



PHIL BRYANT
GOVERNOR

December 8, 2015

Honorable Karl Banks
President
Madison County Board of Supervisors
125 West North Street
Canton, Mississippi 39046

Dear Mr. Banks:

I am pleased to inform you that the Madison County Board of Supervisors' application for a loan through the Capital Improvements Revolving Loan Program in the amount of \$750,000 has been approved by Mississippi Development Authority. The loan will have an interest rate of 2% for a term of 20 years. The effective date of this award is November 18, 2015.

This application for funding demonstrates Madison County's commitment to addressing the needs of the local community. I commend you for identifying this need, in turn helping improve the quality of life for those in your community.

Steve Hardin, Director of MDA's Community Services Division, will contact you regarding your promissory note and loan agreement. Should you have any questions, please feel free to reach him at (601) 359-2366 or via e-mail at shardin@mississippi.org.

Sincerely,

A handwritten signature in blue ink that reads "Phil Bryant".

Phil Bryant
Governor

PB:SH:ar



STATE OF MISSISSIPPI
PHIL BRYANT, GOVERNOR
MISSISSIPPI DEVELOPMENT AUTHORITY
GLENN MCCULLOUGH, JR.
EXECUTIVE DIRECTOR

December 14, 2015

UPS Ground

Honorable Karl Banks
President
Madison County Board of Supervisors
125 West North Street
Canton, Mississippi 39046

Dear Mr. Banks:

SUBJECT: CAP Loan – Madison County
Contract Number – 15-249-CP-01

I am pleased to notify you that two (2) copies of the loan agreement and promissory note for your approved Capital Improvements Revolving Loan (CAP) project are enclosed. Please read the documents carefully, then sign both copies, keep one for your files, and return the other one to this office no later than January 15, 2016.

Please mail to: **Mississippi Development Authority, Attention: Community Services Division, Post Office Box 849, Jackson, MS 39205.** A Request for Cash Form can be downloaded in excel format from www.mississippi.org. Enclosed is a copy of our Project Sign Policy Statement. CAP funds cannot be utilized for Project Signs.

Congratulations on receiving this CAP loan to carry out this community development program to improve the quality of life in Madison County. If you have any questions, please call Sara Doss at (601) 359-3179.

Sincerely,

A handwritten signature in black ink, appearing to be "S. Hardin", written over a horizontal line.

Steven C. Hardin
Director, Community Services Division

SCH:swd

Enclosures

Project Sign

4'x6'

PROGRAM NAME (CAP or RAIL Program)

Project Name

Local Unit of Government



**GOVERNOR PHIL BRYANT
STATE OF MISSISSIPPI**

**MISSISSIPPI DEVELOPMENT AUTHORITY
Glenn McCullough, Jr., Executive Director**

**CHIEF ELECTED OFFICIAL / EXECUTIVE, TITLE
BOARD MEMBERS**

Board Member One

Board Member Two

Board Member Three

Board Member Four

Board Member Five

U.S. Department of Housing and Urban Development



Project Sign 4'x6'

PROGRAM NAME (CAP or RAIL Program)

Project Name

Local Unit of Government



GOVERNOR PHIL BRYANT

STATE OF MISSISSIPPI

MISSISSIPPI DEVELOPMENT AUTHORITY

Glenn McCullough, Jr., Executive Director

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Project Sign 4'x6'

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GOVERNOR PHIL BRYANT

STATE OF MISSISSIPPI

MISSISSIPPI DEVELOPMENT AUTHORITY

Glenn McCullough, Jr., Executive Director

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BOARD MEMBERS

Board Member One

Board Member Two

Board Member Three

Board Member Four

Board Member Five

U.S. Department of Housing and Urban Development



**MISSISSIPPI DEVELOPMENT AUTHORITY
CAPITAL IMPROVEMENTS LOAN PROGRAM**

PROMISSORY NOTE #15-249-CP-01

November 18, 2015

Not to exceed \$750,000

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay to the order of the Mississippi Development Authority ("MDA") or its assigns, the principal sum not to exceed Seven Hundred and Fifty Thousand Dollars (\$750,000), together with interest on the unpaid balance thereof until fully and finally paid at the rate of two percent (2%) per annum, together with all other amounts payable by the Borrower under the Agreement (as herein after defined).

This Note has been executed under and pursuant to a Loan Agreement dated as of the date hereof between MDA and the Borrower (the "Agreement") which agreement is incorporated herein in its entirety by reference. This Note is issued to evidence the obligation of the Borrower under the Agreement to repay the Loan (as defined in the Agreement) made by MDA hereunder. The Agreement provides provisions for prepayment of this Note. In the event that the terms of this Note conflict with the terms of the Agreement, the terms of the Agreement shall control.

As provided in the Agreement and subject to the provisions thereof, payments hereon are to be made to MDA at the address specified in the Agreement and on the dates and in the amounts as specified in the Agreement.

If payment hereunder becomes due and payable on a Saturday, Sunday or legal holiday under the laws of the State of Mississippi, the due date thereof shall be extended to the next succeeding business day. Upon the occurrence of an event of default under the Agreement, the entire amount outstanding under this Note may be declared due and payable as provided in the Agreement. Upon such declaration, the Borrower shall pay all costs, disbursements, expenses and reasonable attorney's fees of MDA in seeking to enforce their rights under the Agreement and this Note.

The Borrower (a) waives diligence, demand, and presentment for payment, notice of non-payment, protest and notice of protest and notice of nay renewals of extensions of this Note and (b) agrees that the time for payment of this Note may be extended at the sole discretion of MDA without impairing its liability hereon. Any delay on the part of MDA in exercising any right here under shall not operate as a waiver of any such right, and any waiver granted with respect to one (1) default shall not operate as a waiver in the event of any subsequent or continuing default.

This Note must be signed and attested by duly authorized officers of the Borrower and sealed with the seal of the Borrower.

This Note shall be governed and construed in accordance with the laws of the State of Mississippi.

IN WITNESS WHEREOF, the undersigned has caused this Note to be executed in its name all as of the day and year first above written.

(S E A L)

Madison County

Attest

By _____

Title _____

Title _____

**MISSISSIPPI DEVELOPMENT AUTHORITY
CAPITAL IMPROVEMENTS LOAN PROGRAM**

LOAN AGREEMENT #15-249-CP-01

THIS LOAN AGREEMENT, dated as of November 18, 2015 (this "Agreement") by and between the Mississippi Development Authority ("MDA") and the entity set forth in Item 1 of Annex A (the "Applicant").

WITNESSETH:

WHEREAS, the Mississippi Capital Improvements Act, Section 57-1-301 (the "Act"), was enacted and authorized MDA to make interest-bearing loans to local entities for capital improvements: and

WHEREAS, the Applicant has agreed to retain title to the capital improvements and has requested MDA to finance a portion of the cost associated with the development of these improvements, more particularly described in Item 2 of Annex A (the "Project"); and

WHEREAS, pursuant to the Act and the guidelines adopted by MDA under the Act (the "Guidelines"), the Applicant has filed an application (the "Application") with MDA for a loan to be used for the development of the Project, more particularly described in Item 2 of Annex A (the "Project"); and

WHEREAS, based upon the Application and other relevant factors, MDA has agreed to provide the Applicant with a loan under the ACT in the amount set forth in Item 3 of Annex A (the "Loan") under the terms and conditions set forth in Item 4 of Annex A, in order to fund, in part, and develop the Project by the Applicant; and

WHEREAS, to secure the payment of the Loan, the Applicant has authorized, executed, and delivered the Note (as hereinafter defined) to MDA.

NOW, THEREFORE KNOW ALL MEN BY THESE PRESENTS, THIS LOAN AGREEMENT WITNESSETH:

That the parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, do hereby agree as follows:

SECTION 1. *Loan.* Subject to and upon the terms and conditions set forth herein, MDA agrees to make the Loan to the Applicant and the Applicant agrees to borrow the proceeds of the Loan from MDA. The Loan will be evidenced by a promissory note payable to the order of MDA and dated as of the date hereof in substantially the form attached hereto as Exhibit A attached hereto (the "Note"), which Note shall bear interest at the rate or rates per annum set forth in Item 4 of Annex A and as shown on the face of the Note. Subject to the provisions of this Agreement, the Act, the application, and the Guidelines, and upon execution of this Agreement, the Note and any other documents required by MDA to secure the Applicant's repayment of the Loan, MDA shall pay the proceeds of the Loan unto the Applicant in order to finance, in part, the Project. The Applicant can submit only one request for cash per month to MDA, and the total amount of requested funds for the project cannot exceed the maximum loan amount. The amount of the request can only be for eligible costs on a current cash needs basis. All loan funds must be expended within two years from the date of the loan or the funds shall be recalled unless prior written approval is obtained from MDA.

SECTION 2. *Loan Payments and the Note.* All payments payable by the Applicant under this agreement and the Note (the "Loan Payments") are due and payable at the times and in the amounts set forth in Item 4 of Annex A. MDA directs the Applicant, and the Applicant agrees to pay to MDA, at the address set forth in Section 9 below, all payments payable by the Applicant pursuant to this Agreement.

Failure of the Applicant to meet its repayment obligations shall result in the forfeiture of sales tax allocation and/or homestead exemption reimbursement in an amount sufficient to repay obligations due pursuant to Section 57-1-303(3) of the Act.

The Applicant shall execute the Note to evidence its obligation to make the Loan Payments and other sums payable by the Applicant hereunder.

It is understood and agreed that all Loan Payments by the Applicant under this Agreement and the Note shall be absolute and unconditional and shall not be subject to any defense (other than payment) or any right of set-off, counterclaim or recoupment arising out of any breach by MDA, or the State of any obligation to the Applicant, whether hereunder or otherwise, or out of any indebtedness or liability at anytime owing to the Applicant by MDA or the State.

The Applicant may, at its option, at any time and from time to time prepay the Loan without premium or penalty.

SECTION 3. Representations of MDA. MDA makes the following representations as the basis for the undertakings on the part of the Applicant herein contained.

(a) MDA is an agency of the State and is authorized pursuant to the provisions of the Act and the Guidelines to enter into the transactions contemplated by this Agreement.

(b) MDA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(c) MDA is not in default under any provision of the laws of the State material to the performance of its obligations under this Agreement.

(d) MDA has been duly authorized to execute and deliver this Agreement and by proper action has duly authorized the execution and delivery hereof and as to MDA, this Agreement is valid and legally binding and enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited (1) by bankruptcy, reorganization, or similar laws limiting enforceability of creditor's rights generally or (2) by the availability of any discretionary equitable remedies.

(e) The Loan for the activity or activities described in Annex A Item 2 to the Applicant, as provided by this Agreement, will further the purposes of the Act, to wit: to assist local entities in the providing of capital improvements.

SECTION 4. Representations of the Applicant. The Applicant makes the following representations as the basis for the Loan and the undertakings on the part of MDA herein contained:

(a) The Applicant has all necessary power and authority to enter into and perform its duties under this Agreement and the Note and, when adopted or when executed and delivered by the respective parties hereto and thereto, this Agreement and the Note, will constitute legal, valid and binding obligations of the Applicant enforceable in accordance with their respective terms except to the extent that the enforceability of the rights set forth herein and therein may be limited by bankruptcy, reorganization, insolvency, moratorium, or other laws affecting creditor's rights generally and except to the extent that the enforceability of the rights set forth herein and therein may be limited by the validity of any particular remedy. The execution and delivery of this Agreement and the Note and compliance with the provisions of each will not conflict with, or constitute a breach of or default under, the Applicant's duties under any law, administrative regulation, court decree, resolution, charter, by-laws, or other agreement to which the Applicant is subject or by which it is bound.

(b) There is no consent, approval, authorization or other order of, filing with, or certification from any regulatory authority having jurisdiction over the Applicant required for the execution and delivery or the consummation by the Applicant of any of the transactions contemplated by this Agreement and the Note that have not already been obtained.

(c) There is no action, suit, proceeding, or investigation at law or in equity before or by any court, governmental agency or body pending or, to the best knowledge of the Applicant, after reasonable investigation and due inquiry, threatened against the Applicant to refrain or enjoin the execution or delivery of the Note, or the making of the Loan Payments contemplated by this Agreement and the Note, or in any way contesting or affecting the validity of this Agreement and the Note, or contesting the powers of the Applicant to adopt, enter into or perform its obligations under any of the foregoing or materially and adversely affecting the properties or conditions (financial or otherwise) or existence or powers of the Applicant.

(d) It shall comply with the terms and provisions of this Agreement, the Note, the Act, and the Guidelines.

(e) It is not in default under any previous loans from MDA, the State, or the Federal government.

(f) All information furnished by the Applicant to MDA for the purpose of approving the Loan, but not limited to, the Application, is true, accurate, and complete as of the date hereof and thereof.

(g) The Loan is being made to finance the Project and will not be used for any other purpose.

SECTION 5. *Covenants of the Applicant.* The Applicant covenants and agrees, until the Loan is repaid and satisfied in full according to the terms of this Agreement, as follows:

(a) The Applicant will retain title, maintain, preserve, keep the Project in good working order, and condition. For water and wastewater improvements, the Applicant must have established a reserve fund prior to loan closing and the fund should have the equivalent of one year maintenance cost at the end of the first year. For improvements in fire protection, the Applicant must meet the National Fire Protection Association (NFPA) standards in the 1990 series.

(b) The Applicant shall not, without the prior written consent of MDA, create, assume, or otherwise suffer to exist, any mortgage, pledge, or other encumbrance upon the Project.

(c) The Applicant shall promptly give to MDA written notice of any event of default as specified in Section 9 hereof or any event that, upon lapse of time or notice or both, would become an event of default.

(d) **Application of the Mississippi Employment Protection Act of 2008.** All grantees, recipients, contractors and companies known here after as "Contractor (Company)" entering into contracts with the **Mississippi Development Authority represents and warrants that it will ensure compliance with the Mississippi Employment Protection Act** (Senate Bill 2988 of the 2008 Regular Session of the Mississippi Legislature) and will register and participate in the status verification system of all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify program, or any other successor electronic verification system replacing the E-Verify Program. Contractor (Company) agrees to maintain such compliance and, upon request of the State, to provide copy of each such verification to the State. Contractor (Company) further represents and warrants that any person assigned to perform services hereunder meet the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor (Company) understands and agrees that any breach of these warranties may subject Contractor (Company) to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor (Company) by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor (Company) would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

SECTION 6. Defaults and Remedies. The following shall be "events of default" under this Agreement, and the terms "event of default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

- (a) Failure by the Applicant to pay or cause to be paid when due any payments required to be paid under Section 2 hereof and the Note;
- (b) Failure by the Applicant to observe and perform in any material way, any covenant, conditions or agreement on its part to be observed or performed as set forth herein, which failure shall not be cured to the satisfaction of MDA within the earlier of ten (10) days after actual knowledge thereof by the Applicant or written notice, specifying such failure and requesting that it be remedied, is given to the Applicant by MDA;
- (c) Any written representation or written warranty made by the Applicant in or with respect to this Agreement shall prove to have been false in any material respect at the time of execution by the Applicant of this Agreement;
- (d) The Applicant shall commence a voluntary case or other proceeding in bankruptcy or seeking liquidation, reorganization, arrangement, readjustment of its debts or for any other relief under the federal bankruptcy laws, as amended, or under any other insolvency act or law, state or federal, now or hereafter existing or shall take any other action indicating its consent to, approval of, or acquiesce in any such case or proceedings, and said proceeding is not dismissed within thirty (30) days after the commencement thereof; the Applicant shall apply for, or consent to or acquiesce in the appointment of a receiver, liquidator, custodian, sequestrator or a trustee for all or a substantial part of its property; the Applicant shall make an assignment for the benefit of its creditors; or the Applicant shall fail. Or shall admit in writing its failure to pay its debts generally as such debts become due;
- (e) There shall be filed against the Applicant an involuntary petition in bankruptcy or seeking liquidation, reorganization, arrangement, readjustment of its debts or any other relief under the federal bankruptcy laws, as amended, or under any other insolvency act or law, state or federal, now or hereafter existing and such petition is not set aside within thirty (30) days after such filing; or a receiver, liquidator, custodian, sequestrator or trustee of the Applicant for all or a substantial part of its property shall be appointed without the consent or approval of the Applicant or a warrant of attachment execution or similar process against any substantial part of the property of the Applicant is issued; and continuance of any such events for thirty (30) days un-dismissed or un-discharged or within such thirty (30) days, the entering of an order for relief under the United States Bankruptcy Code; or
- (f) There is a material adverse change in the financial condition of the Applicant which would, in the opinion of MDA endanger MDA's ability to collect the Loan.

Whenever an event of default shall have occurred and be continuing, MDA may at any time thereafter, at their option, declare the Loan to be due and payable, whereupon the maturity of the then unpaid balance of the loan shall be accelerated and the same shall forthwith become due and payable without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding, and MDA may take any action at law or in equity to enforce this Agreement to collect payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Applicant under this Agreement or the Note. No remedy conferred upon or reserved to MDA by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission or exercise any right or power occurring upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. If the Applicant shall default under any of the provisions of this Agreement and MDA shall employ attorneys or incur other expenses for collection of the Loan Payments or for the enforcement or performance or observance of any obligation or agreement on the part of the Applicant contained in this Agreement or the note, the Applicant, will on demand therefore pay the reasonable fees and expenses of MDA and its attorneys as they are incurred included all fees of counsel incurred for negotiation, trial, appeals or ruling of any lower tribunals, administrative hearings, bankruptcy and creditors' reorganization proceedings.

(g) All cost and disbursements must be in accordance with the loan agreement and the Mississippi Capital Improvements Act § 57-1-301 *et seq.* for eligible cost. If any cost or disbursements are ineligible, the Applicant is in default and must reimburse the MDA for the ineligible cost and any accrued interest.

SECTION 7. Compliance with Environmental Laws. The Applicant shall cause all business, operations, and activities at or upon the Project at all times during the term of this Agreement to be conducted in compliance with all applicable federal, state, or local laws, ordinances, rules or regulations concerning public health, safety or the environment. These include, but are not limited to, the following:

- (a) The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601 *et seq.*;
- (b) The Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 *et seq.*;
- (c) The Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*;
- (d) The Safe Drinking Water Act, as amended, 42 U.S.C. § 300 (f) *et seq.*;
- (e) The Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 *et seq.*;
- (f) The Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*;
- (g) The Emergency Planning and Community Right-to-Know Act of 1986, as amended, 42 U.S.C. § 11001 *et seq.*;
- (h) The Occupational Health and Safety Act, as amended, 29 U.S.C. § 651 *et seq.*;
- (i) The Mississippi Air and Water Pollution Control Law, as amended, Miss. Code Ann. § 49-17-1 *et seq.*;
- (j) The Mississippi Solid Waste Disposal Law of 1974, as amended, Miss. Code Ann. § 17-17-1 *et seq.*;
- (k) The Mississippi Underground Storage Tank Act of 1988, as amended, Miss. Code, Ann. § 49-17-401 *et seq.*; and
- (l) The Mississippi Conservation of Groundwater Law, as amended, Miss. Code Ann. § 54-4-1 *et seq.*
- (m) Antiquities Law of Mississippi, as amended, Miss. Code Ann. § 39-7-1 *et seq.*

SECTION 8. Notice Addresses. All notices given pursuant to this agreement shall be in writing signed by the party giving the notice and shall be given by (a) certified mail, postage prepaid, (b) prepaid overnight delivery, (c) hand delivery. For the purposes of this Agreement, notices shall be sent to the parties at the addresses set forth in Item 5 of Annex A hereto or to such other addresses that the parties may designate in writing.

SECTION 9. *Miscellaneous.*

- (a) The paragraph headings in this Agreement are for convenience only and are not intended to limit or interpret the provisions of the Agreement.
- (b) All Annexes and Exhibits which are referred in this Agreement are made a part of and are incorporated into this Agreement.
- (c) This Agreement shall be governed as to validity, construction and performance by the laws of the State of Mississippi.
- (d) This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one in the same instrument.
- (e) No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.
- (f) If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein.
- (g) The economic benefit to Applicant must be stated in any lease agreement with a business.
- (h) Before releasing any CAP funds, the local entity shall provide title insurance on all real property acquisitions or title opinion on all other projects from the local entity's attorney.
- (i) The local entity must place a sign in accordance to the Policy Statement. The local entity shall be responsible for the cost of the sign. CAP funds cannot be used to pay for the sign.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written on the cover page hereof.

**MISSISSIPPI DEVELOPMENT
AUTHORITY**

Attest



Steven C. Hardin, Director
Community Services Division

By 

J. Manning McPhillips, Jr.
Chief Administrative Officer

(S E A L)

Madison County

Attest

Title _____

By _____
Karl M. Banks
President

I HEREBY CERTIFY that I have reviewed all necessary documentation pursuant to this Agreement and the Note, and that the Applicant is legally empowered to execute the documents and enter into said Capital Improvements Revolving Loan with MDA.

Applicant's Attorney

**Annex A
To
Loan Agreement**

Item 1 Name of Applicant:

Madison County
Loan #15-249-CP-01

Item 2 Description of Project:

Fire Station Construction as stated in their 2015 Capital Improvements Revolving Loan Application.

Item 3 Loan Amount:

Note: Not to exceed Seven Hundred and Fifty Thousand Dollars (\$750,000)

Item 4 Loan Terms and Conditions:

Estimated Payment: \$3,794.12 monthly

The terms of the Note shall be for 240 months following the completion of the capital improvements at two percent (2%) annual interest computed daily. Payments shall be made as referenced above; however, interest will be adjusted to reflect the actual dates of disbursement. The payments will begin 30 days after the completion date of the project. All Loan funds must be expended within two years (1) from the date of the Loan or the funds shall be recalled unless prior written approval is obtained from MDA. An amortization schedule will be provided near the completion of the project.

Item 5 Address Notice:

Mississippi Development Authority
501 North West Street, 5th Floor
Post Office Box 849
Jackson, Mississippi 39205
Attention: Community Services

**MISSISSIPPI DEVELOPMENT AUTHORITY
CAPITAL IMPROVEMENTS LOAN PROGRAM**

PROMISSORY NOTE #15-249-CP-01

November 18, 2015

Not to exceed \$750,000

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay to the order of the Mississippi Development Authority ("MDA") or its assigns, the principal sum not to exceed Seven Hundred and Fifty Thousand Dollars (\$750,000), together with interest on the unpaid balance thereof until fully and finally paid at the rate of two percent (2%) per annum, together with all other amounts payable by the Borrower under the Agreement (as herein after defined).

This Note has been executed under and pursuant to a Loan Agreement dated as of the date hereof between MDA and the Borrower (the "Agreement") which agreement is incorporated herein in its entirety by reference. This Note is issued to evidence the obligation of the Borrower under the Agreement to repay the Loan (as defined in the Agreement) made by MDA hereunder. The Agreement provides provisions for prepayment of this Note. In the event that the terms of this Note conflict with the terms of the Agreement, the terms of the Agreement shall control.

As provided in the Agreement and subject to the provisions thereof, payments hereon are to be made to MDA at the address specified in the Agreement and on the dates and in the amounts as specified in the Agreement.

If payment hereunder becomes due and payable on a Saturday, Sunday or legal holiday under the laws of the State of Mississippi, the due date thereof shall be extended to the next succeeding business day. Upon the occurrence of an event of default under the Agreement, the entire amount outstanding under this Note may be declared due and payable as provided in the Agreement. Upon such declaration, the Borrower shall pay all costs, disbursements, expenses and reasonable attorney's fees of MDA in seeking to enforce their rights under the Agreement and this Note.

The Borrower (a) waives diligence, demand, and presentment for payment, notice of non-payment, protest and notice of protest and notice of nay renewals of extensions of this Note and (b) agrees that the time for payment of this Note may be extended at the sole discretion of MDA without impairing its liability hereon. Any delay on the part of MDA in exercising any right here under shall not operate as a waiver of any such right, and any waiver granted with respect to one (1) default shall not operate as a waiver in the event of any subsequent or continuing default.

This Note must be signed and attested by duly authorized officers of the Borrower and sealed with the seal of the Borrower.

This Note shall be governed and construed in accordance with the laws of the State of Mississippi.

IN WITNESS WHEREOF, the undersigned has caused this Note to be executed in its name all as of the day and year first above written.

(S E A L)

Madison County

Attest

By _____

Title _____

Title _____

**MISSISSIPPI DEVELOPMENT AUTHORITY
CAPITAL IMPROVEMENTS LOAN PROGRAM**

LOAN AGREEMENT #15-249-CP-01

THIS LOAN AGREEMENT, dated as of November 18, 2015 (this "Agreement") by and between the Mississippi Development Authority ("MDA") and the entity set forth in Item 1 of Annex A (the "Applicant").

WITNESSETH:

WHEREAS, the Mississippi Capital Improvements Act, Section 57-1-301 (the "Act"), was enacted and authorized MDA to make interest-bearing loans to local entities for capital improvements: and

WHEREAS, the Applicant has agreed to retain title to the capital improvements and has requested MDA to finance a portion of the cost associated with the development of these improvements, more particularly described in Item 2 of Annex A (the "Project"); and

WHEREAS, pursuant to the Act and the guidelines adopted by MDA under the Act (the "Guidelines"), the Applicant has filed an application (the "Application") with MDA for a loan to be used for the development of the Project, more particularly described in Item 2 of Annex A (the "Project"); and

WHEREAS, based upon the Application and other relevant factors, MDA has agreed to provide the Applicant with a loan under the ACT in the amount set forth in Item 3 of Annex A (the "Loan") under the terms and conditions set forth in Item 4 of Annex A, in order to fund, in part, and develop the Project by the Applicant; and

WHEREAS, to secure the payment of the Loan, the Applicant has authorized, executed, and delivered the Note (as hereinafter defined) to MDA.

NOW, THEREFORE KNOW ALL MEN BY THESE PRESENTS, THIS LOAN AGREEMENT WITNESSETH:

That the parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, do hereby agree as follows:

SECTION 1. *Loan.* Subject to and upon the terms and conditions set forth herein, MDA agrees to make the Loan to the Applicant and the Applicant agrees to borrow the proceeds of the Loan from MDA. The Loan will be evidenced by a promissory note payable to the order of MDA and dated as of the date hereof in substantially the form attached hereto as Exhibit A attached hereto (the "Note"), which Note shall bear interest at the rate or rates per annum set forth in Item 4 of Annex A and as shown on the face of the Note. Subject to the provisions of this Agreement, the Act, the application, and the Guidelines, and upon execution of this Agreement, the Note and any other documents required by MDA to secure the Applicant's repayment of the Loan, MDA shall pay the proceeds of the Loan unto the Applicant in order to finance, in part, the Project. The Applicant can submit only one request for cash per month to MDA, and the total amount of requested funds for the project cannot exceed the maximum loan amount. The amount of the request can only be for eligible costs on a current cash needs basis. All loan funds must be expended within two years from the date of the loan or the funds shall be recalled unless prior written approval is obtained from MDA.

SECTION 2. *Loan Payments and the Note.* All payments payable by the Applicant under this agreement and the Note (the "Loan Payments") are due and payable at the times and in the amounts set forth in Item 4 of Annex A. MDA directs the Applicant, and the Applicant agrees to pay to MDA, at the address set forth in Section 9 below, all payments payable by the Applicant pursuant to this Agreement.

Failure of the Applicant to meet its repayment obligations shall result in the forfeiture of sales tax allocation and/or homestead exemption reimbursement in an amount sufficient to repay obligations due pursuant to Section 57-1-303(3) of the Act.

The Applicant shall execute the Note to evidence its obligation to make the Loan Payments and other sums payable by the Applicant hereunder.

It is understood and agreed that all Loan Payments by the Applicant under this Agreement and the Note shall be absolute and unconditional and shall not be subject to any defense (other than payment) or any right of set-off, counterclaim or recoupment arising out of any breach by MDA, or the State of any obligation to the Applicant, whether hereunder or otherwise, or out of any indebtedness or liability at anytime owing to the Applicant by MDA or the State.

The Applicant may, at its option, at any time and from time to time prepay the Loan without premium or penalty.

SECTION 3. *Representations of MDA.* MDA makes the following representations as the basis for the undertakings on the part of the Applicant herein contained.

(a) MDA is an agency of the State and is authorized pursuant to the provisions of the Act and the Guidelines to enter into the transactions contemplated by this Agreement.

(b) MDA has full power and authority to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(c) MDA is not in default under any provision of the laws of the State material to the performance of its obligations under this Agreement.

(d) MDA has been duly authorized to execute and deliver this Agreement and by proper action has duly authorized the execution and delivery hereof and as to MDA, this Agreement is valid and legally binding and enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited (1) by bankruptcy, reorganization, or similar laws limiting enforceability of creditor's rights generally or (2) by the availability of any discretionary equitable remedies.

(e) The Loan for the activity or activities described in Annex A Item 2 to the Applicant, as provided by this Agreement, will further the purposes of the Act, to wit: to assist local entities in the providing of capital improvements.

SECTION 4. *Representations of the Applicant.* The Applicant makes the following representations as the basis for the Loan and the undertakings on the part of MDA herein contained:

(a) The Applicant has all necessary power and authority to enter into and perform its duties under this Agreement and the Note and, when adopted or when executed and delivered by the respective parties hereto and thereto, this Agreement and the Note, will constitute legal, valid and binding obligations of the Applicant enforceable in accordance with their respective terms except to the extent that the enforceability of the rights set forth herein and therein may be limited by bankruptcy, reorganization, insolvency, moratorium, or other laws affecting creditor's rights generally and except to the extent that the enforceability of the rights set forth herein and therein may be limited by the validity of any particular remedy. The execution and delivery of this Agreement and the Note and compliance with the provisions of each will not conflict with, or constitute a breach of or default under, the Applicant's duties under any law, administrative regulation, court decree, resolution, charter, by-laws, or other agreement to which the Applicant is subject or by which it is bound.

(b) There is no consent, approval, authorization or other order of, filing with, or certification from any regulatory authority having jurisdiction over the Applicant required for the execution and delivery or the consummation by the Applicant of any of the transactions contemplated by this Agreement and the Note that have not already been obtained.

(c) There is no action, suit, proceeding, or investigation at law or in equity before or by any court, governmental agency or body pending or, to the best knowledge of the Applicant, after reasonable investigation and due inquiry, threatened against the Applicant to refrain or enjoin the execution or delivery of the Note, or the making of the Loan Payments contemplated by this Agreement and the Note, or in any way contesting or affecting the validity of this Agreement and the Note, or contesting the powers of the Applicant to adopt, enter into or perform its obligations under any of the foregoing or materially and adversely affecting the properties or conditions (financial or otherwise) or existence or powers of the Applicant.

(d) It shall comply with the terms and provisions of this Agreement, the Note, the Act, and the Guidelines.

(e) It is not in default under any previous loans from MDA, the State, or the Federal government.

(f) All information furnished by the Applicant to MDA for the purpose of approving the Loan, but not limited to, the Application, is true, accurate, and complete as of the date hereof and thereof.

(g) The Loan is being made to finance the Project and will not be used for any other purpose.

SECTION 5. *Covenants of the Applicant.* The Applicant covenants and agrees, until the Loan is repaid and satisfied in full according to the terms of this Agreement, as follows:

(a) The Applicant will retain title, maintain, preserve, keep the Project in good working order, and condition. For water and wastewater improvements, the Applicant must have established a reserve fund prior to loan closing and the fund should have the equivalent of one year maintenance cost at the end of the first year. For improvements in fire protection, the Applicant must meet the National Fire Protection Association (NFPA) standards in the 1990 series.

(b) The Applicant shall not, without the prior written consent of MDA, create, assume, or otherwise suffer to exist, any mortgage, pledge, or other encumbrance upon the Project.

(c) The Applicant shall promptly give to MDA written notice of any event of default as specified in Section 9 hereof or any event that, upon lapse of time or notice or both, would become an event of default.

(d) **Application of the Mississippi Employment Protection Act of 2008.** All grantees, recipients, contractors and companies known here after as "Contractor (Company)" entering into contracts with the **Mississippi Development Authority represents and warrants that it will ensure compliance with the Mississippi Employment Protection Act** (Senate Bill 2988 of the 2008 Regular Session of the Mississippi Legislature) and will register and participate in the status verification system of all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify program, or any other successor electronic verification system replacing the E-Verify Program. Contractor (Company) agrees to maintain such compliance and, upon request of the State, to provide copy of each such verification to the State. Contractor (Company) further represents and warrants that any person assigned to perform services hereunder meet the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor (Company) understands and agrees that any breach of these warranties may subject Contractor (Company) to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor (Company) by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor (Company) would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

SECTION 6. Defaults and Remedies. The following shall be "events of default" under this Agreement, and the terms "event of default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

- (a) Failure by the Applicant to pay or cause to be paid when due any payments required to be paid under Section 2 hereof and the Note;
- (b) Failure by the Applicant to observe and perform in any material way, any covenant, conditions or agreement on its part to be observed or performed as set forth herein, which failure shall not be cured to the satisfaction of MDA within the earlier of ten (10) days after actual knowledge thereof by the Applicant or written notice, specifying such failure and requesting that it be remedied, is given to the Applicant by MDA;
- (c) Any written representation or written warranty made by the Applicant in or with respect to this Agreement shall prove to have been false in any material respect at the time of execution by the Applicant of this Agreement;
- (d) The Applicant shall commence a voluntary case or other proceeding in bankruptcy or seeking liquidation, reorganization, arrangement, readjustment of its debts or for any other relief under the federal bankruptcy laws, as amended, or under any other insolvency act or law, state or federal, now or hereafter existing or shall take any other action indicating its consent to, approval of, or acquiesce in any such case or proceedings, and said proceeding is not dismissed within thirty (30) days after the commencement thereof; the Applicant shall apply for, or consent to or acquiesce in the appointment of a receiver, liquidator, custodian, sequestrator or a trustee for all or a substantial part of its property; the Applicant shall make an assignment for the benefit of its creditors; or the Applicant shall fail. Or shall admit in writing its failure to pay its debts generally as such debts become due;
- (e) There shall be filed against the Applicant an involuntary petition in bankruptcy or seeking liquidation, reorganization, arrangement, readjustment of its debts or any other relief under the federal bankruptcy laws, as amended, or under any other insolvency act or law, state or federal, now or hereafter existing and such petition is not set aside within thirty (30) days after such filing; or a receiver, liquidator, custodian, sequestrator or trustee of the Applicant for all or a substantial part of its property shall be appointed without the consent or approval of the Applicant or a warrant of attachment execution or similar process against any substantial part of the property of the Applicant is issued; and continuance of any such events for thirty (30) days un-dismissed or un-discharged or within such thirty (30) days, the entering of an order for relief under the United States Bankruptcy Code; or
- (f) There is a material adverse change in the financial condition of the Applicant which would, in the opinion of MDA endanger MDA's ability to collect the Loan.

Whenever an event of default shall have occurred and be continuing, MDA may at any time thereafter, at their option, declare the Loan to be due and payable, whereupon the maturity of the then unpaid balance of the loan shall be accelerated and the same shall forthwith become due and payable without presentment, demand, protest, or notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding, and MDA may take any action at law or in equity to enforce this Agreement to collect payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Applicant under this Agreement or the Note. No remedy conferred upon or reserved to MDA by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission or exercise any right or power occurring upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. If the Applicant shall default under any of the provisions of this Agreement and MDA shall employ attorneys or incur other expenses for collection of the Loan Payments or for the enforcement or performance or observance of any obligation or agreement on the part of the Applicant contained in this Agreement or the note, the Applicant, will on demand therefore pay the reasonable fees and expenses of MDA and its attorneys as they are incurred included all fees of counsel incurred for negotiation, trial, appeals or ruling of any lower tribunals, administrative hearings, bankruptcy and creditors' reorganization proceedings.

(g) All cost and disbursements must be in accordance with the loan agreement and the Mississippi Capital Improvements Act § 57-1-301 *et seq.* for eligible cost. If any cost or disbursements are ineligible, the Applicant is in default and must reimburse the MDA for the ineligible cost and any accrued interest.

SECTION 7. *Compliance with Environmental Laws.* The Applicant shall cause all business, operations, and activities at or upon the Project at all times during the term of this Agreement to be conducted in compliance with all applicable federal, state, or local laws, ordinances, rules or regulations concerning public health, safety or the environment. These include, but are not limited to, the following:

- (a) The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601 *et seq.*;
- (b) The Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901 *et seq.*;
- (c) The Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*;
- (d) The Safe Drinking Water Act, as amended, 42 U.S.C. § 300 (f) *et seq.*;
- (e) The Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 *et seq.*;
- (f) The Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*;
- (g) The Emergency Planning and Community Right-to-Know Act of 1986, as amended, 42 U.S.C. § 11001 *et seq.*;
- (h) The Occupational Health and Safety Act, as amended, 29 U.S.C. § 651 *et seq.*;
- (i) The Mississippi Air and Water Pollution Control Law, as amended, Miss. Code Ann. § 49-17-1 *et seq.*;
- (j) The Mississippi Solid Waste Disposal Law of 1974, as amended, Miss. Code Ann. § 17-17-1 *et seq.*;
- (k) The Mississippi Underground Storage Tank Act of 1988, as amended, Miss. Code, Ann. § 49-17-401 *et seq.*; and
- (l) The Mississippi Conservation of Groundwater Law, as amended, Miss. Code Ann. § 54-4-1 *et seq.*
- (m) Antiquities Law of Mississippi, as amended, Miss. Code Ann. § 39-7-1 *et seq.*

SECTION 8. *Notice Addresses.* All notices given pursuant to this agreement shall be in writing signed by the party giving the notice and shall be given by (a) certified mail, postage prepaid, (b) prepaid overnight delivery, (c) hand delivery. For the purposes of this Agreement, notices shall be sent to the parties at the addresses set forth in Item 5 of Annex A hereto or to such other addresses that the parties may designate in writing.

SECTION 9. *Miscellaneous.*

- (a) The paragraph headings in this Agreement are for convenience only and are not intended to limit or interpret the provisions of the Agreement.
- (b) All Annexes and Exhibits which are referred in this Agreement are made a part of and are incorporated into this Agreement.
- (c) This Agreement shall be governed as to validity, construction and performance by the laws of the State of Mississippi.
- (d) This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one in the same instrument.
- (e) No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.
- (f) If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein.
- (g) The economic benefit to Applicant must be stated in any lease agreement with a business.
- (h) Before releasing any CAP funds, the local entity shall provide title insurance on all real property acquisitions or title opinion on all other projects from the local entity's attorney.
- (i) The local entity must place a sign in accordance to the Policy Statement. The local entity shall be responsible for the cost of the sign. CAP funds cannot be used to pay for the sign.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written on the cover page hereof.

**MISSISSIPPI DEVELOPMENT
AUTHORITY**

Attest



Steven C. Hardin, Director
Community Services Division

By 

J. Manning McPhillips, Jr.
Chief Administrative Officer

(S E A L)

Madison County

Attest

Title _____

By _____
Karl M. Banks
President

I HEREBY CERTIFY that I have reviewed all necessary documentation pursuant to this Agreement and the Note, and that the Applicant is legally empowered to execute the documents and enter into said Capital Improvements Revolving Loan with MDA.

Applicant's Attorney

**Annex A
To
Loan Agreement**

Item 1 Name of Applicant:

Madison County
Loan #15-249-CP-01

Item 2 Description of Project:

Fire Station Construction as stated in their 2015 Capital Improvements Revolving Loan Application.

Item 3 Loan Amount:

Note: Not to exceed Seven Hundred and Fifty Thousand Dollars (\$750,000)

Item 4 Loan Terms and Conditions:

Estimated Payment: \$3,794.12 monthly

The terms of the Note shall be for 240 months following the completion of the capital improvements at two percent (2%) annual interest computed daily. Payments shall be made as referenced above; however, interest will be adjusted to reflect the actual dates of disbursement. The payments will begin 30 days after the completion date of the project. All Loan funds must be expended within two years (1) from the date of the Loan or the funds shall be recalled unless prior written approval is obtained from MDA. An amortization schedule will be provided near the completion of the project.

Item 5 Address Notice:

Mississippi Development Authority
501 North West Street, 5th Floor
Post Office Box 849
Jackson, Mississippi 39205
Attention: Community Services