

APPROVED AS TO FORM

GDW
Office of the City Attorney

Prepared By: GDW

Requested: Projects Cmte

Presentation on: 7-14-15

Suspension of Rules: No

RESOLUTION

RESOLUTION AUTHORIZING FOURTH AMENDMENT TO FUNDING AGREEMENT WITH TUSCALOOSA COUNTY PARK AND RECREATION AUTHORITY (A13-0487)

BE IT RESOLVED BY THE TUSCALOOSA CITY COUNCIL that the Mayor be, and is hereby, authorized to execute the fourth amendment to the funding agreement with the Tuscaloosa County Park and Recreation Authority for various improvements within city parks as follows:

1. The term of the agreement will be extended to December 31, 2016.
2. Requirements for compliance with applicable wage rate laws, including Davis-Bacon Act for federally funded park improvements projects, specifically Harmon Park and Jaycee Park;

and the City Clerk is authorized to attest the same.

FUNDING REQUIRED: Yes No

By: _____
Finance Director

COUNCIL ACTION

Resolution ✓
 Ordinance _____
 Introduced _____
 Passed 7-14-15
 2nd Reading _____
 Unanimous _____
 Failed _____
 Tabled _____
 Amended _____
 Comments: _____

STATE OF ALABAMA)
TUSCALOOSA COUNTY)
CITY OF TUSCALOOSA)

FOURTH AMENDMENT TO MUNICIPAL AGENCY FUNDING CONTRACT
(A13-0487)

THIS AMENDMENT to that certain agreement made and entered into by and between the parties on the 27th day of June, 2013, as amended, by and between the CITY OF TUSCALOOSA, a Municipal Corporation, of the State of Alabama (hereinafter sometimes referred to as "City" or "the City"), and Tuscaloosa County Park & Recreation Authority, (hereinafter sometimes referred to as the "Agency") on this the 13th day of August, 2015, as follows:

W-I-T-N-E-S-S-E-T-H:

WHEREAS, heretofore, the City of Tuscaloosa and the Agency entered into a funding agreement regarding various improvements to city parks; and,

WHEREAS, the City desires to amend the agreement as follows:

1. The term of the agreement will be extended to December 31, 2016.
2. Requirements for compliance with applicable wage rate laws, including Davis-Bacon Act for federally funded park improvements projects, specifically Harmon Park and Jaycee Park.

NOW, THEREFORE, the City of Tuscaloosa and the Agency do hereby enter into this amendment to the agreement between the parties on the above date, for and in consideration of the mutual benefits moving each to the other as more particularly set forth herein as follows:

SECTION ONE: That Article V. "TERM; TERMINATION" be, and the same is hereby, amended to read as follows:

"The terms of this Agreement shall commence as of the 1st day of October, 2012, and shall continue in force until the 31st day of December, 2016, unless sooner terminated. Provided; however, in the event a new contract is not executed by the commencement of the new fiscal year, the City may elect to continue funding if appropriated by budget or budget continuation provisions and if so, the Agency agrees to remain bound by the terms of this Agreement and to continue to provide all services hereunder until a new funding contract is executed, the contract is otherwise terminated as set forth herein or the official City budget does not contain an appropriation for the Agency. Either party to this Agreement may, with or without cause, terminate this Agreement as to the first day of any month by giving the other party no less than thirty (30) days written notice thereof. In event of termination by either party, the Agency shall refund to the City an amount equal to the excess of the total amount appropriated over an amount which bears the same ratio to the total amount appropriated as the month(s) actually performed bear to the total months covered by this Agreement."

SECTION TWO: The following language shall be added to the contracts for Park Improvements for both Harmon Park and Jaycee Park to read as follows:

"XIX. COMPLIANCE WITH THE DAVIS-BACON ACT

As applicable, Agency and its Contractors shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5), the provisions of which are incorporated by reference into this contract as if contained herein."

SECTION THREE. Miscellaneous.

Capacity: Each Party to this Agreement represents and warrants to the other as follows:

- A. That it is an individual of the age of majority or otherwise a legal entity duly organized and in good standing pursuant to all applicable laws, rules and regulations.
- B. That each has full power and capacity to enter into this Agreement, to perform and to conclude the same including the capacity, to the extent applicable, to grant, convey and/or transfer; areas, assets, facilities, properties, (both real and personal), permits, consents and authorizations and/or the full power and right to acquire and accept the same.
- C. That to the extent required, each Party has obtained the necessary approval of its governing body or board and a resolution or other binding act has been duly and properly enacted by such governing body or board authorizing this Agreement and said approval has been reduced to writing and certified or attested by the appropriate official of the Party.
- D. That each Party has duly authorized and empowered a representative to execute this Agreement on their respective behalf and the execution of this Agreement by such representative fully and completely binds the Party to the terms and conditions hereof.
- E. That absent fraud, the execution of this Agreement by a representative of the party shall constitute a certification that all such authorizations for execution exist and have been performed and the other Party shall be entitled to rely upon the same. To the extent a Party is a partnership, limited liability company or joint venture, the execution of this Agreement by any member thereof shall bind the Party and to the extent that the execution of Agreement is limited to a manager, managing partner or specific member then the person so executing this Agreement is duly authorized to act in such capacity for the Party.

- F. That each party represents and warrants to the other that there is no litigation, claim or administrative action threatened or pending or other proceedings to its knowledge against it which would have an adverse impact upon this transaction or upon either's ability to conclude the transaction or perform pursuant to the terms and conditions of this Agreement.
- G. That each party has obtained any and all required permits, approvals and/or authorizations from third parties to enable it to fully perform pursuant to this Agreement.

Third Party Beneficiaries: It is the intent of the parties hereto that there shall be no third party beneficiaries to this Agreement.

Final Integration: This Agreement, together with any amendments, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. In the event of a direct conflict between the provisions hereof and any prior agreement or amendment, the latter shall supersede the former. All written or oral understandings and agreements heretofore had between and among the parties are merged into this Agreement, which alone fully and completely expresses their understandings. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.

Force Majeure: Neither party to this Agreement shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

Amendment in Writing: This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by all of the parties.

Binding Effect: This Agreement shall bind the parties and their respective personal representatives, heirs, next of kin, legatees, distributees, successors, and assigns. If any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Captions: The captions of this Agreement are for convenience and reference only, are not a part of this Agreement, and in no way define, describe, extend, or limit the scope or intent of this Agreement.

Construction: This Agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

Mandatory and Permissive: "Shall", "will", and "agrees" are mandatory; "may" is permissive.

Governing Laws: The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, the interpretation of the rights, the duties of the parties, the enforcement of its terms, and all other matters relating to this Agreement.

Prohibition on Assignment and Delegation: No party to this Agreement may assign or delegate its interests or obligations hereunder without the written consent of all other parties hereto obtained in advance of any such assignment or delegation. No such assignment or delegation shall in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning or delegating party shall in all respects remain liable hereunder irrespective of such assignment or delegation.

Waiver: Non enforcement of any provision of this Agreement by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remaining terms and conditions of the Agreement.

Agreement Date/Counterparts: The date of this Agreement is intended as and for a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was necessarily executed and delivered on said date. This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

Use of Words and Phrases: The following words and phrases, where used in this document, shall be given the following and respective interpretations: "Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this document as an entirety and not solely to the particular portion hereof in which any such word is used.

The definitions set forth in any portion of this Agreement unless the text or context indicates differently shall be deemed applicable whether the words defined are herein used in the singular or the plural. Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same on the date first above written.

CITY OF TUSCALOOSA, A MUNICIPAL CORPORATION

ATTEST:

Debra K. Clement
City Clerk

BY: *Walter Maddox*
Walter Maddox, Mayor

TUSCALOOSA COUNTY PARK AND RECREATION AUTHORITY

ATTEST:

Adrian Clickler

BY: *Gary Minor*
TITLE: EXECUTIVE DIRECTOR

General Decision Number: AL140063 01/03/2014 AL63

Superseded General Decision Number: AL20130063

Hammon Park

State: Alabama

Construction Type: Building

County: Tuscaloosa County in Alabama.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number Publication Date
0 01/03/2014

ENGI0312-007 09/01/2011

	Rates	Fringes
Operating Engineers:		
Crane, Cherry Picker, Forklift, and Front End Loader.....	\$ 25.90	10.65
Oiler.....	\$ 22.83	10.65

Cranes with 100 ft. or more boom receive \$0.25 extra per hour,
Cranes with 200 ft. or more boom receive \$0.50 extra per hour,
Cranes with 350 ft. or more boom receive \$1.10 extra per hour,
Cranes with 500 ft. or more boom receive \$1.45 extra per hour,
Tower Cranes, Derricks, Climbing Cranes, Ringer Cranes shall
receive \$0.35 in addition to A-rate and boom pay per hour

* IRON0092-002 09/01/2013

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 25.59	11.99

SUAL2007-055 10/02/2007

	Rates	Fringes
BRICKLAYER.....	\$ 17.00	0.00
CARPENTER, Includes Form Work....	\$ 17.00	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 11.84	0.00
ELECTRICIAN.....	\$ 18.83	0.00
IRONWORKER, REINFORCING.....	\$ 8.00	0.00
LABORER: Common/General, Including Landscaping.....	\$ 9.00	0.00
LABORER: Pipelayer.....	\$ 9.15	1.18

OPERATOR: Backhoe.....	\$ 15.03	4.35
OPERATOR: Bulldozer.....	\$ 14.89	2.47
OPERATOR: Excavator.....	\$ 16.00	0.00
OPERATOR: Grader/Blade.....	\$ 13.83	0.00
PAINTER: Brush, Roller and Spray.....	\$ 12.85	0.00
PIPEFITTER.....	\$ 8.00	0.00
PLUMBER.....	\$ 14.28	0.00
ROOFER, Includes Built Up, Polyurethane Foam, Metal, Shake & Shingle, and Single Ply Roofs.....	\$ 11.79	0.00
SHEET METAL WORKER.....	\$ 13.00	0.00
TILE SETTER.....	\$ 13.00	0.72
TRUCK DRIVER.....	\$ 12.29	1.53

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination.

The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

10/21/2014 09:23
aprice

CITY OF TUSCALOOSA
G/L ACCOUNT DETAIL

PG 1
glactinq

Org: 228 Object: 51251
CDBG-DR PROGRAM INCOME CASH 228 -0000-0-51251 -

YEAR	PER	JOURNAL	EFF DATE	SRC	T	PO/REF2	REFERENCE	AMOUNT	P	CHECK NO	WARRANT	VDR NAME/ITEM	DESC	COMMENTS
2014	12	121010	09/26/2014	CRP	1			105,555.48	N					
2014	12	120894	09/24/2014	CRP	1			3,335.00	N					
2014	12	120515	09/16/2014	CRP	1			5,666.67	N					
2014	12	120314	09/10/2014	GEN	1		RECORD	-964.25	N					TRF PROG INCOME TO
2014	12	120255	09/09/2014	CRP	1			11,111.12	N					
2014	11	110928	08/27/2014	CRP	1			3,335.00	Y					
2014	11	110572	08/19/2014	CRP	1			5,666.67	Y					
2014	11	110339	08/13/2014	CRP	1			11,111.12	Y					
2014	10	100755	07/29/2014	CRP	1			3,335.00	Y					
2014	10	100549	07/22/2014	CRP	1			5,666.67	Y					
2014	10	100320	07/15/2014	CRP	1			5,555.56	Y					
2014	10	100147	07/08/2014	CRP	1			5,555.56	Y					
2014	10	100003	07/01/2014	CRP	1			3,335.00	Y					
2014	09	090580	06/24/2014	CRP	1			5,666.67	Y					
2014	09	090241	06/11/2014	CRP	1			11,111.12	Y					
2014	08	080678	05/28/2014	CRP	1			8,890.56	Y					
2014	08	080416	05/19/2014	CRP	1			3,333.34	Y					
2014	08	080273	05/13/2014	CRP	1			12,299.45	Y					
2014	08	080180	05/08/2014	CRP	1			11,111.12	Y					
2014	07	070594	04/23/2014	CRP	1			5,668.33	Y					
2014	07	070144	04/08/2014	CRP	1			14,444.46	Y					
2014	06	060690	03/26/2014	CRP	1			8,890.56	Y					
2014	06	060474	03/19/2014	CRP	1			5,666.67	Y					
2014	06	060042	03/04/2014	CRP	1			5,555.56	Y					
2014	05	050828	02/26/2014	CRP	1			-179,712.71	Y					
2014	05	050588	02/26/2014	CRP	1			183,047.71	Y					
2014	05	050393	02/18/2014	CRP	1			2,333.33	Y					
2014	05	050248	02/12/2014	CRP	1			8,888.90	Y					
2014	04	040683	01/28/2014	CRP	1			8,890.56	Y					
2014	04	040500	01/22/2014	CRP	1			2,333.33	Y					
2014	04	040340	01/14/2014	CRP	1			8,888.90	Y					
2014	04	040197	01/09/2014	CRP	1			9,966.12	Y					
2014	03	030819	12/31/2013	CRP	1			8,890.56	Y					
2014	03	030609	12/23/2013	CRP	1			5,666.67	Y					
2014	03	030313	12/12/2013	CRP	1			5,555.56	Y					
2014	03	030095	12/03/2013	CRP	1			5,555.56	Y					
2014	02	020447	11/20/2013	CRP	1			14,753.39	Y					
2014	02	020095	11/05/2013	GEN	1		TRANSFER	-19,111.12	Y					TRANS PROG INCOME 1
2014	01	010564	10/29/2013	CRP	1			8,890.56	Y					
2014	01	010428	10/22/2013	CRP	1			3,333.34	Y					
2014	01	010320	10/16/2013	CRP	1			2,333.33	Y					
2014	01	010144	10/08/2013	CRP	1			5,555.56	Y					

Total Amount: 346,961.99

** END OF REPORT - Generated by Ashley Price **