

Tuesday  
March 4, 2014  
Gautier, Mississippi

**BE IT REMEMBERED THAT A REGULAR MEETING of the Mayor and Members of the Council of the City of Gautier, Mississippi was held March 4, 2014 at 6:30 pm in the City Hall Municipal Building, 3330 Highway 90, Gautier, Mississippi.**

Those present were Mayor Gordon Gollott, Council Members Mary Martin, Johnny Jones, Hurley Ray Guillotte, Casey Vaughan, Rusty Anderson, Adam Colledge, City Manager Samantha Abell, City Clerk Cynthia Russell, City Attorney Joshua Danos and other concerned citizens.

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**AGENDA  
CITY OF GAUTIER, MISSISSIPPI  
CITY HALL COUNCIL CHAMBERS  
March 4, 2014 @ 6:30 PM**

- I. Call to Order
  - 1 Prayer
  - 2 Pledge of Allegiance
- II. Agenda Order Approval
- III. Announcements
  - 1 State of the City Address March 10<sup>th</sup> 6 pm MGCCC Student Center
  - 2 3<sup>rd</sup> Annual Easter Egg Hunt Saturday, April 5<sup>th</sup> 10:00 am Shepard State Park
  - 3 Gautier City Council Workshop on Revising the City's Animal Control Ordinance Tuesday, March 11<sup>th</sup> 6:00 pm Gautier City Hall
  - 4 Jackson County Household Hazardous Waste Collection Day Saturday, April 26<sup>th</sup> 8 am – 12 pm in the Singing River Mall Parking Lot
- IV. Presentation Agenda
  - 1 January 2014 Financial Report by Teresa Montgomery, Comptroller
- V. Public Agenda
  - 1 Agenda Comments
- VI. Business Agenda
  - 1 Consideration of an Energy Services Agreement for the City of Gautier and McNeil Rhoads, LLC for the purposes of a self-funded total water meter change-out and lighting efficiency upgrades in city facilities
  - 2 Conduct public hearing (Quasi-Judicial Procedures) and receive public comment regarding 5401 Carter Road, Ocean Springs, MS. Harrield A. Teague and Teresa Ann Teague, owners
  - 3 Order approving Streetscape Project #R-109-192-01-KCR Budget Modification #14 (Ending Date Change)

- 4 Order approving the City Planner Job Description and consequent redaction of Planning Technician and replacing with City Planner on the Schedule of Authorized Positions
- 5 Order approving change to FLSA Status of the Purchasing Agent
- 6 Order approving Ocean Beach Estates and Shell Landing Wastewater Collection Systems CIAP #MS.30.713 (Old Shell Landing Sewer Improvements) Application for Payment No. 5 (Final) and Summary Change Order
- 7 Order approving Docket of Claims

VII. Consent Agenda **(All items approved in one motion)**

- 1 Order approving Minutes from Recessed Council Meeting held February 18, 2014
- 2 Order authorizing Memorandum of Agreement with the MS Department of Archives and History for the Community Heritage Preservation Grant for the former Gautier Colored School Project (CHPG#2013-018)
- 3 Order authorizing the reappointment to the Jackson County Emergency Communications District Board (911 Commission)

**STUDY AGENDA  
CITY OF GAUTIER, MISSISSIPPI  
March 4, 2014**

- 1 Discuss Citizen Comments
- 2 Discuss Council Comments – Discussion of City Manager Evaluation
- 3 Discuss City Manager Comments
- 4 Discuss City Clerk Comments
- 5 Discuss City Attorney Comments

**Recess until March 10, 2014 @ 6:00 PM**  
[www.gautier-ms.gov](http://www.gautier-ms.gov)

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**Motion made by Councilman Guillotte to revise the agenda, table Presentation Item #1 – January 2014 Financial Report by Teresa Montgomery, Comptroller and approve the agenda order. Motion was seconded by Councilman Vaughan and unanimously carried.**

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**Announcements**

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# 3rd Annual EASTER EGG HUNT

**WHEN:** April 5, 2014

**WHERE:** Shepard State Park  
1034 Graveline Road  
Gautier, MS 39553

**TIME:** 10:00 A.M. - until

**Ages:** 1 - 2 yrs old (1 parent)  
3 - 4 yrs old  
5 - 7 yrs old  
8 - 10 yrs old



**Special Appearance by:  
EASTER BUNNY**





**The Public is Invited  
to a Gautier City Council Workshop  
on Revising the City's  
Animal Control Ordinance**



**Tuesday, March 11, 2014**

**6:00 p.m.**

**Gautier City Hall**

**3330 Hwy 90**

**Gautier, MS**

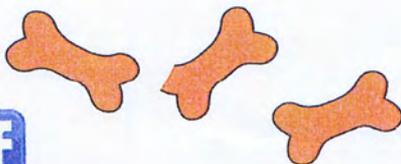


**For more information or to view the proposed ordinance,  
visit the City's website at [www.gautier-ms.gov](http://www.gautier-ms.gov).**

**For questions or to provide comments,**

**contact Joe Belles at (228) 219-7035**

**or [jbelles@gautier-ms.gov](mailto:jbelles@gautier-ms.gov)**



# Jackson County Household Hazardous Waste Collection Day



## DO NOT BRING

Explosive Materials  
Radioactive Materials  
Electronics  
Business Waste  
Compressed Cylinders  
Medical/Biological Waste  
Syringes  
PCB's



## ACCEPTABLE ITEMS

Aerosols, All Purpose Cleaners, Ammonia, Anti-Freeze, Automobile Cleaners, Batteries, Brake Fluid, Charcoal Lighter Fluid, Chlorine Bleach, Detergents, Disinfectants, Drain Opener, Furniture Polish, Gasoline, Glass Cleaner, Herbicides, Insecticides, Mothballs, Motor Oil, Oven Cleaner, Paint, Paint Thinner, Pesticides, Pool Chemicals, Rodent Poisons, Rubber Cement, Rug & Upholstery Cleaner, Scouring Powder, Silver Polish, Snail & Slug Killers, Toilet Bowl Cleaner, Transmission Fluid, Tub & Tile Cleaner, Turpentine, Varnish, Water Seal, Wood Finish

## A One Day FREE

Proper Disposal Turn-in Event

**Saturday, April 26, 2014**

**8 a.m. - 12 noon**

**Singing River Mall Parking Lot**

**Highway 90, Gautier**



Call (228) 872-8340 for more information

**Household Hazardous Waste is ...** Unused or leftover portions of products containing toxic chemicals. Any product which is labeled CAUTION, POISONOUS, TOXIC, FLAMMABLE or CORROSIVE is considered a household hazardous waste.

**A Safe Substitute is ...** A safe alternative to a toxic product. Fact sheets are available to help you reduce the use of toxics and minimize health risks.

**Legal Transportation is ...** Leaving products in the original containers and making sure that the containers are sealed so that they will not leak. Transport containers in the trunk or in the back of the vehicle away from passengers.

**DO NOT TRANSPORT OVER 5 GALLONS OR 50 POUNDS AT ONE TIME.**

**Proper Disposal is ...** Extremely important. It is dangerous and illegal to discard hazardous household materials in the trash or down the drain. Instead; use up the product as intended or take to a household hazardous waste event.



The collection event is a community service funded by the MS Department of Environmental Quality in cooperation with the Jackson County Board of Supervisors, Municipalities and the Jackson County Solid Waste Department.



**Presentation Agenda**

- 1 January 2014 Financial Report by Teresa Montgomery, Comptroller was tabled.**

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There came for consideration of the Mayor and Members of the Council of the City of Gautier, Mississippi, the following:

**ORDER NUMBER 053-2014**

**IT IS HEREBY ORDERED** by the Mayor and Members of the Council of the City of Gautier, Mississippi, that the energy services agreement with McNeil Rhoads for a total meter change out from existing manual-read meters to automated, radio-read meters and also the retrofit of the interior lighting of all city buildings as well as pole lighting at George Martin City Park and City Hall is hereby approved.

**IT IS FURTHER ORDERED** that the City Manager or City Clerk is authorized to execute any and all documents necessary.

Motion was made by **Councilman Colledge**, seconded by **Councilwoman Martin** and the following vote was recorded:

AYES:           Gordon Gollott  
                  Mary Martin  
                  Johnny Jones  
                  Hurley Ray Guillotte  
                  Casey Vaughan  
                  Rusty Anderson  
                  Adam Colledge

NAYS:           None

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MAYOR

ATTEST:

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CITY CLERK

**Passed and Adopted** by Mayor and Members of the Council of the City of Gautier, Mississippi, at the meeting of March 4, 2014.

## CITY OF GAUTIER

**To:** Gautier Mayor and City Council

**From:** Samantha D. Abell, City Manager

**Date:** February 26, 2014

**Subject:** Consideration of an Energy Services Agreement for the City of Gautier and McNeil Rhoads, LLC for the purposes of a self-funded total water meter change-out and lighting efficiency upgrades in city facilities.

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### **REQUEST:**

The City Council shall consider for approval an energy services agreement with McNeil Rhoads for a total meter change out from existing manual-read meters to automated, radio-read meters and also the retrofit of the interior lighting of all city buildings as well as pole lighting at George Martin City Park and City Hall.

The city attorney has reviewed the agreement and deems it legally sufficient.

### **BACKGROUND:**

McNeil Rhoads has completed its energy and water system revenue analysis. The City Council authorized McNeil Rhoads to perform an analysis of the energy usage in city buildings as well as operational and revenue losses in the water enterprise. The deliverable of this audit is the recommendation of items deemed to pay for themselves and be life-cycle cost effective per the Asset Depreciation Ranges set forth by the Internal Revenue Service.

In the last two years, city management has conducted significant research into the most affordable option for a water meter change out, and also upgrading lighting at city facilities in order to reduce costs. This energy services agreement is made possible by the Mississippi Development Authority and will result in no cost to customers, no expense of the water enterprise or general fund, increased efficiency, improved service with new customer-friendly billing software upon completion of meter change-out, and increased revenue resulting from the capture of “lost” water that is currently not being read. The electrical retrofit represents 3.5% of the total project.

## **DISCUSSION:**

As water meters age, they deteriorate. Inaccurate readings increase with age. Gautier repairs and/or replaces an average 25 to 30 water meters a month. Repairs and replacement require considerable time, and faulty meters are an inconvenience for citizens who are often first to discover a problem due to a billing discrepancy.

The new radio-read, water metering system will bring efficiency to meter reading and billing operation and eliminate estimated bills due to inaccessibility.

Driving by homes and businesses to get meter readings will be more convenient for our customers, who no longer need to allow meter readers onto their private property, and less labor intensive for the utility, providing cost savings.

The new water metering system incorporates an off-the-shelf, battery-operated radio transmitter onto the water meter. The water meter, with its integrated radio, transmits a relatively weak radio frequency signal, producing radio frequency waves many times lower than many other everyday items found in homes, such as cell phones, baby monitors, and wireless routers.

When it is time to retrieve the water meter reading, meter readers will drive by the property with a special receiver. Data consisting of the unique meter number and the digits of the meter reading are transmitted to the receiver. The city then uses those meter readings in the new billing software to generate the customer water bill.

### **Quick Facts**

- All 7,010 water meter accounts in Gautier will be replaced in 2014.
- New water meters ensure everyone who uses Gautier water is paying for actual water used
- Within 24 months of the total system change-out, city management will evaluate the water enterprise to recommend to Council a reduction of the minimum monthly payment.
- Meter replacement is required of all Gautier customers.
- There is no upfront cost for the meter replacement. Citizens will not be asked for payment.
- The more modern and reliable meters have an integrated radio transmission device and allow the Utility to obtain meter readings using drive-by reading technology.
- New meter radio reads will be less disruptive for customers with less chance of estimated readings due to access limitations.
- Meter readers will no longer need to enter private property to plug in a hand-held reading device.

- New meters will be more efficient to read and allow easier access for staff and less staff time resulting in savings to customers over time.

**CONCLUSION AND RECOMMENDATION:**

The City Manager respectfully requests that the City Council approve the Energy Services Agreement with a total fixed project investment of \$3,196,046.75, between the City of Gautier and McNeil Rhoads. This project investment total includes design, construction, and everything related. The program is self-funded, with a conservative revenue surplus of \$827,465.87 at the end of the 15-year term of finance.

Upon Council approval, the Mississippi Development Authority will subsequently coordinate with the City Manager and MDA's project financial advisor for a competitive loan for Council consideration and approval. Based on current market conditions, the term of the financing is 15 years with an anticipated 3.4% interest. Based on the attached analysis, the new meters and lighting retrofit will self-fund improvements, and also result in a conservative additional \$827,465.87 over the next 15 years (see attached). The contract is a guaranteed max-price contract that includes design and construction.

The Council may:

1. Approve the Services Agreement with McNeil Rhoads
2. Not approve the Services Agreement with McNeil Rhoads

**ATTACHMENTS:**

Services Agreement Dated March 4, 2014

Energy Services Program Overview by McNeil Rhoads

# Energy Services Agreement

for

## CITY OF GAUTIER

by

McNeil Rhoads, LLC.

MARCH 4, 2014

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# GENERAL TERMS AND CONDITIONS

This Energy Services Agreement (the "Agreement") is made and entered into on this, the \_\_\_\_ day of March, 2014 by and between McNeil Rhoads, LLC, with offices at 2001 Underwood Drive, Flowood, MS 39232 (herein called the "Contractor"), and City of Gautier, a municipality with its principal address at 3330 HWY 90, Gautier, MS 39553 (herein called the "Customer"), wherein it is agreed as follows:

1. **PURCHASE OF INFRASTRUCTURE IMPROVEMENT MEASURES.** Subject to the terms and conditions hereof, Contractor agrees to sell to Customer and Customer agrees to purchase from Contractor certain Infrastructure Improvement Measures ("IIMs") and Work as described in Exhibit A, Scope of Work.
2. **INSTALLATION.** Contractor shall install the IIMs at the Facilities identified and in accordance with provisions set forth in Exhibit A, Scope of Work.
3. **TERM.** This Agreement shall become effective upon the execution hereof by the Customer and Contractor and shall continue until (a) the payment and discharge by Customer of all its obligations hereunder; or (b) termination pursuant to any provision of this Agreement.
4. **PAYMENT.** The Customer shall pay Contractor [or any Assignee as defined in 15.0 below] for the installation and service of IIMs in accordance with the payment schedule in the attached Exhibit B, Payment Schedule. Notwithstanding the foregoing, the Customer retains any and all rights to assert claims or defenses against Contractor at Customer's own expense.
5. **AUTHORITY AND AUTHORIZATION.** Customer represents, warrants and covenants that (a) it has done all things necessary to preserve and keep in full force and effect (i) its existence and (ii) the Agreement; (b) all requirements have been met and procedures have been followed to ensure the enforceability of the Agreement; and (c) there is not any pending, or to the best of Customer's knowledge, threatened, suits or actions, litigation or proceedings against or affecting Customer that affects the validity or enforceability of this Agreement.
6. **LIMITED WARRANTIES.** Contractor has provided Customer with certain written limited warranties with respect to the IIMs identified in Exhibit A. Except for such limited warranties in this Agreement, Contractor makes no warranty of any kind or nature, express or implied, relating to the IIMs or its performance or the installation and service thereof. No Assignee(s) of the Contractor to this Agreement may make warranties of any kind or nature, express or implied, relating to the IIMs or the performance or the installation and service thereof. Contractor warrants the merchantability and fitness of the IIMs for their particular purpose.
7. **INDEMNITY AND LIMITATION OF LIABILITY.** Contractor shall indemnify and save harmless the Customer, its employees or agents from any and all losses, claims and expenses for injury to persons or damage to property to the extent arising out of the negligence or willful misconduct of Contractor in the performance of this Agreement. Any losses, claims, expenses and damages for which Contractor agrees to indemnify the Customer hereunder shall be limited to direct losses, claims, expenses and damages and shall not include incidental or consequential damages.
8. **FORCE MAJEURE.** Except for any obligation to pay money under this Agreement, if either party shall be delayed in or prevented from the performance of any of the terms, covenants and conditions of this Agreement, by reason of restrictive governmental laws or regulations, riots, insurrections, war, sabotage, or acts of God not the fault of the party delayed in or prevented from performance, then performance shall be excused for the period of the delay or prevention of performance and the time for performance shall be extended for an equivalent period not to exceed six (6) months; otherwise, the Customer will have the right to terminate agreement. In either event, Contractor shall be reimbursed for all costs to date of termination.
9. **TITLE.** Title to the IIMs implemented at Customer's Facilities is deemed to be free and clear of any liens created by Contractor. Should it become necessary, at the request of the Customer, Contractor or its Assignee agrees to execute any appropriate documents submitted by the Customer to the Contractor or its Assignee evidencing such right, title and interest in the IIMs.
10. **USE; REPAIRS.** Customer, at its sole cost and expense, shall maintain the IIMs according to the manufacturers' recommended guidelines or the equivalent and meet any and all re-certification requirements and shall furnish proof of such maintenance, if requested by Contractor, and the Customer shall furnish all needed servicing and parts, which parts shall become part of the IIMs.

**11. INSURANCE.**

Prior to commencing the Work, Contractor shall provide a certificate of insurance to the Customer showing its insurance coverage. Contractor shall maintain such insurance in full force and effect at all times until the Work has been completed, naming the Customer as additional insured and each such policy shall waive subrogation in favor of the Customer, as follows:

Coverage	Limits of Liability
Workers Compensation	Statutory
Employer’s Liability	Statutory
Comprehensive General Liability	\$1,000,000 Each Person \$1,000,000 General Aggregate
Automobile Liability	\$1,000,000 Combined Single Limit

**12. EVENTS OF DEFAULT AND TERMINATION.** (a) As to Customer, the term “Event of Default”, as used in this Agreement, means the occurrence of any one or more of the following events: (i) Customer fails to make any Progress Payment (or any other payment) as it becomes due in accordance with the terms of this Agreement, and any such failure continues for twenty (20) business days after the due date thereof; (ii) Customer fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured (or fails to commence cure in good faith) within ten (10) business days after written notice thereof by Contractor; (iii) The discovery by Contractor that any statement, representation or warranty made by Customer, legal, financial or otherwise, in this Agreement or in any document ever delivered by Customer pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; or (iv) Customer becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Customer or of all or a substantial part of its assets, petition for relief is filed by Customer under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar law is filed against Customer and is not dismissed within thirty (30) calendar days thereafter.

(b) As to Contractor, the term “Event of Default”, as used in this agreement, means the occurrence of any one or more of the following events: (i) Failure to substantially perform the obligations of Contractor in the manner and within the time prescribed by the terms of this Agreement; (ii) Contractor fails to perform or observe any other material covenant, condition or agreement to be performed or observed by it hereunder and such failure is not cured (or fails to commence cure in good faith) within ten (10) business days after written notice thereof by Customer; (iii) the discovery by Customer that any statement, representation or warranty made by Contractor, legal, financial or otherwise, in this Agreement or in any document ever delivered by Contractor pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; or (iv) Contractor becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of Contractor or of all or a substantial part of its assets, petition for relief is filed by Contractor under federal bankruptcy, insolvency or similar laws, or a petition in a proceeding under any bankruptcy, insolvency or similar laws is filed against Contractor and is not dismissed within thirty (30) calendar days thereafter.

**13. REMEDIES.** Upon the occurrence of an Event of Default, either party may, at its option, exercise any right, remedy, or privilege which may be available to it under Mississippi law, including the right to (i) Proceed by appropriate court action to enforce the terms of this Agreement, and (ii) Recover damages for the breach of this Agreement. In addition, the parties shall remain liable for all covenants and under this Agreement.

**14. INTELLECTUAL PROPERTY.** No right, title or interest in or license to, any patents, trade secrets, copyrights, trademarks or other intellectual property of a party is granted or conveyed by either of the Parties to the other.

Contractor agrees to defend, indemnify and hold harmless Customer from and against any claim, suit, demand or action alleging that the use or sale of the goods or services furnished by Contractor infringes a U.S. patent, copyright, trademark, or any other published intellectual property rights of any third party; provided however, that (i) Customer shall give Contractor immediate written notice of such action and all prior claims relating thereto; (ii) Customer shall fully cooperate with Contractor in the defense of such action and all negotiations for its settlement or compromise at no expense to the Customer.

If a temporary or final injunction is obtained against Customer's use of the IIMs or any component thereof by reason of an infringement of a U.S.-recorded patent, copyright, trademark, or other published intellectual property rights, Contractor will, at its option and expense, either (i) procure for Customer the right to continue to use the goods or services; or (ii) replace or modify for

Customer the goods or services so it no longer infringes such U.S.-recorded patent, copyright, trademark or other published intellectual property right so that the FIM(s) continues to conform to the Agreement in all material respects.

Contractor shall have no liability to Customer for any infringement action that is based upon or arises out of the use of IIMs or any component thereof in combination with any other system, equipment or software that is: (i) not otherwise supplied by Contractor; or (ii) inconsistent with the intended use of goods and services or any component thereof.

This section sets forth the exclusive remedy of Customer against Contractor with respect to any action claim for alleged infringement or any patent, copyright, trademarks, trade secret or other intellectual property right involving the goods and services or any component thereof.

15. **ASSIGNMENT.** Without Contractor's prior written consent, or except in the context of a lease financing, Customer shall not: (a) assign, transfer, pledge, hypothecate or grant any security interest in, or otherwise dispose of, this Agreement or any interest in this Agreement or the IIMs until Customer takes full ownership of the IIM's included in this Agreement or (b) sublet or lend the IIMs or permit the IIMs to be used by anyone other than Customer or Customer's employees. Contractor, without the consent of Customer, may assign its right and obligations under this Agreement to any affiliate or subsidiary of Contractor. Contractor will have the right to subcontract any of the IIMs.
16. **AMENDMENTS.** This Agreement may only be amended or any of its terms modified for the purpose of adding or modifying IIMs, with the written consent of both parties hereto. All other amendments or modification of the terms of this Agreement must be accomplished by written consent of Customer and Contractor, and its Assignee, if any.
17. **NOTICES.** All notices to be given under this, Agreement shall be made in writing and mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received ten (10) business days subsequent to mailing.
18. **SECTION HEADINGS.** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.
19. **GOVERNING LAW.** This Agreement shall be governed by the provisions hereof and by the laws of the State of Mississippi.
20. **INDEPENDENT PARTIES.** Nothing contained in this Agreement will be deemed or construed for any purpose, to establish, between the parties, a partnership or joint venture, a principal-agent relationship, employee-employer relationship or any relationship other than Customer and Contractor.
21. **OTHER USAGES.** References to "this agreement", "the agreement", "hereof", "herein", "hereto" and like references refer to this Energy Service Agreement and not to any particular section or other subdivision of this agreement.
22. **ENTIRE AGREEMENT.** This Agreement, together with the exhibits attached hereto and incorporated by reference herein, constitute the entire Agreement between the parties with respect to the purchase of the IIMs. All previous proposals, oral or written communication, engineering information or written communication are superseded by this Agreement.
23. **SEVERABILITY.** Any provision of this Agreement found to be prohibited by a court of law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement and all other provisions shall remain in full force and effect.
24. **WAIVER.** The waiver by a Party of any breach by the other Party of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach hereof.