

NOTICE OF AWARD

TO: MAX FOOTE CONSTRUCTION COMPANY, LLC C280 855-08
2 OFFICE PARK CIRCLE, SUITE 105, Project Identification No.
BIRMINGHAM, AL 35223

PROJECT: TUPELO SRF FY21, CENTRAL PUMPING STATION MODIFICATIONS
CONTRACT A

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for BIDS dated October 5, 2023.

You are hereby notified that your BID has been accepted for items in the amount of \$12,347,000.00-----.

You are required by the Information for BIDDERS to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND, and CERTIFICATES OF INSURANCE within ten (10) calendar days from the date this Notice is delivered to you.

If you fail to execute said Agreement and to furnish said BONDS within ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by Law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER. Dated this 18th day of October, 2023.

Owner: CITY OF TUPELO

By: Todd Jordan

Name, Title: Mayor Todd Jordan

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged.

By: MAX FOOTE CONSTRUCTION COMPANY, LLC

This the 18th day of October, 2023.

By: Phillip Irvine

Name, Title: Phillip Irvine, Vice-President

CONTRACT AGREEMENT

This Agreement, made this the 18th day of October, 2023, by and between MAX FOOTE CONSTRUCTION CO., LLC, hereinafter called the Contractor, and the CITY OF TUPELO, hereinafter called the Owner.

WITNESSETH:

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

Article 1. SCOPE OF WORK

The Contractor shall furnish all equipment, materials, labor, and perform fully the construction of TUPELO SRF FY21 CENTRAL PUMPING STATION MODIFICATIONS CONTRACT A, SRF PROJECT NO. C280 855-08 for the Owner, all in the manner provided for in the Specifications and Contract Documents, dated AUG. 2023 and Construction Plans entitled TUPELO SRF FY21 CENTRAL PUMPING STATION MODIFICATIONS CONTRACT A, SRF PROJECT NO. C280 855-08, Sheets 1 through 74, dated AUG. 2023, which are fully incorporated herein as if hereto attached or herein repeated. All defined terms shall have the same meaning herein as set forth in Article 1 of the General Conditions unless indicated herein to the contrary.

Article 2. TIME OF COMPLETION

The Contractor shall commence work at the time stated in the Notice to Proceed issued by the Owner and shall complete the work within 400 consecutive calendar days from and including the starting date stated in said notice unless this period is extended by Modification by the Owner and the Engineers, due to delays beyond the control of the Contractor and/or extensions to the Contract.

It is mutually agreed between the parties hereto that time is the essence of this contract; and in the event construction of the work is not completed within the time specified herein, it is agreed that from the compensation otherwise to be paid to the Contractor, the Owner may retain the sum of \$1500.00 per day for each calendar day thereafter that the work remains uncompleted, which sum shall represent the actual damages which the Owner will have sustained per day by failure of the Contractor to complete the work within the time stipulated; and this sum is not a penalty, being the stipulated damage the Owner will have sustained in event of such default by the Contractor.

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Agreement - SRF Water

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Article 3. THE CONTRACT SUM

The Owner shall pay the Contractor for the complete performance of this Contract a total amount of **Twelve Million, Three Hundred & Forty-Seven Thousand 00/100---** Dollars (**\$ 12,347,000.00---**) being the amount of the accepted proposal for **TUPELO SRF FY21 CENTRAL PUMPING STATION MODIFICATIONS CONTRACT A, SRF PROJECT NO. C280 855-08** subject to proper additions and/or deductions at the unit price as stated in the proposal or otherwise provided for by Modification, the corrected amount referred to being full compensation for furnishing, installing and connecting all of the items of materials, labor and equipment necessary for the Work and the completion of the Project in full accordance with the Plans and Specifications and Contract Documents.

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

Article 4. ADDITIONAL SURETY

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

Article 5. ROYALTIES AND PATENTS

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

Article 6. DAMAGE TO PERSONS AND PROPERTY

It is further mutually agreed that the Contractor shall indemnify and hold harmless the Owner and the Engineer and their agents and employees from and against any and all liability of every nature, kind and character which may be incurred in connection with the performance or fulfillment of the Work or such other liability resulting from negligence or otherwise on the part of the Contractor, including but not limited to injury to persons and damage to properties, and the structures and improvements thereon, adjacent to the Project, and shall indemnify and hold harmless the Owner from all costs and damages,

including attorney's fees, which may be suffered by reason of the failure to fully and completely perform under the Contract Documents and shall fully reimburse Owner for all expenditures of every kind, character and description, including attorney's fees, which may be incurred by Owner in making good any and every default which may exist on the part of the Contractor in connection with its performance under the Contract Documents.

Article 7. GENERAL CONDITIONS

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

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

Owner: CITY OF TUPELO

By: Todd Jordan

Name, Title: Mayor Todd Jordan

Contractor: MAX FOOTE CONSTRUCTION COMPANY, LLC

By: Phillip Irvine

Name, Title: Phillip Irvine, Vice-President

