In re: Agreement with the Mississippi Transportation Commission
Lighting at Jackson Avenue and Old Taylor Road

Dear Mr. Mayor:

Enclosed you will find a draft of the proposed agreement between the City of Oxford and the Mississippi Transportation Commission relating to the construction and maintenance of high mast lighting at locations within Oxford. I would be very grateful if you would look it over, consult with whomever you think appropriate, and get back with me regarding any suggested changes.

Particularly note the blank we need to have filled in—the date of approval by your Board.

Then if you will just email the changes back to me at tcoleman@mdot.ms.gov I will get it printed in final form and proceed with the execution. Please let me know if there is anything further I can do to expedite.

Sincerely yours,

Thomas S. Coleman
Special Assistant Attorney General

cc: Ms. Amy Mood
Mr. Mitch Turner
MEMORANDUM OF AGREEMENT BETWEEN
THE MISSISSIPPI TRANSPORTATION COMMISSION
AND
THE CITY OF OXFORD, MISSISSIPPI
PROJECT NOS. NH-0070-04(013)
AND
STP-0070-04(018)/106296

This Memorandum of Agreement (this "Agreement") is executed by and between the City of Oxford, Mississippi (the "City"), a municipal corporation of the State of Mississippi, acting by and through its Mayor, and the Mississippi Transportation Commission (the "Commission"), a body corporate of the State of Mississippi which executes its directives through the Mississippi Department of Transportation ("MDOT"), effective as of the last date of execution hereof.

WHEREAS, Sections 65-1-8 and 65-1-75 of the Mississippi Code of 1972 authorize the Commission and the City to enter into agreements with each other for the purposes of constructing and maintaining transportation infrastructure within the municipal boundaries of the City; and

WHEREAS, the Commission owns and maintains the facility designated State Route 6 ("the Highway"), segments of which lie within the municipal boundaries of the City; and

WHEREAS, the Commission has formulated plans to make certain improvements to segments of the Highway which lie within the City, including upgrading the intersection at Jackson Avenue, pursuant to Project No. NH-0070-04(013), and the Old Taylor Road Roundabouts, pursuant to Project No. STP-0070(018)/106296 (the "Projects"); and

WHEREAS, to further the safety and convenience of the traveling public, the Commission and the City, as part of the work to be performed pursuant to the Projects, wish to construct and maintain a mast lighting system at each of these intersections; and

WHEREAS, the Commission is willing to construct the said mast lighting systems at its expense, while the City is willing to maintain the mast lighting at its expense; and

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

WHEREAS, the Commission approved execution of this Agreement at its regular meeting of ______________, and the City approved execution of the Agreement at its Board of Aldermen meeting of ______________; and

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the Commission and the City do hereby agree as follows:
I. PURPOSE

The purpose of this Agreement is to establish and define the respective responsibilities and obligations of the Commission and the City with respect to their joint cooperative efforts to construct and maintain certain improvements to State Route 6 in Lafayette County, Mississippi.

II. CONTACT PERSONS

It is understood by both parties that the Commission executes all its orders and directives through the Executive Director of MDOT. It is understood by both parties that the City executes all of its orders and directives through its Mayor.

Unless otherwise notified in writing to the contrary, the appropriate contact person for the parties for matters pertaining to this Agreement shall be:

For the Commission:            For the City:

Mitch Turner                Mayor George “Pat” Patterson
District Engineer            City of Oxford
Mississippi Department of Transportation 107 Courthouse Square
Post Office Box 660          Oxford, Mississippi 38655
Batesville, Mississippi 38606 Telephone: (662)236-1310
Telephone: (662)565-4541 Fax: (662)232-2337
Fax: (662)563-0138

III. RESPONSIBILITIES OF THE PARTIES

It is understood and agreed that this Agreement is nothing more than a Memorandum of Agreement, and that its provisions may be superseded by state and federal laws, regulations, rules, and policies.

A. The Commission hereby covenants and agrees as follows:

1. To conduct through the Projects, at its sole expense, a mast lighting system which substantially conforms to existing plans for Project Nos. NH-0070-04(013) and STP-0070(018)/106296.

2. To accept responsibility for maintenance, through its usual procedures, all facilities constructed under the Projects except as specified below.

3. To inform the City when the mast lighting system is complete and the contractor or contractors employed to construct the Projects have been released from maintenance.

4. Allow the City reasonable access to its right-of-way so that employees, agents, or contractors employed by the City can maintain the mast lighting system.
B. The City hereby covenants, warrants and agrees as follows:

1. To provide, at its sole expense, maintenance of the mast lighting system, commencing on the date the contractor or contractors on the Projects are released from maintenance. This will include providing electric service, replacing bulbs, and properly repairing and replacing any component of the system which may be damaged or destroyed.

2. To advise MDOT’s District Engineer in advance of any work to be performed on the Commission’s right-of-way, so that MDOT may, although it is not obligated to, provide oversight and inspection of the work.

IV. GENERAL PROVISIONS

A. This Agreement shall be subject to termination at any time, for any reason or no reason, by written notice from either party to the other until such time as the Commission advertises the contracts for the Projects. After the Projects have been advertised, this Agreement may be terminated only upon agreement between the parties.

B. It is understood that this is only a Memorandum of Agreement, and that more specific requirements may be contained in Federal statutes, the Code of Federal Regulations, the Mississippi Code, the Standard Operating Procedures for MDOT, and other related regulatory authorities. The City agrees that it will abide by all such applicable authority.

C. All contracts and subcontracts shall include a provision for compliance with the Mississippi Employment Protection Act, codified at Section 71-11-3 of the Mississippi Code of 1972, as amended. Under this Act, the City and every contractor or subcontractor employed by the City shall register with and participate in a federal work authorization program operated by the United States Department of Homeland Security to electronically verify information of newly hired employees pursuant to the Immigration Reform and Control Act of 1986, Pub.L.99-603, 100 Stat. 3359, as amended.

D. The Commission’s obligations to perform under this Agreement are conditioned upon sufficient funding being appropriated and made available by the Mississippi Legislature.

E. Where appropriate, the City will hold the Commission harmless for the construction of the Project to the extent allowed in Section 65-1-75(1) of Miss. Code Ann. (1972), as amended.

F. MDOT’s District Engineer shall have the final authority to make the determination of what constitutes the maintenance which the City is obligated to perform.
V. AMENDMENTS

The Agreement may be amended upon written agreements of the parties.

VI. SEVERABILITY

Should any provision of this 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 possibly to do so, the remainder of this Agreement shall remain in full force and effect.

VII. RELATIONSHIP OF THE PARTIES

A. The relation of the City to the Commission is that of an independent contractor, and the parties, in accordance with their status as an independent contractor, covenant and agree that they will conduct themselves consistent with such status, that neither will hold itself out as, or claim to be, an agent, officer, or employee of the other by reason hereof. Neither party will make any claim, demand, or application for any right or privilege applicable to an officer or employee of the other, including but not limited to workers’ compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

B. No provision of this Agreement is intended, nor shall it be construed, to grant any right, title, or interest to any person or entity not a signatory hereto.

C. The Commission, MDOT, and all of their agents, officials, and employees have no obligations or responsibilities toward the activities conducted under this Agreement except those specifically stated herein, and have no authority to select, employ, supervise, or control any contractor employed by the City, or any employee, agent, or official of the City, or any of the City’s contractors or subcontractors.

D. The City and its agents, officials, and employees have no obligations or responsibilities toward the activities conducted under this Agreement except as specifically stated herein, and have no authority to select, employ, supervise, or control any employee or official of the Commission or MDOT, or any of their contractors or subcontractors.

E. The Commission will not be a party to any contract or subcontract entered into by the City, other than this Agreement.
SO EXECUTED AND AGREED THIS ___ DAY OF ______________, 2014.

THE CITY OF OXFORD, MISSISSIPPI

By: __________________________________________
George "Pat" Patterson, Mayor

Attest:

By: __________________________________________
Clerk

SO EXECUTED AND AGREED THIS ___ DAY OF ______________, 2014.

MISSISSIPPI TRANSPORTATION COMMISSION

By: __________________________________________
Melinda L. McGrath, P.E., Executive Director
Mississippi Department of Transportation

Lighting Agreement with the City of Oxford, Project Nos. NH-0070-04(013) and STP-0070(018)/106296, Recorded at Book ________, Page ____________ in the Minutes of the Commission.

L: TOM.OXFORD.LIGHTING.MOA