

DEPOSITORY AGREEMENT

This Depository Agreement (“the Agreement”) is made and entered into as of this the 1st day of February, 2024, by and between the **CITY OF TUPELO, MISSISSIPPI**, a municipal corporation organized and existing under the laws of the State of Mississippi (“the City”) and **CADENCE BANK**, a financial institution organized and existing under the laws of the State of Mississippi (“Cadence”).

WHEREAS, the City has decided to place public fund deposits with one or more qualified financial institutions in order to maximize efficiency and economy and to further achieve its financial goals; and

WHEREAS, the City solicited bids from qualified financial institutions to serve as public funds, depositories, as provided by Sections 27-105-1 through 27-105-371 (the “Act”) of the Mississippi Code of 1972 as amended, for the designation of a depository for a certain duration; and

WHEREAS, based on the identity of the bids received, the City elected to submit the selection of its municipal depository to the State Treasurer pursuant to §27-105-305, and the State Treasurer found that Cadence complies with the Mississippi statutory requirements under Sections 27-105-303 et seq. for qualification as a public fund depository; and

WHEREAS, Cadence submitted its bid proposal to be a public fund depository for the City on which copy of said proposal is attached as Exhibit A; and

WHEREAS, Cadence has been selected by the State Treasurer as the primary depository bank of public funds and financial institution for all of the City’s demand deposit accounts and by review and determination dated January 9, 2024 and effective as of February 1, 2024 (the “Effective Date”), which copy of said determination and selection is attached as Exhibit B (the “State Treasurer Selection”); and

WHEREAS, the City acknowledged such selection and spread upon its minutes by resolution dated January 23, 2024, attached hereto as Exhibit C (the “Resolution of Acknowledgment”); and

WHEREAS, all parties to this Agreement intend to fully comply with the applicable federal, state and local laws and/or ordinances relating to Cadence functioning as a legal depository of public funds.

NOW, THEREFORE, in consideration of the terms, conditions and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Cadence hereby agree as follows:

Article 1. *Service.* As selected by the State Treasurer and acknowledged by the City, Cadence agrees to serve as primary depository bank as defined by the Act and to serve as primary financial institution as provided herein. The primary depository bank and financial institution shall maintain the City's demand deposit accounts, provide usual and customary account services, and assist the City in its dealings with other depository banks if any. The City, in its discretion shall place public funds in demand deposit accounts with Cadence. The Mayor and City Clerk shall from time to time designate which employees of the City shall have authority to transact on the City's demand deposit accounts with Cadence (being any and all accounts now or hereafter maintained under tax identification numbers of the City of Tupelo Water and Light Department, or of the Tupelo Coliseum Commission) and to enter into operating, cash management, funds transfer, night depository, safe deposit box, and agreements for other such usual and customary services. For the City's internal control purposes, each such transaction shall require the signatures (whether original or facsimile) of at least two (2) such employees and in the case of transactions on any account now or hereafter maintained under tax identification numbers of the City or of the Tupelo Water and Light Department, at least one (1) of which shall be the Mayor or the City Clerk and in the case of transactions on any account now or hereafter maintained under the tax identification number of the Tupelo Coliseum Commission, at least one (1) of which shall be the Coliseum Director or the City Clerk. Cadence further agrees to assist the City by serving as the depository for all of the City's demand deposit accounts in accordance with the terms of the Resolution and this Agreement. Notwithstanding the foregoing, Cadence does not assume and expressly disclaims any duty to enforce or monitor the multiple signature requirement required for the City's internal control purposes. The City reserves the right to invest all other public funds on a competitive basis to any qualified depositories.

Article 2. *Interest Rate.* The interest rate to be paid on all accounts shall be a variable rate equal to the Fed Funds Target less 50 basis points with a floor of 0.05%.

Article 3. *Term.* Notwithstanding anything in this Agreement to the contrary, the term of the Agreement is for twenty-four (24) months from the Effective Date unless otherwise specified by law.

Article 4. *Continuing Obligations.* Cadence has a continuing obligation to qualify as a public funds depository in accordance with Section 27-105-303 et seq. of the Act.

Article 5. *FDIC.* Cadence's accounts at all times must be insured by the Federal Deposit Insurance Corporation to the extent required by law.

Article 6. *Capital to Total Assets Ratio.* As a financial institution that has been in existence for more than three (3) years and is qualified as a public fund depository and public funds guaranty pool member under Section 27-105-5 and 27-105-315 of the Act, Cadence must have a primary capital to total assets ratio of five and one-half percent (5 ½%) or more as certified by the

Mississippi State Treasurer and in accordance with Sections 27-105-5 and 27-105-315 of the Act.

Article 7. *Security.* (A) Cadence shall provide as security for its deposits only, those bonds, notes and other obligations permitted by Sections 27-105-5 and 27-105-315 of the Act. (B) In the alternative, Cadence shall be a participating member of the Mississippi Guaranteed Pooling Program administered by the Mississippi State Treasurer's office.

Article 8. *Service Charges.* Cadence will impose a flat fee of \$500 for service charges exclusive of merchant fees in connection with the City's deposits into any of its accounts. No fee will be charged for any returned items or overdrafts to its deposit accounts. Cadence will not charge interest on overdrafts nor will it charge any fee for issuing cashier's checks. Cadence will not impose any charges on (i) incoming or outgoing wire transfers, (ii) stop payments, (iii) depository bags and locks, (iv) multiple account statements, (v) cash management fees, (vi) check orders or (vii) safekeeping of the securities.

Article 9. *Compliance.* Cadence agrees to comply with all federal, state, and local laws and/or ordinances relating to the functioning as a legal depository of public funds. The parties recognize that changes in the federal, state and local laws and ordinances may occur after the Effective Date of this Agreement; however, the parties agree that Cadence has a continuing obligation to comply with all federal, state and local laws relating to the functioning as a legal depository of public funds upon any subsequent amendments to the aforementioned laws. Notwithstanding anything in this Agreement to the contrary, Cadence agrees to comply at all times with the Act.

Article 10. *Notice Upon Subsequent Changes.* Cadence shall notify the City in writing, within five (5) business days of any change in the ownership of Cadence or the placement of Cadence into bankruptcy, conservatorship or receivership, whether voluntary or involuntary, during the effective dates of this Agreement.

Article 11. *Termination.* The parties may terminate this Agreement upon thirty (30) days prior written notice to the other party only upon an Event of Default as defined in Article 14 below and only after the party in default has been given thirty (30) days in which to cure the default.

Article 12. *Continuous Record.* Cadence agrees to make this Agreement an official and continuous record of Cadence.

Article 13. *Reservation.* The City reserves the right to reduce, increase or vary the amount of public funds on deposit in its sole discretion. The city reserves the right, but is not obligated to invest other public funds on a competitive basis with one or more qualified depositories subject to the approval by the City.

Article 14. *Event of Default.* The occurrence of any one or more of the following shall be deemed to be an Event of Default under this Agreement:

Article 14.1. The City shall fail to perform or comply with any term, provision or covenant of this Agreement, and such failure is not cured within thirty (30) days after written notice is given to the City.

Article 14.2. Cadence shall fail to perform or comply with any term, provision or covenant of this agreement, and such failure is not cured within thirty (30) days after written notice is given to Cadence.

Article 15. *Remedies.*

Article 15.1. Upon the occurrence of an Event of Default by the City which is not cured within the specified time period in Article 14.1 above, Cadence may (i) terminate this Agreement and (ii) exercise each and every remedy otherwise available at law or in equity. Any failure to exercise any such option should not constitute a waiver of the right to exercise the same at any other time.

Article 15.2. Upon the occurrence of an event of Default by Cadence which is not cured within the specified time period in Article 14.2. above, the City may (i) terminate this Agreement and (ii) exercise each and every remedy otherwise available at law or in equity. Any failure to exercise any such option should not constitute a waiver of the right to exercise the same at any other time.

Article 16. *Notices.* All notice, consent or other communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be deemed to have been duly and properly given or served for any purpose only if delivered personally with receipt acknowledged or sent by registered or certified mail, return receipt requested, postage and charges prepaid, or sent by a nationally reputable courier or service with all costs prepaid, and addressed to the other party at the address listed below.

Notices shall be to:

To the City: City of Tupelo, Mississippi
Attn: Honorable Todd Jordan
City Clerk/CFO Kim Hanna
Post Office Box 1485
Tupelo, MS 38802

To Cadence: Cadence Bank
Attn: Leighton Gibens
201 South Spring Street
Tupelo, MS 38804

With Copies to: Chief Legal Officer
201 South Spring Street
Tupelo, MS 38804

Article 17. *Miscellaneous.*

Article 17.1. Time is of the essence of the parties' obligation hereunder.

Article 17.2. This instrument incorporates the entire agreement among the parties hereto, regardless of anything to the contrary contained in any other instrument or notice purporting to summarize the terms hereof, whether or not the same shall be recorded or published.

Article 17.3. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument. Each party specifically consents to the execution of this Agreement by facsimile.

Article 17.4. This Agreement may be modified or amended upon the written consent of the City and Cadence. Upon the effectiveness of any modifications or amendment hereto, the parties shall be bound by the terms and provisions thereof.

Article 17.5. Unless the context otherwise requires, when used herein, the singular includes the plural and vice-versa and the masculine includes the feminine and neuter and vice-versa. A person deemed to include a person, firm, corporation or other entity.

Article 17.6. This Agreement is binding upon and inures to the benefit of the parties hereto, their legal representatives, successors and assigns.

Article 17.7. Captions are inserted for convenience only and shall not be given any legal effect.

Article 17.8. This Agreement shall be construed in accordance with and governed by the laws of the State of Mississippi, including, but not limited to, the State's statutes of limitations.

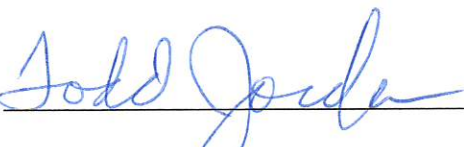
Article 17.9. No delay or failure by either party to exercise any right under this Agreement, and no partial or singular exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

CITY OF TUPELO, MISSISSIPPI

CADENCE BANK

By: _____



Todd Jordan, its mayor

By: _____



Its: _____

ATTEST:



Kim Hanna, CFO/ City Clerk