

**SPECIAL MEETING OF THE CITY COUNCIL
THURSDAY, OCTOBER 06, 2022 2:00 P.M.**

BE IT REMEMBERED that a Special Meeting of the City Council of Jackson, Mississippi, was called by a majority of the City Council Members and notices having been placed by the Clerk of Council at 4:00 p.m. Wednesday, October 3, 2022 in the Clerk of Council's Office, electronic notifications to all Council Members, on the City's website and on the public bulletin board in City Hall, relative to: (1) Resolution of the City of Jackson, Mississippi, consenting to Hinds County, Mississippi resurfacing certain roads and streets in the City of Jackson, Mississippi. (2) Order reviewing and continuing August 29, 2022 State of Emergency. (3) Order authorizing the City of Jackson to enter into a confidentiality agreement regarding settlement negotiations. (4) Discussion: Pending Litigation. The meeting was convened in the Council Chambers located at 219 S. President Street at 2:00 p.m. on October 6, 2022 being the first Thursday of said month, when and where the following things were had and done to wit:

Present: Council Members: Ashby Foote, Council President, Ward 1; Angelique Lee, Council Vice President, Ward 2 (via teleconference); Kenneth I. Stokes, Ward 3; Brian C. Grizzell, Ward 4; Vernon Hartley, Ward 5; Aaron Banks, Ward 6 and Virgi Lindsay, Ward 7. Directors: Mayor Chokwe Antar Lumumba; Shanekia Mosley-Jordan, Chief Deputy Clerk of Council, Sabrina Shelby, Chief Deputy Clerk of Council and Catoria Martin, City Attorney.

Absent: None.

The meeting was called to order by **President Foote**.

**RESOLUTION OF THE CITY OF JACKSON, MISSISSIPPI, CONSENTING TO
HINDS COUNTY, MISSISSIPPI RESURFACING CERTAIN ROADS AND
STREETS IN THE CITY OF JACKSON, MISSISSIPPI.**

WHEREAS, Hinds County, Mississippi, has received an allocation of funds from the State and Local Fiscal Recovery Funds of the American Rescue Plan Act of 2021 (ARP SLFRF); and

WHEREAS, Hinds County is authorized under Miss Code Ann. Section 65-7-85 "to expend monies and to do, within any municipalities of the county all acts regarding construction and maintenance of roads and streets that they may do within the county outside the limits of said municipalities" and acknowledges the great need for resurfacing of roads and streets within the municipal limits of the City of Jackson; and

WHEREAS, the City of Jackson is authorized under Miss Code Ann Section 21-7-3(1) "to exercise full jurisdiction in the matter of streets, sidewalks, sewers, and parks; to open and lay out and construct the same; and to repair, maintain, pave, sprinkle, adorn, and light the same;" and

WHEREAS, Hinds County desires to use ARP SLFRF funds for the purpose of resurfacing roads in the City of Jackson ("the Project"); and

WHEREAS, Hinds County has identified the roads to be resurfaced with ARP SLFRF funds; and

WHEREAS, the City of Jackson previously authorized the resurfacing of a number of the roads and streets included in this resolution through orders authorizing interlocal agreements with Hinds County; and

WHEREAS, the bids the County received to resurface these roads exceeded the estimated costs in the previously authorized interlocal agreements; and

WHEREAS, Hinds County has requested that the City authorize the resurfacing of these roads and streets by reciprocal resolutions, thereby obviating the need for the previous interlocal agreements and the authorizing orders, which orders should now be rescinded as unnecessary due to authority granted under this resolution; and

WHEREAS, Hinds County has provided the City of Jackson City Engineer with the specifications for the resurfacing of the roads, including pavement milling, and the City agrees to the resurfacing of said roads and streets subject to the City Engineer being notified at the time the resurfacing of each road or street is begun and completed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Jackson does hereby consent to Hinds County, Mississippi resurfacing the following streets located within the municipal limits of the City of Jackson:

| District | Project Name | Termini | Approximate Miles |
|-----------------|--|--|--------------------------|
| 1 | Lake Trace Drive | Baxter Drive to South Pearl Orchard Road | 0.50 |
| 1 | Oaklawn Lane | Pine Ridge Road to El Paso Street | 0.50 |
| 1 | River Thames Drive | Keywood Drive to Old Canton Road | 0.60 |
| 1 | Briarwood Drive | Ridgewood Road to Briarfield Road | 0.50 |
| 1 | Quail Run Drive | East Manor Drive to Dead-end | 0.30 |
| 1 | North Hampton Drive | Sheffield Drive to Northside Drive | 0.40 |
| 1 | Lake Forest Drive | Lake Glen Drive to Forest Avenue | 0.30 |
| 1 | River Road | Dead-end to N. River Road Dead-end | 0.40 |
| 1 | Meadowbrook Road | Ridgewood Road to Eastover Drive | 0.80 |
| 1 | Rutherford Place | Rutherford Drive to Dead-end | 0.05 |
| 1 | Kristen Drive | South Pear Orchard Rd to Springridge Drive | 1.20 |
| 2 | Cynthia Road North of Hwy 49 | Hwy 49 to West County Line Road | 1.40 |
| 2 | Parisian Drive | East Northside Drive to Deadend | 0.10 |
| 2 | Idaho Street | O'Bannon Drive to Warner Avenue | 0.50 |
| 3 | Twisted Oak Drive | Hanging Oak Drive to Oak Creek Drive | 0.26 |
| 3 | Oak Grove Lane | Hanging Oak Drive to Oak Creek Drive | 0.26 |
| 3 | Westhaven Blvd/South Drive/ Clinton Blvd | Clinton Blvd to South Drive | 1.00 |
| | Total Approximate Miles | | 9.07 |

BE IT FURTHER RESOLVED that Hinds County has agreed to fund all activities necessary for completion of the project, including, but not limited to, providing ARP SLFRF funds allocated for the project, engineering design for the project, solicitations of bids for construction of the project, construction engineering and inspection services for construction of the project, and construction of the project, and will be responsible for ensuring that the project is performed in compliance with the funding source requirements.

BE IT FURTHER RESOLVED that Hinds County has agreed to be responsible for establishing and managing the budget of the project.

BE IT FURTHER RESOLVED that Hinds County has agreed to direct the completion of the project, in consultation with the City Engineer for the City of Jackson, including by providing the City Engineer with the date each road or street resurfacing begins and is completed, which is for the purpose of allowing the City Engineer to observe and inspect the Project work as it is performed and completed.

BE IT FURTHER RESOLVED that Hinds County has agreed to provide the City of Jackson with access to any records requested directly related to the project.

BE IT FURTHER RESOLVED that this Resolution shall be effective upon passage of reciprocal Resolutions by both the Hinds County and City of Jackson governing authorities and continue until written acknowledgement by both parties of completion of the described work.

BE IT FURTHER RESOLVED that this Resolution and the reciprocal resolution of Hinds County, and thereby the project, may be amended by the passage of reciprocal resolutions approved by both the Hinds County and the City of Jackson governing authorities and terminated by either of the governing authorities upon passage of a Resolution terminating the consent of the City or terminating the construction of the Project, or any portion thereof, by the County.

BE IT FURTHER RESOLVED that the City Council of the City of Jackson rescinds the following Orders authorizing interlocal agreements already recorded in its minutes:

An Order authorizing an interlocal agreement for Hinds County Public Infrastructure Project 2022-08, approved April 26, 2022 and found at MB 6V, P. 78;

An Order authorizing an interlocal agreement for Hinds County Public Infrastructure Project 2022-11, approved April 26, 2022 and found at MB 6V, PP. 78-79;

An Order authorizing an interlocal agreement for Hinds County Public Infrastructure Project 2022-18, approved May 10, 2022 and found at MB 6V, P. 117;

An Order authorizing an interlocal agreement for Hinds County Public Infrastructure Project 2022-21, approved May 24, 2022 and found at MB 6V, P. 155; and

An Order authorizing an interlocal Agreement for Hinds County Public Infrastructure Project 2022-23, approved May 24, 2022 and found at MB 6V, P. 155.

BE IT FURTHER RESOLVED that the City Council of the City of Jackson rescinds the following Orders authorizing interlocal agreements not yet recorded in its minutes, but approved as of the date of the Order:

An Order authorizing an interlocal agreement for Hinds County Public Infrastructure Project 2022-08 Revised, approved August 16, 2022; and

An Order authorizing an interlocal agreement for Hinds County Public Infrastructure Project 2022-28, approved August 30, 2022.

BE IT FURTHER RESOLVED that the October 3, 2022 RESOLUTION OF HINDS COUNTY, MISSISSIPPI REGARDING CONSTRUCTION AND MAINTENANCE OF ROADS AND STREETS IN THE CITY OF JACKSON, being the reciprocal resolution of Hinds County, Mississippi, be spread upon the minutes of the Council of the City of Jackson with this Resolution of the City of Jackson.

BE IT FURTHER RESOLVED that this Resolution of the City of Jackson, being the reciprocal resolution of the City of Jackson, upon adoption, be signed by the Mayor and transmitted to the Hinds County Board of Supervisors to be spread upon the minutes of that Board.

Council Member Grizzell moved adoption; **Council Member Hartley** seconded.

President Foote recognized **Terry Williamson, Legal Counsel**, who provided a brief overview of said item.

Thereafter, **President Foote**, called for a vote of said item:

Yeas – Banks, Foote, Grizzell, Hartley, Lee and Lindsay.

Nays – None.

Absent – Stokes.

ORDER REVIEWING AND CONTINUING AUGUST 29, 2022 STATE OF EMERGENCY.

WHEREAS, on August 29, 2022, the Mayor issued a proclamation of emergency as a result of (1) excessive rainfall and extreme flooding, (2) the March 7, 2020 Safe Drinking Water Act (SDWA) Emergency Administrative Order (EAO); (3) the February 2021 system-wide failure due to extreme water conditions that caused pipes to freeze and lose pressure; (4) the July 1, 2021 SDWA Administrative Order of Consent (AOC); (5) the July 29, 2022 Boil Water Notice which existed for more than thirty (30) days; and (6) the August 25, 2022 flooding of the Pearl River, which lead to problems with treating water at the O.B. Curtis Water Plant; and

WHEREAS, Section 33-15-17(d) of the Mississippi Code allows the mayor of a municipality to proclaim a local emergency and authorizes the governing body of a municipality to review and approve or disapprove the need for continuing the local emergency at its first regular meeting following such proclamation or at a special meeting; and

WHEREAS, Section 33-15-5 (h) of the Mississippi Code defines an emergency as “any occurrence, or threat thereof, whether natural, technological, or man-made, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to loss of property;” and

WHEREAS, Section 33-15-5 (g) of the Mississippi Code defines a local emergency as “the duly proclaimed existence of conditions of disaster or extreme peril to the safety of person and property within the territorial limits of a...municipality caused by such conditions as...water pollution...or other natural or man-made conditions, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the political subdivision and require the combined forces of other subdivisions or of the state to combat;” and

WHEREAS, pursuant to Section 33-15-17 (b) of the Mississippi Code, the City “is authorized to exercise the powers vested under [Section 33-15-1, et seq.,] in light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations...and the expenditure of public funds.

NOW, THEREFORE, IT IS ORDERED THAT we the governing body of the City of Jackson, Mississippi, pursuant to the authority vested in the body by Section 33-15-17(d) of the Mississippi Code of 1972, as amended, and in the public interest and for the general welfare of the City of Jackson, do hereby approve of the continued need for a civil emergency for the entire City of Jackson for the reasons set forth in this Order.

Council Member Banks moved adoption; **Council Member Hartley** seconded.

President Foote recognized **Catoria Martin, City Attorney**, who provided a brief overview of said item.

Thereafter, **President Foote**, called for a vote of said item:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes.
Nays – None.
Absent – None.

ORDER AUTHORIZING THE CITY OF JACKSON TO ENTER INTO A CONFIDENTIALITY AGREEMENT REGARDING SETTLEMENT NEGOTIATIONS.

WHEREAS, on September 26, 2022, the City of Jackson received correspondence from the United States Department of Justice inviting the City to enter into settlement negotiations regarding its drinking water system; and

WHEREAS, the Office of the City Attorney has responded to that invitation and begun discussions with the United States Department of Justice on behalf of the Environmental Protection Agency and the Mississippi State Department of Health about negotiations regarding the City's drinking water system; and

WHEREAS, the United State Department of Justice, Environment and Natural Resources Division on behalf of the Environmental Protection Agency has proposed to the parties to the negotiation enter into an Agreement on Confidentiality of Settlement Discussions (the "Confidentiality Agreement"); and

WHEREAS, the proposed parties to the Confidentiality Agreement are U.S. Department of Justice, Environment and Natural Resources Division, on behalf of the U.S. Environmental Protection Agency ("EPA"), by the City of Jackson, Mississippi ("City"), by the Mississippi State Department of Health ("MSDH"), and by the Mississippi Department of Environmental Quality ("MDEQ"); and

WHEREAS, the proposed purpose of the Confidentiality Agreement would be to enable settlement discussions among the parties in connection with, relating to, or arising from EPA, MSDH, and MDEQ's potential and actual claims against the City under the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; Clean Water Act, 33 U.S.C. § 1251 et seq.; Mississippi Safe Drinking Water Act of 1997, Miss. Code Ann. § 41-26-1 et seq.; Mississippi Air and Water Pollution Control Law, Miss. Code Ann. § 49-17-1 et seq.; National Primary Drinking Water Regulations, 40 C.F.R. Part 141; Mississippi Primary Drinking Water Regulations, Miss. Admin. Code § 15-20-72; the federal consent decree entered in United States and State of Mississippi v. City of Jackson, Mississippi, Case No. 3:12-CV-790 (S.D. Miss.); EPA's Emergency Administrative Order, Docket No. SDWA-04-2020-2300 (Apr. 2, 2020); and EPA's Administrative Compliance Order on Consent, Docket No. SDWA-04-2020-2301 (July 1, 2021); and

WHEREAS, the Confidentiality Agreement would require that the parties receiving settlement communications under Confidentiality Agreement shall keep them confidential and not disclose them to persons or entities not a party to the Confidentiality Agreement; and

WHEREAS, the Confidentiality Agreement would require that the parties shall take all necessary and appropriate measures to maintain the confidentiality of settlement communications and to retain written or electronic material in a secure manner; and

WHEREAS, the Confidentiality Agreement provides for the sharing of settlement communications with attorneys and employees of the parties who in the opinion of such party are responsible for these settlement negotiations or for whom such information relates to their official duties, provided that any person with whom such information is shared shall be specifically made aware of the Confidentiality Agreement; and

WHEREAS, the Confidentiality Agreement provides for the sharing of settlement communications with those consultants and experts of a party who are assisting in the negotiations and who, in the opinion of such party, require access, provided that any person with whom such information is shared is specifically made aware of, and, prior to receiving the information, agrees in writing to be bound by, the provisions of the Confidentiality Agreement as if he/she were a party; and

WHEREAS, the Office of the City Attorney recommends that the governing authorities of the City of Jackson authorize this Confidentiality Agreement to facilitate further negotiations with the parties to the Confidentiality Agreement.

IT IS, THEREFORE, ORDERED that the Mayor is authorized to execute the Agreement on Confidentiality of Settlement Discussions proposed by the United States Department of Justice, Environment and Natural Resources Division on behalf Environmental Protection Agency

IT IS FURTHER ORDERED that the Council of the City of Jackson as a governing body and as individual members thereof acknowledge that they and each of them are aware of the Agreement of Confidentiality of Settlement Discussions and hereby agree to be bound by and comply with the terms of such Agreement during the time it is in effect.

Council Member Grizzell moved adoption; Council Member Banks seconded.

President Foote recognized Council Member Grizzell who moved, seconded by Vice President Lee to go into Closed Session to discuss Agenda Items No. 3 and 4. The motion prevailed by the following vote:

Yeas – Banks, Foote, Grizzell, Hartley, Lee and Lindsay.
Nays – None.
Absent – Stokes.

President Foote announced to the public that the Council voted to go into Closed Session to discuss prospective litigation.

During Closed Session, Council Member Banks moved and Council Member Grizzell seconded to go into Executive Session to discuss Agenda Item No. 3 and pending litigation. The motion prevailed by the following vote:

Yeas – Banks, Foote, Grizzell, Hartley, Lee and Lindsay.
Nays – None.
Absent – Stokes.

President Foote announced that the Council voted to go into Executive Session to discuss Agenda Item No. 3 and Richard’s Disposal vs City of Jackson, MS.

Note: Council Member Stokes joined the meeting during Executive Session.

Council Member Stokes moved, seconded by President Foote to come out of Executive Session. The motion prevailed by the following vote:

Yeas – Banks, Foote, Grizzell, Hartley, Lee, Lindsay and Stokes
Nays – None.
Absent – None.

President Foote announced that the Council voted to come out of Executive Session and action was taken.

During Executive Session, the Council took action on Agenda Item No. 3:

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NEGOTIATIONS.**

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WHEREAS, the Office of the City Attorney has responded to that invitation and begun discussions with the United States Department of Justice on behalf of the Environmental Protection Agency and the Mississippi State Department of Health about negotiations regarding the City’s drinking water system; and

WHEREAS, the United State Department of Justice, Environment and Natural Resources Division on behalf of the Environmental Protection Agency has proposed to the parties to the negotiation enter into an Agreement on Confidentiality of Settlement Discussions (the “Confidentiality Agreement”); and

WHEREAS, the proposed parties to the Confidentiality Agreement are U.S. Department of Justice, Environment and Natural Resources Division, on behalf of the U.S. Environmental Protection Agency (“EPA”), by the City of Jackson, Mississippi (“City”), by the Mississippi State Department of Health (“MSDH”), and by the Mississippi Department of Environmental Quality (“MDEQ”); and

WHEREAS, the proposed purpose of the Confidentiality Agreement would be to enable settlement discussions among the parties in connection with, relating to, or arising from EPA, MSDH, and MDEQ’s potential and actual claims against the City under the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; Clean Water Act, 33 U.S.C. § 1251 et seq.; Mississippi Safe Drinking Water Act of 1997, Miss. Code Ann. § 41-26-1 et seq.; Mississippi Air and Water Pollution Control Law, Miss. Code Ann. § 49-17-1 et seq.; National Primary Drinking Water Regulations, 40 C.F.R. Part 141; Mississippi Primary Drinking Water Regulations, Miss. Admin. Code § 15-20-72; the federal consent decree entered in United States and State of Mississippi v. City of Jackson, Mississippi, Case No. 3:12-CV-790 (S.D. Miss.); EPA’s Emergency Administrative Order, Docket No. SDWA-04-2020-2300 (Apr. 2, 2020); and EPA’s Administrative Compliance Order on Consent, Docket No. SDWA-04-2020-2301 (July 1, 2021); and

WHEREAS, the Confidentiality Agreement would require that the parties receiving settlement communications under Confidentiality Agreement shall keep them confidential and not disclose them to persons or entities not a party to the Confidentiality Agreement; and

WHEREAS, the Confidentiality Agreement would require that the parties shall take all necessary and appropriate measures to maintain the confidentiality of settlement communications and to retain written or electronic material in a secure manner; and

WHEREAS, the Confidentiality Agreement provides for the sharing of settlement communications with attorneys and employees of the parties who in the opinion of such party are responsible for these settlement negotiations or for whom such information relates to their official duties, provided that any person with whom such information is shared shall be specifically made aware of the Confidentiality Agreement; and

WHEREAS, the Confidentiality Agreement provides for the sharing of settlement communications with those consultants and experts of a party who are assisting in the negotiations and who, in the opinion of such party, require access, provided that any person with whom such information is shared is specifically made aware of, and, prior to receiving the information, agrees in writing to be bound by, the provisions of the Confidentiality Agreement as if he/she were a party; and

WHEREAS, the Office of the City Attorney recommends that the governing authorities of the City of Jackson authorize this Confidentiality Agreement to facilitate further negotiations with the parties to the Confidentiality Agreement.

IT IS, THEREFORE, ORDERED that the Mayor is authorized to execute the Agreement on Confidentiality of Settlement Discussions proposed by the United States Department of Justice, Environment and Natural Resources Division on behalf Environmental Protection Agency

IT IS FURTHER ORDERED that the Council of the City of Jackson as a governing body and as individual members thereof acknowledge that they and each of them are aware of the Agreement of Confidentiality of Settlement Discussions and hereby agree to be bound by and comply with the terms of such Agreement during the time it is in effect.

Council Member Grizzell moved adoption; **Council Member Banks** seconded.

Yea – Banks, Grizzell, Lee and Lindsay.

Nays – Foote, Hartley and Stokes.

Absent – None.

SPECIAL MEETING OF THE CITY COUNCIL
THURSDAY, OCTOBER 06, 2022 2:00 P.M.

There were no reports/announcements provided during the meeting.

There being no further business to come before the City Council, it was unanimously voted to adjourn until the Regular Council Meeting at 10:00 a.m. on October 11, 2022. At 2:45 p.m., the Council stood adjourned.

PREPARED BY:

APPROVED:

Shavikia Morley-Garcia
CLERK OF COUNCIL

[Signature] 10/20/2022
COUNCIL PRESIDENT DATE

[Signature]
MAYOR

ATTEST:

Angela Hanes
CITY CLERK
