mississippi Code, and the Standard Operating Procedures for MDOT, and other related regulatory authorities. The LPA agrees that it will abide by all such applicable authority.
- D. In the event that any act of omission or commission on the part of the LPA causes loss of Federal funding from FHWA or any other source, or any penalty being imposed by the United States of America under the Clean Water Act, 33 U.S.C. § 1251,

REGULAR MEETING MARCH 4, 2014

STP-0400-00(030)LPA/106715-701000
Lighting along SR43, Mill & Overlay Memorial Blvd
City of Picayune

1.6.2014 11:00 AM

et seq. or any other provision of law, the LPA shall be solely responsible for all additional costs.

E. Should the LPA miss the obligation deadline set in this MOU, MDOT reserves the right to obligate funds for the project as obligation authority becomes available, and may not authorize the obligation of those funds until after the obligation of other projects that are set to meet their individual deadlines

F. The Executive Director of MDOT may withhold federal funds for the PROJECT for any of the following reasons:

- a. Failure to proceed with the work when so instructed by the MDOT or to adhere to the requirements of the contract.
- b. Failure to perform the work with sufficient workmen, equipment and materials to assure completion within contract time.
- c. Performing unacceptable work, or neglecting or refusing to remove materials or to perform any such work as may be rejected as unacceptable.
- d. Discontinuing the prosecution of the work.
- e. Failure to comply with all federal, state and local laws, ordinances, regulations, permits, and all orders and decrees of bodies or tribunal's having jurisdiction or authority which affect those engaged or employed on the work or affect the conduct of the work.
- f. Becoming insolvent, being declared bankrupt or committing any act of bankruptcy or insolvency.
- g. Allowing a final judgment to stand unsatisfied.
- h. Making an assignment for the benefit of creditors.
- i. Failure to deal with all storm water issues as defined in the permit and/or PDM.
- j. Failure to properly maintain any project that uses federal funds may cause future federal funds to be withheld for any projects in the jurisdiction of the local agency.
- k. Failure for any other cause whatsoever to carry on the work in an acceptable manner.

Before federal Funds are terminated, the LPA will be notified in writing by the Executive Director of the conditions which make termination of funds imminent. If no effective effort has been made by the LPA, its agents, employees, contractors or

REGULAR MEETING MARCH 4, 2014

STP-0400-09(030) LPA/106715-701000
Lighting along SR43, Mill & Overlay Memorial Blvd
City of Picayune

1.6.2014 [unclear]

subcontractors, to correct the conditions of which complaint is made, within fifteen (15) calendar days after notice is given, the Executive Director may declare the Federal Funds suspended for the PROJECT and notify the LPA accordingly. The LPA will then have forty-five (45) days in which to correct all conditions of which complaint is made. If all conditions are not corrected within forty-five (45) days, the Executive Director may declare the federal funds for the PROJECT terminated and notify the LPA accordingly. If all conditions are corrected, within the forty-five (45) day period, the LPA will be reimbursed under the terms of this agreement, for all work satisfactorily completed during the forty-five days period.

ARTICLE III. NOTICE & DESIGNATED AGENTS

A. For purposes of implementing this section and all other sections of this Agreement with regard to notice, the following individuals are herewith designated as agents for the respective parties unless otherwise indentured in the addenda hereto:

For Contractual Administrative Matters:

COMMISSION:
Melinda L. McGrath
Executive Director
MDOT
P.O. Box 1850
Jackson, MS 39215-1850
Phone: (601) 359-7002
Fax: (601) 359-7110

LPA:
Edward Pinero, Jr.
Mayor
City of Picayune
203 Goodyear Boulevard
Picayune, MS 39466
Phone: (601) 798-9770
Fax: (601) 798-0564

For Technical Matters:

COMMISSION:
David H. Seyfarth, PE, PS
District LPA Coordinator – District VI
MDOT
16499-B Highway 49
Saucier, MS 39574-9740
Phone: (228) 832-0682
Fax: (228) 832-0681

LPA:
Eric Morris
Director of Public Works
City of Picayune
203 Goodyear Boulevard
Picayune, MS 39466
Phone: (601) 799-0602
Fax: (601) 798-0564

B. All notices given hereunder shall be by U.S. Certified Mail, return receipt requested, or by facsimile and shall be effective only upon receipt by the addressee at the above addresses or telephone numbers.

ARTICLE IV. RELATIONSHIP OF THE PARTIES

A. The relationship of the LPA to the COMMISSION is that of an independent contractor, and said LPA, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will

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REGULAR MEETING MARCH 4, 2014

STP-0400-00(030)LPA/106715-701000
Lighting along SR43, Mill & Overlay Memorial Blvd
City of Picayune

1.6.2014 Final

neither hold itself out as, nor claim to be, an officer or employee of the COMMISSION by reason hereof. The LPA will not by reason hereof, make any claim, demand or application or for any right or privilege applicable to an officer or employee of the COMMISSION, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

B. The COMMISSION executes all directives and orders through the MDOT. The LPA executes all directives and orders pursuant to applicable law, policies, procedures and regulations. All notices, communications, and correspondence between the COMMISSION and the LPA shall be directed to the designated agent shown above in Article III.

ARTICLE V. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

To the extent permitted by law, the Commission and the LPA agree that neither party nor their agents, employees, contractors or subcontractors, will be held liable for any claim, loss, damage, cost, charge or expenditure arising out of any negligent act, actions, neglect or omission caused solely by the other party, its agents, employees, contractors or subcontractors.

ARTICLE VI. MISCELLANEOUS

No modification of this Memorandum of Understanding shall be binding unless such modification shall be in writing and signed by all parties. If any provision of this Memorandum of Understanding shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Memorandum of Understanding is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

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REGULAR MEETING MARCH 4, 2014

STP-0400-00(030) LPA/106715-701000
Lighting along SR43, Mill & Overlay Memorial Blvd
City of Picayune

1.6.2014 10:06:00

ARTICLE VII. AUTHORITY TO CONTRACT

Both parties hereto represent that they have authority to enter into this Memorandum of Understanding.

This Agreement may be executed in one or more counterparts (facsimile transmission, email or otherwise), each of which shall be an original Agreement, and all of which shall together constitute but one Agreement.

So agreed this the _____ day of _____, 20____.

City of Picayune

Edward Pinero, Jr., Mayor

Attested:

(Appropriate clerk etc)

So agreed this the _____ day of _____, 20____.

MISSISSIPPI TRANSPORTATION COMMISSION
By and through the duly authorized
Executive Director

Melinda L. McGrath, PE
Executive Director
Mississippi Department of Transportation

Book _____, Page _____,

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REPLACEMENT
Memorandum of Understanding

SRSP-0400-00(029)LPA/106711-401000
Safe Routes to School Project at West Side Elementary
Picayune, MS

This Replacement Agreement is made between the Mississippi Transportation Commission, a body Corporate of the State of Mississippi (hereinafter referred to as the "COMMISSION"), acting by and through the duly authorized Executive Director of the Mississippi Department of Transportation ("MDOT") and City of Picayune, a Local Public Agency, "LPA" (hereinafter referred to as the "LPA"), for the purpose of establishing the agreed conditions under which the LPA may utilize SRSP funds and subsequent acts to complete the proposed project as described below, effective as of the date of the last execution below.

WHEREAS, the LPA has announced its intentions to make improvements including, but not limited to, a safe routes to school project leading to West Side Elementary; (hereinafter referred to as the "PROJECT"); and

WHEREAS, it is anticipated that approximately \$ 100,000.00 in federal funds (80% federal match and 20% local match) for the construction of the PROJECT, and the above mentioned federal funds will expire if they are not obligated on or before June 30, 2015. The above funds are subject to normal reductions and obligational limitations; and

WHEREAS, the LPA agrees that if funds from FHWA are utilized that the LPA will be bound by, and will comply with, any and all federal requirements and the MDOT operating procedures, even though the federal requirements, when coupled with MDOT procedures, specify that no retainage is to be withheld; and

WHEREAS, the LPA will be responsible for all PROJECT cost over and above the maximum amount of Federal Funds allocated to the PROJECT by the COMMISSION, and

WHEREAS, the MDOT requires the LPA to provide the local share previously stated; and

WHEREAS, the COMMISSION is hereby consenting to allow the LPA to manage the PROJECT under the terms and provisions of this Memorandum of Understanding; and

WHEREAS, the COMMISSION and the LPA desire to set forth more fully the understanding of the parties with respect to the process by which this will be accomplished, and this document supersedes all other agreements unless herein specified.

NOW, THEREFORE, for and in consideration of the premises and agreements of the parties as hereinafter contained, the LPA and the COMMISSION mutually enter into

REGULAR MEETING MARCH 4, 2014

SRSP-0400-00(029) LPA/106711-401000
SRSP at West Side Elementary
City of Picayune

1.6.2014 10:07:11 AM

the following Memorandum of Understanding for these and any future federal funds that may be allocated to this PROJECT

ARTICLE I. DUTIES AND RESPONSIBILITIES

A. The LPA, which is hereby designated as the Local Sponsor for the purposes herein, will:

1. Designate a full time employee of the LPA as the Project Director, who will serve as the person of responsible charge for the PROJECT and will coordinate all PROJECT activities with the MDOT District LPA Coordinator.

2. Follow the procedures set out in the latest online version of the Project Development Manual (PDM) for Local Public Agencies necessary for the PROJECT including, but not limited to, project activation, consultant selection, request and/or develop and follow all necessary permits, environmental process, preliminary design, Right of Way acquisition (if required), advertisement for and selection of a contractor, construction oversight, and project close out.

3. Submit to the MDOT four (4) complete sets of "as-built" plans in printed form and the original electronic files in a format that is compatible with Microstation prior to MDOT acceptance. Upon request, MDOT may waive this requirement for selected projects.

4. Be responsible for all maintenance of the PROJECT during and after completion.

5. Agree to be bound by any and all federal requirements and the MDOT operating procedures, even though the federal requirements, when coupled with MDOT procedures, specify that no retainage is to be withheld.

6. Agree that if any act of omission or commission on the part of the LPA causes loss of Federal funding from FHWA or any other source, or any penalty being imposed by the United States of America under the Clean Water Act, 33 U.S.C. § 1251, et seq. or any other provision of law, the LPA will be solely responsible for all additional costs.

7. Promptly pay any consultants or contractors monies due them within 30 days of submittal of invoice from the consultant or contractor. MDOT reserves the right to withhold Federal reimbursement until adequate proof of payment has been produced should the above not be followed.

8. If there is any requirement for "matching" funds, or if the anticipated cost of construction will exceed the available Federal-aid funds, the LPA shall be solely responsible for providing said local share or any funds above the Federal-aid funds at such time as the funds may be required.

9. All contracts and subcontracts shall include a provision for compliance with Senate Bill 2988 from the 2008 Session of the Mississippi Legislature entitled "The Mississippi Employment Protection Act," as published in the General Laws of 2008 and codified in the Mississippi Code of 1972, as amended (Sections 71-11-1 and 71-11-3), and any rules or regulations promulgated by the COMMISSION, the Department of Employment Security, the State Tax Commission, the Secretary of State, or the

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Department of Human Services in accordance with the Mississippi Administrative Procedures Law (Section 25-43-1, et seq., Mississippi Code of 1972, as amended) regarding compliance with the Act. Under this Act, the LPA and every sub-recipient or subcontractor shall register with and participate in a federal work authorization program operated by the United States Department of Homeland Security to electronically verify information of newly hired employees pursuant to the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208., Division C, Section 403(a); 8 USC, Section 1324a .

10. The LPA will be required to acknowledge the MDOT and the FHWA for their participation in the project in any news releases or other promotional material for the PROJECT. The PROJECT sponsor shall notify the MDOT LPA Division of any ceremonies related to the PROJECT.

11. In the event right-of-way acquisition for, or actual construction of, the road for which this preliminary engineering is undertaken is not started by the close of the tenth federal fiscal year following the fiscal year in which this preliminary engineering project is obligated, the LPA may be required to repay to the FHWA the sum or sums of Federal funds reimbursed to the LPA for this preliminary engineering work; and (2) in the event that right-of-way acquisition is started by the close of the tenth federal fiscal year, but construction is not started by the close of the twentieth federal fiscal year following the fiscal year in which this preliminary engineering project is obligated, the LPA may be required to repay to the FHWA the sum or sums of Federal funds reimbursed to the City for this preliminary engineering work and right-of-way acquisition.

12. The LPA will be required to submit to the District LPA Coordinator monthly progress reports through the Notice to Proceed for construction, which shall include, but not be limited to, the work which has been completed that month and the planned work for the upcoming month. The LPA will also provide a project progress schedule which will report project milestones and the target date for the LPA's request for Ad Authority. These project milestones are to be updated once any milestones are missed.

13. The LPA agrees that any project that uses federal funds shall be properly maintained at all times. If such required maintenance is not performed, as appropriate, future federal funds may be withheld for any projects in the jurisdiction of the local agency.

14. The LPA agrees to maintain, and make available to Commission, a sufficient accounting system with proper internal controls and safeguards. The accounting system and its controls should at all times maintain adequate recording and reporting of federal funds received by the LPA. If sufficient internal controls over the LPA's federal funding are not maintained, federal funds may be withheld and future transportation projects will not be considered.

B. THE COMMISSION WILL:

1. Allow the LPA to design and construct the proposed transportation improvements provided that the design meets with MTC and FHWA approval and that all costs of the improvements that are not covered by federal funds are borne by the LPA.

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2. Enter into cooperative agreements or permits necessary to allow the LPA access to the property of the COMMISSION for the purposes of constructing the proposed transportation improvements.
3. Work with the LPA, through the District LPA Coordinator, during the various phases of the work with the goal of producing a project that will be acceptable to the COMMISSION upon completion.
4. Review all submittals in a timely manner, in accordance with the PDM, to allow the project to progress in an orderly fashion.
5. During the progress of the PROJECT, assist the LPA in obtaining reimbursements of federal funding for any phase that is eligible for reimbursement. All costs associated with this process, and any other involvement by the MDOT staff in this PROJECT, will be charged as a project cost.
6. Submit all documents to the Federal Highway Administration (FHWA) when required or requested by the FHWA.

ARTICLE II. GENERAL PROVISIONS

- A. Should the LPA fail to complete the construction of the proposed transportation improvements as contemplated by this agreement after construction is commenced, the LPA agrees that it will bear all costs of completion over and above the funds supplied by the FHWA through MDOT. The COMMISSION shall have the right to audit all accounts associated with the PROJECT, and should there be any overpayment by the COMMISSION to the LPA, the LPA agrees to refund any such overpayment within 30 days of written notification. Should the LPA fail to reimburse the COMMISSION, the COMMISSION shall have the right to offset the amount due from any other funds in its possession that are due the LPA on this or any other project, current or future.
- B. This Memorandum of Understanding shall be subject to termination at any time upon thirty (30) days written notice by either party. Such notice shall not, however, cancel any contract made in reliance upon this agreement and underway at the time of termination. Any contract underway shall be allowed to conclude under its own terms. The LPA agrees to bear complete and total legal and financial responsibility for any such agreement. Additionally, funds may be suspended/terminated under the provisions of Section F.
- C. It is understood that this is a Memorandum of Understanding and that more specific requirements for the conduct of the design of the transportation improvement project are contained in the Federal Statutes, the Code of Federal Regulations, the Mississippi Code, and the Standard Operating Procedures for MDOT, and other related regulatory authorities. The LPA agrees that it will abide by all such applicable authority.
- D. In the event that any act of omission or commission on the part of the LPA causes loss of Federal funding from FHWA or any other source, or any penalty being imposed by the United States of America under the Clean Water Act, 33 U.S.C. § 1251,

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et seq. or any other provision of law, the LPA shall be solely responsible for all additional costs.

E. Should the LPA miss the obligation deadline set in this MOU, MDOT reserves the right to obligate funds for the project as obligation authority becomes available, and may not authorize the obligation of those funds until after the obligation of other projects that are set to meet their individual deadlines

F. The Executive Director of MDOT may withhold federal funds for the PROJECT for any of the following reasons:

- a. Failure to proceed with the work when so instructed by the MDOT or to adhere to the requirements of the contract.
- b. Failure to perform the work with sufficient workmen, equipment and materials to assure completion within contract time.
- c. Performing unacceptable work, or neglecting or refusing to remove materials or to perform any such work as may be rejected as unacceptable.
- d. Discontinuing the prosecution of the work.
- e. Failure to comply with all federal, state and local laws, ordinances, regulations, permits, and all orders and decrees of bodies or tribunal's having jurisdiction or authority which affect those engaged or employed on the work or affect the conduct of the work.
- f. Becoming insolvent, being declared bankrupt or committing any act of bankruptcy or insolvency.
- g. Allowing a final judgment to stand unsatisfied.
- h. Making an assignment for the benefit of creditors.
- i. Failure to deal with all storm water issues as defined in the permit and/or PDM.
- j. Failure to properly maintain any project that uses federal funds may cause future federal funds to be withheld for any projects in the jurisdiction of the local agency.
- k. Failure for any other cause whatsoever to carry on the work in an acceptable manner.

Before federal Funds are terminated, the LPA will be notified in writing by the Executive Director of the conditions which make termination of funds imminent. If no effective effort has been made by the LPA, its agents, employees, contractors or

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subcontractors, to correct the conditions of which complaint is made, within fifteen (15) calendar days after notice is given, the Executive Director may declare the Federal Funds suspended for the PROJECT and notify the LPA accordingly. The LPA will then have forty-five (45) days in which to correct all conditions of which complaint is made. If all conditions are not corrected within forty-five (45) days, the Executive Director may declare the federal funds for the PROJECT terminated and notify the LPA accordingly. If all conditions are corrected, within the forty-five (45) day period, the LPA will be reimbursed under the terms of this agreement, for all work satisfactorily completed during the forty-five days period.

ARTICLE III. NOTICE & DESIGNATED AGENTS

A. For purposes of implementing this section and all other sections of this Agreement with regard to notice, the following individuals are herewith designated as agents for the respective parties unless otherwise indentured in the addenda hereto:

For Contractual Administrative Matters:

COMMISSION:
Melinda L. McGrath
Executive Director
MDOT
P.O. Box 1850
Jackson, MS 39215-1850
Phone: (601) 359-7002
Fax: (601) 359-7110

LPA:
Edward Pinero, Jr.
Mayor
City of Picayune
203 Goodyear Boulevard
Picayune, MS 39466
Phone: (601) 798-9770
Fax: (601) 798-0564

For Technical Matters:

COMMISSION:
David H. Seyfarth, PE, PS
District LPA Coordinator – District VI
MDOT
16499-B Highway 49
Saucier, MS 39574-9740
Phone: (228) 832-0682
Fax: (228) 832-0681

LPA:
Eric Morris
Director of Public Works
City of Picayune
203 Goodyear Boulevard
Picayune, MS 39466
Phone: (601) 799-0602
Fax: (601) 798-0564

B. All notices given hereunder shall be by U.S. Certified Mail, return receipt requested, or by facsimile and shall be effective only upon receipt by the addressee at the above addresses or telephone numbers.

ARTICLE IV. RELATIONSHIP OF THE PARTIES

A. The relationship of the LPA to the COMMISSION is that of an independent contractor, and said LPA, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will

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neither hold itself out as, nor claim to be, an officer or employee of the COMMISSION by reason hereof. The LPA will not by reason hereof, make any claim, demand or application or for any right or privilege applicable to an officer or employee of the COMMISSION, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

B. The COMMISSION executes all directives and orders through the MDOT. The LPA executes all directives and orders pursuant to applicable law, policies, procedures and regulations. All notices, communications, and correspondence between the COMMISSION and the LPA shall be directed to the designated agent shown above in Article III.

ARTICLE V. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

To the extent permitted by law, the Commission and the LPA agree that neither party nor their agents, employees, contractors or subcontractors, will be held liable for any claim, loss, damage, cost, charge or expenditure arising out of any negligent act, actions, neglect or omission caused solely by the other party, its agents, employees, contractors or subcontractors.

ARTICLE VI. MISCELLANEOUS

No modification of this Memorandum of Understanding shall be binding unless such modification shall be in writing and signed by all parties. If any provision of this Memorandum of Understanding shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Memorandum of Understanding is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

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ARTICLE VII. AUTHORITY TO CONTRACT

Both parties hereto represent that they have authority to enter into this Memorandum of Understanding.

This Agreement may be executed in one or more counterparts (facsimile transmission, email or otherwise), each of which shall be an original Agreement, and all of which shall together constitute but one Agreement.

So agreed this the _____ day of _____, 20____.

City of Picayune

Edward Pinero, Jr., Mayor

Attested:

(Appropriate clerk etc)

So agreed this the _____ day of _____, 20____.

MISSISSIPPI TRANSPORTATION COMMISSION
By and through the duly authorized
Executive Director

Melinda L. McGrath, PE
Executive Director
Mississippi Department of Transportation

Book _____, Page _____,

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The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouquet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

APPROVE REQUEST TO APPLY FOR THE 2014-2015 STOP VIOLENCE AGAINST WOMAN PROGRAM GRANT

Motion was made by Council Member Valente, seconded by Council Member Stevens to approve request to apply for the 2014-2015 STOP Violence Against Woman Program grant.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

APPROVE REQUEST TO APPLY FOR A GRANT FROM THE LOWER PEARL RIVER VALLEY FOUNDATION

Motion was made by Council Member Valente, seconded by Council Member Bumpers to approve request to apply for a grant from the Lower Pearl River Valley Foundation to help develop the five acre green space on Goodyear Blvd.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

SET A DATE OF APRIL 1, 2014 FOR A PUBLIC HEARING ON PROPERTY CLEAN-UP

Motion was made by Council Member Stevens, seconded by Council Member Gouguet to set a date of April 1, 2014 for a Public Hearing on property clean-up on the following properties:

- | | | |
|-----------------------|------------|-------------------------|
| 1. South Blanks Ave. | PPIN 26982 | parcel 6176140040404300 |
| 2. 603 S. Blanks Ave. | PPIN 26992 | parcel 6176140040500500 |
| 3. 112 Glenwood St. | PPIN 24110 | parcel 6175150020203400 |
| 4. 960 Shirley Dr. | PPIN 25080 | parcel 6175210020204000 |

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

**APPROVE THE PRELIMINARY ENGINEERING CONTRACT FOR THE WEST SIDE
ELEMENTARY SIDEWALK ENHANCEMENT PROJECT**

Motion was made by Council Member Gouguet, seconded by Council Member Valente to approve the Preliminary Engineering Contract for the West Side Elementary Sidewalk Enhancement Project # SRSP-0400-00(029)LPA/106711-7401000.

**THE CITY OF PICAYUNE
PRELIMINARY ENGINEERING CONTRACT
FOR
CITY OF PICAYUNE –
WEST SIDE ELEMENTARY
SIDEWALK ENHANCEMENT PROJECT
PROJECT NO. SRSP-0400-00(029)LPA/106711-701000
PEARL RIVER COUNTY, MS**

PICAYUNE, MS

February 2014



Prepared By:



DUNGAN ENGINEERING, P.A.
925 GOODYEAR BOULEVARD
PICAYUNE, MISSISSIPPI 39466
(601) 799-1037

SET NO. ____

ESC
Rev. 08/28/04 (Base)
Rev. 1/13/14 (This form)

PRELIMINARY ENGINEERING SERVICES CONTRACT

City of Picayune – West Side Elementary Sidewalk Enhancement
Project No. ***SRSP-0400-00(029)LPA/106711-401000***
Pearl River County

THIS CONTRACT, is made and entered into by and between the ***City of Picayune***, a body Politic of the State of Mississippi (the "LPA"), and, ***Dungan Engineering, P.A.*** (the "CONSULTANT"), a Corporation, duly registered to do business in the State of Mississippi, whose address for mailing is ***925 Goodyear Boulevard***, effective as of the date of latest execution below.

WITNESSETH:

WHEREAS, the LPA proposes to perform a **Sidewalk Enhancement along Sixth Avenue from approximately Kirkwood Street to approximately Elmwood Street**, as provided for in Project No. goes here, hereinafter called the "PROJECT"; and,

WHEREAS, the LPA desires to engage a qualified and experienced CONSULTANT to perform engineering services in connection with the PROJECT, all of which are hereinafter called the "SERVICES"; and,

WHEREAS, the CONSULTANT has represented to the LPA that it is experienced and qualified to provide those services, and the LPA has relied upon such representation; and,

WHEREAS, the CONSULTANT herein was chosen for their expertise in performing the services in connection with the PROJECT and found satisfactory by the LPA; which is now desirous of entering into a contract;

WHEREAS, the CONSULTANT herein was chosen through the LPA Consultant Selection Process pursuant to Mississippi Department of Transportation (hereinafter "MDOT") LPA Project Development Manual and pursuant to Federal Highway Administration ("FHWA") regulations, Engineering and Design Related Service Contracts, 23 C.F.R. Part 172 (as amended) and found satisfactory;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein and for other good and valuable considerations flowing unto the parties, the receipt and sufficiency of which is hereby acknowledged, the LPA and the CONSULTANT do hereby contract and agree as follows:

ARTICLE I. GENERAL RECITALS

CONSULTANT shall, for the agreed fees, furnish all engineering services and materials required to perform the tasks described in the Scope of Work for the proposed transportation project. In so doing, CONSULTANT shall meet the current industry standards (and any MDOJ or LPA standards identified in Exhibit 2) as to general format and content and in addition thereto, any special requirements of the LPA.

THE LPA, in support of CONSULTANT will provide the CONSULTANT a Scope of Work shown in "Exhibit 2" hereto and any other data which may be of assistance to CONSULTANT and within the possession and control of the LPA.

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Manuals, guides, and specifications applicable to this CONTRACT shall be those approved and/or adopted by MDOT and in effect on the effective date of this CONTRACT, unless otherwise specified in this Contract or subsequently directed by MDOT during the course of the CONTRACT.

ARTICLE II. SCOPE OF WORK

The CONSULTANT shall conduct the SERVICES in accordance with the Scope of Work attached to this CONTRACT as "Exhibit 2" and made a part hereof as if fully set forth herein. The performance of the SERVICES referred to in "Exhibit 2" shall be the primary basis for measurement of performance under this CONTRACT. The LPA specifically reserves the right and privilege to enlarge or reduce the scope; or to cancel this CONTRACT at any time.

ARTICLE III. CONTRACT TERM

This CONTRACT shall commence upon the latest date of execution below and continue until such time as the above named project is successfully completed to the satisfaction of the LPA or until **February 15, 2015, 5:00 PM CDT**, at which time this CONTRACT shall absolutely and finally terminate.

During the term of this CONTRACT, the LPA reserves the right to terminate this CONTRACT in whole or in part, at any time, with or without cause, upon seven (7) days written notice to the CONSULTANT, notwithstanding any just claims by the CONSULTANT for payment of SERVICES rendered prior to the date of termination. The LPA shall be liable only for the costs, fees and expenses for demobilization and close out of contract, based on actual time and expenses incurred by CONSULTANT in the packaging and shipment of all documents covered by this CONTRACT to the LPA. In no event shall the LPA be liable for lost profits or other consequential damages.

ARTICLE IV. TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS CONTRACT. The CONSULTANT shall be prepared to perform its responsibilities for providing SERVICES commencing on the date of execution of the CONTRACT.

The CONSULTANT has submitted a proposed project schedule to the LPA which has been incorporated herein as a part of "Exhibit 2", which when approved by final execution of this CONTRACT shall control the evaluation of the CONSULTANT's progress on this PROJECT. A copy of the progress schedule, indicating the actual time expended on specific portions of this project, shall be submitted along with an estimated percentage completed with each monthly statement.

A Notice to Proceed shall be issued under authority from the LPA within 30 days after final execution of this CONTRACT. The CONSULTANT may not begin work on any feature of this PROJECT prior to receiving a Notice to Proceed from the LPA.

ARTICLE V. RELATIONSHIP OF THE PARTIES

The relationship of the CONSULTANT to the LPA is that of an independent contractor, and said CONSULTANT, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the LPA by reason hereof. The CONSULTANT will not by reason hereof, make any claim, demand or application or for any right or privilege applicable to an officer or employee of the LPA, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

All notices, communications, and correspondence between the LPA and the CONSULTANT shall be directed to the key personnel and agents designated in this contract.

ARTICLE VI. COMPENSATION, BILLING & AUDIT

A. Cost and Fees

The CONSULTANT shall be paid on the basis set forth in "Exhibit 3" to this CONTRACT. Under no circumstances shall the LPA be liable for any amounts, including any costs, which exceed the maximum dollar amount of compensation that is specified in and set forth in "Exhibit 3".

B. Monthly Billing

The CONSULTANT may submit monthly billing to the LPA. (A sample of a preferred invoice is attached as "Exhibit 4".) Each billing shall include all time and allowable expenses through the end of the billing period. Direct expenses, as used herein, include the costs of travel, subsistence, shipping charges, long distance telephone calls and printing if it is not company accounting policy to include these costs in overhead rates. The LPA retains the right to verify time and expense records by audit of any or all CONSULTANT's time and accounting records at any time during the life of the CONTRACT and up to three years thereafter.

If SERVICES are rendered within a given State fiscal year, an invoice requesting payment from the CONSULTANT shall be presented to the LPA within 60 days of the end of the State fiscal year. **Should the CONSULTANT fail to present the invoice within the allotted time, legislative approval may be required before payment can be rendered.**

The CONSULTANT further agrees that FHWA or any other Federal Agency may audit the same records at any time during the life of the CONTRACT and up to three years thereafter, should the funding source for all or any part of the CONTRACT be funds of the United States of America.

C. Record Retention

The CONSULTANT shall maintain all time and expense records incurred on the PROJECT and used in support of its proposal and shall make such material available at all reasonable times during the period of the CONTRACT and for three years from the date of final payment under this CONTRACT for inspection by the LPA, and copies thereof shall be furnished upon request, at the LPA's expense. The CONSULTANT agrees that the provisions of this Article shall be included in any CONTRACT it may make with any subcontractors, assignees or transferees.

D. Retainage

The LPA shall retain the final 25% of the CONSULTANT's Fixed Fee until the final payment request has been received and an audit of the total PROJECT cost to date has been completed by the LPA or its designee.

ARTICLE VII. FINAL PAYMENT

The CONSULTANT shall clearly indicate on its last Invoice for the CONTRACT that the Invoice is "FINAL". The LPA will confirm that the CONTRACT is ready to be closed and the "FINAL" Invoice may be paid. All "FINAL" invoices shall pay any retainage withheld on the CONTRACT. However, under no circumstances will the total amount paid exceed the maximum not to exceed amount established for the CONTRACT. The CONSULTANT agrees that acceptance of the final payment shall be in full and final settlement of all claims arising against the LPA for work done, documents furnished, cost incurred, or otherwise arising out of this CONTRACT and shall release the LPA from any and all further claims of whatever nature, whether known or unknown, for and on account of said CONTRACT, including payment for any and all work done, and labor and material furnished in connection with the same. Errors and/or omissions discovered subsequent to the acceptance by the LPA of the final contract documents shall be corrected by the CONSULTANT without additional compensation. The CONSULTANT shall submit their "FINAL" invoice no later than 45 days following termination of the CONTRACT.

ARTICLE VIII. REVIEW OF WORK

Authorized representatives of the LPA may at all reasonable times review and inspect the SERVICES under this CONTRACT and any addenda or amendments thereto. Authorized representatives of the FHWA may also review and inspect the SERVICES under this CONTRACT should funds of the United States of America be in any way utilized in payment for said SERVICES. Such inspection shall not make the United States of America a party to this CONTRACT, nor will FHWA interfere with the rights of either party hereunder.

All reports, drawings, studies and maps prepared by and for the CONSULTANT, shall be made available to authorized representatives of the LPA for inspection and review at all reasonable times in the General Offices of the LPA. Authorized representatives of the FHWA may also review and inspect said reports, drawings, studies and maps prepared under the CONTRACT should funds of the United States of America be in any way utilized in payment for the same. Acceptance by the LPA shall not relieve the CONSULTANT of its professional obligation to correct, at its expense, any of its breaches, errors and/or omissions, in the final version of the work.

The CONSULTANT shall be responsible for performance of and compliance with all terms of this CONTRACT, including the Scope of Work and other exhibits, and including any technical specifications and special requirements of the LPA, and shall be responsible for errors and/or omissions, including those as to conduct and care, format and content, for all aspects of the CONTRACT, and including professional quality and technical accuracy of all designs, drawings, specifications, and other services furnished by the CONSULTANT.

Failure to comply with any terms of this CONTRACT shall be corrected by the CONSULTANT without additional compensation.

If any breach of CONTRACT, is discovered by LPA personnel after final acceptance of the work by the LPA, then the CONSULTANT shall, without additional compensation, cure any deficiency or breach including errors and/or omissions in designs, plans, drawings, specifications, or other services.

In the event that the project schedule requires that a breach of this CONTRACT be corrected by someone other than the CONSULTANT then the actual costs incurred by the LPA for such corrections shall be the responsibility of the CONSULTANT. The LPA shall give the CONSULTANT an opportunity to correct said breach unless (1) the LPA determines, in its sole discretion, that the CONSULTANT cannot cure the breach within the schedule established by the LPA, or (2) the LPA determines, in its sole discretion, that the CONSULTANT cannot cure the breach to the satisfaction of the LPA.

In the event that the CONSULTANT breaches this CONTRACT, and the breaches of the CONSULTANT are discovered during the construction phase, then an accounting of all costs incurred by the LPA resulting from such breach, including errors and/or omissions, will be made and such amount will be recovered from the CONSULTANT.

ARTICLE IX. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

The CONSULTANT shall indemnify, defend and hold harmless the LPA and all its officers, agents and employees from any claim, loss, damage, cost, charge or expense arising out of any negligent act, actions, neglect or omission by the CONSULTANT, its agents, employees, or subcontractors during the performance of this CONTRACT, whether direct or indirect, and whether to any person or property for which LPA or said parties may be subject, except that neither the CONSULTANT nor any of his agents or subcontractors will be liable under this provision for damages arising out of the injury or damage to persons or property solely caused or resulting from the negligence of the LPA or any of its officers, agents or employees.

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The CONSULTANT'S obligations under this Article, including the obligations to indemnify, defend, hold harmless, pay reasonable attorney fees or, at the LPA'S option, participate and associate with the LPA in the defense and trial or arbitration of any damage claim, lien or suit and any related settlement negotiations, shall be initiated by the LPA'S notice of claim for indemnification to the CONSULTANT. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the LPA entirely responsible shall excuse performance of this provision by the CONSULTANT. In such case, the LPA shall pay all costs and fees related to this obligation and its enforcement. Should there be a finding of dual or multiple liability, costs and fees shall be apportioned accordingly.

In conjunction herewith, the LPA agrees to notify CONSULTANT in writing as soon as practicable after receipt or notice of any claim involving CONSULTANT. These indemnities shall not be limited by reason of the listing of any insurance coverage below.

ARTICLE X. INSURANCE

Prior to beginning the work, the CONSULTANT shall obtain and furnish certificates to the LPA for the following minimum amounts of insurance:

- A. Workers' Compensation Insurance in accordance with the laws of the State of Mississippi.
- B. Public Liability Insurance in an amount not less than one million dollars (\$1,000,000.00) on account of any one occurrence.
- C. Property Damage Insurance in an amount not less than five hundred thousand dollars (\$500,000.00) from damages on account of any one occurrence, with an aggregate limit of not less than one million dollars (\$1,000,000.00).
- D. Valuable Documents Insurance, whether as a part of the property damage insurance referenced above or as separate insurance, in an amount sufficient to cover all costs associated with repairing, restoring or replacing any documents kept or created by Consultant as a part of the Services, in the event of casualty to, or loss or theft of such documents.
- E. Errors and Omissions Insurance, in an amount not less than one million dollars (\$1,000,000.00) per incident; one million dollars (\$1,000,000.00) aggregate.
- F. Comprehensive Automobile Liability Insurance, with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) per incident with respect to CONSULTANT'S (owned, hired or non-owned) vehicles, assigned to or used in the performance of services.

The LPA shall be listed as a certificate holder of insurance on any of the insurance required under this CONTRACT.

In the event that the CONSULTANT retains any subcontractor or other personnel to perform SERVICES or carry out any activities under or incident to work on any project or phase of this CONTRACT, CONSULTANT agrees to obtain from said subcontractor or other personnel, certificates of insurance demonstrating that said subcontractor or other personnel has sufficient coverage, or to include said subcontractor or other personnel within CONSULTANT'S coverage for the duration of said PROJECT or phase for which said subcontractor or other personnel is employed.

The Insurance coverage recited above shall be maintained in full force and effect by CONSULTANT during the life of this CONTRACT. Should CONSULTANT cease to carry the errors and omissions coverage listed above for any reason, it shall obtain "tail" coverage at the same limits for a period of not less than three (3)

years subsequent to policy termination or contract termination, whichever is longer. Should CONSULTANT change insurance carriers for errors and /or coverage, it shall obtain a "retroactive coverage" endorsement from its new insurance carrier.

Insurance carriers must be properly licensed and/or must hold a Certificate of Authority from the Mississippi Department of Insurance.

A certificate of insurance acceptable to the LPA shall be issued to the LPA by the CONSULTANT prior to the execution of this CONTRACT by the CONSULTANT and thereafter on an annual basis for the duration of this CONTRACT as evidence that policies providing the required coverage, conditions and limits are in full force and effect. Such certificate shall identify this CONTRACT and contain provisions that coverage afforded under the policies will not be cancelled, terminated, or materially altered until at least thirty (30) days prior written notice has been given to the LPA.

The CONSULTANT will furnish certified copies, upon request, of any or all of the policies and/or endorsements to the LPA prior to the execution of this CONTRACT and thereafter on an annual basis for the duration of this CONTRACT.

The CONSULTANT shall provide the LPA any and all documentation necessary to prove compliance with the insurance requirements of this CONTRACT as such documentation is requested, from time to time, by the LPA.

If the CONSULTANT fails to procure or maintain required insurance, the LPA may immediately elect to terminate this CONTRACT or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the LPA shall be repaid by the CONSULTANT to the LPA upon demand, or the LPA may offset the cost of the premiums against any monies due to the CONSULTANT from the LPA.

ARTICLE XI. COVENANT AGAINST CONTINGENT FEES AND LOBBYING

The CONSULTANT shall comply with the relevant requirements of all federal, state or local laws. The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this CONTRACT, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of the CONTRACT. The CONSULTANT warrants that it shall not contribute any money, gift or gratuity of any kind, either directly or indirectly to any employee of the LPA, or to any employee of the Mississippi Department of Transportation. For breach or violation of this warranty, the LPA shall have the right to terminate this CONTRACT without liability, and the CONSULTANT shall forfeit any sums due hereunder at the time of such breach and may be barred from performing any future services for the LPA or participating in any future contracts with the LPA.

ARTICLE XII. EMPLOYMENT OF LPA'S PERSONNEL

The CONSULTANT shall not employ any person or persons in the employ of the LPA for any work required by the terms of this CONTRACT, without the written permission of the LPA, except as may otherwise be provided for herein.

ARTICLES XIII. MODIFICATION

If, prior to the satisfactory completion of the SERVICES under this CONTRACT, the LPA materially alters the scope, character, complexity or duration of the SERVICES from those required under this CONTRACT, a supplemental agreement may be executed between the parties. Also, a supplemental agreement may be executed between the parties in the event that both parties agree the CONSULTANT's compensation

should be increased due to an unanticipated increase in the nature, scope or amount of work necessary to properly provide the SERVICES required on any particular phase or project begun hereunder.

Oral agreements or conversations with the LPA, any individual member of the LPA, officer, agent, or employee of the Mississippi Department of Transportation, either before or after execution of this CONTRACT, shall not affect or modify any of the terms or obligations contained in this CONTRACT. All modifications to this CONTRACT, amendments or addenda thereto must be submitted in writing and signed by the parties thereto before any work is commenced.

The CONSULTANT may not begin work on any modifications, amendments, or addenda prior to receiving a Notice to Proceed.

Minor changes in the proposal which do not involve changes in the compensation, extensions of time or changes in the goals and objectives of the CONTRACT may be made by written notification of such change by either the LPA or the CONSULTANT to the other party, and shall become effective upon written acceptance thereof (i.e. letter agreement).

ARTICLE XIV. SUBLETTING, ASSIGNMENT OR TRANSFER

It is understood by the parties to this CONTRACT that the work of the CONSULTANT is considered personal by the LPA. The CONSULTANT shall not assign, sublet or transfer any or all of its interest in this CONTRACT without prior written approval of the LPA. Under no circumstances will CONSULTANT be allowed to sublet more than 60% of the work required under this contract. It is clearly understood and agreed that specific projects or phases of the work may be sublet in their entirety provided that CONSULTANT performs at least 40% of the overall contract with its own forces. Consent by the LPA to any subcontract shall not relieve CONSULTANT from any of its obligations hereunder, and CONSULTANT is required to maintain final management responsibility with regard to any such subcontract.

The LPA reserves the right to review all subcontract documents prepared in connection with this CONTRACT, and the CONSULTANT agrees that it shall submit to the LPA any proposed subcontract document together with subcontractor cost estimates for review and written concurrence of the LPA in advance of their execution.

The CONSULTANT shall make prompt payment to all subconsultants no later than 15 days from receipt of each payment the LPA makes to the CONSULTANT. Each month, the CONSULTANT shall submit OCR-484-C found on MDOT's website to the LPA along with the Invoice. This form certifies payments to all Subconsultants and shows all firms even if the CONSULTANT has paid no monies to the firm during that estimate period (negative report).

**ARTICLE XV. OWNERSHIP OF PRODUCTS AND DOCUMENTS AND
WORK MADE FOR HIRE**

The CONSULTANT agrees that all reports, computer information and access, drawings, studies, notes, maps and other data, prepared by and for them under the terms of this CONTRACT shall be delivered to, become and remain in the property of the LPA upon creation and shall be delivered to the LPA upon termination or completion of work, or upon request of the LPA regardless of any claim or dispute between the parties. All such data shall be delivered within thirty (30) days of receipt of a written request by the LPA.

The CONSULTANT and the LPA intend and agree that this CONTRACT to be a contract for services and each party considers the products and results of the services to be rendered by the CONSULTANT hereunder, including any and all material produced and/or delivered under this CONTRACT (the "Work"), to be a "work made for hire" under U.S. copyright and all applicable laws. The CONSULTANT acknowledges and agrees that the LPA owns all right, title, and interest in and to the Work

including, without limitation, the copyright thereto and all trademark, patent, and all intellectual property rights thereto.

If for any reason the Work would not be considered a work made for hire under applicable law, or in the event this CONTRACT is determined to be other than a contract or agreement for a work made for hire, the CONSULTANT does hereby transfer and assign to the LPA, and its successors and assigns, the entire right, title, and interest in and to any Work prepared hereunder including, without limitation, the following: the copyright and all trademark, patent, and all intellectual property rights in the Work and any registrations and copyright, and/or all other intellectual property, applications relating thereto and any renewals and extensions thereof; all works based upon, derived from, or incorporating the Work; all income, royalties, damages, claims, and payments now or hereafter due or payable with respect thereto; all causes of action, either in law or in equity, for past, present, or future infringement based on the copyrights and/or all other intellectual property; all rights, including all rights to claim priority, corresponding to the foregoing in the United States and its territorial possessions and in all foreign countries. The CONSULTANT agrees to execute all papers and perform such other proper acts as the LPA may deem necessary to secure for the LPA or its designee the rights herein assigned.

The LPA may, without any notice or obligation of further compensation to the CONSULTANT, publish, re-publish, anthologize, use, disseminate, license, or sell the Work in any format or medium now known or hereafter invented or devised. The LPA'S rights shall include, without limitation, the rights to publish, re-publish, or license a third party to publish, re-publish, or sell the Work in print, on the World Wide Web, or in any other electronic or digital format or database now known or hereafter invented or devised, as a separate isolated work or as part of a compilation or other collective work, including a work different in form from the first publication, and to include or license a third party to include the Work in an electronic or digital database or any other medium or format now known or hereafter invented or devised.

The CONSULTANT shall obtain any and all right, title, and interest to all input and/or material from any third party subconsultant, or any other party, who may provide such input and/or material to any portion of the Work so that said right, title, and interest, and all such interest in and to the Work including, without limitation, the copyright thereto and all trademark, patent, and all intellectual property rights thereto, shall belong to the LPA.

For any intellectual property rights currently owned by third parties or by the CONSULTANT and not subject to the terms of this CONTRACT, the CONSULTANT agrees that it will obtain or grant royalty-free, nonexclusive, irrevocable license(s) for or to the LPA at no cost to the LPA to use all copyrighted or copyrightable work(s) and all other intellectual property which is incorporated in the material furnished under this CONTRACT. Further, the CONSULTANT warrants and represents to the LPA that it has obtained or granted any and all such licensing prior to presentation of any Work to the LPA under this CONTRACT. This obligation of the CONSULTANT does not apply to a situation involving a third party who enters a license agreement directly with the LPA.

The CONSULTANT warrants and represents that it has not previously licensed the Work in whole or in part to any third party and that use of the Work in whole or in part will not violate any rights of any kind or nature whatsoever of any third party. The CONSULTANT agrees to indemnify and hold harmless the LPA, its successors, assigns and assignees, and its respective officers, directors, agents and employees, from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees), arising out of or in any way connected with any breach of any representation or warranty made by CONSULTANT herein.

ARTICLE XVI. PUBLICATION AND PUBLICITY

The CONSULTANT agrees that it shall not for any reason whatsoever communicate to any third party, with the exception of the MDOT and the FHWA, in any manner whatsoever concerning any of its

CONTRACT work product, its conduct under the CONTRACT, the results or data gathered or processed under this CONTRACT, which includes, but is not limited to, reports, computer information and access, drawings, studies, notes, maps and other data prepared by and for the CONSULTANT under the terms of this CONTRACT, without prior written approval from the LPA, unless such release or disclosure is required by judicial proceeding. The CONSULTANT agrees that it shall immediately refer any third party who requests such information to the LPA and shall also report to the LPA any such third party inquiry, with the exception of the MDOT and/or the FHWA. This Article shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the CONSULTANT from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the CONSULTANT to defend itself from any suit or claim.

IT IS FURTHER AGREED, that all approved releases of information, findings, and recommendations shall include a disclaimer provision and that all published reports shall include that disclaimer on the cover and title page in the following form:

The opinions, findings, and conclusions in this publication are those of the author(s) and not necessarily those of the Local Public Agency, Mississippi Department of Transportation, Mississippi Transportation Commission, the State of Mississippi, or the Federal Highway Administration.

ARTICLE XVII. CONTRACT DISPUTES

This CONTRACT shall be deemed to have been executed in *insert County name here* County, Mississippi, and all questions including, but not limited to, questions of interpretation, construction and performance shall be governed by the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect to this CONTRACT shall be brought in a court of competent jurisdiction in *insert County name here*, State of Mississippi. The CONSULTANT expressly agrees that under no circumstances shall the LPA be obligated to or responsible for payment of an attorney's fee for the cost of legal action to or on behalf of the CONSULTANT.

ARTICLE XVIII. COMPLIANCE WITH APPLICABLE LAW

- A. The undersigned certify that to the best of their knowledge and belief, the foregoing is in compliance with all applicable laws.
- B. The CONSULTANT shall observe and comply with all applicable federal, state, and local laws, rules and regulations, policies and procedures, ordinances, and orders and decrees of bodies or tribunals of the United States of America or any agency thereof, the State of Mississippi or any agency thereof, and any local governments or political subdivisions, that are in effect at the time of the execution of this CONTRACT or that may later become effective.
- C. The CONSULTANT shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this CONTRACT because of race, creed, color, sex, national origin, age or disability.
- D. IT IS FURTHER SPECIFICALLY AGREED that the CONSULTANT shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and all other applicable federal regulations as stated in "Exhibit 5" which is incorporated herein by reference.
- E. It is agreed that the CONSULTANT will comply with the provisions set forth in Department of Transportation, 49 CFR, Section 18, Et Seq., regarding Uniform Administrative

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Requirements for Grants and Cooperative agreements in its administration of this CONTRACT or any subcontract resulting herefrom.

- F. The CONSULTANT agrees that it will abide by the provisions of 49 CFR Section 26 regarding disadvantaged business enterprises and include the certification made in "Exhibit 5" to this CONTRACT in any and all subcontracts which may result from this CONTRACTS.
- G. The CONSULTANT shall comply and shall require its subconsultants to comply with Code of Federal Regulations CFR 23 Part 634 - Worker Visibility – as stated in "Exhibit 5".
- H. IMMIGRANT STATUS CERTIFICATION. The CONSULTANT represents that it is in compliance with the Immigration Reform and Control Act of 1986 (Public Law 99-603), as amended, in relation to all employees performing work in the State of Mississippi and does not knowingly employ persons in violation of the United States immigration laws. The CONSULTANT further represents that it is registered and participating in the Department of Homeland Security's E-Verify™ employment eligibility verification program, or successor thereto, and will maintain records of compliance with the Mississippi Employment Protection Act including, but not limited to, requiring compliance certification from all subcontractors and vendors who will participate in the performance of this Agreement and maintaining such certifications for inspection if requested. The CONSULTANT acknowledges that violation may result in the following: (a) cancellation of any public contract and ineligibility for any public contract for up to three (3) years, or (b) the loss of any license, permit, certification or other document granted by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. The CONSULTANT also acknowledges liability for any additional costs incurred by the LPA due to such contract cancellation or loss of license or permit. The CONSULTANT is required to provide the certification on Exhibit 9 in this CONTRACT to the LPA verifying that the CONSULTANT and subconsultant(s) are registered and participating in E-Verify prior to execution of this CONTRACT
- I. The covenants herein shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

ARTICLE XIX. WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time, or of any other provision hereof, nor shall it be construed to be a modification of the terms of this CONTRACT.

ARTICLE XX. SEVERABILITY

If any terms or provisions of this CONTRACT are prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this CONTRACT shall not be affected thereby and each term and provision of this CONTRACT shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XXI. ENTIRE AGREEMENT

This CONTRACT constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings, and agreements, written or oral, between the parties relating thereto.

ARTICLE XXII. CONFLICT OF INTEREST

The CONSULTANT covenants that no public or private interests exist and none shall be acquired directly or indirectly which would conflict in any manner with the performance of the CONSULTANT'S CONTRACT. The CONSULTANT further covenants that no employee of the CONSULTANT or of any subconsultant(s), regardless of his/her position, is to personally benefit directly or indirectly from the performance of the SERVICES or from any knowledge obtained during the CONSULTANT'S execution of this CONTRACT.

ARTICLE XXIII. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the LPA to proceed under this CONTRACT is conditioned upon the availability of funds, the appropriation of funds by the Mississippi Legislature, and the receipt of state and/or federal funds. If, at any time, the funds anticipated for the fulfillment of this CONTRACT are not forthcoming or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to the LPA for the performance of this CONTRACT, the LPA shall have the right, upon written notice to the CONSULTANT, to immediately terminate or stop work on this CONTRACT without damage, penalty, cost, or expense to the LPA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

ARTICLE XXIV. STOP WORK ORDER

- A. **Order to Stop Work.** The LPA may, by written order to the CONSULTANT at any time, and without notice to any surety, require the CONSULTANT to stop all or any part of the work called for by this CONTRACT. This order shall be for a specified period not exceeding twenty-four (24) months after the order is delivered to the CONSULTANT unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the CONSULTANT shall forthwith comply with its terms and take all steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the LPA shall either:
- (1) cancel the stop work order; or
 - (2) terminate the work covered by such order according to and as provided in Article III of this CONTRACT.

Prior to the LPA'S taking official action to stop work under this CONTRACT, the Executive Director of MDOT and/or the LPA may notify the CONSULTANT, in writing, of the MDOT or the LPA's intentions to ask the LPA or CONSULTANT to stop work under this CONTRACT. Upon notice from the Executive Director of MDOT or the LPA, the CONSULTANT shall suspend all activities under this CONTRACT, pending final action by the LPA.

- B. **Cancellation or Expiration of the Order.** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONSULTANT shall have the right to resume work. If the LPA decides that it is justified, an appropriate adjustment may be made in the delivery schedule. If the stop work order results in an increase in the time required for or in the CONSULTANT'S cost properly allocable to the performance of any part of this CONTRACT and the CONSULTANT asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage, an equitable adjustment in this CONTRACT may be made by written modification of this CONTRACT as provided by the terms of this CONTRACT.

- C. **Termination of Stopped Work.** If a stop work order is not canceled and the work covered by such order is terminated, the CONSULTANT may be paid for services rendered prior to the Termination. In addition to payment for services rendered prior to the date of termination, the LPA shall be liable only for the costs, fees, and expenses for demobilization and close out of this CONTRACT, based on actual time and expenses incurred by the CONSULTANT in the packaging and shipment of all documents covered by this CONTRACT to the LPA. In no event shall the LPA be liable for lost profits or other consequential damages.

ARTICLE XXV. KEY PERSONNEL & DESIGNATED AGENTS

CONSULTANT agrees that Key Personnel identified as assigned to this PROJECT shall not be changed or reassigned without prior approval of the LPA or, if prior approval is impossible, and then notice to the LPA and subsequent review by the LPA which may approve or disapprove the action. For purposes of implementing this section and all other sections of this CONTRACT with regard to notice, the following individuals are herewith designated as agents for the respective parties unless otherwise identified in the addenda hereto:

LPA: City of Picayune
Fax (601) 798-0564
Email: picstaffasst@bellsouth.net

For Contractual Matters:
Ed Pinero, Jr., Ph.D., Mayor
Mayor, City of Picayune
815 N. Beech Street
Picayune, MS 39466
601-798-9770
601-798-0564
picstaffasst@bellsouth.net

For Technical Matters:
Eric Morris, Public Works Director
Public Works Director, City of Picayune
815 N. Beech Street
Picayune, MS 39466
601-798-9770
601-798-0564
emorris@picayune.ms.us

CONSULTANT:

Dungan Engineering, P.A.

For Contractual Matters:
Brooks Wallace, P.E.
925 Goodyear Blvd
Picayune, MS 39466
601-799-1037
601-799-0480
brooks@dunganeng.com

For Technical Matters:
Vernon Moore, P.E.
925 Goodyear Blvd
Picayune, MS 39466
601-799-1037
601-799-0480
vernon@dunganeng.com

Licensure Number
from the Mississippi
Board of Licensure
for Professional
Engineers/Architects and Surveyors:

P.E. # 17699
Surveyor # NA
Or
Architect's # NA

Licensure Number
from the Mississippi
Board of Licensure
for Professional
Engineers/Architect's and Surveyors:

P.E. # 19048
Surveyor # NA
Or
Architect's # NA

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ARTICLE XXVI. AUTHORIZATION

Both parties hereto represent that they have authority to enter into this CONTRACT and that the individuals executing this CONTRACT are authorized to execute it and bind their respective parties and certified copies of the applicable LPA Order and the Resolution of the Corporate Board of Directors of the CONSULTANT are attached hereto as "Exhibit 1" and incorporated herein by reference and made a part hereof as if fully copied herein in words and figures.

WITNESS this my signature in execution hereof, this the ____ day of _____, 20____.

CITY OF PICAYUNE

Ed Pincro, Jr., Ph.D, Mayor

WITNESS this my signature in execution hereof, this the ____ day of _____, 20____.

DUNGAN ENGINEERING, P.A.

BY: _____
Brooks Wallace, P.E.

ATTEST: _____

Exhibits attached hereto and incorporated by reference into this contract include those identified on the attached page entitled "List of Exhibits".

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LIST OF EXHIBITS

1. Evidence of Authority
2. Scope of Work
3. Fees and Expenses.
4. Sample Invoice
5. Notice to the CONSULTANT
6. CONSULTANT's Certification Regarding Debarment, Suspension and Other Responsibility Matters.
7. Certification of LPA
8. *{This Exhibit was intentionally left blank}*
9. Prime Consultant EEV Certification and Agreement

EXHIBIT 1

{{{Attach a copy of authority to execute contracts on behalf of the LPA}}}

{{{Attach a copy of authority to execute contracts on behalf of the Consultant Corporation here}}}

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REGULAR MEETING MARCH 4, 2014

UNANIMOUS CONSENT TO ACTION BY THE DIRECTORS OF
DUNGAN ENGINEERING, P.A.
IN LIEU OF THE ANNUAL MEETING OF DIRECTORS

The undersigned, constituting all of the directors of DUNGAN ENGINEERING, P.A., a Mississippi Corporation, do hereby, pursuant to Mississippi Code Annotated Section 79-4-8.21, consent to the following actions undertaken in the name of and on behalf of the directors of the corporation, without the necessity of a meeting, in lieu of the annual meeting of the directors:

RESOLVED:

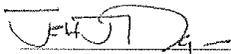
The following employees in their respective positions listed below are authorized to execute contracts on behalf of Dungan Engineering, PA.

H. Les Dungan III, Corporate President and Principal Engineer
J. Lee Mock, Corporate Vice President and Principal Engineer
Brooks Wallace, Corporate Vice President and Principal Engineer
Jeff J. Dungan, Corporate Secretary-Treasurer and Principal Engineer
Jeremy Cooper, Survey Manager
Dewayne Morea, Materials Testing Manager
Ryan Holmes, Engineering Manager Brookhaven Office
Sean Burns, City of Columbia Engineer
Stephen Sowell, Structural Engineer

The undersigned, constituting all of the directors of DUNGAN ENGINEERING, P.A., have executed this unanimous consent action as of the ~~19th~~^{20th} day of January 2011, A.D.



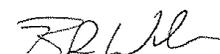
H. Les Dungan, III, Director



Jeff J. Dungan, Director



J. Lee Mock, Director



Brooks R. Wallace, Director

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SCOPE OF WORK

The scope of this project is to provide the LPA with final contract documents to perform a non-reinforced sidewalk enhancement along Sixth Avenue from approximately Kirkwood Street to approximately Elmwood Street. The work would include the design of a non-reinforced sidewalk, striping, signage, drainage and a pedestrian bridge which will in turn provide a safer path for students traveling to and from West Side Elementary.

When in conflict between this CONTRACT and the Local Public Agency (LPA) Project Development Manual for Local Public Agencies (PDM), the PDM will govern.

Project design will be in accordance, where applicable, with the MDOT Roadway Design Manual and supplemented with updated design policies as described in design memos located on the MDOT Roadway Design Division's FTP site, AASHTO's Policy on Geometric Design of Highways and Streets, MDOT's Standard Drawings, MDOT's Roadways CADD Manual, MDOT Standard Specification for Road and Bridge Construction (Redbook), Manual on Uniform Traffic Control Devices (MUTCD), MDOT Survey Manual and 28CFRPart36. The latest edition of the aforementioned shall be used.

PRELIMINARY PLANS

The CONSULTANT shall prepare and submit preliminary plans for the project to include:

- Title Sheet(s)
- Typical sections (if any)
- Site plan

Two (2) sets of PRELIMINARY plans shall be submitted to the LPA for review and approval. Allow approximately three (3) weeks for review by the LPA.

FIELD REVIEW

A field review will be conducted upon submittal of Preliminary Plans. The Field Inspection will include representatives from the CONSULTANT and the LPA and MDOT staff as available.

After the field review is conducted, the CONSULTANT shall commence with development of final construction plans.

FINAL CONTRACT PLANS

Subsequent to the field review, the CONSULTANT shall make all necessary changes which arise during the inspection and commence with the development of final construction plans including final quantities and construction cost estimates

Final contract plans will include:

- Title sheet
- Index and general notes
- Typical sections

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REGULAR MEETING MARCH 4, 2014

- Site plan sheet
- Quantities
- Special design sheets (if any)
- Traffic control plan
- And all notes and data used to develop the plans.

The progression of work is to proceed in accordance with the attached agreed upon Project schedule. The project will be developed in a format consistent with the requirements of the PDM which is summarized in the following three (4) basic milestones and submitted through the LPA to the MDOT:

Milestone #1 – FIELD REVIEW. This submission comes after the activation of the project, execution of the Memorandum of Understanding (MOU), approval of the environmental document and at a point where the design is 50% as pre-determined in the pre-design meeting. The plans (if utilized) shall include the required sheets as specified by the PDM as well as an engineer's cost estimate.

Milestone #2 – OFFICE REVIEW. This submission comes when the design is approximately 90% complete and after the LPA and its Consultant address the comments from the field review. The plans (if utilized) shall include the required sheets as specified by the PDM as well as a revised and updated engineer's cost estimate.

Milestone #3 – PS&E ASSEMBLY. Plans, Specification and Estimate. This submission comes when the design is approximately 100% complete and after the LPA and its Consultant address the comments from the Office Review, obtain any necessary permits and when the plans (if utilized) are complete.

Milestone #4 - ADVERTISING AND RECEIPT OF BIDS. Bid solicitation, review, tabulation and recommendation to award.

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EXHIBIT 3

The LPA shall pay the CONSULTANT on a lump sum / firm-fixed-price basis of \$10,030.20 for the satisfactory completion of the Scope of Work set forth under "Exhibit 2", hereto, for all salaries, payroll additives, overhead, direct costs, profit and any other costs attributable to this CONTRACT.

A lump sum / firm-fixed-price contract provides for a price that is not subject to any adjustment on the basis of the CONSULTANT'S cost experience in performing the assignment.

The monthly billing shall be based on the completion of each milestone relative to its payment, as provided on "Table 1: Billing Milestones" of this Exhibit, as approved by the LPA for this CONTRACT.

Once the LPA has approved and accepted the work of the CONSULTANT, the LPA will pay the CONSULTANT any unpaid amounts of the CONTRACT.

Table 1: Billing Milestones

Milestone number	Milestone	Payment
#1	Field Review	\$3,552.42
#2	Office Review	\$3,401.57
#3	PS&E Assembly	\$2,809.99
#4	Advertising and Receipt of Bids	\$266.21

All overhead rates submitted to MDOT for approval shall comply with the AASHTO Audit Guide, 2010, as amended. In addition, the CONSULTANT shall submit written certification in accordance with FHWA Order 4470.1A, as amended, that the indirect cost rate submitted does not include any costs which are expressly unallowable and the indirect cost rate was established only with allowable costs in accordance with the applicable cost principles contained in the Federal Acquisition Regulations (FAR) of 48 CFR part 31.

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EXHIBIT 4
 SAMPLE INVOICE
 [Lump Sum]

MISSISSIPPI DEPARTMENT OF TRANSPORTATION
 P. O. BOX 1850
 JACKSON, MS 39215-1850

DATE:

ATTENTION: _____

INVOICE NO. 0000
 PERIOD _____, 20__ THROUGH _____, 20__
 PROFESSIONAL SERVICES IN ACCORDANCE WITH
 CONTRACT DATED _____, 20__,
 PROJECT NUMBER _____
 PROJECT DESCRIPTION _____

	CURRENT PERIOD	PREVIOUS ESTIMATE	TOTAL ALLOWED TO DATE
Contract Max \$ _____			
Milestone number 1	\$	\$	\$
Milestone number 2	\$	\$	\$
Milestone number 3	\$	\$	\$
Milestone number 4	\$	\$	\$
Milestone number 5	\$	\$	
\$			

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REGULAR MEETING MARCH 4, 2014

Milestone #1

City of Picayune / Dungan Engineering, P.A. SRSP-0400-00(029)LPA/106711-401000 Kirkwood Street and Elmwood Street			
Classification	Hours	Rate of Pay	Extension
Principle			\$0.00
Project Manager	5	\$40.00	\$200.00
Engineer	5	\$25.00	\$125.00
CADD			\$0.00
Clerical			\$0.00
Survey Manager	4	\$35.00	\$140.00
Engineering Tech I		\$22.00	\$0.00
Lab Tech I		\$20.00	\$0.00
Party Chief	16	\$20.00	\$320.00
Instrument Operator	16	\$15.00	\$240.00
Rodman No. 1	16	\$11.00	\$176.00
			\$0.00
Raw Labor			\$1,201.00
Overhead Rate	163.24	%	\$1,960.51
Total Labor + O/H			\$3,161.51
Fixed Fee	12	%	\$379.38
FCCM Overhead	0.96	%	\$11.53
Direct Costs:	Qty.	Unit Price ¹	
Mileage			\$0.00
Meals			\$0.00
Lodging			\$0.00
Postage			\$0.00
Supplies			\$0.00
Reproductions			\$0.00
Other			\$0.00
Total Direct Cost			\$0.00
Subconsultant Cost²:			
Subconsultant A			\$0.00
Subconsultant B			
Subconsultant C			
Subconsultant D			
Subconsultant E			
Total Subconsultant Cost			\$0.00
¹ See State Travel Handbook			
² All subs must provide back-up and contain MDOT approved overhead rates			
Project Total			\$3,552.42

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**Delineation of Engineering Cost Breakdown
Kirkwood Street and Elmwood Street
Pearl River County
SRSP-0400-00(029) LPA/106711-40100**

Dungan Engineering, P.A.

Item Description	No.		Estimated Hours						Total Hours
	Sheets	Project Manager	Engineer	Survey Manager	Party Chief	Instrument Operator	Rodman No. 1		
MDOT Process:									
Project Activation									
LPA 100		0.5						1	
LPA 700/800		0.5						1	
Kickoff Meeting		1						1	
Environmental Documentation									
Wetland Investigation									
ENV-160		0.5						1	
Field Review									
Print and Distribute Plans			0.5					1	
Staking/Utility Locate Coord				4	16	16	16	52	
Conduct Plan in Hand review			1					1	
Prepare Field Review Report		1	2					3	
Modify Plans per review comments		1.5	1.5					3	
Office Review									
Print Plans and Specifications									
Compile Design Notebook									
Prepare ROW/Util Status Report									
Develop Specifications									
Prepare Construction Estimate									
Assemble and Distribute PS&E									
Conduct Plan Review									
Prepare Office Review Report									
Modify Plans per review comments									
Permits									
NPDES									
USACE									
MDOT									
PS&E Assembly									
Right of Way Certification									
Utility Certification									
Encroachment Certification									
Hazardous Waste Certification									
Asbestos Abatement Certification									
Compose Letters									
Compile Forms									
Print Plans									
Assemble Specifications									
Material Checklist									
MDOT Coordination									
Advertisement									
Print Plans and Specifications									
Prepare Advertisement									
Bidder Coordination									
Receive & Evaluate Bids									
Assemble Bids and Submit									
Survey									
Plans:									
Title Sheet									
Detailed Index									
General Notes									
Summary of Quantities									
Estimated Quantities									
Plan Sheets 1"=20'									
Misc. Details									
Quality Control									
Totals		5	5	4	16	16	16	62	

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REGULAR MEETING MARCH 4, 2014

Labor Rates	\$40.00	\$25.00	\$35.00	\$20.00	\$15.00	\$11.00		
Labor Cost	\$200.00	\$125.00	\$140.00	\$320.00	\$240.00	\$176.00	\$0.00	\$1,201.00
					Overhead	%	163.24%	\$1,960.51
					Total Labor and Overhead			\$3,161.51
					Fixed Fee	%	12.00%	\$379.38
					FCCM Overhead	%	0.96%	\$11.53

<u>Direct Costs:</u>	Qty.	Unit Price ¹	
Mileage			\$0.00
Meals			\$0.00
Lodging			\$0.00
Postage			\$0.00
Supplies			\$0.00
Reproductions			\$0.00
Other			\$0.00

¹ See State Travel Handbook

Total Direct Costs: \$0.00

Total: \$3,552.42

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REGULAR MEETING MARCH 4, 2014

Milestone #2

City of Picayune / Dungan Engineering, P.A. SRSP-0400-00(029)LPA/106711-401000 Kirkwood Street and Elmwood Street			
Classification	Hours	Rate of Pay	Extension
Principle			\$0.00
Project Manager	10	\$40.00	\$400.00
Engineer	30	\$25.00	\$750.00
CADD			\$0.00
Clerical			\$0.00
Survey Manager		\$35.00	\$0.00
Engineering Tech I		\$22.00	\$0.00
Lab Tech I		\$20.00	\$0.00
Party Chief		\$20.00	\$0.00
Instrument Operator		\$15.00	\$0.00
Rodman No. 1		\$11.00	\$0.00
			\$0.00
Raw Labor			\$1,150.00
Overhead Rate	163.24 %		\$1,877.26
Total Labor + O/H			\$3,027.26
Fixed Fee	12 %		\$363.27
FCCM Overhead	0.96 %		\$11.04
Direct Costs:	Qty.	Unit Price ¹	
Mileage			\$0.00
Meals			\$0.00
Lodging			\$0.00
Postage			\$0.00
Supplies			\$0.00
Reproductions			\$0.00
Other			\$0.00
Total Direct Cost			\$0.00
Subconsultant Cost²:			
Subconsultant A			\$0.00
Subconsultant B			
Subconsultant C			
Subconsultant D			
Subconsultant E			
Total Subconsultant Cost			\$0.00
Project Total			\$3,401.57

¹ See State Travel Handbook

² All subs must provide back-up and contain MDOT approved overhead rates

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**Delineation of Engineering Cost Breakdown
Kirkwood Street and Elmwood Street
Pearl River County
SRSP-0400-00(029) LPA/106711-40100**

Dungan Engineering, P.A.

Item Description	No.		Estimated Hours						Total Hours
	Sheets	Project Manager	Engineer	Survey Manager	Party Chief	Instrument Operator	Rodman No. 1		
MDOT Process:									
Project Activation									
LPA 100									
LPA 700/800									
Kickoff Meeting									
Environmental Documentation									
Wetland Investigation									
ENV-160									
Field Review									
Print and Distribute Plans									
Staking/Utility Locate Coord									
Conduct Plan in Hand review									
Prepare Field Review Report									
Modify Plans per review comments									
Office Review									
Print Plans and Specifications		1	1					2	
Compile Design Notebook		1	3					4	
Prepare ROW/Util Status Report		1	3					4	
Develop Specifications		1	9					10	
Prepare Construction Estimate		1	1					2	
Assemble and Distribute PS&E		1	9					10	
Conduct Plan Review		1	1					2	
Prepare Office Review Report		2	1					3	
Modify Plans per review comments		1	2					3	
Permits									
NPDES									
USACE									
MDOT									
PS&E Assembly									
Right of Way Certification									
Utility Certification									
Encroachment Certification									
Hazardous Waste Certification									
Asbestos Abatement Certification									
Compose Letters									
Compile Forms									
Print Plans									
Assemble Specifications									
Material Checklist									
MDOT Coordination									
Advertisement									
Print Plans and Specifications									
Prepare Advertisement									
Bidder Coordination									
Receive & Evaluate Bids									
Assemble Bids and Submit									
Survey									
Plans:									
Title Sheet									
Detailed Index									
General Notes									
Summary of Quantities									
Estimated Quantities									
Plan Sheets 1"=20'									
Misc. Details									
Quality Control									
Totals		10	30					40	

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REGULAR MEETING MARCH 4, 2014

Labor Rates	\$40.00	\$25.00	\$35.00	\$20.00	\$15.00	\$11.00		
Labor Cost	\$400.00	\$750.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,150.00
						Overhead	% 163.24%	\$1,877.26
						Total Labor and Overhead		\$3,027.26
						Fixed Fee	% 12.00%	\$363.27
						FCCM Overhead	0.96%	\$11.04
						Direct Costs:		
						Mileage	Qty. Unit Price ¹	\$0.00
						Meals		\$0.00
						Lodging		\$0.00
						Postage		\$0.00
						Supplies		\$0.00
						Reproductions		\$0.00
						Other		\$0.00
						Total Direct Costs:		\$0.00
						Total:		\$3,401.57

¹ See State Travel Handbook.

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Milestone #3

City of Picayune / Dungan Engineering, P.A. SRSP-0400-00(029)LPA/106711-401000 Kirkwood Street and Elmwood Street			
Classification	Hours	Rate of Pay	Extension
Principle			\$0.00
Project Manager	5	\$40.00	\$200.00
Engineer	30	\$25.00	\$750.00
CADD			\$0.00
Clerical			\$0.00
Survey Manager		\$35.00	\$0.00
Engineering Tech I		\$22.00	\$0.00
Lab Tech I		\$20.00	\$0.00
Party Chief		\$20.00	\$0.00
Instrument Operator		\$15.00	\$0.00
Rodman No. 1		\$11.00	\$0.00
Raw Labor			\$950.00
Overhead Rate	163.24 %		\$1,550.78
Total Labor + O/H			\$2,500.78
Fixed Fee	12 %		\$300.09
FCCM Overhead	0.96 %		\$9.12
Direct Costs:	Qty.	Unit Price ¹	
Mileage			\$0.00
Meals			\$0.00
Lodging			\$0.00
Postage			\$0.00
Supplies			\$0.00
Reproductions			\$0.00
Other			\$0.00
Total Direct Cost			\$0.00
Subconsultant Cost ²:			
Subconsultant A			\$0.00
Subconsultant B			
Subconsultant C			
Subconsultant D			
Subconsultant E			
Total Subconsultant Cost			\$0.00
Project Total			\$2,809.99

¹ See State Travel Handbook

² All subs must provide back-up and contain MDOT approved overhead rates

**Delineation of Engineering Cost Breakdown
Kirkwood Street and Elmwood Street
Pearl River County
SRSP-0400-00(029) LPA/106711-40100**

Dungan Engineering, P.A.

Item Description	No.		Estimated Hours						Total Hours
	Sheets	Project Manager	Engineer	Survey Manager	Party Chief	Instrument Operator	Rodman No. 1		
MDOT Process:									
Project Activation									
LPA 100									
LPA 700/800									
Kickoff Meeting									
Environmental Documentation									
Welland Investigation									
ENV-160									
Field Review									
Print and Distribute Plans									
Staking/Utility Locate Coord									
Conduct Plan in Hand review									
Prepare Field Review Report									
Modify Plans per review comments									
Office Review									
Print Plans and Specifications									
Compile Design Notebook									
Prepare ROW/Util Status Report									
Develop Specifications									
Prepare Construction Estimate									
Assemble and Distribute PS&E									
Conduct Plan Review									
Prepare Office Review Report									
Modify Plans per review comments									
Permits									
NPDES									
USACE									
MDOT									
PS&E Assembly									
Right of Way Certification		0.5	2					3	
Utility Certification		0.5	2					3	
Encroachment Certification		0.5	2					3	
Hazardous Waste Certification		0.5	2					3	
Asbestos Abatement Certification		0.5	2					3	
Compose Letters		0.5	2					3	
Compile Forms		0.5	2					3	
Print Plans		0.5	2					3	
Assemble Specifications		0.5	11					12	
Material Checklist		0.5	2					3	
MDOT Coordination			1					1	
Advertisement									
Print Plans and Specifications									
Prepare Advertisement									
Bidder Coordination									
Receive & Evaluate Bids									
Assemble Bids and Submit									
Survey									
Plans:									
Title Sheet									
Detailed Index									
General Notes									
Summary of Quantities									
Estimated Quantities									
Plan Sheets 1"=20'									
Misc. Details									
Quality Control									
Totals		5	30					35	

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REGULAR MEETING MARCH 4, 2014

Labor Rates	\$40.00	\$25.00	\$35.00	\$20.00	\$15.00	\$11.00		
Labor Cost	\$200.00	\$750.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$950.00
Overhead	%	163.24%						\$1,550.78
Total Labor and Overhead								\$2,500.78
Fixed Fee	%	12.00%						\$300.09
FCCM Overhead	%	0.96%						\$9.12

<u>Direct Costs:</u>	Qty.	Unit Price ¹	
Mileage			\$0.00
Meals			\$0.00
Lodging			\$0.00
Postage			\$0.00
Supplies			\$0.00
Reproductions			\$0.00
Other			\$0.00

¹ See State Travel Handbook

Total Direct Costs: \$0.00

Total: \$2,809.99

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REGULAR MEETING MARCH 4, 2014

Milestone #4

City of Picayune / Dungan Engineering, P.A.			
SRSP-0400-00(029)LPA/106711-401000			
Kirkwood Street and Elmwood Street			
Classification	Hours	Rate of Pay	Extension
Principle			\$0.00
Project Manager	1	\$40.00	\$40.00
Engineer	2	\$25.00	\$50.00
CADD			\$0.00
Clerical			\$0.00
Survey Manager		\$35.00	\$0.00
Engineering Tech I		\$22.00	\$0.00
Lab Tech I		\$20.00	\$0.00
Party Chief		\$20.00	\$0.00
Instrument Operator		\$15.00	\$0.00
Rodman No. 1		\$11.00	\$0.00
			\$0.00
Raw Labor			\$90.00
Overhead Rate	163.24	%	\$146.92
Total Labor + O/H			\$236.92
Fixed Fee	12	%	\$28.43
FCCM Overhead	0.96	%	\$0.86
Direct Costs:	Qty.	Unit Price ¹	
Mileage			\$0.00
Meals			\$0.00
Lodging			\$0.00
Postage			\$0.00
Supplies			\$0.00
Reproductions			\$0.00
Other			\$0.00
Total Direct Cost			\$0.00
Subconsultant Cost ² :			
Subconsultant A			\$0.00
Subconsultant B			
Subconsultant C			
Subconsultant D			
Subconsultant E			
Total Subconsultant Cost			\$0.00
¹ See State Travel Handbook			
² All subs must provide back-up and contain MDOT approved overhead rates			
Project Total			\$266.21

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**Delineation of Engineering Cost Breakdown
Kirkwood Street and Elmwood Street
Pearl River County
SRSP-0400-00(029) LPA/106711-40100**

Dungan Engineering, P.A.

Item Description	No.		Estimated Hours						Total Hours
	Sheets	Project Manager	Engineer	Survey Manager	Party Chief	Instrument Operator	Rodman No. 1		
MDOT Process:									
Project Activation									
LPA 100									
LPA 700/800									
Kickoff Meeting									
Environmental Documentation									
Wetland Investigation									
ENV-160									
Field Review									
Print and Distribute Plans									
Staking/Utility Locate Coord									
Conduct Plan in Hand review									
Prepare Field Review Report									
Modify Plans per review comments									
Office Review									
Print Plans and Specifications									
Compile Design Notebook									
Prepare ROW/Util Status Report									
Develop Specifications									
Prepare Construction Estimate									
Assemble and Distribute PS&E									
Conduct Plan Review									
Prepare Office Review Report									
Modify Plans per review comments									
Permits									
NPDES									
USACE									
MDOT									
PS&E Assembly									
Right of Way Certification									
Utility Certification									
Encroachment Certification									
Hazardous Waste Certification									
Asbestos Abatement Certification									
Compose Letters									
Compile Forms									
Print Plans									
Assemble Specifications									
Material Checklist									
MDOT Coordination									
Advertisement									
Print Plans and Specifications			0.5					1	
Prepare Advertisement		0.5						1	
Bidder Coordination		0.5	0.5					1	
Receive & Evaluate Bids			0.5					1	
Assemble Bids and Submit			0.5					1	
Survey									
Plans:									
Title Sheet									
Detailed Index									
General Notes									
Summary of Quantities									
Estimated Quantities									
Plan Sheets 1"=20'									
Misc. Details									
Quality Control									
Totals		1	2					2	

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EXHIBIT 5

**NOTICE TO CONTRACTORS, FEDERAL-AID CONTRACT
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
COPELAND ANTI-KICKBACK ACT, DAVIS BACON ACT
CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
CLEAN AIR ACT, ENERGY POLICY AND CONSERVATION ACT
DISADVANTAGED BUSINESS ENTERPRISES, WORKER VISIBILITY**

During the performance of this CONTRACT, the CONSULTANT, for itself, its assignees and successor-in-interest (hereinafter referred to as the "CONSULTANT") agrees as follows:

1. Compliance with Regulations: The CONSULTANT will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this CONTRACT.

2. Nondiscrimination: The CONSULTANT, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, religion, color, sex, national origin, age or disability in the selection and retention of subcontractors including procurement of materials and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the CONTRACT covers a program set forth in Appendix B of the Regulations. In addition, the CONSULTANT will not participate either directly or indirectly in discrimination prohibited by 23 C.F.R. 710.405(b).

3. Solicitations for Subcontracts Including Procurement of Materials and Equipment: In all Solicitations, either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this CONTRACT and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, national origin, age or disability.

4. Anti-kickback provisions: All contracts and subcontracts for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The CONSULTANT shall report all suspected or reported violations to the LPA.

5. Davis Bacon Act: When required by the federal grant program legislation, all construction contracts awarded to contractors and subcontractors in excess of \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week.

6. Contract Work Hours and Safety Standards Act: Where applicable, all contracts awarded by or to contractors and subcontractors in excess of \$100,000 which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and

laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Clean Air Act: Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (Contracts and subcontracts in amounts in excess of \$100,000).

8. Energy Policy and Conservation Act: Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

9. Disadvantaged Business Enterprises: It is the policy of the Mississippi Department of Transportation to comply with the requirements of 49 C.F.R. 26, to prohibit unlawful discrimination, to meet its goal for DBE participation, to meet that goal whenever possible by race-neutral means, to create a level playing field, and to achieve that amount of DBE participation that would be obtained in a non-discriminatory market place. To meet that objective in any United States Department of Transportation assisted contracts, the LPA and the CONSULTANT shall comply with the "Mississippi Department of Transportation's Disadvantaged Business Enterprise Programs For United States Department Of Transportation Assisted Contracts".

Neither the CONSULTANT (Contractor), nor any sub-recipient or sub-contractor shall discriminate on the bases of race, color, national origin, or sex in the performance of this contract. The CONSULTANT (Contractor) shall carry out applicable requirements of 49 C.F.R. 26 in the award and administration of United States Department of Transportation assisted contracts. Failure of the CONSULTANT (Contractor) to carry out those requirements is a material breach of the contract which may result in the termination of this contract or such other remedies as the Mississippi Department of Transportation deems appropriate.

10. Worker Visibility: All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for the purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel – personal protective safety clothing that is intended to provide conspicuity during both daytime and nighttime usage, and that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004 publication entitled "American National Standard for High-Visibility Safety Apparel and Headwear" – for compliance with 23 CFR, Part 634.

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EXHIBIT 6

**CERTIFICATION REGARDING DEBARMENT,
SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - Certification in accordance with Section 29.510 Appendix A, C.F.R./Vol. 53, No. 102, page 19210 and 19211:

- (1) The CONSULTANT certifies to the best of its knowledge and belief that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;
 - (d) have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default; and
 - (e) has not either directly or indirectly entered into any agreement participated in any collusion; or otherwise taken any action in restraint of free competitive negotiation in connection with this CONTRACT.

- (2) The CONSULTANT further certifies, to the best of his/her knowledge and belief, that:
 - (a) No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or employee of a member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement; and
 - (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or any employee of a member of Congress in connection with this CONTRACT, Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions will be completed and submitted.

The certification contained in (1) and (2) above is a material representation of fact upon which reliance is placed and a pre-requisite imposed by Section 1352, Title 31, U. S. Code prior to entering into this CONTRACT. Failure to comply shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000. The CONSULTANT shall include the language of the certification in all subcontracts exceeding \$100,000 and all sub-contractors shall certify and disclose accordingly.

REGULAR MEETING MARCH 4, 2014

I hereby certify that I am the duly authorized representative of the CONSULTANT for purposes of making this certification, and that neither I, nor any principal, officer, shareholder or employee of the above firm has:

- (a) employed or retained for commission, percentages, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; or
- (b) agreed, as an express or implied condition for obtaining this CONTRACT, to employ or retain the services of any firm or person in connection with carrying out the agreement; or
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement; except as herein expressly stated (if any).

I acknowledge that this Agreement may be furnished to the Federal Highway Administration, United States Department of Transportation, in connection with the Agreement involving participation of Federal-Aid Highway funds, and is subject to applicable state and federal laws, both criminal and civil.

SO CERTIFIED this ____ day of _____, 20____.

CONSULTANT

BY: _____
 {typed name}

ATTEST: _____

My Commission Expires: _____

Notary



EXHIBIT 7

CERTIFICATION OF THE LPA

I hereby certify that I am the Chief Administrative Official, duly authorized by the LPA to execute this certification and that the above consulting firm or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, firm or person, or
- (b) pay, or agree to pay, to any firm, person organization, any fee, contribution, donation, or consideration of any kind except as here expressly stated (if any).

SO CERTIFIED on the _____day of _____, 20____.

LPA _____

*Chief Administrative Official
Ed Pinero, Jr., Ph.D, Mayor*

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EXHIBIT 8

{Intentionally Left Blank}

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EXHIBIT 9

PRIME CONSULTANT / CONTRACTOR EEV CERTIFICATION AND AGREEMENT

By executing this Certification and Agreement, the undersigned verifies its compliance with the, "Mississippi Employment Protection Act," Section 71-11-3 of the Mississippi Code of 1972, as amended, and any rules or regulations promulgated by the LPA, Mississippi Transportation Commission [MTC], Department of Employment Security, State Tax Commission, Secretary of State, Department of Human Services in accordance with the Mississippi Administrative Procedures Law (Section 25-43-1 et seq., Mississippi Code of 1972, as amended), stating affirmatively that the individual, firm, or corporation which is contracting with the LPA has registered with and is participating in a federal work authorization program* operated by the United States Department of Homeland Security to electronically verify information of newly hired employees pursuant to the Immigration Reform and Control Act of 1986, Pub.L. 99-603, 100 Stat 3359, as amended. The undersigned agrees to inform the LPA if the undersigned is no longer registered or participating in the program.

The undersigned agrees that, should it employ or contract with any entity(s) in connection with the performance of this CONTRACT, the undersigned will secure from such entity(s) verification of compliance with the Mississippi Employment Protection Act. The undersigned further agrees to maintain records of such compliance and provide a copy of each such verification to the LPA, if requested, for the benefit of the LPA or this CONTRACT.

134671
EEV* Company Identification Number [Required]

The undersigned certifies that the above information is complete, true and correct to the best of my knowledge and belief. The undersigned acknowledges that any violation may be subject to the cancellation of the contract, ineligibility for any state or public contract for up to three (3) years, the loss of any license, permit, certificate or other document granted by any agency, department or government entity for the right to do business in Mississippi for up to one (1) year, or both, any and all additional costs incurred because of the contract cancellation or the loss of any license or permit, and may be subject to additional felony prosecution for knowingly or recklessly accepting employment for compensation from an unauthorized alien as defined by 8 U.S.C §1324a(h)(3), said action punishable by imprisonment for not less than one (1) year nor more than five (5) years, a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or both, in addition to such prosecution and penalties as provided by Federal law.

BY: _____ Date _____
Authorized Officer or Agent

Brooks Wallace Vice President
Printed Name of Authorized Officer or Agent Title of Authorized Officer or Agent of Contractor / Consultant

SWORN TO AND SUBSCRIBED before me on this the ____ day of _____, 20____.

NOTARY PUBLIC
My Commission Expires: _____

* As of the effective date of the Mississippi Employment Protection Act, the applicable federal work authorization program is E-Verify™ operated by the U. S. Citizenship and Immigration Services of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration.

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The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouquet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

APPROVE THE DESIGN PHASE AND CONSTRUCTION PHASE OF THE CITY BARN ELEVATED WATER TANK IMPROVEMENT PROJECT

Motion was made by Council Member Valente, seconded by Council Member Gouguet to approve the Design Phase and Construction Phase of the City Barn Elevated Water Tank Improvement Project.



February 21, 2014

Mayor Ed Pinero, Jr.
City of Picayune
815 North Beech Street
Picayune, Mississippi 39466

RE: City of Picayune
City Barn Elevated Water Tank Improvement Project
Engineering Services

Dear Mayor Pinero:

Thank you for allowing us the opportunity to assist you with this project. According to the laws set forth by the Mississippi State Board of Registration for Professional Engineers and Surveyors, we can only submit a cost estimate for providing professional services if we are selected for the work based on our qualifications. Therefore, we are submitting this not to exceed cost estimate portion of this proposal with the understanding that it is for budgetary estimate purposes only and is not being used for comparative pricing of the other professional firms. I have reviewed the engineering and surveying work required in connection with the above referenced. I am pleased to provide this letter of agreement for the following engineering services:

I. Design Phase

Dungan Engineering, P.A. will provide all engineering and surveying necessary for the development of the construction drawings, details, and specifications for rehabilitating the City Barn Elevated Water Storage Tank. The intent of this project is to repaint the tank and make necessary repairs to the structural components of the tanks. We anticipate advertising this project for bids in May 2014, which would allow construction to begin in July 2014, with a construction completion date of approximately November 2014.

II. Construction Phase

Dungan Engineering, P.A. will solicit bids and administer the construction contract for the various elements of work. Dungan Engineering, P.A. will provide construction observation during all phases of the construction contract. These construction observations will be necessary to insure quality of work and to maintain detailed records of the quantities of materials used by the Contractor. Dungan Engineering, P.A. will also provide certified materials testing technicians that will develop and implement a QA/QC program to insure that the materials and workmanship the Contractor provides meets the specifications as outlined in the Contract Documents.

SERVICE. STRENGTH. SOLUTIONS.

925 Goodyear Boulevard | Picayune, MS 39466
P (601) 799-1037 | F (601) 799-0480



III. Professional Fees

Dungan Engineering, P.A. proposes to provide all necessary engineering and drafting services, as outlined above, for a lump sum fee equal as outlined below:

- Design Phase – \$8,000.00.
- Construction Phase - \$8,000.00.

We would expect to start our services immediately after receipt of written confirmation you had accepted our proposal. We intend to perform this work in accordance with generally accepted engineering and surveying principles.

If you accept this proposal please execute both copies of this Letter of Agreement and return one (1) to our office. This letter of agreement is subject to the attached thirty (30) "General Terms and Conditions".

Thanks again for your consideration. We look forward to working with you on this project. If you have any questions or comments, please call me.

Sincerely,

Brooks Wallace, P.E.
Vice President
Dungan Engineering, P.A.

Accepted By _____
City of Picayune

Enclosures

SERVICE. STRENGTH. SOLUTIONS.

925 Goodyear Boulevard | Picayune, MS 39466
P (601) 799-1037 | F (601) 799-0480

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GENERAL TERMS AND CONDITIONS

1. **Relation Between Engineer and Client.** Engineer shall serve as Client's professional engineering consultant in those phases of the Project to which this Agreement applies. The relationship is that of a buyer and seller of professional services and it is understood that the parties have not entered onto any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client.
2. **Responsibility of the Engineer.** Engineer will strive to perform services under this Agreement in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement or in any report, opinion, document, or otherwise.

Notwithstanding anything to the contrary which may be contained in this Agreement or any other material incorporated herein by reference, or in any agreement between the Client and any other party concerning the Project, the Engineer shall not have control of and shall not be responsible for the means, methods, techniques, sequences or procedures of construction; or the safety, safety precautions or programs of the Client, the construction contractor, other contractors or subcontractors performing any of the work or providing any of the services on the Project. Nor shall the Engineer be responsible for the acts or omissions of the Client, or for the failure of the Client, any contractor or subcontractor, or any other engineer, architect or consultant not under contracts to the Engineer to carry out their respective responsibilities in accordance with the Project documents, this Agreement or any other agreement concerning the Project.

Engineer shall determine the amounts owing to the construction contractor and recommend in writing payments to the contractor in such amounts. By recommending any payment, the Engineer will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made to check the quality or quantity of the contractor's work.

3. **Responsibility of the Client.** Client shall provide all criteria and full information as to his requirements for the Project, including budgetary limitations. Client shall arrange for Engineer to enter upon public and private property and obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the Project.

Client shall give prompt written notice to the Engineer whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of Engineer's services, or any defect or nonconformance in the work of any construction contractor.

Client shall examine all documents presented by Engineer, obtain advice of an attorney or other consultant as Client deems appropriate for such examinations and provide decisions pertaining thereto within a reasonable time so as not to delay the service of the Engineer.

4. **Designation of Authorized Representatives.** Each party shall designate one or more persons to act with authority in its behalf with respect to appropriate aspects of the Project. The persons designated shall review and respond promptly to all communications received from the party.
5. **Ownership of Documents.** Drawings, specifications, reports and any other documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be the property of Client. Engineer shall have the right to retain copies of all documents and drawings for its files.
6. **Reuse of Documents.** All documents, including drawings and specifications furnished by Engineer pursuant to this Agreement, are intended for use on the Project only. They should not be used by Client or others on extensions of the Project or on any other project. Any reuse, without written verification or

adaption by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting therefrom.

7. **Opinions of Cost.** Since the Engineer has no control over the cost of labor, materials, equipment or services furnished by the contractor, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, the Engineer cannot and does not guarantee that proposals, bids or actual construction costs will not vary from his opinions or estimates of construction costs.
8. **Changes.** Client reserves the right by written change order or amendment to make changes in requirements, amount of work or engineering time schedule adjustments; and Engineer and Client shall negotiate appropriate adjustments in fee and/or schedule acceptable to both parties to accommodate any changes.
9. **Delays.** If the Engineer's services are delayed by the Client, or for other reasons beyond the Engineer's control, for more than one year, the fee provided for in this Agreement shall be adjusted equitably.
10. **Subcontracts.** Engineer may subcontract portions of the services, but each subcontractor must be approved by Client in writing.
11. **Suspension of Services.** Client may, at any time, by written order to Engineer, require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the services covered by the order. Client, however, shall pay all costs associated with suspension including all costs necessary to maintain continuity and the staff required to resume the services upon expiration of the suspension of work order. Engineer will not be obligated to provide the same personnel employed prior to suspension when the services are resumed in the event the period of any suspension exceeds 30 days. Client will reimburse Engineer for the costs of such suspension and remobilization.
12. **Termination.** This Agreement may be terminated by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by the Engineer either before or after the termination date shall be reimbursed by Client.
13. **Notices.** Any notice or designation required to be given by either party hereto shall be in writing and, unless receipt of such notice is expressly required by the terms hereof, it shall be deemed to be effectively served when deposited in the mail with sufficient first class postage affixed and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereinafter furnish to the other party by written notice as herein provided.
14. **Indemnification.** Engineer shall indemnify and hold harmless Client from Client's loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage arising out of the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer from Engineer's loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) on property damage arising out of the sole negligent act, error or omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligency (including that of third parties) which caused the personal injury or property damage.

Client shall not be liable to the Engineer, and the Engineer shall not be liable to the Client, for any special,

incidental or consequential damages, including, but not limited to, loss of use and loss of profit, incurred by either party due to the fault of the other, regardless of the nature of this fault, or whether it was committed by the Client of the Engineer or their employees, agents or subcontractors, by reason of services rendered under this Agreement.

15. **Legal Proceedings.** In the Event's employees are at any time required by Client to provide testimony, answer interrogatories or otherwise provide information ("testimony") in preparation for or at a trial, hearing, proceeding or inquiry ("proceeding") arising out of the services that are the subject of this Agreement, where Engineer is not a party to such a proceeding, Client will compensate Engineer for its services and reimburse Engineer for all related direct costs incurred in connection with providing such testimony. This provision shall be of no effect if the parties have agreed in a separate agreement or an amendment to this Agreement to terms which specifically supersede this provision, nor shall this provision apply in the event Client engages Engineer to provide expert testimony or litigation support, which services shall be the subject of a separate agreement or an amendment to this Agreement.
16. **Successors and Assigns.** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
17. **Insurance.** Within the context of prudent business practices, Engineer shall endeavor to maintain workmen's compensation and unemployment compensation of a form and in an amount as required by state law; comprehensive liability with maximum limits of \$500,000/\$1,000,000; automotive liability with maximum limits of \$50,000/\$500,000; and professional liability insurance with an annual limit of \$500,000. Client recognizes that insurance market is erratic and Engineer cannot guarantee to maintain the coverages identified above.
18. **Information Provided by the Client.** The Engineer shall indicate to the Client the information needed for rendering of services hereunder. The Client may elect to provide this information (including services by others) to the Engineer. In this case, the Client recognizes that the Engineer cannot assure the sufficiency of such information. Accordingly, the Engineer shall not be liable for any claims for injury or loss arising from errors, omissions or inaccuracies in documents or other information provided by the Client. In addition, the Client agrees to compensate the Engineer for any time spent or expenses incurred in defending such claim or in making revisions to his work as a direct or indirect result of information provided by the Client which is sufficient.
19. **Subsurface Conditions and Utilities.** Client recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of Engineer of Engineer's subconsultants with appropriate equipment may fail to detect certain hidden conditions. Client also recognizes that actual environmental, geological and geotechnical conditions that Engineer properly inferred to exist between sampling points may differ significantly from those that actually exist.

Engineer will locate utilities which will affect the project from information provided by the Client and utility companies and from Engineer's surveys. In that these utility locations are based, at least in part, on information from others, Engineer cannot and does not warrant their completeness and accuracy.

20. **Hazardous Materials.** When hazardous materials are known, assumed or suspected to exist at a project site, Engineer is required to take appropriate precautions to protect the health and safety of his personnel, to comply with the applicable laws and regulations and to follow procedures deemed prudent to minimize physical risks to employees and the public. Client hereby warrants that, if he knows or has any reason to assume or suspect that hazardous materials may exist at the project site, he will inform Engineer in writing prior to initiation of services under this Agreement.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Engineer agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client waives any claim against Engineer and agrees to indemnify, defend and hold

Engineer harmless from any claim or liability for injury or loss arising from Engineer's encountering unanticipated hazardous materials or suspected hazardous materials. Client also agrees to compensate Engineer for any time spent and expenses incurred by Engineer in defense of any such claim.

21. **Risk Allocation.** The Client recognizes that Engineer's fee includes an allowance for funding a variety of risks which affect the Engineer by virtue of his agreeing to perform services on the Client's behalf. One of these risks stems from the Engineer's potential for human error. In order for the Client to obtain the benefits of a fee which includes a lesser allowance for risk funding, the Client agrees to limit the Engineer's liability to the Client and all construction contractors arising from the Engineer's professional acts, errors, or omissions, such that the total aggregate liability of the Engineer to all those named shall not exceed \$50,000 or the Engineer's total fee for the services rendered on this project, whichever is greater.
22. **Anticipated Change Orders.** Client recognizes and expects that a certain amount of imprecision and incompleteness is to be expected in construction contract documents; that contractors are expected to furnish and perform work, materials and equipment that may reasonably be inferred from the contract documents or from the prevailing custom or trade usage as being required to produce the intended result whether or not specifically called for; and that a certain amount of change orders are to be expected. As long as Engineer provides services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions, client agrees not to make any claim against Engineer for cost of these change orders unless these costs become a significant part of the construction contract amount. In no case will Client make claim against Engineer for costs incurred in the change order work is a necessary part of the Project for which Client would have incurred cost if work had been included originally in the contract documents unless Client can demonstrate that such costs were higher through issuance of the change order than they would have been if originally included in the contract documents in which case any claim of Client against Engineer will be limited to the cost increase and not the entire cost of the change order.
23. **Payment.** Engineer shall submit monthly statements to Client. Payment in full shall be done upon receipt of the invoice. If payments are delinquent after 30 days from invoice date, the Client agrees to pay interest on the unpaid balance at the rate of one percent per month. Payment for Engineer's services is not contingent on any factor except Engineers ability to provide services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.
24. **Force Majeure.** Neither Client nor Engineer shall be liable for any fault or delay caused by contingency beyond their control including, but not limited to, acts of God, wars, strikes, walkouts fires, natural calamities, or demands or requirements of governmental agencies.
25. **Compliance with Laws.** To the extent they apply to its employees or its services, the Engineer shall comply with all applicable United States, state, territorial and commonwealth laws, including ordinances of any political subdivisions or agencies of the United States, any state, territory, or commonwealth thereof.
26. **Separate Provisions.** If any provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions shall be valid and binding.
27. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the principal place of business of the Engineer.
28. **Amendment.** This Agreement shall not be subject to amendment unless other instrument is executed by duly authorized representatives of each of the parties.
29. **Entire Understanding of Agreement.** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with

respect to the subject matter hereof that conflict with the terms of this Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.

30. **Design without Construction Phase Services.** Should Client provide Construction Phase services with either Client's representatives or a third party, Engineer's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase.

It is understood and agreed that if Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by Client, then Client assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the Engineer that may be in any way connected thereto.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouquet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

APPROVE SURPLUS FOR TRADE-IN SIXTEEN GLOCK 21 .45 CALIBER AND FOUR GLOCK 30 .45 CALIBER PISTOLS

Motion was made by Council Member Breland, seconded Valente to approve surplus for trade-in sixteen Glock 21 .45 Caliber and four Glock 30 .45 Caliber pistols.

CITY OF PICAYUNE

POLICE DEPARTMENT

AUTHORIZATION TO SURPLUS

COMPLETE IN DUPLICATE

PROPERTY IDENTIFICATION NUMBER (SERIAL #): FAZ491; FLY872; CRD240; GFZ814; GSK351; LEXT732; GFZ813; GFZ815; GFZ819; GFZ818; GFZ817; GFZ820

DESCRIPTION: GLOCK MODEL 21 .45 CALIBER W/3 LAW ENFORCEMENT MAGAZINES

RESPONSIBLE PARTY: PICAYUNE POLICE DEPARTMENT

CURRENT LOCATION OF PROPERTY: OFFICER ISSUED

LOCATION AFTER SURPLUS AUTHORIZATION: GRENADA GOLD-N-GUN,LLC.

- RECOMMENDED DISPOSITION OF PROPERTY:
___ DISCARD, JUNK
___ SELL AS SCRAP
___ SELL AS USABLE EQUIPMENT OR PARTS
XX TRADE - IN ON PURCHASE OF NEW EQUIPMENT

REASON FOR SURPLUS OF PROPERTY: THESE WEAPONS ARE PAST THEIR EFFECTIVE LIFE RECOMMENDED BY GLOCK OF TEN YEARS. THESE WEAPONS WILL BE REPLACED WITH A CURRENT 4TH GENERATION GLOCK AND WILL ONLY COST THE DIFFERENCE IN THE TRADE-IN VALUE & NEW COST. COST DIFFERENCE WILL BE \$171.57 PER WEAPON.

REQUEST:

[X] APPROVED [] DISAPPROVED

[Signature]
SIGNATURE OF BUREAU COMMANDER

02/12/14
DATE OF REQUEST

[X] APPROVED [] DISAPPROVED

[Signature]
SIGNATURE OF DEPARTMENT CHIEF

02-12-14
DATE OF REQUEST

IF TRANSFERRED TO ANOTHER CITY DEPARTMENT, ENTER DATE TRANSFERRED

RECEIVED BY DEPARTMENT:

SIGNATURE OF DEPARTMENT SUPERVISOR

[X] APPROVED [] DISAPPROVED

[Signature]
SIGNATURE OF CITY MANAGER

02-26-14
DATE OF SIGNATURE

CITY OF PICAYUNE

POLICE DEPARTMENT

AUTHORIZATION TO SURPLUS

COMPLETE IN DUPLICATE

PROPERTY IDENTIFICATION NUMBER (SERIAL #): GFZ816; GFZ821; KNS848; FLT458

DESCRIPTION: GLOCK MODEL 21 .45 CALIBER W/3 LAW ENFORCEMENT MAGAZINES

RESPONSIBLE PARTY: PICAYUNE POLICE DEPARTMENT

CURRENT LOCATION OF PROPERTY. OFFICER ISSUED

LOCATION AFTER SURPLUS AUTHORIZATION: GRENADA GOLD-N-GUN,LLC.

RECOMMENDED DISPOSITION OF PROPERTY:

- DISCARD, JUNK
- SELL AS SCRAP
- SELL AS USABLE EQUIPMENT OR PARTS
- TRADE - IN ON PURCHASE OF NEW EQUIPMENT

REASON FOR SURPLUS OF PROPERTY: THESE WEAPONS ARE PAST THEIR EFFECTIVE LIFE RECOMMENDED BY GLOCK OF TEN YEARS. THESE WEAPONS WILL BE REPLACED WITH A CURRENT 4TH GENERATION GLOCK AND WILL ONLY COST THE DIFFERENCE IN THE TRADE-IN VALUE & NEW COST. COST DIFFERENCE WILL BE \$171.57 PER WEAPON.

REQUEST:

APPROVED DISAPPROVED

Margie Kelly Furei
SIGNATURE OF BUREAU COMMANDER

02/12/14
DATE OF REQUEST

APPROVED DISAPPROVED

[Signature]
SIGNATURE OF DEPARTMENT CHIEF

02-12-14
DATE OF REQUEST

IF TRANSFERRED TO ANOTHER CITY DEPARTMENT, ENTER DATE TRANSFERRED _____

RECEIVED BY DEPARTMENT: _____

SIGNATURE OF DEPARTMENT SUPERVISOR

APPROVED DISAPPROVED

[Signature]
SIGNATURE OF CITY MANAGER

02-26-14
DATE OF SIGNATURE

100

CITY OF PICAYUNE

POLICE DEPARTMENT
AUTHORIZATION TO SURPLUS

COMPLETE IN DUPLICATE

PROPERTY IDENTIFICATION NUMBER (SERIAL #): DHU992; FCW996; FCW995; 1ENM932

DESCRIPTION: GLOCK MODEL 30 .45 CALIBER PISTOL W/3 LAW ENFORCEMENT MAGAZINES

RESPONSIBLE PARTY: PICAYUNE POLICE DEPARTMENT

CURRENT LOCATION OF PROPERTY. OFFICER ISSUED

LOCATION AFTER SURPLUS AUTHORIZATION: GRENADA GOLD-N-GUN, LLC.

RECOMMENDED DISPOSITION OF PROPERTY:

- DISCARD, JUNK
- SELL AS SCRAP
- SELL AS USABLE EQUIPMENT OR PARTS
- TRADE - IN ON PURCHASE OF NEW EQUIPMENT

REASON FOR SURPLUS OF PROPERTY: THESE WEAPONS ARE PAST THEIR EFFECTIVE LIFE RECOMMENDED BY GLOCK OF TEN YEARS. THESE WEAPONS WILL BE REPLACED WITH A CURRENT 4TH GENERATION GLOCK AND WILL ONLY COST THE DIFFERENCE IN THE TRADE-IN VALUE & NEW COST. COST DIFFERENCE WILL BE \$171.57 PER WEAPON.

REQUEST:

APPROVED DISAPPROVED

Mario Rudy Tru...
SIGNATURE OF BUREAU COMMANDER

02/12/14
DATE OF REQUEST

APPROVED DISAPPROVED

[Signature]
SIGNATURE OF DEPARTMENT CHIEF

02-12-14
DATE OF REQUEST

IF TRANSFERRED TO ANOTHER CITY DEPARTMENT, ENTER DATE TRANSFERRED _____

RECEIVED BY DEPARTMENT:

SIGNATURE OF DEPARTMENT SUPERVISOR

APPROVED DISAPPROVED

[Signature]
SIGNATURE OF CITY MANAGER

02-26-14
DATE OF SIGNATURE

101

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

MOTION TO ENTER CLOSED SESSION

Motion was made by Council Member Gouguet, seconded by Council Member Valente to enter closed session.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

MOTION TO EXIT CLOSED SESSION

Motion was made by Council Member Gouguet, seconded by Council Member Valente to exit closed session.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

MOTION TO RECESS

Motion was made by Council Member Valente, seconded by Council Member Breland to recess until Tuesday, March 18, 2014 at 5:00 pm.

The following roll call was made:

VOTING YEA: Mayor Ed Pinero, Council Members Valente, Bumpers, Stevens, Breland and Gouguet

VOTING NAY: None

ABSENT AND NOT VOTING: None

ABSTAINING AND NOT VOTING: None

The motion was declared carried.

Ed Pinero, Mayor

ATTEST:

Amber Hinton, City Clerk