

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**HANCOCK COUNTY, MISSISSIPPI**  
**AND**  
**CITY OF BAY SAINT LOUIS**

This **MEMORANDUM OF UNDERSTANDING** (this "Agreement") is executed by and between **HANCOCK COUNTY, MISSISSIPPI** (the "County"), a political subdivision of the State of Mississippi, acting by and through its Board of Supervisors, and the **CITY OF BAY SAINT LOUIS, MISSISSIPPI** (the "City"), acting by and through its City Council, and is effective as of the last signature hereon.

**WITNESSETH:**

**WHEREAS**, on March 11, 2021, the American Rescue Plan Act ("ARPA") was signed into law by the President. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).

**WHEREAS**, the Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments in responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).

**WHEREAS**, through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses. Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

- (a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- (b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- (c) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(d) To make necessary investments in water, sewer, or broadband infrastructure.

**WHEREAS**, pursuant to Section 603 (c)(3) to Title VI of the Social Security Act, which was amended by the ARPA, the County is authorized to provide ARPA funds to the City for the provision of work authorized by the ARPA; and

**WHEREAS**, the County and City wish to construct certain public infrastructure improvements that are located within BSL limits, which consists of a sewer rehabilitation project as is more fully described herein; and

**WHEREAS**, the County and City desire to work in coordination and cooperation with each other in a government-to-government relationship for the benefit of both parties; and

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth herein, and other good and valuable consideration, the County and City do hereby agree as follows:

## **I. PURPOSE**

The purpose of this Cooperative Agreement is to establish a protocol for, and define the respective responsibilities and obligations of the County and City with respect to their joint and cooperative efforts to complete the Bay St. Louis Citywide Sewer Rehab Project (the "Project"), which consists of videoing and rehabbing and/or repairing sewer lines throughout the City limits.

## **II. CONTACT PERSONS**

It is understood by both parties that the County executes all its orders and directives through its Board of Supervisors. It is understood by both parties that BSL executes all of its orders and directives through its Board.

Unless otherwise notified in writing to the contrary, the appropriate contact person (the "County Designated Officer") for the County for matters pertaining to this Cooperative Agreement shall be:

Hancock County Board of Supervisors  
President, Board of Supervisors  
Scotty Adam, President  
Or Its County Administrator  
854 Highway 90, Suite A  
Bay St. Louis, Mississippi 39520  
Telephone: 228-467-0172  
Facsimile: 228-467-2691

Unless otherwise notified in writing to the contrary, the appropriate contact person (the "City's Designated Officer") for matters pertaining to this Cooperative Agreement shall be:

Mayor Mike Favre

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By notice to the other party hereunder, the County Designated Officer or City Designated Officer may designate representatives to carry out the purposes of this Agreement.

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.

### **III. ADMINISTRATION AND RESPONSIBILITIES OF THE PARTIES**

It is understood and agreed that this undertaking is pursuant to the authority set forth in Section 17-13-1 of the Code, which expressly authorizes the County and City to enter into this agreement to secure, and provide for expenditures of Fiscal Recovery Funds.

A separate entity or administrative body is not created under the Agreement. In addition to the requirements below, each entity will structure the contracts within their best efforts so as to ensure the ability of the use of Fiscal Recovery Funds for the Project.

#### **A. The County hereby covenants, warrants and agrees as follows:**

1. To make available for use on the Project Fiscal Recovery Funds in an amount not to exceed \$700,000.00 committed to that this as an eligible purpose for items for the Project. The County shall have no obligation to commit any funds in an amount to exceed that amount even if necessary to complete the work. Further, The County's allocation herein shall be limited to the extent the funds would be committed to a purpose eligible under the ARPA. The County reserves the right to reduce or exclude the amount of funds. The County's use of the funds is contingent upon the construction being compliant with the uses allowed of ARPA funds.
2. Upon receipt of each invoice from the City for payments to contractors for work done on the Project, to approve for payment the invoices in a timely manner. The City shall submit all invoices to the County Designated Officer with copy to the County Administrator.
3. To assist the City in every reasonable and appropriate manner in providing any State or Federal entity with financial, statistical and other records and reports as may be requested for audit purposes or required by state and federal regulations and guidelines.

#### **B. The City hereby covenants, warrants and agrees as follows:**

1. To perfect all functions necessary to complete the Project, including design, right-of-way acquisition, and construction.

2. To conform the Project to appropriate details and requirements of the ARPA.
3. To provide construction engineering for the Project through a consultant engineer contract. The City has procured engineering services for ARPA related projects and selected Chiniche Engineering & Surveying (JJC PA LLC) as the engineer of records for the Project. A copy of all professional services procurement documents related to engineering services are available for County review upon request.
4. To proceed with the construction advertisement, receipt of bids, and opening of bids in accordance with State Contract Procurement law, ARPA procurement law, standard procedures, and coordinate with the County to ensure the County's compliance with all ARPA requirements, and any other requirements applicable to Fiscal Recovery Funds. The City shall provide the County, in advance of advertisement, the procedures to be utilized by the City for procurement such as to allow the County's concurrence as to the compliance with applicable laws, rules and regulations.
5. To award the contract or contracts for construction of the Project.
6. To timely pay all consultants, contractors, and other persons and firms who perform work on the Project, and provide and submit to the County invoices and all appropriate information from contractors, and others reflecting actual expenditures, along with any other documentation required by the County.
7. If the funds provided by the County are not sufficient to pay fully the complete cost of the Project, the City shall defray such additional expense as may be necessary to complete the Project substantially in accordance with the plans and specifications.
8. Upon satisfactory completion, to accept the Project and to maintain it in accordance with all applicable state and federal laws and regulations.
9. To comply, in the conduct of the Projects, with the provisions of Title VI of the 1964 Civil Rights Act.
10. To assist the County in every reasonable and appropriate manner in providing any State or Federal entity with financial, statistical or other records and reports as may be requested for audit purposes or required by state and federal regulations and guidelines.
11. Any costs not eligible for ARPA funding shall not be the liability of the County, but of the City.

12. To comply with any other applicable state, local and federal laws and regulations, and any requirements pertaining to the Project.
13. The City shall be the owner of the work and shall be the recipient of ownership of the completed work following construction. The City acknowledges and understands that it (to the exclusion of the County) is solely responsible for any contractual duties of the owner in any construction, administrative, engineering, architectural or other contract related to the project. The County shall have no responsibility or obligation to those contractual requirements.

#### **IV. GENERAL PROVISIONS AND RESPONSIBILITIES**

1. This Agreement is made in the best interests of the citizens of Bay St. Louis and Hancock County, Mississippi, and is expected to provide standard health, safety and welfare benefits. The parties hereto agree to cooperate in good faith, to the end that the Project is completed in the most timely manner possible.
2. The County has agreed to make available for the Projects certain funds made available through the Fiscal Recovery Funds as described above, but will not be responsible for any additional funding. The City asserts that it has sufficient funds available from other sources to complete the Project, regardless of whether any additional funds are made available through any other entity.
3. No provision of this Agreement is intended, nor shall it be construed, to grant any right, title, or interest to any party or third party not a signatory hereto.

#### **V. AMENDMENTS**

This Agreement may be amended in writing as mutually agreed upon by the parties.

#### **VI. TERMINATION**

Prior to award of any contract for the construction phase of the Projects, this agreement may be terminated by either party on sixty (60) days written notice. Once a contract for the construction of the Project has been awarded, this agreement may only be terminated by written agreement of the parties. In either event, the party requesting termination shall be responsible for all reasonable and necessary costs to close out any awarded contract(s) unless one of the parties elects to continue the project at its sole expense, without recourse. Termination of this agreement shall not, in and of itself, be considered as cancellation of any other contract made in furtherance of this agreement.

This agreement shall not create rights in any person(s) or entity(ies) not a signatory hereto.

## VII. DISPOSITION OF PROPERTY

Throughout the operation of this Agreement and following its expiration, all property affected by the Project is owned by the City before the effective date hereof shall remain property of the City. All property acquired for the purposes of work on the Projects shall be disposed of as described hereinabove with the City being the owner following construction.

## VIII. SEVERABILITY

Should any provision of this Cooperative Agreement be found to be unconstitutional, or otherwise be contrary to the laws of the State of Mississippi or the United States of America, to the extent that it is reasonably possible to do so, the remainder of this Agreement shall remain in full force and effect.

## IX. AUTHORITY

Authority for this Agreement has been granted by the Mississippi State Legislature pursuant to Section 17-13-1 *et seq.* of the Code.

SO EXECUTED AND AGREED THIS 3<sup>rd</sup> <sup>October</sup> ~~DAY OF~~ NOVEMBER, 2022.

HANCOCK COUNTY, MISSISSIPPI

By: Scotty Adam

President, Board of Supervisors, Scotty Adam

Attest:

By: Timothy A. Kellar

Clerk, Board of Supervisors, Tim Kellar



BAY SAINT LOUIS, MISSISSIPPI

By: Mayor Mike Faure

President, Mayor Mike Faure

Attest:

By: Michael Reso

city clerk, Michael Reso