

NOTICE OF AWARD

DATE: July 9, 2020

TO: **COOK & SON, LLC**
60146 SEMINOLE ROAD
SMITHVILLE, MS 38870

PROJECT DESCRIPTION: **FAIRPARK REDEVELOPMENT PHASE 4**

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated June 25, 2020.

You are hereby notified that your BID has been accepted for the Base Bid plus Additive Alternate Numbers 1-6 and 8 in the amount of \$1,647,394.34.

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 of this Notice 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 9th day of July, 2020.

CITY OF TUPELO
Owner

By _____

Title Mayor Jason Shelton

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

By **COOK & SON, LLC**

this 9th day of July, 2020.

By _____

Title Kenneth Cook, Owner

CONTRACT AGREEMENT

This Agreement, made this the 9th day of July, 2020, by and between COOK & SON, 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 materials for the construction of **FAIRPARK REDEVELOPMENT PHASE 4** for the Owner, all in the manner provided for in the Specifications and Contract Documents, dated JUNE 2020 and Construction Plans entitled **FAIRPARK REDEVELOPMENT PHASE 4** Sheets 1 through 37, dated JUNE 2020, which are fully incorporated herein as if hereto attached or herein repeated.

Article 2 THE CONTRACT SUM

The Owner shall pay the Contractor for the complete performance of this Contract a total amount of One Million, Six Hundred and Forty-Seven Thousand, Three Hundred and Ninety-Four 34/100----- Dollars (\$1,647,394.34----) being the amount of the accepted proposal for **FAIRPARK REDEVELOPMENT PHASE 4** subject to proper additions and/or deductions at the lump sum and/or 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 3 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 90 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 \$800.00 per day for each calendar day thereafter that the work remains uncompleted, which sum shall represent the actual damages which the Owner will have sustained per day by failure of the Contractor to complete the work within the time stipulated; and this sum is not a penalty, being the stipulated damage the Owner will have sustained in event of such default by the Contractor.

Article 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

CONTRACTOR: COOK & SON, LLC

By _____

By _____

Title Jason Shelton, Mayor

Title Kenneth Cook, Owner

ATTEST: _____

ATTEST: _____

Title Kim Hanna, Municipal Clerk

Title _____

NOTICE TO PROCEED

TO: **COOK & SON, LLC** DATE: _____
60146 SEMINOLE ROAD, SMITHVILLE, MS 38870

Project: **FAIRPARK REDEVELOPMENT PHASE 4**

You are hereby notified to commence WORK in accordance with the Agreement dated July 9, 2020, on or before _____, 20____, and you are to complete the WORK within 90 consecutive calendar days thereafter. The date of completion of all WORK is therefore _____, 20____.

CITY OF TUPELO
Owner

By _____

Title Mayor Jason Shelton

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged

By **COOK & SON, LLC**

this _____ day of _____, 20____.

By _____

Title Kenneth Cook, Owner

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

COOK & SON, LLC

(Name of Contractor)

60146 SEMINOLE ROAD, SMITHVILLE, MS 38870

(Address of Contractor)

a Limited Liability Company

, hereinafter called (Corporation, Partnership, or Individual)

Principal, and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, and held and firmly bound unto

CITY OF TUPELO

(Name of Owner)

71 EAST TROY STREET, TUPELO, MS 38804

(Address of Owner)

hereinafter called OWNER, in the penal sum of One Million, Six Hundred and Forty-Seven Thousand, Three Hundred and Ninety-Four 34/100----- Dollars (\$1,647,394.34-----) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the 9th day of July, 2020, a copy of which is hereto attached and made a part hereof for the construction of:

FAIRPARK REDEVELOPMENT PHASE 4

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due to materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed there under or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on the BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in 4 counterparts, each (Number) one of which shall be deemed an original, this the 9th day of July, 2020.

ATTEST:

COOK & SON, LLC
Principal

(Principal) Secretary

BY _____
Kenneth Cook, Owner

(SEAL) _____

60146 SEMINOLE ROAD, SMITHVILLE, MS 38870
(Address)

(Surety)

ATTEST:

(SEAL)

(Witness to Surety)

BY _____
Attorney-in-Fact

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

COOK & SON, LLC

(Name of Contractor)

60146 SEMINOLE ROAD, SMITHVILLE, MS 38870

(Address of Contractor)

a _____ Limited Liability Company

, hereinafter called _____ (Corporation, Partnership, or Individual)

Principal, and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, and held and firmly bound unto

CITY OF TUPELO

(Name of Owner)

71 EAST TROY STREET, TUPELO, MS 38804

(Address of Owner)

hereinafter called OWNER, in the penal sum of One Million, Six Hundred and Forty-Seven
Thousand, Three Hundred and Ninety-Four $\frac{34}{100}$ ----- Dollars
(\$ 1,647,394.34 -----) in lawful money of the United States, for the payment of
which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly
and severally, firmly by these presents.

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SUBCONTRACTORS, and corporations furnishing materials for performing labor in the
prosecution of the WORK provided for in such contract, and any authorized extension or
modification thereof, including all amounts due to materials, lubricants, oil, gasoline, coal
and coke, repairs on machinery, equipment and tools, consumed or used in connection with
the construction of such WORK, and all insurance premiums on said WORK, and for all labor,
performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation
shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed there under or the SPECIFICATIONS accompanying the same shall in any wise affect its obligation on the BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

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ATTEST:

COOK & SON, LLC
Principal

(Principal) Secretary

BY _____
Kenneth Cook, Owner

(SEAL) _____

60146 SEMINOLE ROAD, SMITHVILLE, MS 38870
(Address)

(Surety)

ATTEST:

(SEAL)

(Witness to Surety)

BY _____
Attorney-in-Fact

(Address)

(Address)

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