



June 24, 2024

Mr. Armstead Townes, III
Townes Construction
16398 Hwy 8 West
Grenada, Mississippi 38901

REFERENCE: NOTICE OF AWARD OF CONTRACT
HOLLY HILL AREA DRAINAGE IMPROVEMENTS
CITY OF TUPELO, MS - BID NO. 2024-022PW

Dear Mr. Townes:

The City of Tupelo solicited and received bids at Tupelo City Hall for the referenced project on Friday, June 07, 2024 and Townes Construction has been identified as the successful bidder. Thus, the City of Tupelo, via the approval of the Mayor and City Council, has authorized the award of the contract in the amount of \$284,457.50 to Townes Construction. The work shall be completed per the Contract Documents and based on the unit prices listed in your bid proposal.

The City respectfully requests that you proceed with the development of the Contract Documents and submit original signed copies of the contract, contract addendums and performance and payment bond information. Please provide three (3) copies of each, fully executed, along with the insurance forms, to my office within ten days. We will then transmit these documents to the Owner for execution. Please leave all dates blank on the Contracts, Contract Addendums and Bonds as the Owner will date each of the documents upon final execution.

Upon review/approval by the City Attorney, the Mayor is prepared to execute the contracts and issue the Notice to Proceed as identified in the contract documents. Please contact me should have any questions and/or should you require additional information.

Sincerely,
DABBS CORPORATION

Dustin D. Dabbs, PE
President

C: Mr. Chuck Williams, Public Works Director, City of Tupelo
Mr. Don Lewis, COO, City of Tupelo
Ms. Kim Hanna, CFO, City of Tupelo
Mr. Ben Logan, City Attorney, City of Tupelo
Ms. Jayme Baker, ICM

Attachments

@dabbscorp

PHONE 662.840.4162

1005 N. Eason Boulevard

PHONE 601.927.4012

Tupelo, MS 38804

CONTRACT

THIS AGREEMENT, made this the 24 day of June, 2024, by and between **TUPELO, MISSISSIPPI** hereinafter called "OWNER" and _____ doing business as (an Individual), (a Partnership), (a Limited Liability Company), or (a Corporation) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will commence and complete the construction of "**HOLLY HILL AREA DRAINAGE IMPROVEMENTS**" hereinafter called "PROJECT".
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the PROJECT described herein.
3. The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS within **10** calendar days after the date of the NOTICE TO PROCEED and will complete the PROJECT within **60** calendar days, unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.
4. The CONTRACTOR agrees to perform all of the work described in the CONTRACT DOCUMENTS, and comply with the terms therein for the sum of \$ _____ or as shown in the BID Schedule.
5. The term "CONTRACT DOCUMENTS" means and includes the following:
 - A. This Agreement
 - B. Instruction to Bidders
 - C. Signed Copy of Proposal Form and Bidder's Certificate
 - D. Executed Non-Collusion Form and Compliance Statements
 - E. Executed Bid Bond
 - F. Contract, with Addendums
 - G. Executed Performance and Payment Bond
 - H. NSPE General Conditions
 - I. Special Contract Provisions
 - J. SPECIFICATIONS issued by **DABBS CORPORATION** and dated **NOVEMBER 2024**.
 - K. DRAWINGS prepared by **DABBS CORPORATION** and dated **FEBRUARY 2024**.
 - L. ADDENDA: No. _____ Dated _____
No. _____ Dated _____
No. _____ Dated _____
 - M. All federal government conditions, specifications, regulations and requirements bound herein or not.
6. The CONTRACTOR agrees to abide by the following consequences for failure to complete the project within the time specified in the CONTRACT DOCUMENTS:

- A. LIQUIDATED DAMAGES - CONTRACTOR shall pay to OWNER for each and every calendar day that he shall be in default in attaining Completion of the Work within the time stipulated the sum of \$ 300.00 as liquidated damages. The CONTRACTOR shall be liable for the continued assessment of liquidated damages of \$300.00 for each calendar day that he shall be in default in completing the Work within the stipulated time as provided herein. Since the OWNER'S losses are due to the CONTRACTOR'S delay and are not readily ascertainable, the amount provided herein for liquidated damages constitutes agreed damages and not a penalty.
 - B. INDEMNIFICATION - In addition to payment of the above liquidated damages, CONTRACTOR shall fully indemnify and hold harmless the OWNER, the ENGINEER and their officers, personnel, and agents from and against: (1) any and all fines, civil penalties, and assessments levied by the State of Mississippi Office of Pollution Control, State of Mississippi Bureau of Environmental Health or any federal or state court for failure to meet, perform, or comply with any part of the time schedule as defined in the Contract Documents, and (2) any and all claims, damages, losses, expenses, liabilities, actions, judgments, and decrees of any and every nature whatsoever in any manner caused by, resulting from, or arising out of such failure.
 - C. RIGHT OF SET-OFF - The OWNER, in addition to its other remedies under this Contract and in law and in equity, may deduct from monies which become due the CONTRACTOR under this Contract any unpaid amounts which become due to the OWNER under any of the foregoing provisions.
- 7. The OWNER will pay to the CONTRACTOR in the manner and at such times set forth in the General Conditions such amount as required by the CONTRACT DOCUMENTS. The OWNER shall retain five percent (5%) of the amount of each payment until final completion and acceptance of all work covered by the CONTRACT DOCUMENTS unless otherwise mutually agreed.
 - 8. The CONTRACTOR agrees to allow the OWNER or a duly authorized representatives thereof, access to books, documents, papers and records of the CONTRACTOR which are directly pertinent to the project which is the subject of this Contract, for the purpose of making audits, examinations, excerpts and transcriptions, and CONTRACTOR agrees to insert an identical access to records clause into all subcontracts.
 - 9. The CONTRACTOR shall be held responsible for forfeiture of monies in the event that an audit indicates his failure to keep adequate records, including change orders, force accounts and payroll records.
 - 10. Attached hereto and made a part of this Contract is the "Mandatory Addendum to All City of Tupelo Contracts" (3 pages) dated October 28, 2022. The attached addendum shall be signed by the Contractor and executed by the City.
 - 11. Attached hereto and made a part of this Contract is the "American Rescue Plan Act (ARPA) Mandatory Addendum" (9 pages) dated February 1, 2024. The attached addendum shall be signed by the Contractor and executed by the City.

12. Attached hereto and made a part of this Contract is the "Byrd Anti-Lobbying Amendment" (Appendix A, 44 C.F.R. Part 18). The attached addendum shall be executed by the Contractor as part of this Agreement.

13. Attached hereto and made a part of this Contract is a Performance and Payment Bond, executed by a Surety Company doing business in the State of Mississippi, in the sum of:

(\$ _____)
(not less than one hundred percent of Contract amount)

14. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in 5 copies each of which shall be deemed an original on the date first above written.

CITY OF TUPELO / OWNER

BY: _____
NAME: _____ / _____
TITLE: _____

ATTEST:

BY: _____
NAME: _____
TITLE: _____

(SEAL)

CONTRACTOR

BY: Armstead Townes III
NAME: Armstead Townes III
TITLE: President

ATTEST:

BY: Evelyn R. Tom
NAME: Evelyn R. Tom
TITLE: Off. Sec.

(SEAL)



END OF SECTION

Mandatory Addendum to
All City of Tupelo Contracts
October 28, 2022

The City of Tupelo (TUPELO), despite any contrary provision contained in any contract to which TUPELO is a party, does not waive any rights, benefits, or prohibitions that may be provided under any law, statute(s), regulation(s), or policies. All provisions to the contrary in any contract to which TUPELO is a party are hereby null, void and deleted. Not intended to be an exhaustive list, the following are examples of such matters and shall be exceptions to any contrary provision(s) in any contract to which TUPELO is a party.

1. TUPELO does not indemnify or hold harmless any party.
Miss. Const. Art. 4, § 100; Miss AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct, 18, 2002).
2. TUPELO does not make any warranty.
Miss. Const. Art. 4, § 100; Miss AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct, 18, 2002).
3. TUPELO does not waive any claim; past, present, or future.
Miss. Const. Art. 4, § 100; Miss AG Op; Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct, 18, 2002).
4. TUPELO does not waive its sovereign immunity. TUPELO shall only be responsible for liability resulting from the actions of its officers, agents, and employees acting within the course and scope of their official duties.
Miss. Code Ann. § 11-46-1, et seq.
5. TUPELO does not waive its Constitutional Eleventh (11th) Amendment immunity.
U.S. Const. Amend. XI.
6. TUPELO does not agree to the application of laws of another state.
U.S. Const. amend XI; Miss. Code Ann. 11-11-3; Miss. Code Ann. 11-45-1; *City of Jackson v. Wallace*, 196 So. 223 (1940)
7. TUPELO does not limit the tort liability of another party to the amount of the contract or to any other set amount.
Miss. Const. Art. 4, § 100; Miss AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct, 18, 2002); Miss. AG Op., Hathorn (May 28, 1992); Miss. AG Op., Davis (March 3, 1993).
8. TUPELO does not agree to waive warranties of merchantability, fitness for a particular purpose, or any common law warranties to which TUPELO is entitled.
Miss. Const. Art 4, § 100; Miss Code Ann. § 75-2-719; Miss. AG Op., Clark (June 7, 2002); Miss. AG Op., Chamberlin (Oct, 18, 2002).

**BYRD ANTI-LOBBYING
AMENDMENT**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification (s) to the awarding agency.

**APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING
LOBBYING – REQUIRED FOR CONTRACTS OVER \$100,000**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making 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.

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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for

American Rescue Plan Act (ARPA) Mandatory Addendum (Revised 2/1/2024)

MCWI Contract Requirements (Attachment C)

The MCWI SUBRECIPIENT shall mean the OWNER (Town of Sherman, MS). The SUBRECIPIENT shall be responsible for accountability of funds, compliance with Project specifications, and Project management by its contractors. MDEQ shall not bear responsibility for any liability caused or incurred by any contractor in performing Work. MDEQ shall not be deemed by virtue of this Agreement to have any contractual obligation to, or relationship with, any of SUBRECIPIENT's contractors, and the Parties agree and acknowledge that, as between MDEQ and SUBRECIPIENT, all Work shall be deemed to be the responsibility of, and performed by, SUBRECIPIENT. No contractor or other recipient of funds from MDEQ under this Agreement shall be deemed to be an agent, representative, employee or servant of MDEQ in connection with this Agreement. The parties with whom contracts or subaward agreements are entered into by the SUBRECIPIENT shall be referred to herein as "Contractor", "Contracted Party", or "Contracted Parties". In addition to ensuring that its Contracted Parties follow the applicable terms in this Agreement, SUBRECIPIENT shall require all terms and conditions set forth herein to be included in all agreements between the SUBRECIPIENT and Contracted Parties, and in all agreements between Contracted Parties and Contracted Parties' contractors/subcontractors.

Compliance with Federal Law, Regulations and Executive Orders

This is an acknowledgement that federal assistance from the US Department of Treasury under the American Rescue Plan Act (ARPA) will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, ARPA implementing regulations and any correlating regulations established by the Treasury Department, including but not limited to the following conditions:

Equal Opportunity Clause

During the performance of this contract, the contractor agrees as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The contractor will not discharge or in any other manner discriminate against any

OWNER:

CITY OF TUPELO, MISSISSIPPI

By: _____

Name: _____

Title: _____

Date: _____

CONTRACTOR:

Townes Const Co. Inc

By: Armstead J Townes

Name: Armstead Townes

Title: President

Date: 6-24-24