

**CITY OF CLINTON
REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, SEPTEMBER 20, 2011 - 7:00 P.M.
MUNICIPAL COURTROOM – 305 MONROE STREET**

WELCOME AND CALL TO ORDER Mayor Rosemary Aultman

INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

The invocation was led by Alderwoman Peace followed by the pledge of allegiance to the flag led by Alderman Morgan.

ROLL CALL City Clerk, Russell Wall

Present: Jehu Brabham – Alderman-at-Large
 Tony Hisaw – Alderman Ward 1
 Tony Greer – Alderman Ward 2
 William O Barnett – Alderman Ward 3
 Kathy Peace – Alderwoman Ward 4
 Mike Morgan – Alderman Ward 5
 Mike Cashion – Alderman Ward 6

RECOGNITION

No one from the Clinton Blood Drive Committee was able to attend the meeting; therefore this recognition was postponed until another time.

APPROVAL OF CONSENT AGENDA ITEMS A - G

MOTION made by Alderman Greer and **SECONDED** by Alderman Brabham to approve the Consent Agenda Items A-G. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF THE NEW SIGN ORDINANCE

Upon presentation by Jerry Bounds, Director of Community Development, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Hisaw the board approved the new sign ordinance. **MOTION CARRIED UNANIMOUSLY**

PUBLIC HEARING TO DETERMINE WHETHER THE PROPERTY LOCATED AT 506 HATHAWAY DRIVE IS A MENACE TO THE PUBLIC HEALTH AND SAFETY AND SHOULD BE CLEANED

Upon presentation by Jerry Bounds, Director of Community Development, **MOTION** made by Alderman Cashion and **SECONDED** by Alderman Barnett the board approved a resolution determining the necessity for the cleaning of the property located at 506 Hathaway Drive, under the authority granted to municipalities by Section 21-19-11, Mississippi Code of 1972, as amended and other applicable statutes and ordinances. A public hearing was held and no one representing the property owner was present. No one from the public made any comments. The resolution is on file with the City Clerk. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF AN INITIAL RESOLUTION GRANTING EXEMPTION FOR AD-VALOREM TAXES TO GULF STATE CANNERS, INC. FROM DECEMBER 31, 2010 THROUGH DECEMBER 30, 2015

Upon presentation by Russell Wall, City Clerk, **MOTION** made by Alderman Greer and **SECONDED** by Alderman Hisaw the board approved an initial resolution granting exemption for Ad-Valorem taxes to Gulf State Cannery, Inc. from December 31, 2010 through December 30, 2015. The resolution is on file with the City Clerk. **MOTION CARRIED UNANIMOUSLY**

APPROVE A RESOLUTION ADOPTING THE CLINTON HAZARD MITIGATION PLAN UPDATE FOR 2010-2015

Upon presentation by Barry Burnside, Fire Chief, **MOTION** made by Alderman Barnett and **SECONDED** by Alderwoman Peace the board approved a resolution adopting the Clinton Hazard Mitigation Plan Update for 2010-2015. **MOTION CARRIED UNANIMOUSLY**

APPROVE A CONTRACT WITH ARISTA INFORMATION SYSTEMS TO IMPLEMENT ONLINE PAYMENT SERVICES FOR WATER CUSTOMERS

Upon presentation by Mike Parker, Director of Public Works, **MOTION** made by Alderwoman Peace and **SECONDED** by Alderman Brabham the board approved a contract with Arista Information Systems to implement online payment services for water customers. **MOTION CARRIED UNANIMOUSLY**

APPROVE A CONTRACT WITH GRAPHITE PAYMENTS TO ACCEPT DEBIT AND CREDIT CARDS FOR PAYMENT OF WATER BILLS IN THE WATER BILLING DEPARTMENT

Upon presentation by Mike Parker, Director of Public Works, **MOTION** made by Alderwoman Peace and **SECONDED** by Alderman Brabham the board approved a contract with Graphite Payments to accept debit and credit cards for payment of water bills in the Water Billing Department. **MOTION CARRIED UNANIMOUSLY**

AUTHORIZE THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CLINTON AND THE CLINTON COMMUNITY NATURE CENTER REGARDING CONSTRUCTING AN ENTRANCE TO CONNECT THE NATURE TRAILS BETWEEN THE QUISENBERRY LIBRARY PROPERTY AND THE CLINTON COMMUNITY NATURE CENTER PROPERTY

Upon presentation by Ken Dreher, City Attorney, **MOTION** made by Alderman Cashion and **SECONDED** by Alderman Morgan the board authorized the Mayor to execute a Memorandum of Understanding between the City of Clinton and the Clinton Community Nature Center regarding constructing an entrance to connect the nature trails between the Quisenberry Library property and the Clinton Community Nature Center property. The Memorandum of Understanding is on file with the City Clerk. **MOTION CARRIED UNANIMOUSLY**

AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT BETWEEN THE CITY OF CLINTON, MISSISSIPPI AND ABMB ENGINEERS, INC. FOR ENGINEERING SERVICES RELATED TO THE ARROW DRIVE IMPROVEMENTS PROJECT

Upon presentation by Bill Owen, Consulting Engineer, **MOTION** made by Alderman Greer and **SECONDED** by Alderman Hisaw the board authorized the Mayor to execute a contract between the City of Clinton, Mississippi and ABMB Engineers, Inc. for engineering services related to the Arrow Drive Improvements project contingent upon the execution of a Memorandum of Understanding by the Clinton Public School District concerning this project. **MOTION CARRIED UNANIMOUSLY**

AUTHORIZE THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF CLINTON, MISSISSIPPI AND SEVERN TRENT ENVIRONMENTAL SERVICES, INC. FOR THE OPERATION, MANAGEMENT AND MAINTENANCE OF THE CLINTON WASTEWATER TREATMENT FACILITIES

Upon presentation by Bill Owen, Consulting Engineer, **MOTION** made by Alderman Hisaw and **SECONDED** by Alderman Greer the board authorized the Mayor to execute an agreement between the City of Clinton, Mississippi and Severn Trent Environmental Services, Inc. for the operation, management and maintenance of the Clinton Wastewater Treatment Facilities.
MOTION CARRIED UNANIMOUSLY

ADJOURN 7:53 P.M.

MOTION made by Alderman Brabham and **SECONDED** by Alderwoman Peace to adjourn until the next regular meeting of the Mayor and Board of Aldermen to be held on October 4, 2011 at 7:00 pm. **MOTION CARRIED UNANIMOUSLY**

APPROVED: _____

Rosemary G. Aultman
Rosemary G. Aultman, Mayor

September 21, 2011
Date

ATTEST: _____

Russell L. Wall
Russell L. Wall, City Clerk

September 21, 2011
Date



Sept 9

ARTICLE XXVII SIGN REGULATIONS

SECTION 2701-PURPOSES OF THESE REGULATIONS

This ordinance is adopted for the following purposes:

- A. Assist the local business community in providing signage which directs the public to each individual business establishment.
- B. Provide for consistent and equitable signage requirements for both large and small businesses.
- C. Provide a reasonable system for the control of signs.
- D. Encourage a desirable urban characteristic which has a minimum of overhead clutter.
- E. Enhance the economic value of the community and each area thereof through the regulation of such things as size, location, design, and illumination of signs.
- F. Encourage signs which are compatible with adjacent land use.
- G. Insure that the type and amount of signage accurately reflects the character of the city of Clinton.
- H. To reduce possible traffic and safety hazards through sign regulations.

SECTION 2702-DEFINITIONS

Sign: Any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, services, activity, place, person or any other item of information. Signs may be further defined as to the following types:

Abandoned sign: A sign which no longer correctly advertises a bona fide business, lessor, owner, project, or activity conducted or product available on the premises where such sign is displayed.

Advertising sign: See "Outdoor Advertising Sign."

Animated sign: A type of temporary sign which moves or appears to move by any means, including fluttering or rotating. Animated signs shall include but are not limited to pennants, flags, balloons, ribbons, streamers or propellers, strings of light bulbs, pulsating lights, strobe lights, or beacons. For the purposes of this Ordinance, this term does not refer to changeable copy signs (manual) or changing signs (automatic).

Balloons: Any display or arrangement of inflated objects, including large inflated characters, blimps, replicas of hot air balloons, etc. which are anchored to the

ground, a building or pole with the intention to attract the attention of the public to a location or business.

Banners: Any flag, pennant, streamers or other objects, constructed of soft or hard materials, *designed to attract attention to a location or business.*

Business sign: A sign which directs the attention to a business, profession, commodity, service or entertainment conducted, sold, or offered upon the same lot where the sign is located.

Changeable copy sign (manual): A sign on which copy is changed manually (i.e., reader boards with changeable copy) the area of which shall be included within the allotted face of sign square footage, and if ground mounted, enclosed under a locked and vandal proof case, at the discretion of the Director of Community Development.

Changeable copy sign (automatic): Any sign with an electronically or electrically controlled message center or reader board, where different copy changes are shown on the same lamp bank. No mechanical means.

Civic signs: Signs used for announcements, directing and identification by churches, schools, clubs, and other non-profit organizations.

Construction sign: An on-premises temporary sign erected during the period of construction, indicating the names of the architects, contractors, owners, financial supporters, sponsors and similar persons or firms involved with the construction and development of the project.

Copy: The wording or graphics on a sign surface.

Districts: Zoning districts as established by the Zoning Ordinance.

Development sign: A temporary sign relating to the promotion of a sale or rental of a new development or subdivision being constructed on the site upon which the sign is located, or located off-site and containing information and directions to a new development or subdivision.

Directional sign: An off-premises sign denoting the name and direction to a civic organization.

Existing ground-mounted sign: A ground-mounted sign that existed prior to the effective date of this Ordinance.

Existing wall-mounted sign: A sign attached to or painted on the outside wall of a building that existed prior to the effective date of this Ordinance.

Exterior directory sign: A sign containing the building identification and address and the name and location of each tenant, and allowed in any project where one or more tenants does not have an exterior entrance or does not qualify for an exterior sign.

Externally illuminated sign: Any sign which reflects light from a source intentionally directed upon it; for example, by means of floodlights, gooseneck reflectors, or externally-mounted fluorescent light fixtures.

Façade: The face of a building most nearly parallel with the right-of-way line of the street upon which the building faces.

Face of sign: The entire area of a sign on which copy could be placed, and in the instance where a double faced sign is utilized, the area of one face shall be included to determine face square footage, if both faces include the same copy.

Foot frontage: The linear width measured parallel to the street frontage of the heated and enclosed structure, not including out-building or appurtenant structures.

Ground level: Immediate surrounding grade.

Ground-mounted sign: a sign placed in front of a business, self- supporting and not attached to a building. ***The base of all ground-mounted signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign.*** The maximum height of such signs shall vary with the zoning district.

(Note: All ground-mounted signs are not "monument signs". By definition, a monument sign is a ground-mounted sign not exceeding a height of six feet.)

Height of sign: The vertical distance measured above the centerline of the adjacent street, highway, or right-of-way to the highest point of the sign.

Identification sign (multi-tenant): An on-premises ground-mounted sign CONTAINING NO ADVERTISING MATTER. The sign is intended to identify one of the following land uses: a residential subdivision, Planned Unit Development, apartment/condominium complex, an office building containing more than one tenant, a group (more than one) of businesses/organizations on a single lot, a shopping center, a public/quasi-public or civic facility or utility, or an

industrial park. Identification signs may only contain the following information: primarily the "overall" name of the facility and the street address and secondary, the individual business or organizations located on site.

Identification sign (single-business): An on-premises ground-mounted sign containing no advertising material. Sign is intended to identify a business or organization.

Instructional sign: A sign conveying instructions strictly for the direction safety and convenience of the public with respect to the premises on which it is maintained, such as a sign designating the entrance to or exit from a parking area, a sign identifying restrooms, a trespassing sign, a danger sign and similar signs.

Internally illuminated sign: Any sign designed to provide artificial light through exposed lighting on the sign face (such as neon tubing or light bulbs arranged to form copy) OR through transparent or translucent material from a light source within the sign; this definition includes automatic changing signs.

Marquee or canopy sign: Any sign affixed to a marquee or canopy, as such terms are defined by this Ordinance; such signs may be affixed parallel (i.e., not projecting) to the sides or hung beneath a marquee or canopy.

Miscellaneous sale sign: An on-premises temporary sign advertising a garage or yard sale, the sale of specific items such as pets, a vehicle or boat, and similar signs.

Monument Sign: A ground-mounted sign *not exceeding a height of six feet* placed in front of a business, self-supporting and not attached to a building.
Note: The only district where ground-mounted signs must be monument signs is the Olde Towne Clinton District.

Off-premises sign: A sign which attracts attention to a product, service, or entertainment which is conducted, sold, produced or offered off the premises where the sign is located.

Office building: A building principally used by companies to conduct business, or the uses allowed in the C-1 Zoning Districts of the City.

Office park: A project of one or more buildings that has been planned as an integrated unit or cluster on property that is under unified control or ownership or multiple buildings that have been Master Planned and regulated by covenants and may include separate ownerships.

On-premises sign: A sign which attracts attention to a product, service, or entertainment which is conducted, sold, produced or offered on the premises where the sign is located.

Opening sign: A temporary sign erected only for that limited period during which an enterprise not theretofore in operation begins its operation initially or at a new location.

Outdoor advertising sign: An off-premises sign which advertises goods, products, or services commonly referred to as a billboard and supported by one or more poles; **such sign may be digital or consist of poster panels** in the form of pasted paper or painted copy.

Pole sign: A ground-mounted sign erected on a free-standing frame, mast, or pole and not attached to any building.

Political sign: A temporary sign erected to publish the name of a candidate in any official public election.

Portable sign or trailer sign: A type of temporary sign which is constructed on a trailer with wheels which may or may not be detached or which is designed to be transported from place to place by any means and is not designed to be nor is it permanently affixed to a building or lot.

Real estate sign: An on-premises temporary sign erected to announce the sale, rental, or lease of real property.

Retail business: A business principally engaged in the sale of commodities, services, or goods to the ultimate consumer.

Roof line: The apex, or highest point of the roof. If there is a series of roofs, the apex of the lowest roof will be considered.

Roof sign: Any sign erected, constructed, or maintained above a roof or on top of or above the parapet of a building.

Set back: The minimum horizontal distance between either the face of curb, the edge of pavement, or the right-of-way line and the sign structure as specified in a

particular section of this Ordinance.

Shopping center: A commercial area consisting of two or more retail businesses providing convenience goods, general merchandise, office or recreational activities; providing for off-street parking adjacent to such activities.

Sign: Any device, structure, fixture or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, good or service, activity, place, person or any other item of information.

Sign area: The surface area of a sign computed as including the entire area within a rectangle, triangle, circle, or other regular geometric form, or aggregates thereof, encompassing all of the display area of the sign and including all of the elements of the matter displayed. Base, apron, supports, and other structural members not bearing advertising matter shall not be included in computation of surface area. Border or trim shall be included in computation of surface area.

Sign conversion: The permanent affixation to building, pole, or lot of a portable sign.

Sign structure: Any structure which supports, has supported, or is capable of supporting a sign including decorative cover.

Street: A public thoroughfare which affords the principal means of access to abutting property.

Strip plaza: A linear arrangement of two or more businesses or offices under one or many ownerships or management providing off-street parking.

Subdivision entrance sign: An on-site sign, masonry wall, landscaping, or similar materials or features, which separately or together form a display to identify the subdivision.

Temporary sign: A sign which is not permanent and is erected with a time limitation.

Wall sign: Any sign affixed directly to or painted on, or otherwise inscribed on the outside wall of a building with the face parallel to and projecting no more than twelve (12) inches from the building wall.

Window sign: A sign placed in a window inside or outside of a building.

SECTION 2703-GENERAL REGULATIONS

All signs erected on any lot in all districts of the City, except official, traffic and street signs, shall conform to the provisions of this section, unless otherwise provided in this Ordinance. The following regulations shall apply to signs in all districts:

- 2703.01 Director of Community Development Discretion in Issuing Sign Permits:
Sign permits shall not be issued by the Director of Community Development if, in instances where the number, and/or location of signs as provided for above constitute, in his judgment, a traffic hazard, nuisance or infringement upon the rights of an adjacent property owner. If any party is aggrieved by the decision of the Director of Community Development, appeals shall be made directly to the Mayor and Board of Aldermen through the Director of Community Development.
- 2703.02 Design Review for New Signs: All new signs shall meet the requirements of this Ordinance, and the proposed design shall be submitted to the Director of Community Development for review. Prior to the issuance of a permit for a new sign, the design of any sign shall be subject to the review and approval of the Director of Community Development or his designated representative. If any party is aggrieved by the decision of the Director of Community Development, appeals shall be made directly to the Mayor and Board of Aldermen through the Director of Community Development.
- 2703.03 Sign Erection/ Location: No sign shall be erected as to prevent free ingress or egress from any door, a window or fire escape, and no sign of any kind shall be attached to a standpipe, fire escape, stop sign, street sign or pole that supports any of the above.
- 2703.04 Zoning District Regulations for Business/ Outdoor Advertising Signs: No business sign or outdoor advertisement sign shall be erected in the City unless it is in compliance with the regulations for the district in which it is to be located as set forth in this Ordinance.
- 2703.05 Exterior Visibility of Signs Advertising Beer or Other Alcoholic Beverages: No sign, symbol, or plaque or advertising device of any kind visible or otherwise except on the interior of a building where alcoholic beverages are sold or made available shall advertise the sale or availability of beer or any other alcoholic beverage.
- 2703.06 Signs and Intersection Visibility, Traffic Control Devices: No sign shall be erected at the intersection of any streets in such a manner as to obstruct

free and clear vision or at any location where, by reason of position, it may interfere with or obstruct the view of traffic site lines or traffic control devices. No flashing or intermittent blue, red, green or amber illuminations shall be used.

- 2703.07 General Sign Illumination Regulations: The illumination of any sign within fifty (50) feet of a residential zone lot line shall be diffused or designed to prevent direct rays of light from shining into adjoining residential districts, and in no event shall flashing or intermittent illumination be permitted where the sign faces directly into and/or is nearer than two-hundred (200) feet to dwellings in a residential district. Existing lighting is exempt from this regulation. However, additional lighting cannot be added to make the existing non-compliant.
- 2703.08 Political Signs: Political signs are allowed on residential, individually owned lots only and cannot be placed in common areas. These signs are limited to one (1) sign per candidate per premises, not to exceed six (6) square feet, with the exception of signage placed on outdoor advertising signs. No sign shall be permitted on private property without permission of the owner. Signs may be posted forty-five (45) days before and must be removed seven (7) days after any election to which it refers.
- 2703.09 Garage Sale, Yard sale, and Similar Signs: Garage sale, yard sale, and like signs shall not be erected on public property right-of-ways but may be erected on private property only with the permission of the property owner. Signs shall be promptly removed immediately after the event to which it refers. **THESE SIGNS MUST BE PERMITTED.**
- 2703.10 Trailer Signs: Trailer signs, temporary or portable, with or without wheels, are prohibited within the City limits. Any existing trailer sign located within the City limits is a nonconforming sign and subject to provisions for nonconforming uses.
- 2703.11 Temporary Signs for New Businesses: Temporary banners for new businesses shall be allowed for a period of thirty (30) days while the permanent sign is being made or installed. **THESE BANNERS MUST BE PERMITTED.**
- 2703.12 Outdoor Advertising Signs: Outdoor advertising type signs shall not be erected in the City of Clinton except along the Interstate 20 corridor.
- 2703.13 Signs Held by Persons, Persons Dressed in Advertising Costumes, Flashing, Animated, Flashing and Rotating Signs: Signs held by persons,

as well as people dressed in costumes with or without signs, flashing, animated, and rotating signs, shall not be permitted in any zoning district along street right-of-ways or parking lots. This does not apply to mascots at sporting events.

2703.14 Changing/ Changeable Copy Signs: The following restrictions shall apply to changing or changeable copy signs:

- a. Permitted in commercial, industrial districts, and public/quasi-public and civic locations only.
- b. Must be counted as part of the total allowable square footage of sign.
- c. Cannot exceed thirty-three (33) percent of total allowable sign footage and must be located in lower half of sign.
- d. Changing and changeable copy signs cannot stand alone.

2703.15 Sign Framing Maintenance: Any wood or metal framing materials on all signs in any district shall be maintained in like-new condition.

2703.16 Pole Signs: Where pole signs are allowed by this Ordinance, the pole or supporting masts or frames shall be concealed by masonry or other material approved by the Director of Community Development.

2703.17 Landscaping Required Around All Base of All Ground-Mounted Signs: The base of all ground-mounted signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign.

2703.18 Existing Signs: All signs that lawfully existed prior to the effective date of this Ordinance that do not conform to all provisions of this Ordinance after the effective date are deemed non-conforming. These signs are subject to Section 2704, Non-Conforming Signs, and any other sections that may apply.

SECTION 2704-NONCONFORMING SIGNS

Subject to the regulations of this section and Article XXVIII of the City of Clinton Zoning Ordinance, any nonconforming signs that were lawful on the effective date of this article, may be continued subject to the provisions of this Ordinance.

2704.01 Enlargement or Alteration of Nonconforming Signs: Nonconforming signs may not be enlarged or altered in such a manner as to aggravate the nonconforming condition.

2704.02 Messages and Nonconforming Signs: The owners of a nonconforming sign on the effective date of this Ordinance may change the message of the nonconforming sign as long as it does not create any non-conformities or the cost of the change does not exceed 50% of the replacement cost of the sign.

However, a new owner of a nonconforming sign after the effective date of this Ordinance may not change the message of any sign unless the nonconformity is corrected in full.

2704.03 Repair or Renovation of Nonconforming Signs: Subject to the other provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed, within any twelve (12) month period, fifty (50) percent of the replacement cost of the sign.

2704.04 Out-of-Business Signs: If a nonconforming sign advertising any business, service, commodity, accommodation, attraction, or other activity that is no longer being operated, offered, or conducted, for a period of ninety (90) days, that sign shall be considered an abandoned nonconforming sign and shall be removed within thirty (30) days after such abandonment by the sign owner, the owner of the property where the sign is located, or any other party having control over such sign.

SECTION 2705-OUTDOOR ADVERTISING SIGNS (BILLBOARDS)

2705.01 State Regulation of Outdoor Advertising Signs: Outdoor advertising signs (billboards) shall include all such signs within the City of Clinton that are regulated by the provisions of 49-23-1 through 49-23-29 of the *Mississippi Code of 1972* as the same exist on the effective date of this Ordinance.

2705.02 Prohibited Signs (Billboards): Billboards are hereby declared prohibited signs within the City of Clinton, subject to the right to remain within the City as nonconforming billboards.

2705.03 Nonconforming Billboards: Outdoor advertising signs (billboards) which were legally in existence prior to the adoption of this Ordinance are declared nonconforming billboards. It is the intent of this section to recognize that the eventual elimination, as expeditiously and fairly as possible, of nonconforming billboards is as much subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this Ordinance. All outdoor advertising signs (billboards)

heretofore lawfully constructed within the City of Clinton are hereby declared legal nonconforming billboards, and shall not be enlarged or expanded in any manner to increase their nonconformity.

2705.04 Continuation of Nonconforming Billboards: Nonconforming billboards may continue provided that the nonconforming billboard shall not be:

- a. Changed to or replaced with another nonconforming sign except to periodically change the sign face.
- b. Structurally altered so as to extend their useful life.
- c. Expanded.
- d. Re-established after damage of more than fifty percent (50%) of the replacement cost of the sign.
- e. Modified in any way that would increase the degree of non-conformity of such sign.
- f. If a nonconforming billboard remains blank for more than one-hundred eighty (180) consecutive days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be removed by the sign owner, the owner of the property where the sign is located, or any other person having control over such a sign. For the purpose of this section, a sign is blank if:
 - (a) the advertising message it displays becomes illegal in whole or substantial part, or
 - (b) the advertising copy is paid for by a party other than the sign owner or is promoting an interest other than the retail use for which it was permitted.

2705.05 Strengthening or Restoring to a Safe Condition: Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a sign or structure declared unsafe by the building inspector. Such signs may be improved only to the extent that such improvement does not exceed fifty percent (50%) of the replacement cost of the sign.

2705.06 Petition: The owner of any existing billboard may voluntarily petition the Mayor and Board of Aldermen to allow the relocation or modification of an existing billboard. Approval of any such Petition shall be conditioned on an overall net reduction in the number of billboards within the City by voluntary removal. The approval of the Mayor and Board of Aldermen is discretionary. At a minimum, the Petition shall set out the following:

- a. A description of any modification to an existing sign.

- b. The existing and proposed locations of a relocated sign.
- c. The location of any signs proposed to be removed from within the City of Clinton.
- d. An acknowledgement that the request is voluntary and that to the extent that compensation may have otherwise been required any such compensation is waived.
- e. The time required to remove any existing signs.
- f. Other such information as may be requested by the Community Development department.

SECTION 2706-TERMINATION OF NONCONFORMING SIGNS

2706.01 Destroyed Signs: Any nonconforming sign or sign structure which is partially destroyed by fire, accident, or natural cause beyond fifty (50) percent of replacement cost of the sign shall thereafter be removed or reconstructed in conformance to the provisions of this Ordinance.

2706.02 Compliant Improvement/ Alteration of Nonconforming Signs: Any nonconforming sign or sign structure which is improved and altered to comply with the provisions of this Ordinance shall thereafter be considered as conforming.

SECTION 2707-DIMENSIONAL VARIANCES FOR NONCONFORMING SIGNS

Signs which are legally in existence on the date of adoption of this Ordinance which are within twenty (20) percent of being in compliance with the set-back, maximum height, and maximum sign area allowances of this Ordinance shall be deemed to be in compliance with this Ordinance and not nonconforming. However, if any one (1) requirement is greater than the allowances by more than twenty (20) percent, the entire sign must be brought into compliance in conjunction with 2703.18 and 2713.02.

SECTION 2708-ILLEGAL SIGNS

2708.01 General Provisions Regarding Illegal Signs: Any sign that is erected, placed, kept, or maintained in violation of the provisions of this chapter, except for nonconforming signs which are dealt with in Section 2704, shall be removed immediately by the sign owner, the owner of the property where the sign is located, or any other party having control over such sign. If a responsible party fails to remove an illegal sign, then the responsible party shall be subject to the penalties provided for in Section 3014 of this Ordinance, and as part of any fine shall be liable to the City for the costs of removal of any such sign.

Prohibited Signs: The following signs are prohibited in the City of Clinton:

1. Animated Signs.
2. Flashing signs having intermittent or animated illumination or moving parts. No signs shall have lights which imitate or resemble official emergency vehicle or traffic signs or signals. Changeable copy signs (automatic) are allowed.
3. Strips or strings of lights.
4. Banners, except for banners announcing the grand opening of a new business (see Section 2703.11).
5. Flags, except for corporate flags and other flags allowed elsewhere in this Ordinance (see Section 2715.08), balloons or pennants outlining property lines, sales areas, roof lines, doors, windows, wall edges, or other architectural features of a building. This prohibition shall not apply to holiday lights which may be displayed thirty (30) days prior to the holiday and must be removed fourteen (14) days after the holiday of each calendar year.
6. Signs on public property, other than those erected at the direction of and with the permission of a public authority having jurisdiction.
7. Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure, including but not limited to, portable signs (including sign conversions).
8. No sign or other device regulated by this Ordinance shall be erected or continue to be displayed in such a manner as to obstruct the free and clear vision of vehicle drivers; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic or government sign, signal, or device; or which makes use of the words "stop," "look," "danger," or any other words, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.
9. Signs which contain reflective materials, which present a hazard or danger to traffic or the general public.
10. Signs which exhibit more than two (2) faces.
11. Off-premises signs, except outdoor advertising signs, which were erected as of the effective date of this Ordinance.
12. Signs which contain words or pictures of an obscene, indecent, or immoral character which could offend public morals or decency.
13. Beacon, strobe, or pulsating lights.
14. Signs which are structurally unsound or which are rendered

- structurally sound by guy wires or unapproved facing or bracing.
15. No sign shall be placed on a vehicle or trailer which is parked or located for the primary purpose of displaying said sign (this does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).
 16. Pole signs where poles are visible (see Section 2703.16).
 17. Signs installed, erected, enlarged, or structurally altered in violation of the provisions of this Ordinance.
 18. Signs erected on or that project above a roof line or above the face of flat roofed buildings (i.e., roof sign).
 19. Any changeable copy sign (manual) that does not have a locked, vandal-proof cover if required by the Director of Community Development.
 20. Signs which obstruct any window, door, fire escape, stairway, or any opening intended to provide air, ingress, or egress for any building or structure.
 21. No sign or advertising device shall be erected on, be placed on, projected, or overhang any public right-of-way, walkway, street, alley or easement with exception to OTC district.
 22. The tacking, painting, posting, or affixing of signs, posters, or advertising devices of any kind on trees, fences, rocks, utility poles, and other such structures.
 23. Structures not meeting construction standards, out of date political billboards, and advertising of defunct business, and structures which have been erected without a permit having been issued therefore and thus are illegal.
 24. Signs which are illegal under federal or state laws or regulations.
 25. All signs which are not expressly permitted by this Ordinance or any other Ordinance of the City of Clinton.
 26. Hand painted signs other than signs by a professional artist or sign company.
 27. Transient vendor signs.
 28. Non-Permitted Signs placed on the outside of a building advertising merchandise for sale.

SECTION 2709-SIGN MAINTENANCE

All signs permitted under the terms of this Ordinance, except for nonconforming signs which are dealt with in section 2706 that are found to be abandoned or are in such disrepair or so poorly maintained so as to produce a visual blight or hazard to the public, shall be removed by the sign owner, the owner of the property where the sign is located, or any other party having control over such sign. If any responsible party fails to remove any such sign within seven (7) days of their receipt of a written request from the City to remove any such sign, then the responsible party

shall be subject to the penalties provided for in Section 3014 of this Ordinance, and as part of any fine shall be liable to the City for the cost of removal of any such sign.

SECTION 2710-CONSTRUCTION

Construction and structural requirements of all signs shall comply with the most current edition of the International Building Codes and National Electrical Code adopted by the City of Clinton.

SECTION 2711-ILLUMINATION

Illuminated signs shall adhere to the following provisions and restrictions in addition to those stated in the sign regulations by zoning district.

- 2711.01 The light for or from any illuminated sign shall be so shaded, shielded, or directed that intensity will not be objectionable to surrounding areas, as determined by the Director of Community Development.
- 2711.02 No sign shall have blinking, flashing, fluttering lights, or other illuminating device which has a changing light intensity, brightness or color.
- 2711.03 No colored lights shall be used at any location in any manner so as to be confused with or construed as traffic control devices.
- 2711.04 Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- 2711.05 Exposed bulbs shall not be used on the exterior surface of any sign, with the exception to billboard signs which may be externally illuminated or approved by the Director of Community Development.

SECTION 2712-INSPECTION, REMOVAL AND SAFETY

- 2712.01 Inspection: All signs shall be inspected periodically by the Director of Community Development for compliance with this Ordinance.
- 2712.02 Maintenance: All signs and components thereof shall be kept in good repair and in safe, neat, clean, and attractive condition.
- 2712.03 Removal of Sign: The Director of Community Development shall give written notice of the removal of any permanent sign erected or maintained in violation of this Ordinance. Upon failure to comply with this notice, the Director of Community Development shall issue a summons to the owner into city court. Temporary signs erected or maintained in violation of this Ordinance may be removed by the building inspector without notice. The

building inspector shall remove any sign immediately and without notice if the sign presents an immediate threat to the safety of the public. Any sign removal shall be at the expense of the property owner.

2712.04 Obsolete and Abandoned Signs: The following regulations shall apply to all obsolete and abandoned signs:

1. Any sign which advertises or pertains to a business, product, service, event, activity, or purpose which is no longer conducted or that has not been in use for three (3) months or which is no longer imminent, or any sign structure that no longer displays any sign copy for a period of at least three (3) months shall be deemed to be obsolete or abandoned.
2. Obsolete or abandoned signs are prohibited and shall be removed by the owner of the property, his agent, or person having the beneficial use of the building or site upon which such a sign or sign structure is erected within thirty (30) days after written notification from the Director of Community Development.
3. In the event of noncompliance with the aforesaid terms and provisions, then the Director of Community Development shall have the authority to cite the sign owner and/or lessee into city court for hearing.

SECTION 2713-PERMITS AND FEES

2713.01 Permits and Fee Requirements:

1. All permanent signs permitted under this Ordinance, shall require a permit.
2. No sign shall be erected, altered, or relocated without a permit, except as otherwise provided herein.

2713.02 Sign Registration Required for Signs Existing on Effective Date of This Ordinance and Signs Located in Future Annexed Areas: For any sign existing in the City on the effective due date of this Ordinance, an application for a sign registration must be submitted to the Director of Community Development within ninety (90) days thereafter. For any sign on property annexed at a later date, application for sign registration shall be submitted within ninety (90) days of the effective date of the annexation. Sign applications received after ninety (90) days after the effective date of this Ordinance or annexation shall be subject to all of the terms and conditions of this Ordinance and shall not be entitled to the

protection of Section 2704 (Nonconforming Signs). Pursuant to this provision, applications for registration for existing signs submitted shall be exempt from the fees adopted under authority of this Ordinance.

SECTION 2714-SCHEDULE OF FEES FOR SIGN PERMITS IN THE CITY

A Schedule of Fees for sign permits shall be available at the office of the Director of Community Development.

SECTION 2715-SIGNS NOT REQUIRING A PERMIT

The following signs shall not require a permit, but shall be subject to the regulations of this Ordinance:

- 2715.01 Governmental Signs: Any sign, including banners as defined by this Ordinance, erected by any federal, state, county or city agency, or under authorization or required by any governmental agency, shall not require a permit. Such signs include, but are not limited to traffic regulatory signs, historic markers, identification signs on buildings or other facilities, holiday decorations, "Yard of the Month" signs, and similar signs.
- 2715.02 Sporting event scoreboards advertising and other advertising approved by the sporting event sponsor.
- 2715.03 Utility company standard markers or warning signs denoting utilities.
- 2715.04 Traffic Directional/Parking Signs and Delivery Signs: Signs providing traffic directions, parking directions, and delivery signs shall not require a permit. Such signs may either be wall-mounted or ground-mounted and they may be indirectly illuminated, but they shall not exceed four (4) square feet in area and not exceed three (3) feet in height. These signs may be erected in addition to other signs permitted by these regulations and not included in calculating the maximum allowable aggregate sign area. Each lot cannot exceed three (3) incidental signs and cannot exceed an aggregate twelve (12) square feet.
- 2715.05 "Private Parking" Signs: Signs warning the public that a parking lot or parking garage is intended for use only by employees or other persons associated with a business or organization shall not require a permit. Such signs may either be wall-mounted or ground-mounted and they may be directly or indirectly illuminated, but they shall not exceed four (4) square feet in area. These signs may be erected in addition to other signs permitted by these regulations and not included in calculating the

maximum allowable aggregate sign area. Each lot cannot exceed three (3) incidental signs and cannot exceed twelve (12) square feet.

2715.06

Address Signs: Address signs are required for all commercial and residential buildings. Not more than one (1) for each street frontage of each principal use on a lot and not exceeding:

- one half (1/2) square feet (72 square inches) in surface area for all single-family residential zones and townhouse zones (for example, numerals measuring up to five (5) inches x fourteen (14.4) inches); and
- two (2) square feet in surface area for all other zones

Address signs shall indicate only the alpha-numerical designation of the premises on which they are situated; for example, "101-A College Street". All address signs shall be prominently displayed and written in contrasting colors to the color of the structure or background against which said signs are placed in order to facilitate identification by emergency service personnel. Address signs may be erected in addition to other signs permitted by these regulations and not included in calculating the maximum allowable aggregate sign area.

(NOTE: In order to assist 911 personnel in locating a structure for emergency service, the alpha-numerical number assigned to each building should be legible from the street on which the residence, business, etc. fronts.)

2715.07

Unilluminated, Ground-Mounted Political Signs: Permitted in A-1, R-1, R-2, R-3, R-4 and PUD districts with a maximum area of six (6) square feet. A premises (lot) shall have not more than one (1) political sign per candidate. Such signs shall only be permitted on private property with the consent of the owner. All political signs shall be removed within seven (7) calendar days after the election in which the person's candidacy ends. Any person (candidate) who allows his/her signs to remain on any property for more than seven (7) days after the election shall be guilty of a violation of this Ordinance and subject to the penalties imposed herein. Political signs are not permitted in C-1, C-2, C-3, C-4, I-1, S-1 and R-5 districts and any property designated as a public/quasi-public facility. Any political signs placed within C-1, C-2, C-3, C-4, I-1, I-2, S-1 and R-5 districts and any property designated as Public/Quasi-public facility shall be removed. **Exception:** Political signs are permitted in the Olde Towne District (OTC) on properties *specifically used for residential purposes*. Political signs are *not permitted on properties used for commercial purposes*.

2715.08

Flags or emblems of the United States, the State of Mississippi or their political subdivisions: Flags shall not exceed sixty (60) square feet in area and shall not be flown from a pole the top of which is more than forty (40)

feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting one or more of these conditions shall be considered a banner sign and shall be subject to regulation as such.

2715.09 Decals, names, addresses, hours of operation, credit information, etc. attached to doors or windows: These signs must comply with the maximum 20% aggregate area allowable for window signs.

2715.10 Corporate flags: Corporate flags shall not require permits, but shall be subject to approval by the Director of Community Development.

SECTION 2716-SIGN REGULATIONS FOR SIGNS PERTAINING TO PUBLIC/QUASI-PUBLIC AND CIVIC FACILITIES

The following types of signs, subject to the regulations of this Ordinance, are permitted in connection with public/quasi-public and civic facilities, as such uses are defined by this Ordinance. Where a public/quasi-public and civic use is permitted as a special exception in accordance with this Ordinance, these signs are allowed.

2716.01 Allowable Signs (By Permit Only Except Where Exempted under Section 2715):

1. Ground-mounted signs. Size and location shall be determined as allowed by the zoning district where sign is located.
2. Wall-mounted signs. Size and location shall be determined as allowed in the zoning district where sign is located.
3. Changeable copy (manual only) signs. Such changeable copy signs shall only display name of organization and information regarding scheduled activities and must be enclosed to prevent vandalism. (NOTE: These manual changeable copy signs will be permitted for schools, churches, and other public/quasi-public and civic uses, such as the Y.M.C.A., civic clubs, Red Cross, etc.)

2716.02 Illumination of Public/Quasi-Public and Civic Signs: Except for temporary signs which shall not be illuminated, signs allowed for public and quasi-public uses may be externally illuminated or internally illuminated, as defined by this Ordinance. However, no public/quasi-public use sign shall be illuminated by neon tubing or light bulbs arranged to form copy.

2716.03 Maximum Area: The maximum area for wall signs for public/ quasi-public uses is one hundred fifty (150) square feet, with no more than one wall

sign per street frontage. Public/ quasi-public uses may also have a maximum of one ground-mounted sign or changeable copy sign per street frontage with a maximum aggregate area of no more than eighty-four (84) square feet per face.

- 2716.04 Off-Premises Signs: Upon approval by the Mayor and Board of Aldermen of a sign permit, off-premises signs may be erected.

SECTION 2717-TEMPORARY SIGNS FOR ALL PUBLIC/QUASI-PUBLIC AND CIVIC USES

- 2717.01 Allowable Temporary Signs: In addition to the signs allowed by permit for public/quasi-public uses (see Section 2716.01), the following signs erected for public/quasi-public uses **DO REQUIRE A PERMIT** and are subject to the regulations of this Section.

1. On-premises ground-mounted unilluminated construction signs.
2. On-premises ground or wall-mounted, unilluminated signs providing information on special events/activities sponsored by the public/quasi-public use. These signs are limited to two (2) events per calendar year.

- 2717.02 Maximum Area:

1. On-premises ground-mounted unilluminated construction signs: Sixty-four (64) square feet per lot with no more than thirty-two (32) square feet per sign face.
2. On-premises ground or wall-mounted, unilluminated signs providing information on special events/activities sponsored by the public/quasi-public use: Thirty-two (32) square feet per lot with no more than sixteen (16) square feet per sign face.

- 2717.03 Removal of Temporary Signs Erected by Public/Quasi-Public Uses:

1. On-premises ground-mounted unilluminated construction signs: Construction signs may remain on the premises to which they are appurtenant until a Certificate of Occupancy is issued for the public/quasi-public use.
2. On-premises ground or wall-mounted, unilluminated signs providing information on special events/activities sponsored by the public/quasi-public use: These signs may be placed seven (7) days

before the event and shall be removed within two (2) days (48 hours) of the cessation of the event or special activities.

SECTION 2718 -SIGN REGULATIONS FOR SINGLE-FAMILY RESIDENTIAL, TOWNHOUSE AND MULTIPLE-FAMILY RESIDENTIAL DISTRICTS OR RESIDENTIAL PORTIONS OF PLANNED UNIT DEVELOPMENTS (PUD'S)

The following regulations shall apply to all land zoned Single-Family Residential (R-1), Moderate Density Residential (R-2), Townhouse (R-3), Patio Home (R-4), High Density Residential (R-5) and to single-family/townhouse/multiple-family and residential portions of (PUD) Planned Unit Developments:

2718.01 Allowable Signs (By Permit Only):

1. Permanent residential subdivision ground-mounted signs or wall identification signs.
2. Permanent multiple-family residential (apartments or condominiums) ground-mounted or wall identification signs.

2718.02 Size and Location:

1. Residential subdivision ground-mounted signs:
In single family detached residential developments, there shall be permitted *one subdivision entrance sign at the intersection of every major street of the subdivision*. The entrance signs shall be permanent signs and shall contain only the name of the subdivision. However, *no more than two (2) sign faces per subdivision entrance shall be allowed*.

Maximum area: Thirty-six (36) square feet per face, but in no case shall total sign area exceed seventy-two (72) square feet per subdivision entrance.

Set-back from street right-of-ways: These signs may be located only at subdivision entrances at least five (5) feet from the right-of-way line of any street. In accordance with Section 401.05 of the Zoning Ordinance, no residential identification sign shall be erected in a manner as to obstruct the free and clear vision of vehicle drivers.

Maximum height: six (6) feet.

2. Multiple-family residential (apartments or condominiums) ground-mounted or wall identification signs: Ground-mounted identification signs may be erected at the entrances to an apartment or condominium complex or on the wall of a building facing the arterial or collector streets on which the complex fronts. The identification signs shall be permanent signs and shall contain only the name and address of the apartment or condominium complex. In accordance with Section 2703.17, the base of all ground-mounted shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign.

Maximum area: Thirty-six (36) square feet per face, but in no case shall total sign area exceed seventy-two (72) square feet for double face signs per apartment entrance, including both ground-mounted signs and wall signs.

Set-back from street right-of-ways: Ground-mounted signs may be located only at apartment or condominium entrances at least five (5) feet from the right-of-way line of any street. In accordance with Section 401.05 of the Zoning Ordinance, no residential identification sign shall be erected in a manner as to obstruct the free and clear vision of vehicle drivers.

Maximum height for ground-mounted signs at entrances to an apartment or condominium complex: six (6) feet.

SECTION 2719-TEMPORARY CONSTRUCTION SIGNS FOR SINGLE-FAMILY RESIDENTIAL, TOWNHOUSE AND MULTIPLE-FAMILY RESIDENTIAL DISTRICTS OR RESIDENTIAL PORTIONS OF PLANNED UNIT DEVELOPMENTS (PUD'S)

A temporary construction sign shall be permitted during the construction of a single-family residence, townhouse, or multiple-family residential use under a valid building permit issued by the City of Clinton. For a single-family detached dwelling, townhouse, or multiple family use, the sign face area shall not exceed six (6) square feet. For a multi-family project, the sign face area shall not exceed thirty-two (32) square feet and shall conform to all other requirements of this Ordinance. Construction signs for single-family detached dwellings, townhouses, or multi-family uses shall be set back at least five (5) feet behind the curb face or edge of pavement, or outside of the right-of-way, whichever is further, and shall not exceed six (6) feet in height.

SECTION 2720 -REAL ESTATE SIGNS IN ALL RESIDENTIAL DISTRICTS

In all residential districts, one temporary sign advertising the sale or lease of real estate shall be permitted upon the premises of the property for sale or lease. Said signs shall not exceed the

dimensions of two (2) feet by three (3) feet, with a total maximum sign face area of six (6) square feet per face, with a maximum of two (2) faces on a single plane of material. The maximum height of said signs shall be six (6) feet, and said signs shall be set back no less than five (5) feet from the curb face, edge of pavement, or outside of the right-of-way, whichever is further. Signs shall be removed within seven (7) days of the sale or lease of the property.

SECTION 2721-REAL ESTATE SIGNS IN ALL COMMERCIAL DISTRICTS

In all commercial districts, one temporary sign advertising the sale or lease of real estate shall be permitted upon the premises of the property for sale or lease. Said signs shall not exceed thirty-six (36) square feet per face, with a maximum of two (2) faces. The maximum height of said sign shall be eight (8) feet, and said sign shall be set back no less than five (5) feet from the curb face, edge of pavement, or outside of the right-of-way, whichever is further. Signs shall be removed within seven (7) days of the sale or lease of the property.

SECTION 2722 -SIGN REGULATIONS FOR THE OLDE TOWNE CLINTON (OTC) DISTRICT

The following regulations shall apply to signs in the Olde Towne Clinton (OTC) district:

2722.01 Allowable Signs

1. Monument signs
2. Wall signs
3. Canopy signs
4. Projecting signs
5. Marquee signs
6. Sandwich boards

2722.02 Maximum Area and Height

1. Maximum Height for Monument Signs: By definition, no monument sign shall exceed a height of six (6) feet above the surrounding grade in the Olde Towne Clinton District.
2. Maximum Area for Monument or Wall Signs: The maximum aggregate square footage for monument or wall signs shall be one-half (1/2) square foot for each linear foot of building frontage length, with building frontage including each side of a building which fronts on a public street. However, no monument sign or wall sign shall exceed an area of twenty (20) square feet per face per street frontage, and in no case shall the total aggregate square footage for all signs exceed forty (40) square feet.

3. Projecting signs shall not exceed four (4) square feet. The height shall be eight (8) feet at the lowest level above the sidewalk or ground and shall not project more than four (4) feet from the vertical surface of which the sign is attached.

2722.03

Sandwich Boards

1. Sandwich board signs require a sign permit prior to the placement of the sign.
2. Sandwich board signs shall be no larger than thirty (30) inches in width and forty-eight (48) inches in height and no materials such as papers, balloons, wind socks, etc. may be added to the sign to increase its height and/or width.
3. No sandwich board sign shall be placed in the public street right-of-way or in any public parking place.
4. Sandwich board signs may be used only during the hours when the business is open to the public and may only be placed on the lot in which the business is being conducted.
5. No sandwich board sign shall be placed so as to obstruct vehicular traffic sight distance triangle requirements.
6. All sandwich board signs shall be constructed of wood with black chalk write-on boards on two (2) sides.
7. No sandwich board sign shall contain foil, mirrors, bare metal or other reflective materials which could create hazardous conditions to motorists, bicyclists, or pedestrians.
8. No sandwich board sign may contain lights of any kind.
9. Sandwich boards must be placed within twenty (20) feet of the main entrance door of the business to which the sign pertains.

2722.04

Site Plan Review Requirements Include Sign Approval for the Olde Towne Clinton District: The site plan review requirements of Sections 3007-3010 of this Ordinance for all principal and accessory structures or uses in the Olde Towne Clinton District include review of all signs by the Historical Preservation Committee and Clinton Planning Commission. All signs proposed in the Olde Towne Clinton District must be approved by the Mayor and Board of Aldermen prior to erection or modification.

SECTION 2723 -SIGN REQUIREMENTS FOR THE CLINTON PARKWAY CORRIDOR, HAMPSTEAD BOULEVARD AND U.S. HIGHWAY 80

The following types of signs shall be the only signs permitted for uses *fronting on* the Clinton Parkway, Hampstead Boulevard or U.S. Highway 80. In instances where a sign setback requirement from the public right-of-way is not physically possible, the Director of Community Development may allow for a smaller sign setback from the right-of-way if in his judgment the placement of the sign will in no manner constitute a traffic hazard, create a nuisance or infringe upon the rights of an adjacent property owner. In no instance will a sign be allowed to be placed in the public right-of-way.

2723.01 Allowable Signs:

1. Wall signs.
2. Ground- mounted signs.
3. Temporary banners advertising a new business for a period of thirty (30) days only. A permit is required.
4. Changeable copy signs.
5. Window signs with a maximum of 20% aggregate of window square footage
6. Sandwich boards.

2723.02 Maximum Area of Signs for Commercial Uses Abutting Clinton Parkway, Hampstead Boulevard and U.S. Highway 80:

1. The occupant of a business abutting these thoroughfares may have one (1) wall sign *displaying the name or logo, plus specialty items* of the business and one additional ground-mounted sign on each street upon which the structure fronts. The total area of wall signage shall not exceed one and one-half (1-1/2) square feet of sign for every linear foot of front footage of the applicable building which faces a public street, subject to the following restrictions:
 - a. The maximum square footage wall sign allotment shall not exceed one hundred fifty (150) square feet except as provided herein.
 - b. Where the front footage of a building would allow for more than the maximum wall sign size as stated above, additional square footage may be allowed, upon approval of the Director of Community Development. This additional square footage shall not exceed one and one half (1-1/2) square feet per linear foot of a building, and shall not exceed a maximum wall sign size of two hundred (200)

square feet.

- c. Where a single business fronts on more than one street, the allowable square footage for the wall sign shall be computed separately for each street.
 - d. The wall signs shall not be higher than the roof line or fascia of the building on which it is attached.
2. A ground-mounted sign may be used in addition to wall signs provided that it does not exceed eighty-four (84) square feet per face per street frontage.
 3. A professionally lettered temporary banner advertising a new business shall be allowed for a period of thirty (30) days only. A permit is required.
 4. If the occupant elects to use changeable copy, only one of the signs, wall or ground sign, may have changeable copy. No more than one-third (1/3) of the allowable square footage of the ground or wall sign shall be changeable copy sign.

2723.03

Sandwich Boards

1. Sandwich board signs require a sign permit prior to the placement of the sign.
2. Sandwich board signs shall be no larger than thirty (30) inches in width and forty-eight (48) inches in height and no materials such as papers, balloons, wind socks, etc. may be added to the sign to increase its height and/or width.
3. No sandwich board sign shall be placed in the public street right-of-way or in any public parking place.
4. Sandwich board signs may be used only during the hours when the business is open to the public and may only be placed on the lot in which the business is being conducted.
5. No sandwich board sign shall be placed so as to obstruct vehicular traffic sight distance triangle requirements.
6. All sandwich board signs shall be constructed of wood with black chalk write-on boards on two (2) sides.

7. No sandwich board sign shall contain foil, mirrors, bare metal or other reflective materials which could create hazardous conditions to motorists, bicyclists, or pedestrians.
8. No sandwich board sign may contain lights of any kind.
9. Sandwich boards must be placed within twenty (20) feet of the main entrance door of the business to which the sign pertains.

2723.04 Maximum Height, Width and Setback: Ground-mounted signs shall have a ***maximum height of twelve (12) feet*** measured from the street surface area below the sign and a ***maximum width of twelve (12) feet***. The sign must be set back a minimum of five (5) feet from the curb.

SECTION 2724 -SIGN REGULATIONS FOR C-1, C-2, C-3 & C-4 AND CLINTON BOULEVARD CORRIDOR (CBC) COMMERCIAL DISTRICTS

The following types of signs shall be the only signs permitted for uses authorized in the commercial districts of the City of Clinton. In instances where a sign setback requirement from the public right-of-way is not physically possible, the Director of Community Development may allow for a smaller sign setback from the right-of-way if in his judgment the placement of the sign will in no manner constitute a traffic hazard, create a nuisance or infringe upon the rights of

an adjacent property owner. In no instance will a sign be allowed to be placed in the public right-of-way.

2724.01 Allowable Signs: The following types of signs shall be the only signs permitted for uses authorized in the commercial districts ***not abutting Clinton Parkway, Hampstead Boulevard or U.S. Highway 80:***

1. Wall signs.
2. Ground-mounted signs.
3. Temporary banners advertising a new business for a period of thirty (30) days only. A permit is required..
4. Changeable copy signs.
5. Window signs with a maximum of 20% aggregate of window square footage.
6. Sandwich boards.

2724.02 Maximum Area:

1. The occupant of a business in these commercial districts may have one (1) wall sign ***displaying the name or logo, plus specialty items*** of the business and one additional ground-mounted sign on each

street upon which the structure fronts. The total area of wall signage shall not exceed one and one-half (1-1/2) square feet of sign for every foot of front footage of the applicable building which faces a public street, subject to the following restrictions:

- a. The maximum square footage wall sign allotment shall not exceed one hundred fifty (150) square feet except as provided herein.
 - b. Where the front footage of a building would allow for more than the maximum wall sign size as stated above, additional square footage may be allowed, upon approval of the Board of Alderman. This additional square footage shall not exceed one-half (1-1/2) square foot per linear foot of a building, and shall not exceed a maximum wall sign size of two hundred (200) square feet.
 - c. Where a single business fronts on more than one street, the allowable square footage for the wall sign shall be computed separately for each street.
 - d. The wall signs shall not be higher than the roof line or fascia of the building on which it is attached.
2. A ground-mounted sign may be used in addition to wall signs provided that it does not exceed eighty-four (84) square feet per face per street frontage and does not extend over twelve (12) feet in height measured from the surrounding grade below the sign and twelve (12) feet in width. The sign must be set back a minimum of five (5) feet from the curb.

2724.03

Sandwich Boards

1. Sandwich board signs require a sign permit prior to the placement of the sign.
2. Sandwich board signs shall be no larger than thirty (30) inches in width and forty-eight (48) inches in height and no materials such as papers, balloons, wind socks, etc. may be added to the sign to increase its height and/or width.
3. No sandwich board sign shall be placed in the public street right-of-way or in any public parking place.

4. Sandwich board signs may be used only during the hours when the business is open to the public and may only be placed on the lot in which the business is being conducted.
5. No sandwich board sign shall be placed so as to obstruct vehicular traffic sight distance triangle requirements.
6. All sandwich board signs shall be constructed of wood with black chalk write-on boards on two (2) sides.
7. No sandwich board sign shall contain foil, mirrors, bare metal or other reflective materials which could create hazardous conditions to motorists, bicyclists, or pedestrians.
8. No sandwich board sign may contain lights of any kind.
9. Sandwich boards must be placed within twenty (20) feet of the main entrance door of the business to which the sign pertains.

2724.04

Changeable Copy Signs in C-1, C-2, C-3, C-4 and Clinton Boulevard Corridor (CBD) Districts: If the occupant elects to use changeable copy, only one of the signs, wall or ground-mounted sign, may have changeable copy. No more than one-third (1/3) of the allowable square footage of the ground or wall sign shall be changeable copy sign.

SECTION 2725 -STRIP PLAZAS, OFFICE PARKS AND SHOPPING CENTERS

2725.01

Strip plazas, office parks, and shopping centers shall be allowed to display one (1) ground sign per street frontage to identify the center. This sign shall not exceed twelve (12) feet in height and twelve (12) feet in width. The sign face shall not exceed eighty-four (84) square feet. The base of all ground signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign. The street address shall of the building be included on the sign.

2725.02

Strip plazas, office parks, and shopping centers containing groups of five or more businesses shall be allowed to display one ground sign per street frontage to identify the center. This sign shall not exceed twelve (12) feet in height or fourteen (14) feet in width. The sign face shall not exceed one hundred twenty-six (126) square feet (for example, 14 feet x 9 feet). The base of all ground signs shall be fully landscaped with planters and/or shrubbery in all directions, not less than the dimensional width of the sign. The street address of the building shall be included on the sign.

- 2727.03 Maximum Height, Width and Setback: Ground-mounted signs shall have a maximum height of twelve (12) feet measured from the street surface area below the sign and a maximum width of twelve (12) feet. The sign must be set back a minimum of five (5) feet from the curb.
- 2727.04 Changeable Copy Signs in I-1 and I-2 Districts: If the occupant elects to use changeable copy, only one of the signs, wall or ground mounted, may have changeable copy. No more than one-third (1/3) of the allowable square footage of the ground or wall sign shall be a changeable copy sign (manual).
- 2727.05 Window Signs: Window signs are prohibited in I-1 and I-2 districts.

BACKGROUND:

SUBSEQUENT TO ITS MOST RECENT ANNEXATION, THE CITY WAS REQUIRED TO CREATE A NEW ZONING MAP AND ZONING ORDINANCE. IN DOING SO, THE CITY CONTRACTED WITH CENTRAL MISSISSIPPI PLANNING AND DEVELOPMENT DISTRICT (CMPDD) BASED UPON CMPDD'S EXPERTISE, FAMILIARITY AND KNOWLEDGE OF THE ISSUES APPLICABLE TO MUNICIPALITIES IN THIS AREA WITH REGARD TO ZONING. WORKING FOR MANY MONTHS ON A DRAFT ORDINANCE AND MAP, THE CITY HELD PUBLIC HEARING IN 2010. THE RESULTS OF THE HEARINGS WERE VERY FEW COMMENTS ON THE PROPOSED ZONING ORDINANCE IN GENERAL BUT QUITE A FEW COMMENTS ON THE SIGN ARTICLE. AFTER MORE STUDY AND AN EVALUATION OF THE PUBLIC COMMENTS, THE MAYOR AND BOARD OF ALDERMEN DECIDED TO TAKE THE SIGN ARTICLE UNDER FURTHER STUDY. THE NEW ZONING ORDINANCE WAS ADOPTED ON FEBRUARY 1, 2011, AND BECAME EFFECTIVE MARCH 2, 2011. THE PREVIOUS SIGN ORDINANCE WAS READOPTED AND STUDY CONTINUED ON THE PROPOSED SIGN ARTICLE.

PUBLIC HEARING IN 2010 AND 2011:

- A. DURING THE TWO PUBLIC HEARINGS HELD IN 2010 DEALING WITH THE PROPOSED ZONING ORDINANCE IN GENERAL, THE MAJORITY OF THE COMMENTS DEALT WITH THE SIGN ARTICLE. THE VAST MAJORITY OF THOSE COMMENTS WERE IN OPPOSITION TO THE PROPOSAL TO AMORTIZE THE COST OF EXISTING SIGNS OVER A REASONABLE NUMBER OF YEARS AND THEN REQUIRE REMOVAL THOSE OLDER SIGNS NOT IN COMPLIANCE. THE MAYOR AND BOARD OF ALDERMEN RESPONDED TO THESE OBJECTIONS BY REMOVING THE ISSUES OF AMORTIZATION. THE MAYOR AND BOARD OF ALDERMEN THEN BEGAN WORK ON A NEW PROPOSAL FOR SIGNS TAKING INTO CONSIDERATION THE COMMENTS FROM THE PUBLIC HEARINGS. AGAIN, CMPDD WAS UTILIZED TO ASSIST THE CITY.
- B. AFTER MANY MORE MONTHS OF STUDY AND REVISION, THE CITY PRESENTED A PROPOSED SIGN ARTICLE FOR PUBLIC COMMENT. THE CHAMBER OF COMMERCE MET WITH A NUMBER OF BUSINESS OWNERS AND PRESENTED THE COMMENTS TO THE CITY. A PUBLIC HEARING WAS HELD BY THE CITY ON AUGUST 23, 2011, TO RECEIVE PUBLIC COMMENTS ON THE NEW PROPOSAL. THE REMOVAL OF THE AMORTIZATION PROCESS RESULTED IN A MUCH SHORTER PUBLIC HEARING. THE CITY THEN CONSIDERED THESE COMMENTS AND MOVED FORWARD WITH A NEW ORDINANCE HAVING DELETED MANY OF THE ISSUES RAISED IN THE PUBLIC HEARING.

OTHER RESOURCES:

THE MAYOR AND BOARD OF ALDERMEN REVIEWED A NUMBER OF RESOURCES BOTH INDIVIDUALLY AND IN A NUMBER OF WORK SESSIONS DEALING WITH SIGNS.

- A. OTHER MUNICIPALITIES: WITH THE HELP OF CMPDD AND THE INTERNET, THE ZONING ORDINANCES, PARTICULARLY SIGNS, OF OTHER MUNICIPALITIES WERE REVIEWED, DISCUSSED AND CONSIDERED. ONSITE OBSERVATIONS OF ALL MUNICIPALITIES IN THE METRO AREA WERE MADE TO ENHANCE THE ALREADY EXISTING KNOWLEDGE AND FAMILIARITY OF THE SURROUNDING AREAS. APPROPRIATE IDEAS AND REGULATION APPLICABLE TO THE CITY WERE

CONSIDERED BASED ON THE EXPERIENCE AND APPEARANCE OF THE OTHER CITIES, WHILE NONAPPROPRIATE MATTERS WERE REJECTED. IN ADDITION, MUNICIPALITIES OUTSIDE THE METRO AREA WERE VISITED BY VARIOUS MEMBERS OF THE GOVERNING BODY INCLUDING HERNANDO, MS, FAIRHOPE, AL, GASTONIA, NC, AND HIGHLANDS, NC.

- B. SIGN BACKGROUND: THE MAYOR AND BOARD OF ALDERMEN ALSO REVIEWED MATERIAL FROM OTHER SOURCES INCLUDING THE AMERICAN PLANNING ASSOCIATION AND THE STENNIS INSTITUTE.
- C. MISSISSIPPI STATUTES; FEDERAL AND STATE CASE LAW: VARIOUS STATUTES AND CASES WERE DISCUSSED BY THE MAYOR AND BOARD AT VARIOUS WORK SESSIONS IN 2010 AND 2011 TO DETERMINE HOW BEST TO MEET THE VARIOUS GOALS SET OUT IN THE SIGN ORDINANCE.

City of Clinton
Mississippi
Community Development
P.O. Box 156 Clinton, Mississippi 39060



NOTICE OF HEARING
CITY OF CLINTON, MISSISSIPPI

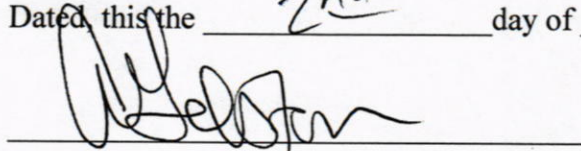
Notice is hereby given to the owner or owners of the property located at:

506 Hathaway

That a public hearing will be held at 7:00 p.m. on the 20th day of September, 2010, at the Police Station of the City of Clinton, Mississippi located at 305 Monroe Street, to determine whether or not the property identified above is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community. If such a finding is made, the governing authorities may proceed to utilize the remedies and procedures established in Miss. Code Section 21-19-11, and may thereafter by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, or, at the option of the governing authority, an assessment against the property. An adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the municipality to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning.

For further information regarding this notice, call the City of Clinton, Mississippi Code Enforcement office at (601) 924-2256.

Dated this the 2nd day of September, 2010.



Code Enforcement Officer

City of Clinton, Mississippi

**RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN
OF THE CITY OF CLINTON, MISSISSIPPI GRANTING EXEMPTION
FROM AD VALOREM TAXES**

The Board of Aldermen next took up for consideration the matter of granting tax exemption from ad valorem taxes for Gulf States Cannery, Inc., the following Resolution, having first been reduced to writing, was introduced:

RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE
CITY OF CLINTON, MISSISSIPPI, GRANTING EXEMPTION FROM
AD VALOREM TAXES FOR A FIVE-YEAR PERIOD TO GULF STATES
CANNERS, INC., AS AUTHORIZED BY SECTION
27-31-101, ET SEQ., OF THE MISSISSIPPI CODE
OF 1972, AS AMENDED.

WHEREAS, Gulf States Cannery, Inc., filed in triplicate with this Board an Application for exemption from ad valorem taxation on said equipment being used in the manufacturing process at facilities operated by Gulf States Cannery, Inc., located within the City of Clinton, Hinds County, Mississippi; and

WHEREAS, Gulf States Cannery, Inc. has produced written verification and documentation to this Board as to the authenticity and correctness of its Application in regard to the true value of the prayed-for exemption and the completion date of said enterprise; and

WHEREAS, the equipment was placed in service on December 31, 2010, and as of that date the true value of the equipment was \$958,377.33 as shown in the itemized list provided with the application, a copy of which is attached as Exhibit "A"; and

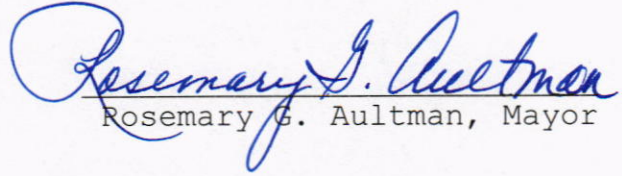
WHEREAS, this Board finds as a fact that the property described in the aforesaid Application constitutes an expanded industrial enterprise which was completed on December 31, 2010, and that said company is entitled to an exemption of five (5) years beginning on December 31, 2010 and ending on December 30, 2015, subject to approval and certification by the Mississippi State Tax Commission.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Clinton, Mississippi, as follows:

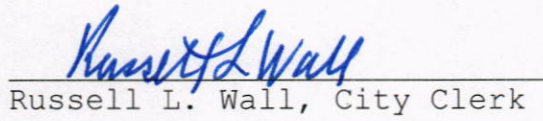
1. That the Application for ad valorem tax exemption by Gulf States Cannery, Inc., of the property described in Exhibit "A" of the Application filed by said Company for tax exemption with, the equipment having a true value of \$958,377.33 is hereby approved and said exemption is hereby granted to the extent of a five-year period beginning on December 31, 2010 and ending on December 30, 2015 subject to certification of eligibility by the Mississippi State Tax Commission.
2. That the Clerk of this Board spread a copy of this Order on the minutes of this Board; and that the Clerk forward the original and three certified copies of the Application and a certified copy of the transcript of the Order approving said Application to the Mississippi State Tax Commission for its certification of eligibility; and that the Clerk also forward one certified copy to the Tax Assessor of Hinds County, Mississippi and obtain the Certificate of said Tax Assessor stating that the aforementioned property as itemized in this Application has been placed on the Appropriate tax roll as "Non-Taxable", except for Mississippi and Clinton Public School District ad valorem taxes, for the duration of the exemption period only.

After a full discussion of the matter, Alderman Greer moved that the foregoing Resolution be adopted and said motion was seconded by Alderman Hisaw, and upon the question being put to a vote, the Resolution was unanimously adopted by affirmative vote of the members of the Board of Aldermen of the City of Clinton present.

WHEREUPON, the foregoing Resolution was declared passed and adopted at a regular meeting of the Mayor and Board of Aldermen of the City of Clinton, Mississippi, on this 20th day of September, 2011.


Rosemary G. Aultman, Mayor

ATTEST:


Russell L. Wall, City Clerk



APPLICATION OF GULF STATES CANNERS, INC.,
FOR EXEMPTION FROM AD VALOREM TAXES
FOR A PERIOD OF FIVE YEARS AS AUTHORIZED
BY SECTION 27-31-105, ET SEQ., OF THE
MISSISSIPPI CODE OF 1972, AS AMENDED

TO THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, HINDS
COUNTY, MISSISSIPPI:

(1)

Gulf States Canners, Inc., files this its Application in quadruplicate for exemption from ad valorem taxation, and respectfully represents unto this Honorable Mayor and Board of Aldermen of the City of Clinton, Hinds County, Mississippi, as follows:

(2)

Applicant, Gulf States Canners, Inc., is a Mississippi corporation domiciled in the City of Clinton, Hinds County, Mississippi.

(3)

Applicant is now operating as a processor of canned soft drinks and bottled water within the City of Clinton, Hinds County, Mississippi, which factory is a bona fide expanded enterprise of public utility within the meaning of Section 27-31-105, et seq., and related Sections of the Mississippi Code of 1972, as amended, and is eligible for the exemption granted by the above mentioned Sections, by specific enumeration, a manufacturer and processor as contemplated by the pertinent laws of the State of Mississippi, particularly Title 27, Chapter 31, Mississippi Code of 1972. The exemption sought in this Application is for the acquisition of additional equipment necessary for the operation of Applicant, ~~and for raw materials and work in progress of Applicant used in connection with the said additional equipment.~~ *NWML*

(4)

Said enterprise was completed on the 31st day of December, 2010, within the meaning of the applicable statutes of the State of Mississippi, and, therefore, the exemption hereby claimed should commence on December 31, 2010, as provided by Section 27-31-105, Mississippi Code of 1972, as amended.

(5)

On the date of this Application, Applicant employs at its Clinton Industrial Park plant approximately eighty-five (85) employees with an estimated annual payroll of approximately \$3,318,050.89. Additionally, the operations of Applicant have created numerous additional jobs for firms in Hinds County, Mississippi, supplying trucking services for the transporting of Applicant's products to various consumers of these products in the States of Louisiana, Arkansas, Tennessee, Alabama and Mississippi.

(6)

The additions and expansions described in this Application have been necessary for the Applicant to maintain a competitive position in its area of business, thus enabling it to preserve the existing jobs of its employees.

(7)

The exemption of the tangible property described in Exhibit "A" should be granted for a initial period of five (5) years from December 31, 2010.

(8)

The true value of the property for which exemption is sought as listed on Exhibit "A" is \$958,377.33.

(9)

The Applicant may file for and be granted an additional five (5) years upon furnishing proof of compliance by giving preference to Hinds County residents in hiring and utilizing Hinds County minority vendors, supplies, subcontractors and professionals.

(10)

~~Applicant also seeks exemption from ad valorem taxation for the raw materials and work in progress used in the production of the can products and bottled water for which the subject exemption is sought, which exemption for raw materials and work in progress shall run concurrently with the exemption of the items shown on Exhibit "A" attached to this Application. Applicant estimates the value of these raw materials and work in process would not exceed at any time during the life of the exemption the sum of \$2,000,000.00.~~ *Windy*

Wherefore, Applicant prays that this Board enter a finding that Applicant's factory is, in fact, an expanded enterprise of public utility, and that the same was completed on the 31st day of December, 2010, within the meaning of the applicable laws of the State of Mississippi.

Applicant further prays that it be granted an exemption from ad valorem taxes except State and School District ad valorem taxes, as provided by law, for an initial period of five (5) years beginning on the 31st day of December, 2010, and ending on the 30th day of December, 2015, upon all of the tangible property described "A" attached hereto and made a part hereof, used in, or necessary to the operation of Applicant's factory in the City of Clinton, Hinds County, Mississippi.

~~Applicant further prays that it be granted an exemption from ad valorem taxation, except State and School District taxation for an initial period of five (5) years beginning on the 31st day of December, 2010, and ending on the 30th of December, 2015, upon the raw materials and work in~~ *Windy*

~~progress used in the production of the products produced by the equipment described in Exhibit "A".~~

Applicant further prays that this Board approve this Application by an Order or Resolution spread upon its minutes, declaring that such property is exempt from all ad valorem taxation, except State and School District ad valorem taxation, for the said five (5) year period, and forward the original and three (3) copies of this Application and a certified transcript of such approval to the Mississippi State Tax Commission, and upon approval of such Application by the said Mississippi State Tax Commission and certification of its approval, the Board enter a Final Order on its minutes granting the exemption herein prayed.

Respectfully submitted, this the 29 day of April, 2011.

GULF STATES CANNERS, INC.

BY: Randy Lee
RANDY LEE, GENERAL MANAGER

Marion Smith
MARION SMITH
MSB #7628
TRULY, SMITH & LATHAM, P.L.L.C.
P.O. BOX 1307
NATCHEZ, MS 39121
(601) 442-6495
ATTORNEYS FOR APPLICANT,
GULF STATES CANNERS, INC.

STATE OF MISSISSIPPI
COUNTY OF HINDS

Personally came and appeared before me, the undersigned authority in and for the jurisdiction aforesaid, RANDY LEE, who being by me first placed on oath, deposes and says:

Affiant is the duly constituted, acting and serving General Manager of Gulf States Canners, Inc., the Applicant named in the above and foregoing Application for tax exemption addressed to the Mayor and Board of Aldermen of the City of Clinton, Hinds County, Mississippi, and as such, is duly authorized to execute, file and present this Application on behalf of the Corporate Applicant.

The additions and expansions described in the Application were completed on December 31, 2010.

All of the matters and facts set forth in the above and foregoing Application are true and correct as therein stated.

Randy Lee
RANDY LEE

Sworn to and subscribed
before me, this the 29
day of April, 2011.

Deanna Tyer
Notary Public



MY COMMISSION EXPIRES:

Aug 20 2012

EXHIBIT "A"

GULF STATES CANNERS, INC., EQUIPMENT PURCHASES

<u>ASSET NAME</u>	<u>AMOUNT</u>
MICROBLEND PANEL UPGRADE (ADD'L CHG)	\$34,436.25
RELOCATE CONCENTRATE BLEND SYSTEM	11,734.33
CANLINE CONVEYORS AND CONTROLS MT OH	342,057.80
LINE 1 MICROBLEND ACROMAG	7,500.00
LINE 2 SEAMER PANEL	19,219.93
LINE 2 JONES PLC	9,557.74
PLATE PACK 4 DASANI CHILLER	30,450.00
TITANIUM SENSOR DASANI LINE	9,453.16
ARC-WATER CHILLER (USED) SYRUP ROOM	20,300.00
NEW FLOW PANEL L-2 SEAMER	3,047.10
FULL CASE CONVEYOR	37,241.76
REDO COKE PIPING SYS FLO PANEL PUMPS	30,172.33
4 PORT DIVERTER PANEL	21,172.90
SYRUP ROOM PUMP CAN LINE	4,437.87
PROP & SHAFT TANK AGITATOR	5,438.76
REPLACEMENT GLUE POT	4,328.98
STRETCHWRAPPER	96,929.35
COLD ROOM COMPRESSOR	3,664.15
MANWAY OPENING FILTERED TANK	3,178.93
2 - ISOLATION VALVES ON AIR COMP	6,913.16
NEW TRAIN WHEELS	8,365.04
UV LOGIC DISPLAY BOARD	4,129.64
CISCO ETHERNET SWITCH-WATER LINE	1,158.48
CO2 VAPORIZER FOR PLANT	36,857.28
1 ELECTRIC FORKLIFT BATTERY	4,494.00
NOVAZONE POWER SUPPLY	3,648.39
MOUNTED MOTOR	1,385.01
AMMONIA EXHAUST FAN	3,549.67
2 FORKLIFTS	71,306.96
FACE COVER FOR BNB	2,240.33
WAREHOUSE LABEL SYSTEM	3,385.48
AIR COMPRESSOR	18,725.00
GENESIS 10S 2L6N305004	6,575.19
3 - COMPAQ 8000 ELITE DESKTOP	2,723.63
2 - MICROBLEND COMPUTERS	5,403.90
15" TOUCH SCRIN MONITOR SYRUP ROOM	1,467.90
6 COMPUTERS	11,401.25
PALLET SHOP HEATER	2,481.33
NEW AC/HEAT SYSTEM GUARD SHACK	2,979.95

AIRVENT	2,054.40
2 - AERATORS	31,405.00
2 - 10HP 2000 AERATORS	31,405.00

TOTAL	\$958,377.33
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~~RAW MATERIALS ESTIMATED NOT TO EXCEED \$2,000,000.00.~~ *WMS*

A RESOLUTION of the Clinton Board of Aldermen adopting the Clinton Hazard Mitigation Plan Update for 2010-2015, as approved by the Mississippi Emergency Management Agency (MEMA) and the Federal Emergency Management Agency (FEMA)

WHEREAS, the Federal Disaster Mitigation Act of 2000 requires local government agencies to develop and maintain a Hazard Mitigation Plan in order to receive future Hazard Mitigation Grant Program Funds; and

WHEREAS, the City recognizes that natural hazard events pose threats to people and property within the city; and

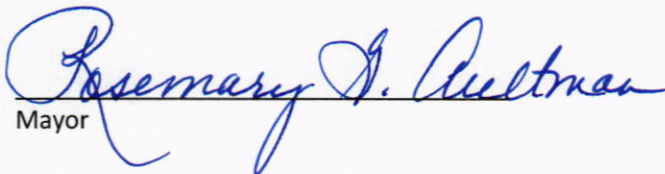
WHEREAS, the City, with guidance from the Central Mississippi Planning and Development District, has undertaken a comprehensive study of the natural hazards that pose such threats to the city; and

WHEREAS, the results of the comprehensive study in accordance with the Disaster Mitigation Act of 2000 have been outlined in the Clinton Hazard Mitigation Plan Update; and

WHEREAS, the strategies of this plan are to identify and characterize hazards, assess risk, and to prioritize mitigation strategies; and

WHEREAS, approval of this plan update by MEMA and FEMA constitutes formal completion of the plan and establishes eligibility to pursue Hazard Mitigation funds.

NOW, THEREFORE, BE IT RESOLVED that the Clinton Board of Aldermen do hereby adopt the Clinton Hazard Mitigation Plan Update and all official maps pertaining thereto on this the 20th day of September 2011, at a regular meeting of the Board of Aldermen of the City of Clinton, Mississippi.


Mayor

ATTEST:


City Clerk

Date September 21, 2011





City of Clinton Public Works
August 16, 2011

ARISTA INFORMATION SYSTEMS, INC.
2220 NORTHMONT PARKWAY, SUITE 100
DULUTH, GA 30096

PROPOSAL

OBJECTIVES

Offer the convenience of electronic bill payment through a secure, compliant, custom-branded website to be hosted by Arista Information Systems, Inc. ("Arista"), and administered by City of Clinton Public Works ("Client"):

- Provide Client 24/7 access to Credit Card and E-check payment files
- Provide Client PDF images of billing statements
- Mitigate risk by assuring compliance with *Payment Card Industry Data Security Standard (PCI DSS) Requirements and Security Assessment Procedures*

BENEFITS

Advantages to Client include:

- Reduction of administrative costs associated with processing paper bill payments
- Increased efficiency and cash flow due to quicker turnover of Accounts Receivable
- Improved customer service by offering convenience and payment flexibility
- Reduction of costs associated with collections



City of Clinton Public Works

August 16, 2011

Page 2

IMPLEMENTATION

Arista is committed to complete Client satisfaction, and will work with you and your team during EBPP installation and implementation to facilitate an understanding of the system:

--Training provided in areas of transaction entry and posting, payment file downloads and periodic back-up and maintenance procedures

--Arista guarantees prompt response and resolution, partnering with City of Clinton Public Works to ensure EBPP functions as intended and provides timely and accurate financial reports

COST ANALYSIS

An estimate of fees and charges associated with EBPP is summarized on the schedule below and assumes the following, based on your input: 9000 accounts billed monthly, average usage of 300 payments per month, an average payment amount of \$65.00 and a total dollar amount of EBPP payments processed monthly of \$19,500.00.

SCHEDULE A

1) Credit Card Merchant ID Setup (One Time)	\$ 400.00*
2) E-Check Setup (One Time) Optional Service	\$ 400.00*
3) Monthly EBPP Service Fee	\$ 300.00**
4) Monthly PDF Service Fee (Required)	\$ 50.00***
5) PDF Image Per Item Fee	\$.01
6) Programming Charges (After Setup)	\$ 150.00/hr.
7) Credit Card Convenience Fee Per Transaction (Maximum of \$300.00 per transaction)	\$ 3.95
8) E-Check Convenience Fee Per Transaction (No per transaction maximum required)	\$ 2.00

* Waived

** Offset by convenience fees

*** Client already utilizes service and pays this fee

PRICE/ FEE PROPOSAL

Paymentus has implemented a unique pricing strategy that introduces simplicity and predictability. The simplified "per transaction" pricing model is easy to administer and implement. This simplified pricing model is also in compliance with all Credit Card Association rules. The Paymentus team has researched and thoroughly understands the strict Association rules and regulations and we are extremely sensitive to ensuring that our customers operate within the guidelines.

The Paymentus simplified pricing model is as follows:

- **User-Pay Model** - The entire cost of the service, including processing fees and systems costs is contained within the convenience fee and paid by the user who chooses this payment option
- **Biller Absorbed Model** - The payment processing fees and the system costs are paid by the City
- **Hybrid Model** - The City shares the simplified per transaction cost with the user

All pricing models include:

- No set-up, upfront, ongoing or hidden costs
- No monthly minimum transaction requirements
- No maintenance fees (software, hardware, telecommunications, etc.)
- Toll free telephone number is included at no additional cost

We understand that Clinton has elected to pursue a **User-Pay Model**. The proposed pricing for Clinton is attached below:

Payment Amount	Paymentus Service Fee
Utility Payments • Average Bill Amount \$70.00 • Maximum of \$100.00 per payment. Multiple payments can be made. • Paymentus is responsible for payment processing fees including credit card, eCheck, debit fees.	Flat Fee of \$2.95

**Arista Information Systems, Inc.
Enrollment Form and Services Agreement for
Third Party Payment Processing Services**

This Enrollment Form and Services Agreement (the "Agreement") is entered into by and between Arista Information Systems Inc ("ARISTA") and Customer. ARISTA and Customer agree that ARISTA will provide the following services to Customer in connection with the acceptance by Customer of credit card and e-check payments by its customers ("End Users"):

- Acting in the capacity of a third party processor as the merchant and necessary intermediary in credit card and e-check transaction processing;
- Validating credit card numbers, expiration dates, and bank routing numbers;
- Obtaining authorization from the credit card issuer and e-check authorization site;
- Providing confirmation to the End User at the end of the payment transaction; and
- Providing payment information to Customer

(collectively the "Services") upon the terms and conditions of this Agreement.

1. The parties, intending to be legally bound, covenant and agree to the following General Terms and Conditions (Sections 1 through 10) and Appendix A and Appendix B, all of which are included within this Agreement. The duly authorized representatives of the parties have executed this Agreement to be effective on the date indicated below.

Arista Information Systems, Inc.

By: Ronald G. Camp
Name: Ronald G. Camp
Title: Pres/CEO
Date: 10/03/2011

Mailing Address:
100 Ashford Center North
Suite 500
Atlanta, GA 30338
Phone: 770-414-8400
Fax: 770-414-1122

Customer

Corporate Name:
By: Rosemary G. Aultman
Rosemary Aultman
Mayor
Date: 9-26-2011

Mailing Address:
P. O. Box 156
Clinton, MS 39060
Phone: 601-924-2239

General Terms and Conditions

1. Definitions.

For purposes of this Agreement, the following definitions shall apply unless the context clearly indicates otherwise. All capitalized terms used in this Agreement that are not defined in this Section shall have the definitions set forth elsewhere herein.

(a) "Affiliate" shall mean an entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another entity. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of management of an entity, whether through the ownership of voting shares, by contract, or otherwise.

(b) "Agreement" shall mean this Enrollment Form and Services Agreement between ARISTA and Customer.

(c) "Association" shall mean any entity formed to administer and promote credit or debit cards, including without limitation MasterCard International, Incorporated, Visa U.S.A., Inc. and Visa International.

(d) "Association Rules" shall mean the rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Association.

(e) "Chargeback" shall mean the procedure by which a sales draft or other indicia of a Transaction is returned to ARISTA.

(f) "Confidential Information" shall mean any information relating to or disclosed in the course of the Agreement which is or should reasonably be understood to be confidential or proprietary to the disclosing party. "Confidential Information" shall not include information (a) already known to either party at the time of receipt thereof from the other; (b) that was readily available to the general public at the time of receipt thereof from the other, or subsequently becomes known to the general public through no fault or omission on the part of the party receiving such information; (c) that is subsequently disclosed by a third party that has a bona fide right to make such disclosure; or (d) that is required to be disclosed by applicable law, regulation, court or administrative order."

(g) "Customer" shall mean the City of Clinton Public Works.

(h) "E-Check Rules" shall mean all policies, procedures, operating rules, agreements or federal or state laws and regulations applicable to e-check Transactions, including the rules and operating guidelines of the National Automated Clearing House Association.

(i) "End User" shall mean a customer of Customer that enters or has entered into one or more Transactions.

(j) "Effective Date" shall have the meaning set forth in Section 9.1.

(k) "Event of Default" shall have the meaning set forth in Section 9.2.

(l) "Operating Procedures" shall mean the then-current manual, if any, prepared by ARISTA, containing operational procedures, instructions and other directives related to the Services and to Transactions.

(m) "ARISTA Payment Gateway" shall mean the Internet site maintained by ARISTA on Customer's behalf and used by End Users to make payments to Customer through Transactions.

(n) "Settlement Account" shall mean an account at a financial institution designated in writing by Customer as the account to be debited and credited by ARISTA for Transactions, fees, Chargebacks and other amounts due under the Agreement or in connection with the Agreement.

(o) "ARISTA" shall mean Arista Information Systems, Inc.

(p) "ARISTA System" shall have the meaning set forth in Section 2.1.

(q) "Transaction" shall mean the acceptance of a credit card payment or an e-check payment from an End User by ARISTA via the ARISTA System on behalf of Customer.

2. Services Provided

2.1 Credit Card & E-Check Processing. Customer agrees that ARISTA will provide the following services (the "Services") to Customer in connection with Customer's acceptance of credit card and e-check payments from End Users pursuant to the ARISTA third-party payment processing system ("ARISTA System"):

(a) Acting in the capacity of a third party credit card and e-check processor as the merchant and necessary intermediary in credit card transaction processing.

(b) Validating credit card numbers, expiration dates, and bank routing numbers.

(c) Obtaining authorization from the credit card issuer and e-check authorization site.

(d) Providing confirmation to the End User at the end of the payment transaction.

(e) Transmitting payment information to Customer.

2.2 ARISTA Fees and Invoices.

(a) All fees charged by ARISTA for the Services will be set forth in an invoice sent to Customer by the fifth (5th) day of each month, with payment due within ten (10) days after Customer's receipt of the invoice. At ARISTA's election, any such fees may be set forth as a line item in invoices sent to Customer pursuant to separate existing agreements between ARISTA and Customer.

(b) The fees charged by ARISTA and the prices of all Services and related items provided to Customer may be modified from time to time by ARISTA upon thirty (30) days' prior written notification to Customer.

3. Transaction Procedures

3.1 Settlement.

(a) Settlement Account. Customer's Transactions will be settled promptly, and Customer will receive payment of settlement funds in its Settlement Account through automated clearing house credit. Customer shall provide thirty days' prior written notice to ARISTA of any change in the location or account number of its Settlement Account.

(b) Transaction Settlement. All settlements for Transactions will be net of credits/refunds, adjustments, Chargebacks, and any other amounts due from Customer at the time of settlement. All credits to Customer's Settlement Account are provisional and are subject to, among other things, Chargebacks (including ARISTA's related losses), fees and fines imposed by the Associations or other third parties. Customer agrees that ARISTA may debit or credit Customer's Settlement Account for any deficiencies, overages, fees and pending Chargebacks, or may deduct such amounts from settlement funds due to Customer. Alternatively, ARISTA may elect to invoice Customer for any such amounts.

3.2 Operating Procedures. From time to time ARISTA may provide Operating Procedures to Customer that govern the procedures for Transactions and Services. In the absence of such Operating Procedures, the provisions of this Agreement will govern such procedures. Customer agrees to follow all requirements of this Agreement or, as applicable, the Operating Procedures, in connection with Transactions and to comply with all applicable Association Rules and E-Check Rules as ARISTA may communicate them to Customer from time to time.

3.3 Changes in Procedures. Customer recognizes that in order for ARISTA to provide Services to and process Transactions for Customer, ARISTA must obtain services from third parties related to the Services, and in doing so must comply with the procedures imposed on ARISTA by such parties, including the Association Rules and the E-Check Rules. Customer acknowledges and agrees that ARISTA, as a result of revisions to such third party procedures, from time to time will be required to change those procedures applicable to Customer or to impose new procedures, including but not limited to procedures related to security, processing of Transactions, and features and use of the Services. In addition, ARISTA may be required to modify, amend or terminate

procedures, conditions, features or requirements regarding the Services or the processing of Transactions in order to comply with the requirements of applicable laws, regulations, government policies, Association Rules or E-Check Rules. ARISTA will endeavor to provide Customer with thirty days' prior written notice of such changes in procedures, and those changes will be deemed incorporated into the Agreement at the end of such period. In the event such prior notice cannot be given, ARISTA will endeavor to give Customer notice of such changes in procedures as soon as reasonably practicable after the making and implementation of such changes.

3.4 Transaction Errors

(a) Customer shall promptly notify ARISTA of any error or discrepancy in any Transaction upon receiving written or electronic documentation or statements evidencing such Transactions. Customer agrees to provide ARISTA with all information ARISTA reasonably requests in connection with investigating any error or discrepancy.

(b) Customer and ARISTA agree that thirty (30) days is a reasonable period of time for Customer to notify ARISTA of errors and discrepancies unless any other applicable policies, procedures, operating rules, agreements or laws provide for a shorter notification period, in which case such shorter period shall apply. If Customer fails to notify ARISTA in writing of any error or discrepancy within thirty (30) days, or within such shorter applicable period, after transmittal by ARISTA of the documentation or statement reflecting such error or discrepancy, ARISTA shall have no responsibility in assisting Customer with resolving such error or discrepancy with any third party.

3.5 Responsibility for Errors of Third Parties. ARISTA shall not be held liable for any delays in Customer's receipt of funds from Transactions or errors in debit and credit entries caused by third parties, including but not limited to Customer's financial institution. ARISTA shall not be held responsible for errors, acts, or failures to act of third parties, including but not limited to financial institutions, communication carriers, Internet providers, or clearing houses through which Transactions are originated, and no such third party shall be deemed an agent of ARISTA.

4. Chargebacks and Fees

4.1 Responsibility for Chargebacks. Customer shall be responsible for all Chargeback amounts, adjustments and related costs associated with Transactions, regardless of the reason for any such Chargeback amount. ARISTA may debit the actual or contingent Chargeback amount from Customer's settlement funds or from Customer's Settlement Account. In the event Customer obtains a reversal of any Chargeback, ARISTA will credit Customer's Settlement Account with the amount of such reversal.

4.2 Chargeback Adjustment. If Customer believes that any adjustment should be made with respect to a Chargeback, ARISTA shall not have any obligation to investigate or effect any such adjustments, but in its discretion may assist Customer in requesting an adjustment. Any voluntary efforts by ARISTA to assist Customer in investigating such matters shall not create an obligation to continue such investigation,

and ARISTA shall not be liable for any failure to obtain an adjustment of any Chargeback.

4.3 Fines and Penalties. Customer agrees to pay ARISTA any fines and penalties imposed on ARISTA by any Association or third party resulting from Chargebacks and any other fines, penalties and fees imposed by an Association or third party with respect to acts or omissions of Customer, any violation of Association Rules or E-Check Rules by Customer, or any action or inaction by Customer that causes ARISTA to be in violation of Association Rules or E-Check Rules or to incur fines, penalties and fees pursuant to an agreement between ARISTA and any third party related to the Services. ARISTA may debit the amount of any such fines, penalties and fees from Customer's settlement funds or from Customer's Settlement Account

4.4 Investigation. In the event ARISTA is required to respond to transaction documentation requests from an Association, financial institution or other entity in connection with Customer's request for adjustment of a Chargeback or a fine, penalty or fee, and ARISTA requests Customer for documentation, it is Customer's responsibility to respond to such request within five (5) days from the initial request.

4.5 Other Transactions. Customer is responsible for any fees for e-check, credit and debit card transactions.

5. System Operations and Security Procedures

5.1 System Operations. Except to the extent ARISTA provides software or equipment to Customer pursuant to one or more separate agreements between the parties, Customer at its own expense shall provide and maintain the equipment, software, services and testing necessary to accomplish Transactions and to receive Transaction confirmations effectively and reliably.

5.2 Security Procedures. Each party shall use commercially reasonable security procedures to ensure that all Transactions are authorized and to protect its business records and data from improper access. Customer agrees to comply with any security-related procedures required by ARISTA as such procedures may be revised from time to time.

6. Warranties; Limitations on Liability; Exclusion of Consequential Damages

6.1 THIS AGREEMENT IS A SERVICE AGREEMENT AND TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, ARISTA DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO CUSTOMER OR ANY PERSON, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE OF ANY SERVICES OR ANY GOODS PROVIDED INCIDENTAL TO THE SERVICES PROVIDED UNDER THIS AGREEMENT.

6.2 CUSTOMER AGREES THAT NO ORAL OR WRITTEN ADVICE OR REPRESENTATION OBTAINED FROM ANY EMPLOYEE OR REPRESENTATIVE OF ARISTA SHALL CREATE A WARRANTY OR REPRESENTATION FOR PURPOSES OF THIS AGREEMENT OR ANY SERVICES TO BE PERFORMED PURSUANT HERETO.

6.3 ALSO, TO THE FULLEST EXTENT ALLOWED BY LAW, AND SUBJECT TO THE FOREGOING PROVISIONS OF THIS SECTION, ARISTA'S LIABILITY TO CUSTOMER UNDER THIS AGREEMENT SHALL BE LIMITED TO CORRECTING ERRORS RESULTING FROM ARISTA'S INTENTIONAL OR NEGLIGENT ACTS OR OMISSIONS.

6.4 Except as provided in Article 8 of this Agreement, under no circumstances whatsoever shall either party, its Affiliates, or any of their respective members, directors, officers, employees, agents, or consultants be liable to the other party under any theory of tort, contract, strict liability or other legal theory for lost profits, lost revenues, lost business opportunities, exemplary, punitive, special, incidental, indirect or consequential damages, each of which is hereby excluded by agreement of the parties, regardless of whether such damages were foreseeable or whether any party or any entity has been advised of the possibility of such damages.

7. Confidentiality.

7.1 Customer agrees that ARISTA has a proprietary interest in the Services, and that establishing Services may require Confidential Information to be exchanged between Customer and ARISTA relating to computer hardware systems, software systems, communications systems, data security systems, passwords, data formats, or other technological or procedural information. As a condition for ARISTA to provide information to Customer relating to a Service, Customer agrees that it shall: (1) keep such Confidential Information confidential; (2) implement commercially reasonable procedures to maintain its confidentiality; (3) use it only for the purposes for which it was disclosed; and (4) not disclose such information to any party other than those for whom the receipt of the Confidential Information is necessary for the establishment and ongoing provision of the Service. Customer shall ensure that its Affiliates, employees, directors, officers agents or representatives maintain the confidentiality of the Confidential Information. If Customer ceases to use Services, Customer shall return to ARISTA all Confidential Information it has received from Bank.

7.2 The parties agree that if any of the provisions of this Section are breached, or threatened to be breached, a remedy at law may be inadequate and, therefore, without limiting any other remedy available at law or in equity, an injunction, specific performance or other forms of equitable relief or money damages or any combination thereof shall be available to the non-breaching party. ARISTA shall be entitled to recover damages (including attorneys' fees) resulting from the breach and the reasonable cost (including attorneys' fees) of enforcing the obligations reflected in this Section.

8. Indemnification.

Customer agrees to indemnify, hold harmless and defend ARISTA, its Affiliates, and their respective members, directors, officers, employees, agents and consultants from and against any and all liability, claims, actions causes of action, losses damages, demands, suits, judgments, costs and expenses (including attorney's fees and expenses) of every nature and description, presented or brought for any injuries (including death) to persons and for any damages to property arising out of or relating to any of the Services provided under this Agreement, any breach of any covenant or agreement or any misrepresentation by Customer under this Agreement, or arising out of any negligent or willful misconduct of Customer or its employees in connection with Customer's Transactions with End Users or otherwise arising from Customer's provision of services to End Users, including, but not limited to, any and all costs, expenses, legal fees and liabilities incurred in connection with the investigation, defense or settlement thereof.

9. Term and Termination.

9.1 Term. The initial term of this Agreement is twelve (12) months, with the initial term commencing on the date that the ARISTA System is installed and made operational for Customer ("Effective Date"). This Agreement will be automatically renewed for successive one (1) year terms unless either party provides written notice of termination to the other party at least ninety (90) days prior to the end of the then-current term. Any automatic renewal of this Agreement pursuant to this Section shall be made upon the same terms and conditions, except that prices of all Services and related items provided to Customer shall be in accordance with ARISTA's then-current pricing schedule. The term of this Agreement (the "Term") includes the initial term and any renewal terms.

9.2 Events of Default. If any of the following events shall occur (each an "Event of Default"):

- (a) A material adverse change in the business, financial condition, business procedures, products or services of Customer; or
- (b) a sale of all or a substantial portion of Customer's assets; or
- (c) Customer shall: commence a voluntary case under the Bankruptcy Code (Title 11 of the United States Code); file a petition seeking to take advantage of any other laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or entry into an arrangement for adjustment of debts; consent to or fail to contest in a timely and appropriate manner any petition filed against it in an involuntary case under such bankruptcy laws or other laws; generally become unable to pay its debts or trade obligations as they become due; make a general assignment for the benefit of creditors; or take any corporate action for the purpose of authorizing any of the foregoing; or
- (c) a case or other proceeding shall be commenced against Customer, in any court of competent jurisdiction seeking relief under the Bankruptcy Code or under any

other laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts, or the appointment of a trustee, receiver, custodian, liquidator or the like of Customer; or

(d) Customer shall default in any material respect in the performance or observance of any term, covenant, condition or agreement contained in this Agreement; then, upon the occurrence of any such Event of Default, this Agreement may be terminated by ARISTA upon five (5) days' prior written notice to Customer, and upon such notice all amounts payable hereunder by Customer to ARISTA shall be due and payable on demand.

9.3 Termination. Either party may terminate this Agreement upon ten (10) days' prior written notice in the event of the material breach of the Agreement by the other party.

9.4 Survival of Obligations. After termination or expiration of this Agreement for any reason whatsoever, Customer shall continue to bear total responsibility for all Chargebacks, fees, credits and adjustments resulting from Transactions processed pursuant to this Agreement and all other amounts then due or which thereafter may become due to ARISTA under this Agreement.

10. Miscellaneous.

10.1 Authority. Each party warrants and represents to the other that: (a) it has the power and authority to execute, deliver and perform this Agreement and (b) the person executing this Agreement on behalf of it is an officer authorized to bind the party with respect to its obligations hereunder.

10.2 Required Acceptance by Officer of ARISTA. This Agreement is not binding upon ARISTA until executed by an authorized representative of ARISTA at ARISTA's headquarters office.

10.3 Relationship of the Parties. Nothing in this Agreement shall be construed as creating a partnership or joint venture of any kind between the parties or as constituting either party as the agent of the other party. Neither party has the authority or power to bind the other party or to contract in the name of or create a liability against the other party in any way or for any purpose.

10.4 Construction. This Agreement is an agreement between parties who are experienced in sophisticated and complex matters similar to the transactions contemplated by this Agreement, is entered into by both parties in reliance upon the economic and legal bargains contained herein, and shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument or drafted any portion thereof, the relative bargaining powers of the parties, or the domicile of any party.

10.5 Waiver. The waiver by ARISTA of any breach of any term, condition or provision of this Agreement may not be construed as a waiver of any other term,

condition or provision of this Agreement, nor may such waiver be deemed a waiver of any subsequent breach of the same or any other term, condition or provision of this Agreement.

10.6 Severability. If any provision of this Agreement is determined invalid or unenforceable under applicable law, the remainder of this Agreement must continue in full force and effect. If possible, a legal and enforceable provision must be substituted for the invalid or unenforceable one that most clearly carries into effect the intention of the original provision.

10.7 Amendments. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement may not be amended, waived or modified except in a writing signed by both parties.

10.8 Assignability. Customer may not assign any of its rights, or delegate any of its duties, without the prior written consent of ARISTA.

10.9 Survival. All obligations arising before this Agreement is completed or terminated and all provisions allocating responsibility or liability between ARISTA and Customer survive and are not prejudiced by the completion or termination of this Agreement.

10.10 Arbitration

- (a) Any and all claims and disputes between Customer and ARISTA related to, arising out of, or in connection with this Agreement or its performance, breach, or termination (including the existence, validity and interpretation of this Agreement and the applicability of any statute of limitation period) shall be resolved by binding arbitration. Except as specifically modified herein, the arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), as amended and supplemented from time to time, including those rules giving the arbitrators power to rule on their own jurisdiction and any objections to the existence, scope, or validity of the arbitration agreement itself. Any arbitration hearing conducted hereunder shall be held at the primary office of ARISTA.
- (b) The party initiating arbitration shall nominate one (1) arbitrator at the same time it initiates arbitration. The other Party shall nominate one (1) arbitrator within fifteen (15) days after receiving the initiating Party's nomination. The two (2) arbitrators (the "Party-Appointed Arbitrators") shall appoint a third, neutral arbitrator (the "Third Arbitrator"). All arbitrators shall be impartial and independent of either Party and not employed by any of the Parties in any prior matter.
- (c) If the Party-Appointed Arbitrators are unable to agree on the Third Arbitrator within fifteen (15) Days from the date of the second Party-Appointed Arbitrator's appointment, then the Third Arbitrator shall be selected by the AAA

with due regard given to the selection criteria above and input from Customer, ARISTA and the Party-Appointed Arbitrators. The Parties shall request the AAA to complete selection of the Third Arbitrator no later than sixty (60) Days from initiation of arbitration.

- (d) Except to the extent inconsistent with or prohibited by applicable law, or to the extent necessary to confirm or enforce any award made by the arbitrators, the existence and outcome of any arbitration proceeding between Customer and ARISTA shall be held in confidence by the parties. The parties further acknowledge their intent that documents produced by a Party in the course of the arbitration or provided by such Party to the arbitration panel shall be deemed confidential and that the receiving Party shall maintain the confidentiality of such documents. Accordingly, prior to the exchange of documents during the course of any arbitration proceeding, the parties shall enter into a mutually agreeable form of confidentiality agreement, or failing such agreement, the arbitrators shall enter an appropriate confidentiality order. The Parties agree that any claim or dispute regarding compliance with the foregoing obligation of confidentiality or any claimed breach of the confidentiality agreement or order, whether asserted before or after the conclusion of the arbitration, shall be submitted to the arbitration panel hearing (or that heard) the underlying dispute and that the arbitration panel may conduct an expedited hearing thereon. In any such proceeding, the arbitrators shall have the discretion in their sole judgment to award any relief, including equitable relief and damages, permitted by the AAA Rules for each violation of confidentiality as determined by the Panel.

10.11 Force Majeure. Neither party shall be deemed in default of this Agreement to the extent that performance of their obligations or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, act of government, shortages of materials or supplies or any other cause beyond the control of such party ("Force Majeure"), provided that such party gives the other party written notice hereof promptly and, in any event, within fifteen (15) days of discovery thereof and uses its best efforts to cure the delay. In the event of such Force Majeure, the time for performance or cure shall be extended for a period equal to the duration of the Force Majeure but not in excess of three (3) months.

10.12 Late Fees. A late payment charge of 1.5% per month, compounded monthly, shall apply to any payment or reimbursement due from Customer that is in arrears for a period of thirty (30) days or more from the date such payment first became due.

10.13 Exclusive Jurisdiction and Venue. Any cause or action arising out of or related to this Agreement, including an action to confirm or challenge an arbitration award, may only be brought in the courts of applicable jurisdiction in DeKalb County, Georgia, and the parties hereby submit to the jurisdiction and venue of such courts.

10.14 Governing Law. This Agreement must be governed and construed according to the laws of the State of Georgia, without regard to conflict of laws principles.

10.15 Counterparts. This Letter Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

10.16 Notices. All notices given pursuant to this Agreement shall be in writing and shall be sent using the address set forth underneath each party's name on the signature page of this Agreement. Notices may be delivered by hand, by overnight carrier, or shall be deemed to be received within five (5) days after mailing if sent by registered or certified mail, postage prepaid. Either party may from time to time change its address for purposes of this Section by written notice to the other party.

10.17 Public Reference. Customer consents to the public use of its name as a customer of ARISTA.

Appendix A

- | | |
|---|--------------------|
| 1) Credit Card Merchant ID Set-up (one time) | \$ 0.00 |
| 2) E-Check Set-up (one time) Optional Service | \$ 0.00 |
| 3) Monthly EBP Service Fee | \$ 0.00 |
| 4) Suppression of Paper Bill | \$.04 each |
| 5) Optional PDF Image Storage Fee (after 1 st month) | \$.0001 |
| 6) Programming Charges (After Set-Up) | \$ 150.00 per hour |
| 7) Credit Card Transaction Fees | See below |
| 8) E-Checks (Optional Service) | See below |

9) Customer seeks to have Arista charge a convenience fee to Customer's End Users on all credit card transactions processed by Arista for Customer. Customers selecting this option are not billed for any credit card transaction costs originating on the Arista/SEDC Payment Gateway.

Customer acknowledges that it has been informed of the available options concerning the application of Convenience Fees, and selects the option checked below:

- ☒ Option A. Customer agrees to allow Arista to charge a Convenience Fee to Customer's End Users on credit card transactions; or
- ☐ Option B. Customer chooses to charge a Convenience Fee to its End Users; or
- ☐ Option C. Customer chooses to not have any convenience fees charged to its End Users.

If Customer has selected Option A, Customer acknowledges that it has been informed of the pricing structures available in connection with this option, as set forth in Appendix B, and selects the option checked below:

- ☒ Option A.1 Customer agrees that Arista shall charge a flat fee with a ceiling, and selects the following flat fee/ceiling:
- _\$3.95 with a \$300.00 ceiling_.

If Customer has selected Option A, Customer acknowledges that it has been informed of its ability to subsidize a portion of the Convenience Fees for its End Users, as explained in Appendix B, and selects the option checked below:

- ☒ Customer agrees that the full amount of the applicable Convenience Fee will be paid by its End Users.
- ☐ Customer chooses to subsidize part of the convenience fee as follow:
- ☐ If Customer has chosen Option A.1, Customer agrees that it shall subsidize \$ 0.00 of the Convenience Fee, with the remainder of the Convenience Fee paid by the End User. The Customer bill amount for the subsidy is calculated using the total number of credit card transactions multiplied by the subsidy dollar amount.

Customer seeks to have Arista charge a convenience fee to Customer's End Users on all e-check transactions processed by Arista for Customer. Customers selecting this option are not billed for any e-check transaction costs originating on the Arista/SEDC Payment Gateway.

Customer acknowledges that it has been informed of the available options concerning the application of Convenience Fees, and selects the option checked below:

- ☒ Option A. Customer agrees to allow Arista to charge a Convenience Fee to Customer's End Users on e-check transactions; or
- ☐ Option B. Customer chooses to charge a Convenience Fee to its End Users; or
- ☐ Option C. Customer chooses to not have any convenience fees charged to its End Users.

If Customer has selected Option A, Customer acknowledges that it has been informed of the pricing structures available in connection with this option, and selects the option checked below:

- ☒ Option A.1 Customer agrees that Arista shall charge a flat fee, and selects the following flat fee/ceiling:

\$2.00 without a ceiling.

If Customer has selected Option A, Customer acknowledges that it has been informed of its ability to subsidize a portion of the Convenience Fees for its End Users, and selects the option checked below:

- ☒ Customer agrees that the full amount of the applicable Convenience Fee will be paid by its End Users.
- ☐ Customer chooses to subsidize part of the convenience fee as follow:
 - ☐ If Customer has chosen Option A.1, Customer agrees that it shall subsidize \$_0.00_ of the Convenience Fee, with the remainder of the Convenience Fee paid by the End User. The Customer bill amount for the subsidy is calculated using the total number of e-check transactions multiplied by the subsidy dollar amount.

Appendix B

PRICING AND PROCESS CREDIT CARD SERVICES

Credit cards processed through the EBPP application will obtain authorizations through the processor (Elavon/ ARISTA) as each end user enters valid credit card information into the application. Each night all approved transactions automatically settle at the credit card processing center. Funds then clear into the master merchant account we have dedicated to this process. We will report to the customer the total \$ amount and total number of payments that settled on a given day. An ACH transaction will be set up to electronically deposit the credit card funds to the bank account specified by the customer.

Visa and MasterCard transactions will be deposited into the customer's bank account 2 bank days after the payment took place, and Discover and American Express transactions will be deposited in the bank account 3 bank days after the payment took place. All deposit dates and dollar amounts are specified in a Credit Card Daily Reconciliation Report we will provide to the customer.

The exchange rates charged by the credit card associations vary depending on the type of credit card used, industry, and category of the card. For example, Visa cards use different rates than MasterCard, and both Visa and MasterCard have different categories structured for a particular transaction within a given industry. We have arranged to obtain these authorizations as a cost plus agreement. This means the actual interchange and assessment fee will be charged plus a fee. Attached above are the fee's. Your total exchange rates will be based on the "SIC" code for your industry.

PRICING AND PROCESS E CHECK SERVICES

Electronic checks processed through the EBPP application will obtain authorizations through the processor (DCS/ ARISTA) as each end user enters valid bank routing information into the application. We will settle these transactions on a periodic basis and clear the funds into a master bank account. We will report to the customer the total \$ amount and total number of transactions that settled on a given day. An ACH transaction will be arranged to electronically deposit the e check funds to the bank account specified by the customer.

E-Check transactions will be deposited into the customer's bank on the 3rd business day after the payment transaction takes place. All deposit dates and dollar amounts are specified in an E-Check Daily Reconciliation Report we will provide to the customer.

E-Check transaction fees will be charged to the customer according to the above schedule.

E-Check Returns will be provided to the customer in an E-Check Daily Return Report and will be debited from the customer's bank account the next business day via an ACH transaction.



Graphite Payments, 52851 Camelot Ct. Shelby Township, MI 48315
Tel: 888.228.1011 Fax: 734.629.0580 www.graphitepayments.com

☐ NEW LOCATION ☐ OWNERSHIP CHANGE ☐ ADDITIONAL LOCATION			
ISO AGENT NAME <i>MARK AKERS</i>	REP CODE <i>DP361</i>	OFFICE USE ONLY	MERCHANT # <i>20</i>
ISO OFFICE PHONE <i>601-927-1487</i>	ISO OFFICE CODE <i>GPMK</i>	ASSOC	SIC CODE
		FAIR ISAAC SCORE	ANALYST

1 - MERCHANT INFORMATION

TYPE OF OWNERSHIP: ☐ SOLE PROPRIETOR ☐ PARTNERSHIP ☐ CORPORATION ☐ LLC ☐ NON-PROFIT ☒ OTHER: <i>UTILITY</i>		
NAME OF ACCOUNT (DOING BUSINESS AS)		EXACT LEGAL NAME
DBA ADDRESS (IF DIFFERENT FROM LEGAL)		LEGAL ADDRESS
CITY	STATE	ZIP
CITY	STATE	ZIP
CONTACT		TELEPHONE #
E-MAIL ADDRESS		FAX #
WEBSITE ADDRESS		FEDERAL TAX I.D. NUMBER

2 - MERCHANT BUSINESS PROFILE

MERCHANDISE/SERVICE SOLD <i>WATER USAGE - TRASH PICKUP</i>				LENGTH OF CURRENT OWNERSHIP <i>1</i>	PERCENT OF BUSINESS
YEARS IN BUSINESS <i>ONE</i>	# OF LOCATIONS <i>ONE</i>	MONTHLY VOLUME <i>\$ 25,000</i>	AVG TICKET AMOUNT <i>\$ 75.00</i>	HIGHEST TICKET AMOUNT <i>\$ 1000</i>	CARD SWIPED _____%
HAS MERCHANT OR ANY PRINCIPAL BEEN TERMINATED AS A VISA/MASTERCARD MERCHANT (TMF)? ☐ YES ☒ NO REASON:					MANUAL KEY WITH IMPRINT _____%
HAS MERCHANT OR ANY PRINCIPAL DISCLOSED BELOW FILED BANKRUPTCY OR BEEN SUBJECT TO ANY INVOLUNTARY BANKRUPTCY? ☐ YES ☒ NO REASON:					MAIL ORDER/TELEPHONE ORDER _____%
HAS MERCHANT PREVIOUSLY ACCEPTED CREDIT CARDS? YES ☐ NO ☒ IF YES, PLEASE PROVIDE COPIES OF MOST RECENT STATEMENT					TOTAL 100%
PROCESSOR: <i>NA</i>					REFUND POLICY: <i>NA</i>
DOES MERCHANT CONDUCT BUSINESS SEASONALLY? ☐ YES ☒ NO PLEASE CONTACT CUSTOMER SERVICE TO DEACTIVATE ACCOUNT DURING SEASONAL MONTHS					WHEN IS THE CARDHOLDER BILLED FOR PRODUCTS/SERVICES? ☐ ON ORDER ☐ SHIPMENT
DOES THE BUSINESS USE ANY THIRD PARTIES IN THE PAYMENT PROCESS? ☐ YES ☒ NO IF YES, PLEASE LIST:					DELIVERY OF PRODUCTS: ☐ TIME OF SALE ☐ 1-3 DAYS ☐ 3-5 DAYS ☐ 5-15 DAYS ☐ 15 DAYS+
DOES MERCHANT USE A FULFILLMENT HOUSE? ☐ YES ☒ NO					DETAILED BUSINESS DESCRIPTION: <i>WATER DEPARTMENT</i>
Each merchant certifies that the average ticket size, highest ticket and sales volume indicated is accurate and acknowledges any variance to this information could result in delayed and/or withheld settlement of funds and/or termination of merchant.					
FOR E-COMMERCE MERCHANTS ONLY					
SERVICE PROVIDER:					DOES YOUR SITE HAVE A SECURE CERTIFICATE? ☐ YES ☒ NO
LIST ALL APPLICABLE URL'S FOR YOUR WEBSITE:					IF E-COMMERCE, DO YOU USE A FULFILLMENT CENTER? ☐ YES ☒ NO
					IF YES, PLEASE LIST CONTACT INFORMATION:

3 - OWNERS/OFFICERS

PRINCIPAL #1		% OF EQUITY OWNERSHIP	PRINCIPAL #2		% OF EQUITY OWNERSHIP
SOCIAL SECURITY NUMBER	DATE OF BIRTH	TELEPHONE #	SOCIAL SECURITY NUMBER	DATE OF BIRTH	TELEPHONE #
RESIDENCE ADDRESS			RESIDENCE ADDRESS		
CITY	STATE	ZIP	CITY	STATE	ZIP

4 - BANKING INFORMATION

PLEASE INCLUDE A BANK LETTER OR VOIDED CHECK			
NAME OF MERCHANT'S BANK		CONTACT	BANK LOCAL TELEPHONE #
ROUTING/ABA #		DBA/CHECKING ACCOUNT	

5 - REFERENCES

TRADE REFERENCE	CONTACT	ACCOUNT #	TELEPHONE #
TRADE REFERENCE	CONTACT	ACCOUNT #	TELEPHONE #

6 - REQUESTED CARDS

Select cards you wish to apply for or all card types will be automatically applied for.

☒ VISA CREDIT ☒ VISA DEBIT ☒ DISCOVER® NETWORK CREDIT ☒ DISCOVER® NETWORK DEBIT ☐ EBT ☐ VOYAGER
☒ MASTERCARD CREDIT ☒ MASTERCARD DEBIT ☐ AMERICAN EXPRESS ☐ JCB ☐ DEBIT ☐ WRIGHT EXPRESS

7 - MERCHANT ACCOUNT RATES

MERCHANT TYPE: ☐ RETAIL ☐ RESTAURANT ☐ FUEL ☐ LODGING ☐ MOTO ☐ E-COMMERCE ☐ SUPERMARKET ☐ OTHER

SELECT ONE:

☐ 2 - TIER (MOTO/E-COMMERCE ONLY) RATE 1: _____ RATE 2: ~~RATE 1 + 1.64% + 10¢~~
☐ 3 - TIER RATE 1: _____ RATE 2: ~~RATE 1 + 1.44% + 10¢~~ RATE 3: ~~RATE 1 + 1.04% + 10¢~~
☐ 4 - TIER RATE 1: _____ RATE 2: _____ RATE 3: ~~RATE 2 + 1.11% + 10¢~~ RATE 4: ~~RATE 2 + 1.64% + 10¢~~
☐ IC PLUS INTERCHANGE, DUES & ASSESSMENTS + \$2.95 ¢ *PLEASE REFER TO THE TERMS AND CONDITIONS FOR THE RATE DESCRIPTIONS.

8 - TRANSACTION CHARGES

☐ VISA/MASTERCARD/DISCOVER® NETWORK SECTION 7 % + _____ ¢ ☒ BATCH \$ 0.35
☐ AMERICAN EXPRESS SET BY AMEX % + 25 ¢ ☒ VOICE AUTHORIZATION FEE \$ 1.75
☐ JCB N/A % + 25 ¢ ☒ CHARGEBACK FEE \$ 30.00
☐ PIN DEBIT ☒ INCLUDE NETWORK PASS-THROUGH N/A % + 38 ¢ ☒ RETRIEVAL REQUEST \$ 25.00
☐ EBT N/A % + _____ ¢ ☒ NSF FEE \$ 25.00
☐ DDA CHANGE FEE \$ 25.00

SPECIAL PETROLEUM CARD TYPES (WRIGHT EXPRESS SETUP REQUIRES ADDITIONAL PAPERWORK. A \$25.00 SETUP FEE PER LOCATION, PER SPECIAL CARD TYPE WILL BE ASSESSED)

☐ WRIGHT EXPRESS (WEX): SET BY WEX % + 20 ¢ ☐ VOYAGER: 3.5 % + 20 ¢

9 - SERVICE CHARGES

SERVICE FEES

☐ MONTHLY SERVICE FEE \$ _____
☐ MONTHLY MINIMUM \$ ~~_____~~
☐ DEBIT ACCESS FEE \$ _____

GRAPHITE MERCHANT PORTAL (GMP)

Online reporting through the Graphite Merchant Portal (GMP) is provided free of charge with your merchant account. The GMP provides online access to daily transaction history, settlements, deposits, fees, charge-backs, and end of month statements.

FREE

PAPER & SUPPLIES PROGRAM

Graphite Payments' paper & supplies program allows you to obtain a reasonable amount of processing supplies including printer paper and ribbons. This program is free for a 60 day trial period - thereafter at \$12.95 per month. For Harbortouch merchants, it is \$12.95 per month per system.

60 DAY TRIAL

10 - FREE EQUIPMENT PROGRAM

For complete terms and conditions, please see the attached agreement or ask your sales representative for more information.

☐ VERIFONE Vx510 TERMINAL
☐ NURIT 8320 TERMINAL
☐ HYPERCOM T4210/T4220 TERMINAL
☐ HYPERCOM T7PLUS TERMINAL
☐ NURIT 2085 TERMINAL
☐ NURIT 8000/8020 TERMINAL

11 - ECR PROGRAM (Do not fill out if selling/leasing ECR, complete account setup form only)

Merchant is required to have Graphite Payments' standard annual fee of \$79.00 for each ECR. The annual fee covers replacement of defective cash registers. Shipping charges are applicable for every shipment of an ECR (initial or replacement). Some merchants may be accepted into the ECR Program with a Security Fee to cover amounts owed at the termination of the Agreement. Please see terms & conditions for details.

☐ CASIO TK 1550 ☐ CASIO TE I500

NUMBER OF REGISTERS: _____

E-MAIL ADDRESS: _____

SHIPPING (PER REGISTER): ☐ GROUND \$25.00 ☐ 2ND DAY AIR \$51.50 ☐ NEXT DAY AIR \$76.95

12 - ONLINE GATEWAY & VIRTUAL TERMINAL SERVICE

☐ AUTHORIZE.NET

SETUP FEE (COLLECTED BY SALES AGENT) \$ _____

☐ OTHER: _____

GATEWAY ACCESS FEE \$ _____

E-MAIL ADDRESS: _____

PER TRANSACTION FEE \$ _____

13 - WIRELESS TERMINALS

Per terminal when applicable. SETUP FEE: \$ 35.00 MONTHLY FEE: \$ _____ TRANSACTION FEE: \$ _____

14 - MANUAL IMPRINTER

☐ YES If yes, the cost is \$35.00. Visa/MC regulations require an imprint for non-swipe transactions.

☐ NO, DO NOT WANT ONE By checking this box and initialing below, the merchant acknowledges that an imprint is required for non-swiped transactions.

15 - MEMBERSHIP PROGRAM

☒ MEMBERSHIP ENROLLMENT

A membership fee of \$79.00 per merchant number is billed within 30 to 60 days after this application has been approved and is debited directly from merchant's designated account. The membership covers notification and postage expenses plus account maintenance. Merchants participating in the Free Equipment Program (Section 10) are required to have a membership fee.

16 - CHECK SERVICES

CURRENT SERVICE PROVIDER

CURRENT RATE

CURRENT MONTHLY CHECK SALES

TOTAL MONTHLY CHECK LOSSES

\$

\$

\$

PLEASE SELECT CHECK CONVERSION PLUS OR STANDARD CHECK SERVICE (SEE TERMS AND CONDITIONS FOR DETAILS)

☐ CHECK CONVERSION PLUS (MAXIMUM APPROVAL LIMIT OF \$1,000.00)

SELECT ENHANCEMENT PACKAGE:

☐ ENHANCEMENT PACKAGE #1 (INCLUDES BUSINESS CHECKS) \$5.00/MONTH
☐ ENHANCEMENT PACKAGE #2 (INCLUDES STOP PAYMENT CHECKS) \$10.00/MONTH

*SCOUNT RATE

CHECK IMAGER ☐ YES ☐ NO

☐ STANDARD CHECK SERVICE (MAXIMUM APPROVAL LIMIT OF \$1,000.00)

SELECT PREMIUM:

☐ MULTIPLE CHECK PREMIUM \$0.02/TRANSACTION
☐ STOP PAYMENT PREMIUM \$0.02/TRANSACTION
☐ ENHANCEMENT PACKAGE (INCLUDES ALL PREMIUMS) \$5.00/MONTH

DISCOUNT RATE

STANDARD FEES: TRANSACTION FEE: \$0.25/TRANSACTION, SUBSCRIPTION FEE: \$10.00/MONTH, MONTHLY MINIMUM FEE: \$30.00/MONTH,
RETURNED ITEM FEE: \$3.00/ITEM, CHARGEBACK FEE: \$25.00/ITEM, CANCELLATION FEE: \$199.00

X BY INITIALING HERE, I AGREE TO THE ABOVE: _____

Merchant Initials: _____

17 - FREE GIFT CARD ENROLLMENT

By choosing this option, I understand that I will be enrolled in a 60 day trial gift card program and will receive 50 free customized gift cards, 50 gift card sleeves with envelopes, a window decal, an acrylic display stand with insert and two register decals. Merchant will receive an email with a link to customize and order their 50 free cards using the Online Wizard.

☐ YES! PLEASE ENROLL ME IN GRAPHITE PAYMENTS' GIFT CARD PROGRAM AND SEND ME 50 FREE CUSTOM GIFT CARDS

GIFT CARDS WILL APPLY TO MULTIPLE LOCATIONS

ADDRESS OF MAIN LOCATION:

During the 60 Day Trial, merchant will pay no monthly fees or cost for the 50 Free Gift Card Package or the service. After the 60 day trial, merchant will be assessed a monthly gift card service fee of \$9.95. A per-item fee of \$0.15 will apply for each gift card transaction, inquiry attempt, activation or decline. For multiple locations, the main location will be billed the monthly and transaction fees for all linked accounts.

18 - HARBORTOUCH POS SYSTEMS

LOWER 48 STATES: SHIPPING (PER BASE PACKAGE): ☐ GROUND - \$25.00 ☐ 2ND DAY AIR - \$51.50 ☐ NEXT DAY AIR - \$76.95
SHIPPING (PER ADDITIONAL ACCESSORY): ☐ GROUND - \$11.00 ☐ 2ND DAY AIR - \$26.00 ☐ NEXT DAY AIR - \$39.00

ALASKA & HAWAII: SHIPPING (PER BASE PACKAGE): ☐ GROUND - \$115.00 ☐ 2ND DAY AIR - \$139.00
SHIPPING (PER ADDITIONAL ACCESSORY): ☐ GROUND - \$57.00 ☐ 2ND DAY AIR - \$75.00

Harbortouch Account Setup Form and signed Service Agreement are required to establish a Harbortouch POS account. Service Agreement lists monthly equipment service fees. A \$59.00 quarterly software support fee also applies per POS system. Shipping charges will be assessed on the first monthly statement after account approval. Additional equipment may incur additional shipping charges.

19 - AMERICAN EXPRESS

By signing below, I represent that the information I have provided on the application is complete and accurate and I authorize American Express Travel Related Services Company, Inc. ("American Express") to verify the information on this Application and to receive and exchange information about me, including, requesting reports from consumer reporting agencies. If I ask American Express whether or how a consumer report was requested, American Express will tell me, and if American Express received a report, American Express will give me the name and address of the agency that furnished it. I understand that upon American Express' approval of the business entity indicated above to accept the American Express Card, the Terms and Conditions for American Express Card Acceptance ("Terms and Conditions") will be sent to such business entity along with a Welcome Letter. By accepting the American Express card for the purchase of goods and/or services, you agree to be bound by the Terms and Conditions.

20 - DISCLAIMER

MERCHANT has indicated which additional optional services as outlined in Sections 10 through Section 14 on the previous page it is requesting. MERCHANT agrees that FNBO is not a party to any agreement for the optional services and any such agreement is strictly between MERCHANT and the company providing the service. MERCHANT must be approved by each company and each company may send its terms and conditions to the address of MERCHANT indicated herein upon such approval. MERCHANT agrees to be bound by such company's terms and conditions.

21 - FUNDS TRANSFER AUTHORIZATION (ATTACH VOIDED CHECK OR BANK LETTER)

FNBO is authorized to perform such functions under the Terms and Conditions, for the purposes set forth in the Terms and Conditions.

22 - SITE SURVEY REPORT

MERCHANT LOCATION: ☐ RETAIL LOCATION WITH STOREFRONT ☒ OFFICE BUILDING ☐ RESIDENCE ☐ OTHER:

WHOM DOES THE MERCHANT LEASE FROM? NAME: TELEPHONE NUMBER:

SQUARE FOOTAGE: ☐ 0-250 ☐ 251-500 ☐ 501-2000 ☒ 2000+ THE MERCHANT: ☒ OWNS ☐ LEASES THE BUSINESS PREMISES PHOTOS ATTACHED? ☐ YES ☒ NO

DOES THE AMOUNT OF INVENTORY AND MERCHANDISE ON SHELVES APPEAR TO BE CONSISTENT WITH THE TYPE OF BUSINESS? ☒ YES ☐ NO

FURTHER COMMENTS BY INSPECTOR (MUST BE COMPLETED):

I hereby verify that this application has been fully completed by merchant and that I physically inspected the business premises of the merchant at this address and the information stated above is true and correct to the best of my knowledge and belief. Any misrepresentation may result in losses and/or liabilities.

AGENT SIGNATURE: Mark Akers AGENT NAME (PLEASE PRINT): MARK AKERS SALES REP ID: DP361 DATE: 9-21-16

23 - PERSONAL GUARANTEE (NO TITLES)

GUARANTY: This general, absolute, and unconditional continuing Guaranty ("GUARANTY") by the undersigned (collectively "GUARANTOR" or "my" or "I" or "me"), is for the benefit of First National Bank of Omaha and SPC, Inc. (collectively referred to as "FNBO"). For value received, and in consideration of the mutual undertakings contained in the merchant transaction processing agreement and allied agreements ("AGREEMENT") between FNBO and ("MERCHANT") as set forth below, I absolutely and unconditionally guarantee the performance of all MERCHANT'S obligations to FNBO, together with all costs, expenses, and attorney's fees incurred by FNBO in connection with any actions, inactions, or defaults of MERCHANT. I waive any right to require FNBO to proceed against other entities or MERCHANT. There are no conditions attached to the enforcement of this GUARANTY. I authorize FNBO, its agents or assigns to make from time to time any personal credit or other inquiries and agree to provide, at FNBO's request, financial statements and/or tax returns. I agree that this GUARANTY shall be governed and construed in accordance with the laws of the state of Nebraska, and that the courts of the state of Nebraska shall have and be vested with personal jurisdiction over me. This continuing GUARANTY shall remain in effect until one hundred eighty (180) days after receipt by FNBO of written notice by me terminating or modifying the same. The termination of AGREEMENT or GUARANTY shall not release me from liability with respect to any obligations incurred before the effective date of termination. No termination of this GUARANTY shall be effected by any change in my legal status or any change in the relationship between MERCHANT and me. This GUARANTY shall bind and inure to the benefit of the personal representative, heirs, administrators, successors and assigns of GUARANTOR and FNBO.

AGREED AND ACCEPTED

MERCHANT LEGAL NAME

X PRINCIPAL #1 FROM APPLICATION - SIGNATURE DATE PRINCIPAL #2 FROM APPLICATION - SIGNATURE DATE

PRINT NAME

PRINT NAME

24 - SIGNATURES

By their execution hereof, the undersigned parties hereby agree to the terms and conditions of the documents, agreements and rules which are included herein. The "agreement" consists of the merchant application, terms and conditions, and the rate descriptions and the merchant acknowledges receipt of same. Merchant warrants that the information provided on the application is complete and accurate. Merchant authorizes FNBO to provide a copy of this application to any third party for the services requested. Merchant, and its signing officer/owner/partner, authorize FNBO, or its agents or assigns, to make, from time to time, any business and personal credit and other inquiries.

If the AGREEMENT is terminated early during the INITIAL TERM or any RENEWAL TERM for any reason other than set out in paragraph 5.1, 5.2.A or 5.2.B, MERCHANT agrees to pay Graphite Payments an early termination fee ("EARLY TERMINATION FEE") of two hundred fifty dollars (\$250) or thirty five dollars (\$35) multiplied by the number of months remaining in the merchant agreement (whichever is greater) per Merchant Identification Number ("MID"). MERCHANT agrees that this fee is not a penalty, but rather a reasonable estimation of the actual damages Graphite Payments would suffer if Graphite Payments were to fail to receive the processing business for the then current term. MERCHANT agrees that the EARLY TERMINATION FEE shall also be due to Graphite Payments if MERCHANT discontinues submitting SALES for processing during the INITIAL TERM or any RENEWAL TERM of the AGREEMENT. Paragraph references and capitalized terms not defined in this paragraph are defined in the Terms and Conditions. Designated Cancellation Forms must be faxed to Graphite Payments.

In witness whereof the parties hereto have caused this agreement to be executed by their duly authorized representatives effective on the date signed or approved by FNBO.

PRINT LEGAL NAME OF MERCHANT BUSINESS

X Rosemary G. Aultman 9-21-16
PRINCIPAL #1 FROM APPLICATION - SIGNATURE DATE
Rosemary G. Aultman Mayor
PRINT NAME TITLE

X ACCEPTED BY GRAPHITE PAYMENTS X ACCEPTED BY FIRST NATIONAL BANK OF OMAHA

25 - SPECIAL INSTRUCTIONS



Tel: 888.228.1011
Fax: 734.629.0580
www.graphitepayments.com

FREE EQUIPMENT ADDENDUM

Merchants participating in the ("Equipment Program") will receive a credit card machine ("Terminal") free of charge. This program will be defined as zero cost rental for the term and any subsequent renewal periods. Merchant agrees that the Terminal is the property of the PROCESSOR and must be returned within 30 days post termination of this agreement. Merchant further agrees that in the event that the terminal is not returned to PROCESSOR, or is returned in damaged or otherwise inoperable condition, a replacement penalty will be charged.

EQUIPMENT

- | | | | |
|--|-------------------------------------|-------------------------------------|--|
| ☐ Verifone Vx510 | ☐ Nurit 2085 | ☐ Nurit 8020 | ☐ eN Check 2500 |
| ☒ Hypercom T4210/T4220 | ☐ Nurit 8320 | Activation Fee: \$35.00 | Must submit a signed |
| ☐ Hypercom T7Plus | ☐ 8500X | Monthly Service Fee: \$19.95 | CrossCheck service agreement |
| | | Wireless Transaction Fee: \$0.05 | for check guarantee |

SHIPPING INFORMATION

- ☒ Ground Shipping - Free ☐ 2nd Day Air - \$20.00 ☐ Next Day Air - \$35.00

Business Name: _____ Mid: _____

Owner Name: _____

Address: _____

City: _____ State: _____ ZIP: _____

Tel: _____ Fax: _____

E-mail: _____

PAYMENT INFORMATION

- ☐ ACH (ISO only, subject to approval) ☐ Credit Card

Credit Card Number: _____ Exp. Date: _____ CVV2: _____

Signature: _____

Merchant Signature: Rosemary G. Aultman Date: 8-21-11

FREE EQUIPMENT PROGRAM

Assumption: Merchants who participate in the Equipment Program. PROCESSOR will provide a zero cost rental of a Lipman 8320 terminal, or the equivalent, ("Terminal") to the merchant.

- Merchant understands and agrees that the Terminal is property of the PROCESSOR and must be returned within 30 days post termination of this Agreement. In addition, the terms of the Merchant Agreement and the new \$79.00 annual fee apply to the Free Equipment Program.
- Merchant will be responsible for any damages to the Terminal as the result of negligence or misuse ("inoperable"). If merchant fails to return Terminal or delivers it in inoperable condition, Merchant will be charged a replacement penalty of four hundred and fifty dollars (\$450). Merchant further agrees that any products included in the Equipment Program, check reader, pin-pad or any other applicable device or software ("Accessories") included in the zero cost rental, must be returned within 30 days post termination of this agreement. PROCESSOR reserves the right to share replacement penalties on any and all Terminals or Accessories not returned within this designated time frame.
- Merchant expressly agrees and understands that Terminal must be exclusively used in conjunction with the credit card processing and related services under this agreement.
- In the event merchant enters into default or repeatedly violates any of the terms and/or conditions of this Agreement, PROCESSOR may immediately terminate this agreement and demand immediate return of any applicable Terminals and/or Accessories used in conjunction with the Equipment Program.

The terms stated above are a summary of the provisions associated with the Free Equipment Program. Please refer to the Terms and Conditions for complete set of terms.

GRAPHITE PAYMENTS
52851 Camelot Ct.
Shelby Township, MI 48315
Tel: 888.228.1011
Fax: 734.629.0580
www.graphitepayments.com



MERCHANT APPLICATION

VISA DISCLOSURE

MEMBER BANK (ACQUIRER) INFORMATION

ACQUIRER NAME: First National Bank of Omaha

ACQUIRER ADDRESS: 1620 Dodge Street, Omaha, NE 68197

ACQUIRER PHONE: (402) 633-2900

IMPORTANT MEMBER BANK (ACQUIRER) RESPONSIBILITIES

1. A Visa Member is the **only entity** approved to extend acceptance of Visa products directly to a Merchant.
2. A Visa Member must be a principal (signer) to the Merchant Agreement.
3. The Visa Member is responsible for educating Merchants or pertinent Visa Operating Regulations with which Merchants must comply.
4. The Visa Member is responsible for and must provide settlement funds to the Merchant.
5. The Visa Member is responsible for all funds held in reserve that are derived from settlement.

MERCHANT INFORMATION

MERCHANT NAME: _____

MERCHANT ADDRESS: _____

MERCHANT PHONE: _____

IMPORTANT MERCHANT RESPONSIBILITIES

1. Ensure compliance with cardholder data security and storage requirements.
2. Maintain fraud and chargebacks below thresholds.
3. Review and understand the terms of the Merchant Agreement.
4. Comply with Visa Operating Regulations.

The responsibilities listed above do not supercede terms of the Merchant Agreement and are provided to ensure the Merchant understands some important obligations of each party and that the Visa Member (Acquirer) is the ultimate authority should the Merchant have any problems.

X Rosemary G. Cuetner 9-21-11
MERCHANT'S SIGNATURE DATE MERCHANT'S NAME AND TITLE

ACCOUNT SETUP FORM



Tel: 888.228.1011
Fax: 734.629.0580
www.graphitepayments.com

MERCHANT DBA:	
MID:	
OFFICE ID:	CPmak

PLEASE CHECK OFF THE APPROPRIATE BOX (REQUIRED): ☐ OPTION 1 ☒ OPTION 2

If no option is checked off, the account will default to Option 1.

1. TERMINAL FEATURES

☐ RETAIL	☐ RESTAURANT	☐ LODGING	☐ MOTO	☐ EXPRESS PAY	☐ PAY-AT-PUMP
☐ DEBIT	☐ CASHBACK:	☐ TIP LINE	☐ SERVER #:	☒ INVOICE #:	
☐ CVV2	☐ EBT (FCS ID):	☐ CASH BENEFITS ONLY	☐ PBX #:	☐ LEVEL 2 PROMPTS	
☐ CONTACTLESS	☐ REVERSE PIP (HYPERCOM ONLY)	☐ IP	AUTOBATCH	☐ YES	☒ NO

EXISTING AMERICAN EXPRESS NUMBER: _____

2. EQUIPMENT INFORMATION

ELECTRONIC CASH REGISTER: ☐ TK-1550 (RESTAURANT) ☐ TE-1500 (RETAIL) ☐ FREE PLACEMENT ☐ SALE ☐ LEASE

MERCHANT'S E-MAIL ADDRESS: _____

NURIT: ☐ 2085 ☐ 2085+ ☐ 8320 ☐ 8000/8020 ☐ PIN PAD-222 ☐ OTHER:

VERIFONE: ☐ TRANZ 330 ☐ TRANZ 380 ☐ TRANZ 460 ☐ P-250 ☐ P-900 ☐ OMNI 3200 ☐ PIN PAD 1000

☐ Vx510 DUAL COMM ☐ OMNI 3740/3750 ☐ OMNI 3730LE ☐ OTHER:

HYPERCOM ☐ T4210 (DIAL) ☐ T4220 (IP)

WAY SYSTEMS: ☐ MTT 1510 ☐ OPTIONAL PRINTER

COMSTAR: ☐ RIM 950 ☐ OPTIONAL PRINTER

CHECK READERS: ☐ eN CHECK 2500 ☐ MAGTEK MINI MICR ☐ IVI 3000 ☐ RDM IMAGER

CONTACTLESS READERS: ☐ VIVOPAY 4000 ☐ CAT 5 CABLE ☐ COUPLER ☐ COUNTERTOP STAND

SOFTWARE: ☐ PC CHARGE ☐ PC CHARGE EXPRESS ☐ PC CHARGE PRO

GATEWAYS: ☐ AUTHORIZE.NET ☒ OTHER: EPN

OTHER: _____

3. ORDER INFORMATION

PRODUCT TYPE	NEW OR REFURB	QUANTITY	AMOUNT
HyperComm 4210	NEW		FREE
MAGTEK SWIPERS	NEW		

INSTALLATION AND TRAINING WILL BE PERFORMED BY: ☐ GRAPHITE TECH ☐ ISO

PREFERRED DATE: _____ TIME: _____

SALES TAX: _____

SHIPPING: _____

TOTAL: _____

APPLICATION FEE: _____

INSTALLATION & TRAINING: _____

GRAND TOTAL: _____

4. PAYMENT INFORMATION

☐ ACH (ISO ONLY, SUBJECT TO APPROVAL)	BILL TO: ☐ ISO
☐ LEASE SPLIT FUND	
☐ CREDIT CARD	CREDIT CARD NUMBER _____ EXPIRY _____ CVV2 _____
☐ N/A	CARDHOLDER SIGNATURE: _____

5. SHIPPING INFORMATION

☒ N/A

SHIP TO: ☐ ISO ☒ MERCHANT ☐ OTHER

☐ NEXT DAY ☐ SECOND DAY ☒ GROUND

NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

TELEPHONE: _____

6. OTHER

FREE STRUCTURE \$2.95 UP TO \$150

\$6.95 FROM \$151 - \$300

\$9.95 FROM \$301 - \$600

Merchant has read carefully and agrees to all the terms, conditions and payment terms set forth herein. Merchant hereby authorizes Graphite Payments, its designee, successor and assignee to initiate payment in the manner indicated above. Furthermore, Merchant authorizes its Bank to accept and to charge any ACH debit entries initiated by Graphite Payments to its account (see voided check). This authorization is to remain in full force and effect until Graphite Payments has received written notice from Merchant of its termination in such time and in such manner as to afford Graphite Payments a reasonable opportunity to act.

Rosemary A. Chetman MERCHANT SIGNATURE Thayer MERCHANT NAME 9-21-11 DATE

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CLINTON COMMUNITY NATURE CENTER
AND THE
CITY OF CLINTON**

This Memorandum of Understanding (MOU) is made and entered into by and between the Clinton Community Nature Center, a 501(c)3 nonprofit organization (hereafter CCNC), and the City of Clinton (hereafter City).

Now therefore, for and in consideration of the premises and agreements of the parties as hereafter contained, the CCNC and the City mutually enter into this Memorandum of Understanding.

Article I: Background

The CCNC and the City own abutting property within the City of Clinton. The property of the CCNC adjoins the Quisenberry Library property owned by the City. Both CCNC and the City have provided trails for walking and other activities. Currently the trails do not interconnect. To improve utilization of both sets of trails, the CCNC and the City desire to construct an entrance from the Quisenberry Library property to the CCNC property. To accomplish this joint project, the CCNC will provide permanent and temporary easements to the City onto CCNC's property to allow construction of a wooden structure connecting the CCNC trails with the Quisenberry Library trails.

Article II: Scope of the Work by the City

The City will construct a lockable gate in the fence along the property line of the City-CCNC property. The City will construct a wooden structure substantially of the dimensions shown in Exhibit "A", attached hereto. The structure is necessary because of

the contour of the land to allow passage from one property to the other. The City will construct and maintain the structure at City expense.

Article III: Responsibility of CCNC

The CCNC will permit the City to construct the structure shown in Exhibit "A" by granting the City a permanent easement of approximately 0.024 acres, more or less, plus a temporary easement as required by the City to construct the structure. The temporary easement will be 15 feet wide and parallel to the sides of the proposed structure shown in Exhibit "A". The temporary easement will exist for 90 days following the execution of this MOU. At any time subsequent to the construction of the structure shown in Exhibit "A" when maintenance or repair to the structure is required to be performed by the City, upon written request by the City to CCNC, the temporary easement will be reestablished for up to 30 days for the sole purpose of maintenance and/or repair of the structure.

Article IV: Joint Responsibility of the CCNC and the City

The CCNC and the City will each enact necessary and convenient rules for use of the trails on its respective property. CCNC will be responsible for locking and unlocking the gate between the properties at the hours CCNC sets for opening and closing the trails located on its property. A duplicate key will be provided to the City's Public Works Department.

Each party will be responsible for the maintenance and safety of the trails on its own property.

Each party shall keep in force such insurance as determined by its respective governing body.

Article V: Notice and Designated Agents

For the purposes of this MOU with regard to notice, the following designated individuals are herewith designated as agents for the respective parties:

CCNC
Executive Director
and/or President
617 Dunton Road
Clinton, MS 39056
Phone (601) 926-1104
FAX (601) _____

City of Clinton
Mayor
City of Clinton
P. O. Box 156
Clinton, MS 39060
Phone (601) 925-6103
FAX (601) 925-4605

Notice may be given by U.S. Certified Mail, return receipt requested, by facsimile or by hand delivery. Notice shall be effective upon delivery to the addressee as set out above. Changes to the above addresses may be made by providing notice to the other party and will become effective upon acknowledgement by the other party.

Article VI: Responsibilities for Claims and Liability

To the extent permitted by law, the CCNC and the City agree that neither party nor their agents, employees, contractors or subcontractors, will be held liable for any claim, loss, damage, cost, charge or expenditure arising out of any negligent act, actions, neglect or omission caused solely by the other party, its agents, employees, contractors or subcontractors.

Article VII: Miscellaneous

No modification of this Memorandum of Understanding shall be binding unless such modification shall be in writing and signed by all parties. If any provision of this Memorandum of Understanding shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Memorandum of Understanding is invalid or

unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

Article VIII: Assignment

Neither party shall assign its rights, privileges, responsibilities or obligations under this MOU.

Article IX: Duration

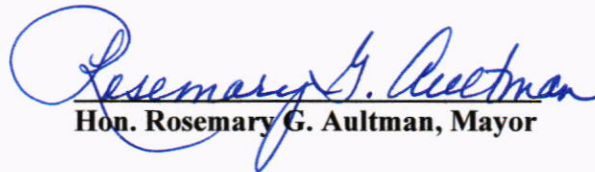
This MOU will expire on December 31, 2020, unless renewed or extended by the parties.

Article X: Authority to Contract

By executing this Memorandum of Understanding both parties hereto represent that they have authority to enter into this Memorandum of Understanding.

So agreed this the 20th day of SEPTEMBER, 2011.

City of Clinton


Hon. Rosemary G. Aultman, Mayor

Attest: 
City Clerk



So agreed this the 8th day of September, 2011.

Clinton Community Nature Center

Bill Quisenberry

By: **Bill Quisenberry**

President of the Board of Trustees

**STATE OF MISSISSIPPI
COUNTY OF HINDS**

PERSONALLY APPEARED BEFORE ME, the undersigned Notary Public in and for the aforesaid jurisdiction, the within named BILL QUISENBERRY, who acknowledge that he is the PRESIDENT of the Clinton Community Nature Center and that for and on behalf of the Clinton Community Nature Center, signed and delivered the foregoing Agreement as of the date hereof, after having been duly authorized so to do.

8th IN WITNESS WHEREOF, I hereunto set my hand and official seal, this the day of September, 2011.

Julie B. Walker
NOTARY PUBLIC

My commission expires:



**STATE OF MISSISSIPPI
COUNTY OF HINDS**

PERSONALLY APPEARED BEFORE ME, the undersigned Notary Public in and for the aforesaid jurisdiction, the within named ROSEMARY AULTMAN and RUSSELL WALL to me known, who acknowledge that they are the Mayor and City Clerk respectively of the City of Clinton, Mississippi, and that for and on behalf of Clinton, Mississippi, signed and delivered the foregoing Agreement as of the date hereof, after having been duly authorized so to do.

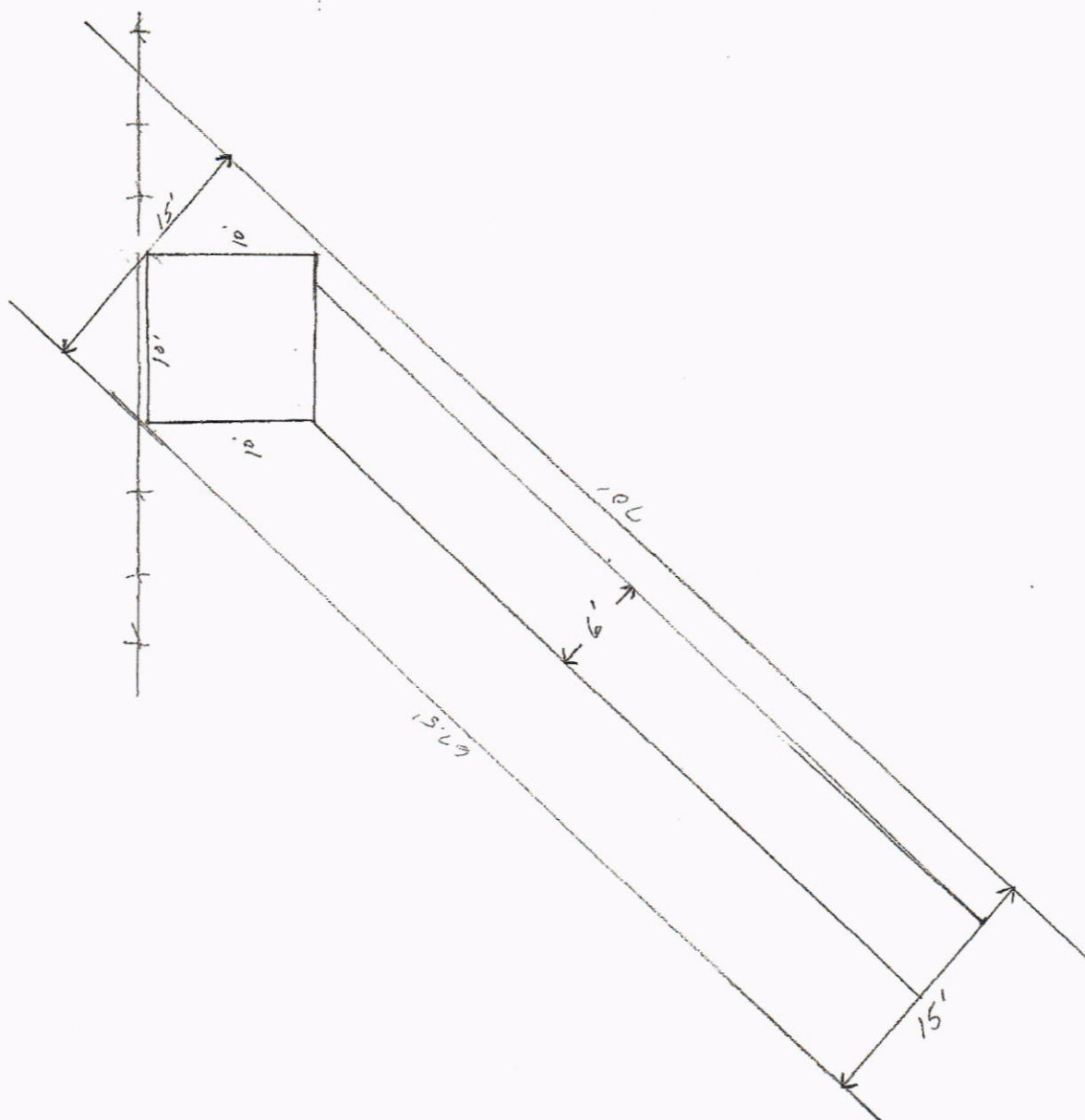
20th IN WITNESS WHEREOF, I hereunto set my hand and official seal, this the day of September, 2011.



My commission expires:

Jackie K. Barnett
NOTARY PUBLIC

$1'' = 10'$



PRELIMINARY ENGINEERING SERVICES CONTRACT

***Roadway, Pedestrian and Intersection Improvements along
Arrow Drive between Clinton High School and Cynthia Road
Project No. STP-7357-00(001)/ 106212-701000
Hinds County***

THIS CONTRACT, is made and entered into by and between the ***City of Clinton***, a body Corporate of the State of Mississippi (the "LPA"), and, ***ABMB Engineers, Inc.*** (the "CONSULTANT"), a ***Louisiana*** Corporation, duly registered to do business in the State of Mississippi, whose address for mailing is ***200 N. Congress Street, Jackson, Mississippi, 39201***, effective as of the date of latest execution below.

WITNESSETH:

WHEREAS, the LPA proposes to perform ***survey, design and plan development for Roadway, Pedestrian and Intersection Improvements along Arrow Drive between Clinton High School and Cynthia Road***, as provide for in Project No. ***STP-73157-00(001)/ 106212-701000***, hereinafter called the "PROJECT"; and,

WHEREAS, the LPA desires to engage a qualified and experienced CONSULTANT to perform engineering services in connection with the PROJECT, all of which are hereinafter called the "SERVICES"; and,

WHEREAS, the CONSULTANT has represented to the LPA that it is experienced and qualified to provide those services, and the LPA has relied upon such representation; and,

WHEREAS, the CONSULTANT herein was chosen for their expertise in performing the services in connection with the PROJECT and found satisfactory by the LPA; which is now desirous of entering into a contract;

WHEREAS, the CONSULTANT herein was chosen through the Consultant Selection Process pursuant to Mississippi Department of Transportation (hereinafter "MDOT") Standard Operating Procedure ADM-24-01-00-000; (March 1, 2001, as amended) and Federal Aid Policy Guide Part 172 and found satisfactory; to the end that both parties are now desirous of entering into a contract; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein and for other good and valuable considerations flowing unto the parties, the receipt and sufficiency of which is hereby acknowledged, the LPA and the CONSULTANT do hereby contract and agree as follows:

ARTICLE I. GENERAL RECITALS

CONSULTANT shall, for the agreed fees, furnish all engineering services and materials required to perform the tasks described in the Scope of Work for the proposed transportation project. In so doing, CONSULTANT shall meet the current industry standards as to general format and content and in addition thereto, any special requirements of the LPA.

THE LPA, in support of CONSULTANT will provide the CONSULTANT a Scope of Work shown in "Exhibit 2" hereto and any other data which may be of assistance to CONSULTANT and within the possession and control of the LPA.

Manuals, guides, and specifications applicable to this CONTRACT shall be those approved and/or adopted by MDOT and in effect on the effective date of this CONTRACT, unless otherwise specified in this Contract or subsequently directed by MDOT during the course of the CONTRACT.

ARTICLE II. SCOPE OF WORK

The CONSULTANT shall conduct the SERVICES in accordance with the Scope of Work attached to this CONTRACT as "Exhibit 2" and made a part hereof as if fully set forth herein. The performance of the SERVICES referred to in "Exhibit 2" shall be the primary basis for measurement of performance under this CONTRACT. The LPA specifically reserves the right and privilege to enlarge or reduce the scope; or to cancel this CONTRACT at any time.

ARTICLE III. CONTRACT TERM

This CONTRACT shall commence upon the latest date of execution below and continue until such time as the above named project is successfully completed to the satisfaction of the LPA.

During the term of this CONTRACT, the LPA reserves the right to terminate this CONTRACT in whole or in part, at any time, with or without cause, upon seven (7) days written notice to the CONSULTANT, notwithstanding any just claims by the CONSULTANT for payment of SERVICES rendered prior to the date of termination. The LPA shall be liable only for the costs, fees and expenses for demobilization and close out of contract, based on actual time and expenses incurred by CONSULTANT in the packaging and shipment of all documents covered by this CONTRACT to the LPA. In no event shall the LPA be liable for lost profits or other consequential damages.

ARTICLE IV. TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS CONTRACT. The CONSULTANT shall be prepared to perform its responsibilities for providing SERVICES commencing on the date of execution of the CONTRACT.

The CONSULTANT has submitted a proposed project schedule to the LPA which has been incorporated herein as a part of "Exhibit 2", which when approved by final execution of this CONTRACT shall control the evaluation of the CONSULTANT's progress on this PROJECT. A copy of the progress schedule, indicating the actual time expended on specific portions of this project, shall be submitted along with an estimated percentage completed with each monthly statement.

A Notice to Proceed shall be issued under authority from the LPA within 30 days after final execution of this CONTRACT. The CONSULTANT may not begin work on any feature of this PROJECT prior to receiving a Notice to Proceed from the LPA.

ARTICLE V. RELATIONSHIP OF THE PARTIES

The relationship of the CONSULTANT to the LPA is that of an independent contractor, and said CONSULTANT, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the LPA by reason hereof. The CONSULTANT will not by reason hereof, make any claim, demand or application or for any right or privilege applicable to an officer or employee of the LPA, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

All notices, communications, and correspondence between the LPA and the CONSULTANT shall be directed to the key personnel and agents designated in this contract.

ARTICLE VI. COMPENSATION, BILLING & AUDIT

A. Cost and Fees

The CONSULTANT shall be paid on the basis set forth in "Exhibit 3" to this CONTRACT. Under no circumstances shall the LPA be liable for any amounts, including any costs, which exceed the maximum dollar amount of compensation that is specified in and set forth in "Exhibit 3".

B. Monthly Billing

The CONSULTANT may submit monthly billing to the LPA. (A sample of a preferred invoice is attached as "Exhibit 4".) Each billing shall include all time and allowable expenses through the end of the billing period. Direct expenses, as used herein, include the costs of travel, subsistence, shipping charges, long distance telephone calls and printing if it is not company accounting policy to include these costs in overhead rates. The LPA retains the right to verify time and expense records by audit of any or all CONSULTANT's time and accounting records at any time during the life of the CONTRACT and up to three years thereafter.

If SERVICES are rendered within a given State fiscal year, an invoice requesting payment from the CONSULTANT shall be presented to the LPA within 60 days of the end of the State fiscal year. **Should the CONSULTANT fail to present the invoice within the allotted time, legislative approval may be required before payment can be rendered.**

The CONSULTANT further agrees that FHWA or any other Federal Agency may audit the same records at any time during the life of the CONTRACT and up to three years thereafter, should the funding source for all or any part of the CONTRACT be funds of the United States of America.

C. Record Retention

The CONSULTANT shall maintain all time and expense records incurred on the PROJECT and used in support of its proposal and shall make such material available at all reasonable times during the period of the CONTRACT and for three years from the date of final payment under this CONTRACT for inspection by the LPA, and copies thereof shall be furnished upon request, at the LPA's expense. The CONSULTANT agrees that the provisions of this Article shall be included in any CONTRACT it may make with any subcontractors, assignees or transferees.

D. Retainage

The LPA shall retain the final 25% of the CONSULTANT's Fixed Fee until the final payment request has been received and an audit of the total PROJECT cost to date has been completed by the LPA or its designee.

ARTICLE VII. FINAL PAYMENT

The CONSULTANT shall clearly indicate on its last Invoice for the CONTRACT that the Invoice is "FINAL". The LPA will confirm that the CONTRACT is ready to be closed and the "FINAL" Invoice may be paid. All "FINAL" invoices shall pay any retainage withheld on the CONTRACT. However, under no circumstances will the total amount paid exceed the maximum not to exceed amount established for the CONTRACT. The CONSULTANT agrees that acceptance of the final payment shall be in full and final settlement of all claims arising against the LPA for work done, documents furnished, cost incurred, or otherwise arising out of this CONTRACT and shall release the LPA from any and all further claims of whatever nature, whether known or unknown, for and on account of said CONTRACT, including payment for any and all work done, and labor and material furnished in connection with the same. Errors and/or omissions discovered subsequent to the acceptance by the LPA of the final contract documents shall be corrected by the CONSULTANT without additional compensation. The CONSULTANT shall submit their "FINAL" invoice no later than 45 days following termination of the CONTRACT.

ARTICLE VIII. REVIEW OF WORK

Authorized representatives of the LPA may at all reasonable times review and inspect the SERVICES under this CONTRACT and any addenda or amendments thereto. Authorized representatives of the FHWA may also review and inspect the SERVICES under this CONTRACT should funds of the United States of America be in any way utilized in payment for said SERVICES. Such inspection shall not make the United States of America a party to this CONTRACT, nor will FHWA interfere with the rights of either party hereunder.

All reports, drawings, studies and maps prepared by and for the CONSULTANT, shall be made available to authorized representatives of the LPA for inspection and review at all reasonable times in the General Offices of the LPA. Authorized representatives of the FHWA may also review and inspect said reports, drawings, studies and maps prepared under the CONTRACT should funds of the United States of America be in any way utilized in payment for the same. Acceptance by the LPA shall not relieve the CONSULTANT of its professional obligation to correct, at its expense, any of its breaches, errors and/or omissions, in the final version of the work.

The CONSULTANT shall be responsible for performance of and compliance with all terms of this CONTRACT, including the Scope of Work and other exhibits, and including any technical specifications and special requirements of the LPA, and shall be responsible for errors and/or omissions, including those as to conduct and care, format and content, for all aspects of the CONTRACT, and including professional quality and technical accuracy of all designs, drawings, specifications, and other services furnished by the CONSULTANT.

Failure to comply with any terms of this CONTRACT shall be corrected by the CONSULTANT without additional compensation.

If any breach of CONTRACT, is discovered by LPA personnel after final acceptance of the work by the LPA, then the CONSULTANT shall, without additional compensation, cure any deficiency or breach including errors and/or omissions in designs, plans, drawings, specifications, or other services.

In the event that the project schedule requires that a breach of this CONTRACT be corrected by someone other than the CONSULTANT then the actual costs incurred by the LPA for such corrections shall be the responsibility of the CONSULTANT. The LPA shall give the CONSULTANT an opportunity to correct said breach unless (1) the LPA determines, in its sole discretion, that the CONSULTANT cannot cure the breach within the schedule established by the LPA, or (2) the LPA determines, in its sole discretion, that the CONSULTANT cannot cure the breach to the satisfaction of the LPA.

In the event that the CONSULTANT breaches this CONTRACT, and the breaches of the CONSULTANT are discovered during the construction phase, then an accounting of all costs incurred by the LPA resulting from such breach, including errors and/or omissions, will be made and such amount will be recovered from the CONSULTANT.

ARTICLE IX. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

The CONSULTANT shall indemnify, defend and hold harmless the LPA and all its officers, agents and employees from any claim, loss, damage, cost, charge or expense arising out of any negligent act, actions, neglect or omission by the CONSULTANT, its agents, employees, or subcontractors during the performance of this CONTRACT, whether direct or indirect, and whether to any person or property for which LPA or said parties may be subject, except that neither the CONSULTANT nor any of his agents or subcontractors will be

liable under this provision for damages arising out of the injury or damage to persons or property solely caused or resulting from the negligence of the LPA or any of its officers, agents or employees.

The CONSULTANT'S obligations under this Article, including the obligations to indemnify, defend, hold harmless, pay reasonable attorney fees or, at the LPA'S option, participate and associate with the LPA in the defense and trial or arbitration of any damage claim, lien or suit and any related settlement negotiations, shall be initiated by the LPA'S notice of claim for indemnification to the CONSULTANT. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the LPA entirely responsible shall excuse performance of this provision by the CONSULTANT. In such case, the LPA shall pay all costs and fees related to this obligation and its enforcement. Should there be a finding of dual or multiple liability, costs and fees shall be apportioned accordingly.

In conjunction herewith, the LPA agrees to notify CONSULTANT in writing as soon as practicable after receipt or notice of any claim involving CONSULTANT. These indemnities shall not be limited by reason of the listing of any insurance coverage below.

ARTICLE X. INSURANCE

Prior to beginning the work, the CONSULTANT shall obtain and furnish certificates to the LPA for the following minimum amounts of insurance:

- A. Workers' Compensation Insurance in accordance with the laws of the State of Mississippi.
- B. Public Liability Insurance in an amount not less than one million dollars (\$1,000,000.00) on account of any one occurrence.
- C. Property Damage Insurance in an amount not less than five hundred thousand dollars (\$500,000.00) from damages on account of any one occurrence, with an aggregate limit of not less than one million dollars (\$1,000,000.00).
- D. Valuable Documents Insurance, whether as a part of the property damage insurance referenced above or as separate insurance, in an amount sufficient to cover all costs associated with repairing, restoring or replacing any documents kept or created by Consultant as a part of the Services, in the event of casualty to, or loss or theft of such documents.
- E. Errors and Omissions Insurance, in an amount not less than one million dollars (\$1,000,000.00) per incident; one million dollars (\$1,000,000.00) aggregate.
- F. Comprehensive Automobile Liability Insurance, with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000.00) per incident with respect to CONSULTANT's (owned, hired or non-owned) vehicles, assigned to or used in the performance of services.

The LPA shall be listed as a certificate holder of insurance on any of the insurance required under this CONTRACT.

In the event that the CONSULTANT retains any subcontractor or other personnel to perform SERVICES or carry out any activities under or incident to work on any project or phase of this CONTRACT, CONSULTANT agrees to obtain from said subcontractor or other personnel, certificates of insurance demonstrating that said subcontractor or other personnel has all of the above coverage, or to include said subcontractor or other personnel within CONSULTANT's coverage for the duration of said PROJECT or phase for which said subcontractor or other personnel is employed.

The Insurance coverage recited above shall be maintained in full force and effect by CONSULTANT during the life of this CONTRACT. Should CONSULTANT cease to carry the errors and omissions coverage listed above for any reason, it shall obtain "tail" coverage at the same limits for a period of not less than three (3) years subsequent to policy termination or contract termination, whichever is longer. Should CONSULTANT change insurance carriers for errors and /or coverage, it shall obtain a "retroactive coverage" endorsement from its new insurance carrier.

Insurance carriers must be properly licensed and/or must hold a Certificate of Authority from the Mississippi Department of Insurance.

A certificate of insurance acceptable to the LPA shall be issued to the LPA by the CONSULTANT prior to the execution of this CONTRACT by the CONSULTANT and thereafter on an annual basis for the duration of this CONTRACT as evidence that policies providing the required coverage, conditions and limits are in full force and effect. Such certificate shall identify this CONTRACT and contain provisions that coverage afforded under the policies will not be cancelled, terminated, or materially altered until at least thirty (30) days prior written notice has been given to the LPA.

The CONSULTANT will furnish certified copies, upon request, of any or all of the policies and/or endorsements to the LPA prior to the execution of this CONTRACT and thereafter on an annual basis for the duration of this CONTRACT.

The CONSULTANT shall provide the LPA any and all documentation necessary to prove compliance with the insurance requirements of this CONTRACT as such documentation is requested, from time to time, by the LPA.

If the CONSULTANT fails to procure or maintain required insurance, the LPA may immediately elect to terminate this CONTRACT or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the LPA shall be repaid by the CONSULTANT to the LPA upon demand, or the LPA may offset the cost of the premiums against any monies due to the CONSULTANT from the LPA.

ARTICLE XI. COVENANT AGAINST CONTINGENT FEES AND LOBBYING

The CONSULTANT shall comply with the relevant requirements of all federal, state or local laws. The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this CONTRACT, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of the CONTRACT. The CONSULTANT warrants that it shall not contribute any money, gift or gratuity of any kind, either directly or indirectly to any employee of the LPA, or to any employee of the Mississippi Department of Transportation. For breach or violation of this warranty, the LPA shall have the right to terminate this CONTRACT without liability, and the CONSULTANT shall forfeit any sums due hereunder at the time of such breach and may be barred from performing any future services for the LPA or participating in any future contracts with the LPA.

ARTICLE XII. EMPLOYMENT OF LPA'S PERSONNEL

The CONSULTANT shall not employ any person or persons in the employ of the LPA for any work required by the terms of this CONTRACT, without the written permission of the LPA, except as may otherwise be provided for herein.

ARTICLES XIII. MODIFICATION

If, prior to the satisfactory completion of the SERVICES under this CONTRACT, the LPA materially alters the scope, character, complexity or duration of the SERVICES from those required under this CONTRACT, a supplemental agreement may be executed between the parties. Also, a supplemental agreement may be executed between the parties in the event that both parties agree the CONSULTANT's compensation should be increased due to an unanticipated increase in the nature, scope or amount of work necessary to properly provide the SERVICES required on any particular phase or project begun hereunder.

Oral agreements or conversations with the LPA, any individual member of the LPA, officer, agent, or employee of the Mississippi Department of Transportation, either before or after execution of this CONTRACT, shall not affect or modify any of the terms or obligations contained in this CONTRACT. All modifications to this CONTRACT, amendments or addenda thereto must be submitted in writing and signed by the parties thereto before any work is commenced.

The CONSULTANT may not begin work on any modifications, amendments, or addenda prior to receiving a Notice to Proceed.

Minor changes in the proposal which do not involve changes in the compensation, extensions of time or changes in the goals and objectives of the CONTRACT may be made by written notification of such change by either the LPA or the CONSULTANT to the other party, and shall become effective upon written acceptance thereof (i.e. letter agreement).

ARTICLE XIV. SUBLETTING, ASSIGNMENT OR TRANSFER

It is understood by the parties to this CONTRACT that the work of the CONSULTANT is considered personal by the LPA. The CONSULTANT shall not assign, sublet or transfer any or all of its interest in this CONTRACT without prior written approval of the LPA. Under no circumstances will CONSULTANT be allowed to sublet more than 60% of the work required under this contract. It is clearly understood and agreed that specific projects or phases of the work may be sublet in their entirety provided that CONSULTANT performs at least 40% of the overall contract with its own forces. Consent by the LPA to any subcontract shall not relieve CONSULTANT from any of its obligations hereunder, and CONSULTANT is required to maintain final management responsibility with regard to any such subcontract.

The LPA reserves the right to review all subcontract documents prepared in connection with this CONTRACT, and the CONSULTANT agrees that it shall submit to the LPA any proposed subcontract document together with subcontractor cost estimates for review and written concurrence of the LPA in advance of their execution.

ARTICLE XV. OWNERSHIP OF PRODUCTS AND DOCUMENTS AND WORK MADE FOR HIRE

The CONSULTANT agrees that all reports, computer information and access, drawings, studies, notes, maps and other data, prepared by and for them under the terms of this CONTRACT shall be delivered to, become and remain in the property of the LPA upon creation and shall be delivered to the LPA upon termination or completion of work, or upon request of the LPA regardless of any claim or dispute between the parties. All such data shall be delivered within thirty (30) days of receipt of a written request by the LPA.

The CONSULTANT and the LPA intend and agree that this CONTRACT to be a contract for services and each party considers the products and results of the services to be rendered by the CONSULTANT hereunder, including any and all material produced and/or delivered under this CONTRACT (the "Work"), to be a "work made for hire" under U.S. copyright and all applicable laws. The CONSULTANT acknowledges and agrees that the LPA owns all right, title, and interest in and to the Work including, without limitation, the copyright thereto and all trademark, patent, and all intellectual property rights thereto.

If for any reason the Work would not be considered a work made for hire under applicable law, or in the event this CONTRACT is determined to be other than a contract or agreement for a work made for hire, the CONSULTANT does hereby transfer and assign to the LPA, and its successors and assigns, the entire right, title, and interest in and to any Work prepared hereunder including, without limitation, the following: the copyright and all trademark, patent, and all intellectual property rights in the Work and any registrations and copyright, and/or all other intellectual property, applications relating thereto and any renewals and extensions thereof; all works based upon, derived from, or incorporating the Work; all income, royalties, damages, claims, and payments now or hereafter due or payable with respect thereto; all causes of action, either in law or in equity, for past, present, or future infringement based on the copyrights and/or all other intellectual property; all rights, including all rights to claim priority, corresponding to the foregoing in the United States and its territorial possessions and in all foreign countries. The CONSULTANT agrees to execute all papers and perform such other proper acts as the LPA may deem necessary to secure for the LPA or its designee the rights herein assigned.

The LPA may, without any notice or obligation of further compensation to the CONSULTANT, publish, re-publish, anthologize, use, disseminate, license, or sell the Work in any format or medium now known or hereafter invented or devised. The LPA'S rights shall include, without limitation, the rights to publish, re-publish, or license a third party to publish, re-publish, or sell the Work in print, on the World Wide Web, or in any other electronic or digital format or database now known or hereafter invented or devised, as a separate isolated work or as part of a compilation or other collective work, including a work different in form from the first publication, and to include or license a third party to include the Work in an electronic or digital database or any other medium or format now known or hereafter invented or devised.

The CONSULTANT shall obtain any and all right, title, and interest to all input and/or material from any third party subconsultant, or any other party, who may provide such input and/or material to any portion of the Work so that said right, title, and interest, and all such interest in and to the Work including, without limitation, the copyright thereto and all trademark, patent, and all intellectual property rights thereto, shall belong to the LPA.

For any intellectual property rights currently owned by third parties or by the CONSULTANT and not subject to the terms of this CONTRACT, the CONSULTANT agrees that it will obtain or grant royalty-free, nonexclusive, irrevocable license(s) for or to the LPA at no cost to the LPA to use all copyrighted or copyrightable work(s) and all other intellectual property which is incorporated in the material furnished under this CONTRACT. Further, the CONSULTANT warrants and represents to the LPA that it has obtained or granted any and all such licensing prior to presentation of any Work to the LPA under this CONTRACT. This obligation of the CONSULTANT does not apply to a situation involving a third party who enters a license agreement directly with the LPA.

The CONSULTANT warrants and represents that it has not previously licensed the Work in whole or in part to any third party and that use of the Work in whole or in part will not violate any rights of any kind or nature whatsoever of any third party. The CONSULTANT agrees to indemnify and hold harmless the LPA, its successors, assigns and assignees, and its respective officers, directors, agents and employees, from and against any and all claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees), arising out of or in any way connected with any breach of any representation or warranty made by CONSULTANT herein.

ARTICLE XVI. PUBLICATION AND PUBLICITY

The CONSULTANT agrees that it shall not for any reason whatsoever communicate to any third party, with the exception of the MDOT and the FHWA, in any manner whatsoever concerning any of its CONTRACT work product, its conduct under the CONTRACT, the results or data gathered or processed under this CONTRACT, which includes, but is not limited to, reports, computer information and access, drawings, studies, notes, maps and other data prepared by and for the CONSULTANT under the terms of

this CONTRACT, without prior written approval from the LPA, unless such release or disclosure is required by judicial proceeding. The CONSULTANT agrees that it shall immediately refer any third party who requests such information to the LPA and shall also report to the LPA any such third party inquiry, with the exception of the MDOT and/or the FHWA. This Article shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the CONSULTANT from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the CONSULTANT to defend itself from any suit or claim.

IT IS FURTHER AGREED, that all approved releases of information, findings, and recommendations shall include a disclaimer provision and that all published reports shall include that disclaimer on the cover and title page in the following form:

The opinions, findings, and conclusions in this publication are those of the author(s) and not necessarily those of the Local Public Agency, Mississippi Department of Transportation, Mississippi Transportation Commission, the State of Mississippi, or the Federal Highway Administration.

ARTICLE XVII. CONTRACT DISPUTES

This CONTRACT shall be deemed to have been executed in **Hinds County, Mississippi**, and all questions including, but not limited to, questions of interpretation, construction and performance shall be governed by the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect to this CONTRACT shall be brought in a court of competent jurisdiction in **Hinds County**, State of Mississippi. The CONSULTANT expressly agrees that under no circumstances shall the LPA be obligated to or responsible for payment of an attorney's fee for the cost of legal action to or on behalf of the CONSULTANT.

ARTICLE XVIII. COMPLIANCE WITH APPLICABLE LAW

- A. The undersigned certify that to the best of their knowledge and belief, the foregoing is in compliance with all applicable laws.
- B. The CONSULTANT shall observe and comply with all applicable federal, state, and local laws, rules and regulations, policies and procedures, ordinances, and orders and decrees of bodies or tribunals of the United States of America or any agency thereof, the State of Mississippi or any agency thereof, and any local governments or political subdivisions, that are in effect at the time of the execution of this CONTRACT or that may later become effective.
- C. The CONSULTANT shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this CONTRACT because of race, creed, color, sex, national origin, age or disability.
- D. IT IS FURTHER SPECIFICALLY AGREED that the CONSULTANT shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and all other applicable federal regulations as stated in "Exhibit 5" which is incorporated herein by reference.
- E. It is agreed that the CONSULTANT will comply with the provisions set forth in Department of Transportation, 49 CFR, Section 18, Et Seq., regarding Uniform Administrative Requirements for Grants and Cooperative agreements in its administration of this CONTRACT or any subcontract resulting herefrom.

- F. The CONSULTANT agrees that it will abide by the provisions of 49 CFR Section 26 regarding disadvantaged business enterprises and include the certification made in "Exhibit 5" to this CONTRACT in any and all subcontracts which may result from this CONTRACTS.
- G. The CONSULTANT shall comply and shall require its subconsultants to comply with Code of Federal Regulations CFR 23 Part 634 - Worker Visibility – as stated in "Exhibit 5".
- H. IMMIGRANT STATUS CERTIFICATION. The CONSULTANT represents that it is in compliance with the Immigration Reform and Control Act of 1986 (Public Law 99-603), as amended, in relation to all employees performing work in the State of Mississippi and does not knowingly employ persons in violation of the United States immigration laws. The CONSULTANT further represents that it is registered and participating in the Department of Homeland Security's E-Verify™ employment eligibility verification program, or successor thereto, and will maintain records of compliance with the Mississippi Employment Protection Act including, but not limited to, requiring compliance certification from all subcontractors and vendors who will participate in the performance of this Agreement and maintaining such certifications for inspection if requested. The CONSULTANT acknowledges that violation may result in the following: (a) cancellation of any public contract and ineligibility for any public contract for up to three (3) years, or (b) the loss of any license, permit, certification or other document granted by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. The CONSULTANT also acknowledges liability for any additional costs incurred by the LPA due to such contract cancellation or loss of license or permit. The CONSULTANT is required to provide the certification on Exhibit 9 in this CONTRACT to the LPA verifying that the CONSULTANT and subconsultant(s) are registered and participating in E-Verify prior to execution of this CONTRACT
- I. The covenants herein shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

ARTICLE XIX. WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants, and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time, or of any other provision hereof, nor shall it be construed to be a modification of the terms of this CONTRACT.

ARTICLE XX. SEVERABILITY

If any terms or provisions of this CONTRACT are prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this CONTRACT shall not be affected thereby and each term and provision of this CONTRACT shall be valid and enforceable to the fullest extent permitted by law.

ARTICLE XXI. ENTIRE AGREEMENT

This CONTRACT constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings, and agreements, written or oral, between the parties relating thereto.

ARTICLE XXII. CONFLICT OF INTEREST

The CONSULTANT covenants that no public or private interests exist and none shall be acquired directly or indirectly which would conflict in any manner with the performance of the CONSULTANT'S CONTRACT. The CONSULTANT further covenants that no employee of the CONSULTANT or of any subconsultant(s), regardless of his/her position, is to personally benefit directly or indirectly from the

performance of the SERVICES or from any knowledge obtained during the CONSULTANT'S execution of this CONTRACT.

ARTICLE XXIII. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the LPA to proceed under this CONTRACT is conditioned upon the availability of funds, the appropriation of funds by the Mississippi Legislature, and the receipt of state and/or federal funds. If, at any time, the funds anticipated for the fulfillment of this CONTRACT are not forthcoming or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to the LPA for the performance of this CONTRACT, the LPA shall have the right, upon written notice to the CONSULTANT, to immediately terminate or stop work on this CONTRACT without damage, penalty, cost, or expense to the LPA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

ARTICLE XXIV. STOP WORK ORDER

- A. **Order to Stop Work.** The LPA may, by written order to the CONSULTANT at any time, and without notice to any surety, require the CONSULTANT to stop all or any part of the work called for by this CONTRACT. This order shall be for a specified period not exceeding twenty-four (24) months after the order is delivered to the CONSULTANT unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the CONSULTANT shall forthwith comply with its terms and take all steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the LPA shall either:
- (1) cancel the stop work order; or
 - (2) terminate the work covered by such order according to and as provided in Article III of this CONTRACT.

Prior to the LPA'S taking official action to stop work under this CONTRACT, the Executive Director of MDOT may notify the CONSULTANT, in writing, of MDOT'S intentions to ask the LPA to stop work under this CONTRACT. Upon notice from the Executive Director of MDOT, CONSULTANT shall suspend all activities under this CONTRACT, pending final action by the LPA.

- B. **Cancellation or Expiration of the Order.** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONSULTANT shall have the right to resume work. If the LPA decides that it is justified, an appropriate adjustment may be made in the delivery schedule. If the stop work order results in an increase in the time required for or in the CONSULTANT'S cost properly allocable to the performance of any part of this CONTRACT and the CONSULTANT asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage, an equitable adjustment in this CONTRACT may be made by written modification of this CONTRACT as provided by the terms of this CONTRACT.
- C. **Termination of Stopped Work.** If a stop work order is not canceled and the work covered by such order is terminated, the CONSULTANT may be paid for services rendered prior to the Termination. In addition to payment for services rendered prior to the date of termination, the LPA shall be liable only for the costs, fees, and expenses for demobilization and close out of this CONTRACT, based on actual time and expenses incurred by the CONSULTANT in the packaging and shipment of all

documents covered by this CONTRACT to the LPA. In no event shall the LPA be liable for lost profits or other consequential damages.

ARTICLE XXV. KEY PERSONNEL & DESIGNATED AGENTS

CONSULTANT agrees that Key Personnel identified as assigned to this PROJECT shall not be changed or reassigned without prior approval of the LPA or, if prior approval is impossible, and then notice to the LPA and subsequent review by the LPA which may approve or disapprove the action. For purposes of implementing this section and all other sections of this CONTRACT with regard to notice, the following individuals are herewith designated as agents for the respective parties unless otherwise identified in the addenda hereto:

LPA:

For Contractual Matters:
Mayor Rosemary Aultman
300 Jefferson Street
P.O. Box 156
Clinton, MS 39060
llupo@clintonms.org
(601) 925-6103 Phone
(601) 925-4605 Fax

For Technical Matters:
Mike Parker
300 Jefferson Street
Director of Public Works
P.O. Box 156
Clinton, MS 39060
mparker@clintonms.org
(601) 924-2239 Phone
(601) 925-4605 Fax

CONSULTANT:

For Contractual Matters:
John E. McKee, Jr., PE, PLS
200 North Congress St, Suite 600
Jackson, Mississippi 39201
jmckee@abmb.com
(601) 354-0696 Phone
(601) 354-0433 Fax

Licensure Number
from the Mississippi
Board of Licensure
for Professional
Engineers and Surveyors:

P.E. # 9688

For Technical Matters:
Brad Engels, PE
100 Depot Drive, Suite B
Madison, Mississippi 39110
bengels@abmb.com
(601) 500-7960 Phone
(601) 707-9015 Fax

Licensure Number
from the Mississippi
Board of Licensure
for Professional
Engineers and Surveyors:

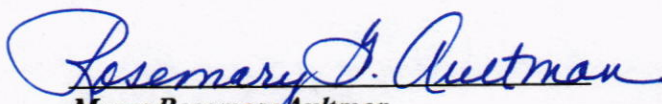
P.E. # 17084

ARTICLE XXVI. AUTHORIZATION

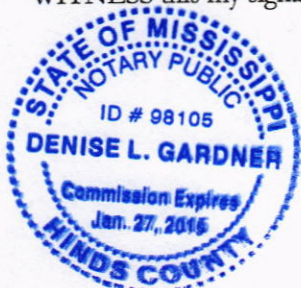
Both parties hereto represent that they have authority to enter into this CONTRACT and that the individuals executing this CONTRACT are authorized to execute it and bind their respective parties and certified copies of the applicable LPA Order and the Resolution of the Corporate Board of Directors of the CONSULTANT are attached hereto as "Exhibit 1" and incorporated herein by reference and made a part hereof as if fully copied herein in words and figures.

WITNESS this my signature in execution hereof, this the 25th day of October, 2011.

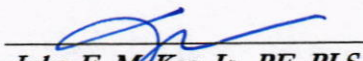
City of Clinton


Mayor Rosemary Aultman

WITNESS this my signature in execution hereof, this the 15th day of September, 2011.



ABMB Engineers, Inc.


John E. McKee, Jr., PE, PLS

ATTEST 

Exhibits attached hereto and incorporated by reference into this contract include those identified on the attached page entitled "List of Exhibits".

LIST OF EXHIBITS

1. Evidence of Authority
2. General Scope of Work and Common Specifications
3. Fees and Expenses.
4. Sample Invoice
5. Notice to the CONSULTANT
6. CONSULTANT's Certification Regarding Debarment, Suspension and Other Responsibility Matters.
7. Certification of LPA
8. *{This Exhibit was intentionally left blank}*
9. Prime Consultant EEV Certification and Agreement

EXHIBIT 1

{{{{Attach a copy of authority to execute contracts on behalf of the LPA}}}}

{{{{Attach a copy of authority to execute contracts on behalf of the Consultant Corporation here}}}}

- RESOLUTION -

BE IT RESOLVED by the Directors of ABMB Engineers, Inc., a Corporation organized and existing under the laws of the State of Louisiana, and domiciled in the City of Baton Rouge, that Steve M. Boudreaux, Managing Principal; Michael N. McGaugh, Managing Principal; John E. McKee, Managing Principal and Michael G. Bruce, Managing Principal of the Corporation are hereby authorized and empowered to execute any and all contracts of whatever kind on behalf of the Corporation.

- CERTIFICATE -

I, Michael G. Bruce, Secretary of ABMB Engineers, Inc., do hereby certify that the foregoing resolution is true and exact copy unanimously adopted by the Board of Directors of said corporation at a meeting thereof legally held on the 24th day of April, 1995: that said resolution is duly entered into the records of said corporation; that it has not been rescinded or modified; and that it is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of said corporation this 4th day of January, 2010.

 , Secretary
Michael G. Bruce

EXHIBIT 2

Scope of Work

Project Termini: Arrow Drive beginning approximately at Clinton High School and extending to the intersection of Arrow Drive and Cynthia Road.

Scope of Work: ABMB Engineers (CONSULTANT) is responsible for the performance of tasks listed in this Exhibit on behalf of the City of Clinton (LPA). CONSULTANT will perform survey, geotechnical, environmental and design services and develop plans for roadway, pedestrian and intersection improvements throughout the project termini. CONSULTANT will conduct all administrative tasks as required by the MDOT LPA Project Development Manual requirements in effect as of the date of execution of this contract, including the development, submission and revisions as necessary of MDOT permit applications.

The following line item tasks will be performed or provided by the CONSULTANT.

<u>Task No.</u>	<u>Task and Subtask Description</u>
1.0	Project Preparation and Activation Activities Scoping Meeting with City of Clinton & Develop Minutes Complete and submit LPA-100 Form Complete and submit LPA-700 Form Develop Letter to MDOT with Designated Individuals involved in Project. Develop & Submit Environmental Document Topographic Survey and Processing of Data Geotechnical Investigation and Analysis
2.0	Develop Field Review Plans Title Sheet Pay Item Sheets Plan Sheet Plan and Profile Sheets Intersection Detail Sheet Special Design Sheets "Field Review" Cost Estimate Submittal Letter and Submittal of Field Review Plans Request Locate of Utilities for Field Review Meeting Attend Field Review Meeting Compile Meeting Minutes into Report Format Revise Field Review Plans as Necessary Submit "Revised Field Review Plans and Report of Meeting Minutes."
3.0	Develop Office Review Plans Summary of Quantity Sheets Estimated Quantity Sheets Standard Drawings Cross Sections "Office Review" Cost Estimate Submittal Letter and Submittal of Office Review Plans Attend Office Review Meeting Compile Meeting Minutes into Report Format Compile and Submit "Corrective Action" Memo

Compile and Submit ROW, Utility, Encroachment, Hazardous Waste and Asbestos Reports
Request Certifications of above reports from MDOT
Develop Contract Documents Book, Specifications and Special Provisions
Prepare Submittal Letter and Required Documentation for Submittal with PS&E Assy
Develop Advertisement for Bids and Submit to MDOT for Concurrence
Coordinate with Newspapers for advertisement runs and Proofs of Publication
Distribution of Proposal Books and Final Construction Plans

5.0 MDOT Authorization & Selection of Contractor

Coordinate and Perform Bid Opening
Tabulation of Bids Received
Prepare LPA Sampling & Testing Proposal
Complete Award Checklist
Develop LPA Bidding Statement
Develop Evaluation of Bids and Recommendation to Award Letter
Complete, Compile & Submit Required Documents for Request to Award Submittal to MDOT
Compile & Submit to MDOT Additional Information & 10 Copies of Executed Contract/Proposal
Prepare and Issue Notice to Proceed to Contractor
Prepare for & Conduct Preconstruction Meeting

PROGRESS SCHEDULE

PROGRESS SCHEDULE

(TIME SHOWN IN MONTH FROM NOTICE TO PROCEED)

Task	Task Description	NTP	MONTH 1	MONTH 2	MONTH 3	MONTH 4	MONTH 5	MONTH 6
1.0	Project Preparation and Activation Activities							
2.0	Develop Field Review Plans							
3.0	Develop Office Review Plans							
4.0	PS&E Assembly							
5.0	MDOT Authorization & Selection of Contractor							

NOTE: All tasks listed in the Scope of Work require some degree of review and approval by various MDOT entities. Allowances for scheduling as described in the MDOT LPA Project Development Manual (PDM) have been considered and included in this progress schedule. However, the CONSULTANT cannot be held responsible for project delays that are a direct result of periods for MDOT review and approval activities which are in excess of the time frames described in the MDOT LPA PDM.

EXHIBIT 3

FEES AND EXPENSES

The LPA shall pay the CONSULTANT on an actual cost-plus fixed-fee with an upset limit for the satisfactory completion of the Scope of Work set forth under "Exhibit 2", hereto, for all salaries, payroll additives, overhead, direct costs and CONSULTANT's fixed fees attributable to this CONTRACT.

Actual costs as the term is used herein shall include all direct salaries, payroll additives, overhead and direct cost. Direct salaries are those amounts actually paid to the person performing the SERVICES which are deemed reasonably necessary by the LPA for the advancement of the Scope of Work. Overtime work is not contemplated by this contract. Accordingly, direct salaries chargeable to this contract shall not include any overtime premium. Salaries for officers, principals or partners shall not increase at a rate in excess of that for other employees. Payroll additives and overhead consist of employee fringe benefits and that part of CONSULTANT's allowable indirect costs attributable to this contract. Direct Costs are those charges deemed reasonably necessary by the LPA for the successful completion of the Scope of Work which are charged directly to the project and not included in overhead.

Fixed fee as the term is used herein shall mean a dollar amount established to cover the CONSULTANT's profit and business expenses not allocable to overhead for the successful completion of the SERVICES.

SCHEDULE OF MAXIMUM RATES, EXPENSES & FEES:

The following schedule of rates for services will not be exceeded for all work under this CONTRACT:

Direct Salaries:

Direct salaries shall not exceed those amounts actually paid to an employee performing services reasonably necessary for the completion of the Scope of Work set forth under "Exhibit 2" to this contract.

All charges for services must be substantiated by supporting data, i.e. certified time sheets, daily logs, check stubs, pay vouchers, etc.

Payroll Additive & Overhead:

The rate, based on the CONSULTANT'S latest governmental audited rate, not to exceed two (2) years, and as approved by MDOT, for payroll additives and overhead shall be computed at 143.91 % (FCCM: 3.08%) of direct salary cost. This rate shall be used to calculate costs under this CONTRACT and in the preparation of costs estimates for Supplemental Agreements under this CONTRACT. The estimated FCCM for cost proposals in Supplemental Agreements must be specially identified and distinguished from the other costs. Profit/Fee shall not include amounts applicable to FCCM. Final payment of these costs shall be adjusted after completion of the final audit to reflect the actual rates experienced by the CONSULTANT during the course of this CONTRACT; however, in no event shall such an adjustment allow the CONTRACT'S cost to exceed the maximum limitation stated. Said audit of the CONSULTANT will be conducted by the LPA, or the LPA's designated auditor at the conclusion of the contract in accordance with Federal and LPA requirements.

All overhead rates submitted to MDOT for approval shall comply with the AASHTO Audit Guide, 2010, as amended. In addition, the CONSULTANT shall submit written certification in accordance with FHWA Order 4470.1A, as amended, that the indirect cost rate submitted does not include any costs which are expressly unallowable and the indirect cost rate was

established only with allowable costs in accordance with the applicable cost principles contained in the Federal Acquisition Regulations (FAR) of 48 CFR part 31.

Direct Costs:

The LPA will reimburse the CONSULTANT's actual documented expenses; or the amount allowable under the current edition of the MDOT State Travel Handbook, whichever is lower. Except as otherwise specifically provided herein, the procedures generally outlined in the MDOT State Travel Handbook shall govern the allowability of any expense reimbursement. (i.e. no meal reimbursement when there is no overnight stay).

All direct costs (except meals) must be substantiated by supporting data, i.e. mileage, log books, receipts, etc.

All other expenses will be reimbursed upon receipt of acceptable paid invoices.

Fixed Fee:

The CONSULTANT's fixed fee shall be **\$ 25,450.00**, which sum shall be paid incrementally each month in an amount determined by multiplying the total fixed fee by the project completion percentage, less any amounts previously paid for fixed fees.

Contract Maximums:

Under no circumstances shall the amount payable by the LPA for this assignment exceed **\$ 249,868** (Total of all Charges) without the prior written consent of both parties.

Fee and Expense Summary

Labor Cost & Overhead	Direct Cost	Fixed Fee	FCCM	Sub-Consultant	Total
\$212,080	\$2,160	\$25,450	\$2,678	\$7500	\$249,868

**** See Delineation of Cost Breakdown behind Exhibit 9.**

EXHIBIT 4
SAMPLE INVOICE

LOCAL PUBLIC AGENCY
ADDRESS
CITY, STATE, ZIP CODE

DATE:

ATTENTION: ACCOUNTS PAYABLE

INVOICE NO. 0000
PERIOD , 20 THROUGH , 20
PROFESSIONAL SERVICES IN ACCORDANCE WITH
CONTRACT DATED , 20 , AS RELATES TO
PROJECT NO. - - - - - - IN COUNTY, HIGHWAY .

CONSULTANT:

CUSTOMER NUMBER 0000000000 FILE NO. 000-000000
REPORT NUMBER: 0000 through 00000

	<u>CURRENT PERIOD</u>	<u>PREVIOUS ESTIMATE</u>	<u>TOTAL ALLOWED TO DATE</u>
DIRECT SALARIES	\$	\$	\$
* PAYROLL ADDITIVE (less FCCM)	\$	\$	\$
FIXED FEE (% complete X total fee less amounts previously paid – not to exceed 75%)	\$	\$	\$
PAYROLL ADDITIVE w/ FCCM only	\$	\$	\$
** DIRECT COSTS	\$	\$	\$
PROJECT TOTAL	\$	\$	\$
AMOUNT DUE THIS INVOICE:	\$	\$	\$

NOTE:

1. * PAYROLL ADDITIVES (INCLUDING ALL FRINGE BENEFITS & OVERHEAD-)
2. ** DIRECT COSTS (ATTACH SUPPORTING DATA)
3. THE CONSULTANT MAY USE ITS OWN INVOICE FORM SO LONG AS IT HAS BEEN APPROVED. PRIOR TO SUBMISSION BY THE CONSULTANT SAID FORM SHOULD, AT A MINIMUM, CONTAIN THE ABOVE INFORMATION

SUPPORTING DATA

Project No. 00-0000-00-000-00
 County _____

<u>Employee and Classification</u>	<u>Rate of Pay</u>	<u>Current Period Hours</u>	<u>Current Period Costs</u>	<u>Previous Period Costs</u>	<u>Costs To Date</u>
DIRECT LABOR AND DIRECT COSTS					
John P. Public, Jr Engineer	0.00	0.0	0.00	0.00	0.00
John P. Public, Jr Designer	0.00	0.0	0.00	0.00	0.00
John P. Public, Jr Engineer	0.00	0.0	0.00	0.00	0.00
John P. Public, Jr Technician	0.00	0.0	0.00	0.00	0.00
Sub Total		0.0	0.00	0.00	0.00
Payroll Additives (minus FCCM)			0.00	0.00	0.00
Total Labor			0.00	0.00	0.00
Fixed Fee			0.00	0.00	0.00
Payroll additives w/ only FCCM (Direct Labor * FCCM)			0.00	0.00	0.00
Direct Costs			0.00	0.00	0.00
Project Total			0.00	0.00	0.00

EXHIBIT 5

NOTICE TO CONTRACTORS, FEDERAL-AID CONTRACT COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 COPELAND ANTI-KICKBACK ACT, DAVIS BACON ACT CONTRACT WORK HOURS AND SAFETY STANDARDS ACT CLEAN AIR ACT, ENERGY POLICY AND CONSERVATION ACT DISADVANTAGED BUSINESS ENTERPRISES, WORKER VISIBILITY

During the performance of this CONTRACT, the CONSULTANT, for itself, its assignees and successor-in-interest (hereinafter referred to as the "CONSULTANT") agrees as follows:

1. Compliance with Regulations: The CONSULTANT will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this CONTRACT.

2. Nondiscrimination: The CONSULTANT, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, religion, color, sex, national origin, age or disability in the selection and retention of subcontractors including procurement of materials and leases of equipment. The CONSULTANT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the CONTRACT covers a program set forth in Appendix B of the Regulations. In addition, the CONSULTANT will not participate either directly or indirectly in discrimination prohibited by 23 C.F.R. 710.405(b).

3. Solicitations for Subcontracts. Including Procurement of Materials and Equipment: In all Solicitations, either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this CONTRACT and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, national origin, age or disability.

4. Anti-kickback provisions: All contracts and subcontracts for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The CONSULTANT shall report all suspected or reported violations to the LPA.

5. Davis Bacon Act: When required by the federal grant program legislation, all construction contracts awarded to contractors and subcontractors in excess of \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week.

6. Contract Work Hours and Safety Standards Act: Where applicable, all contracts awarded by or to contractors and subcontractors in excess of \$100,000 which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and

laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Clean Air Act: Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clear Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (Contracts and subcontracts in amounts in excess of \$100,000).

8. Energy Policy and Conservation Act: Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

9. Disadvantaged Business Enterprises: It is the policy of the Mississippi Department of Transportation to comply with the requirements of 49 C.F.R. 26, to prohibit unlawful discrimination, to meet it's goal for DBE participation, to meet that goal whenever possible by race-neutral means, to create a level playing field, and to achieve that amount of DBE participation that would be obtained in an non-discriminatory market place. To meet that objective in any United States Department of Transportation assisted contracts, the LPA and the CONSULTANT shall comply with the "Mississippi Department of Transportation's Disadvantaged Business Enterprise Programs For United States Department Of Transportation Assisted Contracts".

Neither the CONSULTANT (Contractor), nor any sub-recipient or sub-contractor shall discriminate on the bases of race, color, national origin, or sex in the performance of this contract. The CONSULTANT (Contractor) shall carry out applicable requirements of 49 C.F.R. 26 in the award and administration of United States Department of Transportation assisted contracts. Failure of the CONSULTANT (Contractor) to carry out those requirements is a material breach of the contract which may result in the termination of this contract or such other remedies as the Mississippi Department of Transportation deems appropriate.

10. Worker Visibility: All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for the purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel – personal protective safety clothing that is intended to provide conspicuity during both daytime and nighttime usage, and that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107–2004 publication entitled "American National Standard for High-Visibility Safety Apparel and Headwear" – for compliance with 23 CFR, Part 634.

EXHIBIT 6

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - Certification in accordance with Section 29.510 Appendix A, C.F.R./Vol. 53, No. 102, page 19210 and 19211:

- (1) The CONSULTANT certifies to the best of its knowledge and belief that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification: and
 - (d) have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default;
 - (e) has not either directly or indirectly entered into any agreement participated in any collusion; or otherwise taken any action in restraint of free competitive negotiation in connection with this CONTRACT.
- (2) The CONSULTANT further certifies, to the best of his/her knowledge and belief, that:
 - (f) No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or employee of a member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (g) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or any employee of a member of Congress in connection with this CONTRACT, Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions will be completed and submitted.

The certification contained in (1) and (2) above is a material representation of fact upon which reliance is placed and a pre-requisite imposed by Section 1352, Title 31, U. S. Code prior to entering into this CONTRACT. Failure to comply shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000. The CONSULTANT shall include the language of the certification in all subcontracts exceeding \$100,000 and all sub-contractors shall certify and disclose accordingly.

I hereby certify that I am the duly authorized representative of the CONSULTANT for purposes of making this certification, and that neither I, nor any principal, officer, shareholder or employee of the above firm has:

(a) employed or retained for commission, percentages, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement,

(b) agreed, as an express or implied condition for obtaining this CONTRACT, to employ or retain the services of any firm or person in connection with carrying out the agreement, or

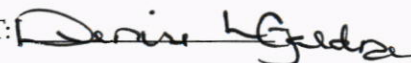
(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement; except as herein expressly stated (if any).

I acknowledge that this Agreement may be furnished to the Federal Highway Administration, United States Department of Transportation, in connection with the Agreement involving participation of Federal-Aid Highway funds, and is subject to applicable state and federal laws, both criminal and civil.

SO CERTIFIED this 15th day of September, 2011.

CONSULTANT

BY: 
John E. McKee, Jr., PE, PLS

ATTEST: 

My Commission Expires Jan 27, 2015

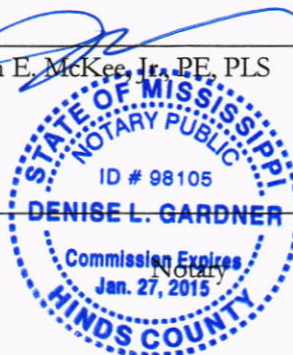


EXHIBIT 7

CERTIFICATION OF THE LPA

I hereby certify that I am the Chief Administrative Official, duly authorized by the LPA to execute this certification and that the above consulting firm or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, firm or person, or
- (b) pay, or agree to pay, to any firm, person organization, any fee, contribution, donation, or consideration of any kind except as here expressly stated (if any).

SO CERTIFIED on the 25th day of October, 2011

LPA : City of Clinton

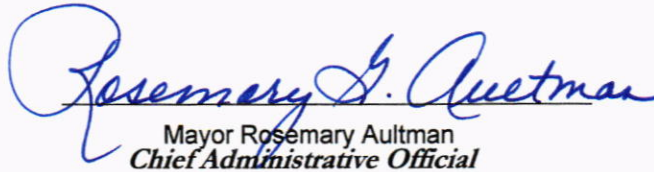

Mayor Rosemary Aultman
Chief Administrative Official

EXHIBIT 8

{Intentionally Left Blank}

EXHIBIT 9

PRIME CONSULTANT / CONTRACTOR EEV CERTIFICATION AND AGREEMENT

By executing this Certification and Agreement, the undersigned verifies its compliance with the, "Mississippi Employment Protection Act," Section 71-11-3 of the Mississippi Code of 1972, as amended, and any rules or regulations promulgated by the LPA, Mississippi Transportation Commission [MTC], Department of Employment Security, State Tax Commission, Secretary of State, Department of Human Services in accordance with the Mississippi Administrative Procedures Law (Section 25-43-1 et seq., Mississippi Code of 1972, as amended), stating affirmatively that the individual, firm, or corporation which is contracting with the LPA has registered with and is participating in a federal work authorization program* operated by the United States Department of Homeland Security to electronically verify information of newly hired employees pursuant to the Immigration Reform and Control Act of 1986, Pub.L. 99-603, 100 Stat 3359, as amended. The undersigned agrees to inform the LPA if the undersigned is no longer registered or participating in the program.

The undersigned agrees that, should it employ or contract with any entity(s) in connection with the performance of this CONTRACT, the undersigned will secure from such entity(s) verification of compliance with the Mississippi Employment Protection Act. The undersigned further agrees to maintain records of such compliance and provide a copy of each such verification to the LPA, if requested, for the benefit of the LPA or this CONTRACT.

133500

EEV* Company Identification Number [Required]

The undersigned certifies that the above information is complete, true and correct to the best of my knowledge and belief. The undersigned acknowledges that any violation may be subject to the cancellation of the contract, ineligibility for any state or public contract for up to three (3) years, the loss of any license, permit, certificate or other document granted by any agency, department or government entity for the right to do business in Mississippi for up to one (1) year, or both, any and all additional costs incurred because of the contract cancellation or the loss of any license or permit, and may be subject to additional felony prosecution for knowingly or recklessly accepting employment for compensation from an unauthorized alien as defined by 8 U.S.C §1324a(h)(3), said action punishable by imprisonment for not less than one (1) year nor more than five (5) years, a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or both, in addition to such prosecution and penalties as provided by Federal law.

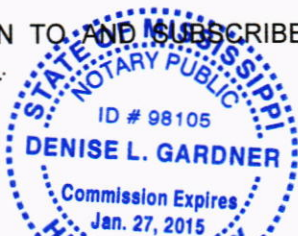
BY: [Signature]
Authorized Officer or Agent
John E. McKee, Jr.

September 15, 2015
Date
Managing Principal

Printed Name of Authorized Officer or Agent

Title of Authorized Officer or Agent of Contractor / Consultant

SWORN TO AND SUBSCRIBED before me on this the 15th day of September, 2015.



[Signature]
NOTARY PUBLIC
My Commission Expires Jan 27, 2015

* As of the effective date of the Mississippi Employment Protection Act, the applicable federal work authorization program is E-Verify, operated by the U. S. Citizenship and Immigration Services of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration.

AGREEMENT FOR OPERATION, MANAGEMENT AND MAINTENANCE

OF

CLINTON WASTEWATER TREATMENT FACILITIES

BETWEEN

SEVERN TRENT ENVIRONMENTAL SERVICES, INC.

AND

THE CITY OF CLINTON, MISSISSIPPI

EFFECTIVE OCTOBER 1, 2011

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AGREEMENT FOR OPERATION, MANAGEMENT AND MAINTENANCE
OF CLINTON WASTEWATER TREATMENT FACILITIES
BETWEEN SEVERN TRENT ENVIRONMENTAL SERVICES, INC.
AND
THE CITY OF CLINTON, MISSISSIPPI

This Agreement is made and entered into as of October 1, 2011, by and between:

The City of Clinton, Mississippi, a municipal corporation located in the County of Hinds, State of Mississippi, whose address is City Hall, Post Office Box 156, Clinton Mississippi 39060 (hereinafter, the "Owner"), acting through its Mayor and Board of Aldermen, and Severn Trent Environmental Services, Inc., a Texas corporation qualified to do business in Mississippi, whose principal place of business is at 16337 Park Row, Houston, Texas 77084, (hereinafter, the "Operator")

WHEREAS, the Owner owns the wastewater treatment facilities (hereinafter, the "Treatment Facilities") as more particularly defined in Attachment A and more specifically described in Exhibit One; and

WHEREAS, the Owner has the authority under the laws of the State of Mississippi (the "State") to enter into this Agreement for the operation, management, and maintenance of the Treatment Facilities; and

WHEREAS, the Operator is experienced in and capable of supplying professional operation and maintenance services to the Treatment Facilities; and

WHEREAS, the Owner desires to engage the Operator to act as its wastewater operations agent in managing, operating, and maintaining the Treatment Facilities;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and subject to the terms and conditions herein stated, the parties agree as follows:

ARTICLE I PURPOSE

Section 1.1 – Purpose

During the term of this Agreement, the Owner agrees to engage the Operator as its authorized agent to manage, operate and maintain the Treatment Facilities. Each party hereto agrees to cooperate in good faith with one another and its agents and subcontractors to facilitate the performance of the mutual obligations set forth in this Agreement.

ARTICLE II SCOPE OF SERVICE

The scope of service (hereinafter, the "Scope of Service") to be provided by the Operator under this Agreement will include the management, operation, maintenance, and repair of the Treatment Facilities to the extent specifically set forth in this Article II.

Section 2.1 – Process Control and Effluent Standards

The goal of the Operator is to operate the Treatment Facilities to meet all the Effluent Requirements, as defined in Attachment A, of the existing National Pollutant Discharge Elimination System ("NPDES") permits as well as any other applicable federal, state, and local laws and requirements. The Operator shall operate the Treatment Facilities using reasonable efforts to provide this level of treatment, provided, however, that at all times influent flows for the respective Treatment Facilities shall contain Adequate Nutrients and provided further that at all times loadings for the respective Treatment Facilities shall not exceed the following levels:

Treatment Facility	Average Over 30-Day Period (Gallons Per Day)	BOD₅ lbs/day	TSS lbs/day
Lovett	276,000	461	461
Northeast	300,000	500	500
Briars (Biolac)	630,000	1051	1051
Southside	3,500,000	6,422	5,838

In the event that influent flows or loadings do not contain Adequate Nutrients or exceed any of the respective preceding levels, the Operator shall provide the best treatment reasonably possible within the constraints of the Treatment Facilities design, physical limitations, and existing loadings.

In the event that Abnormal or Biologically Toxic Material (as defined in Attachment A) is received at a Treatment Facility, the Operator shall promptly notify the Owner and use its best reasonable efforts to assist Owner to remove and/or reduce such material using the processes and equipment provided at such Treatment Facility. If such Abnormal or Biological Toxic Material cannot be treated or removed using the processes and equipment provided at the Treatment Facility, the Operator shall not be responsible for compliance with the NPDES permit, the Federal Water Pollution Control Act (the "Clean Water Act"), the Resource Conservation Recovery Act, as amended ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act as amended ("CERCLA") or any other applicable federal, state, or local law or requirement, or for any other consequence of the receipt by the Treatment Facility of such Abnormal or Biologically Toxic Material including, without limitation, any fines, penalties, or damages resulting therefrom.

In the event that Abnormal or Biologically Toxic Material is not received at a Treatment Facilities, and in the event that Discharge Violations (as defined in Attachment A) occur at such Treatment Facility on any date starting 30 or more days after the beginning of wastewater treatment services by the Operator, the Operator shall be responsible, to the extent set forth below, for fines, penalties, or damages for Discharge Violations that may be imposed by federal, state, or local environmental agencies, or that may result from private actions, if and to the extent such violations are within the reasonable control of the Operator and are the result of the failure of the Operator to operate the Treatment Facility in accordance with the terms of this Agreement and such failure is a direct and substantial cause of such Discharge Violation. Prior to payment of any such fines, penalties, or damages, the Operator reserves the right to contest government or

private actions, suits, or proceedings for Discharge Violations through administrative procedures or otherwise. The Operator's liability in any contract year for any fines, penalties, or damages shall be limited to 10 percent (10%) of the Base Compensation, pursuant to Section 5.1 herein, for that contract year.

Section 2.2 – Disposal of Screenings, Grit and Sludges

As the authorized agent for the Owner, the Operator shall arrange for the removal of screenings and grit and wastewater sludges from the Treatment Facilities. Title and Ownership of screenings, grit and wastewater sludges shall remain with the Owner notwithstanding such services by the Operator. The parties acknowledge that wastewater sludges are currently being pumped into sludge holding lagoons, where they are held for a period of time until they are removed and transferred from the Briars, Northeast and Lovett Treatment Facilities to the Southside Treatment Facility. The Operator will sample and test recycle flows, and routinely determine sludge volumes in the holding lagoons. The Operator will notify the Owner of pending needs to remove and transfer of wastewater sludges from the holding lagoons to the Southside Facility for treatment and processing. The Owner shall approve all costs associated with the removal and transfer of wastewater sludges. Prior to that time, if it is determined that removal and disposal of any wastewater sludge is necessary, the Operator shall submit removal and disposal options and projected costs to the Owner. The Owner shall pay all costs for the removal and transfer or disposal of all wastewater sludges from the holding lagoons. The Operator shall dewater liquid sludge from the Sludge Lagoon at the Southside Treatment Facility utilizing the on-site Biosolids Dewatering BFP and Solar Greenhouses. The Disposal of all processed sludge will be the Owner's responsibility.

Section 2.3 – Testing and Laboratory Analyses

The Operator shall perform the sampling and laboratory analyses required by the Owner's NPDES permit as well as those necessary for process control. Laboratory procedures and analyses shall conform to the then current edition of Standard Methods for the Examination of Water and Wastewater or to the testing requirements of the NPDES permit. The Operator shall prepare the data for all NPDES permit monitoring and operating reports and shall deliver and certify such results to the Owner. Operator shall assist the Owner in submitting such results to all regulatory agencies requiring such reports.

Section 2.4 – Industrial Pretreatment

The Operator shall, upon written request of the Owner, assist the Owner by providing technical and analytical services in connection with Owner's pretreatment program, as established by the Owner's Sewer Use Ordinance. The Operator shall not be responsible for any enforcement activities related to such pretreatment program. The Owner shall pay all necessary costs incurred by the Operator in connection with the Owner's pretreatment program at a multiplier of 1.15. These costs shall be paid in addition to the compensation provided in Article V herein.

Section 2.5 – Management Information Systems

The Operator shall retain necessary computer hardware and software to provide comprehensive management systems for preventative maintenance, laboratory data collection, Quality Control,

and a computerized process control system. The computer hardware and software are the Operator's property. Upon termination of this Agreement, the Operator shall remove the computer hardware and software unless the Owner purchases the computer hardware and software at a price to be agreed upon by the parties and subject to the provisions of any applicable software use agreement.

Preventive maintenance is fully documented employing HACH JobCal Plus software or other CMMS program approved by the Owner, which provides details concerning maintenance histories and generates works orders. This information shall be provided to Owner in accordance with an agreed upon frequency.

Section 2.6 – Reports

The Operator shall maintain records of operations, maintenance, repair, and improvement activities at the Treatment Facilities and shall prepare and submit to the Owner a monthly report including a narrative summary of operations and all data required for monthly discharge reporting to local, state, and federal agencies.

Section 2.7 – Construction

During the construction or other modification of any of the Treatment Facilities, the Owner and the Operator shall work together to maintain access and minimize disruption and outages to the existing equipment and components. The Operator shall not be responsible in any way for Discharge Violations caused in whole or in part by the construction or modification activity, unless such Discharge Violations result from the negligence of the Operator.

Section 2.8 – Maintenance

The Operator shall perform routine maintenance consisting of preventative maintenance tracking, corrective maintenance scheduling, spare parts inventory control, cleaning and lubrication of service equipment, equipment inspections and adjustments, and janitorial services for the building and grounds of the Treatment Facilities as well as all equipment and instrumentation provided to the Operator by the Owner pursuant to this Agreement in accordance with standard industry practice; subject, however, to the Owner's responsibilities to reimburse the Operator in accordance with Section 5.3 herein for the costs of all materials and other consumables repair and replacement parts and subcontractors. The Operator shall keep the Treatment Facilities in a neat and orderly condition. Such maintenance shall include maintaining the locks and entrance gates at the Treatment Facilities as well as maintaining the locks, entrance gates, and fencing surrounding the wastewater pumping stations.

The Operator shall be responsible for grass cutting in the following areas:

- (a) Wastewater Treatment Facilities: All areas within the Facilities that are within the fenced boundaries of the Facility, including weed maintenance on the fence line. This does not include any grounds maintenance at the abandoned Southeast Lagoon. At the South Central Lagoon and the Southwest Bio Lac, the responsibility of the Operator for grounds maintenance includes areas surrounding air headers, mooring posts, chain assembly cables, above ground electrical

conduit and cables, above ground influent structures, splitter boxes, valves and valve boxes, sidewalks, and areas surrounding ultra-violet disinfection systems, as they may exist.

- (b) Wastewater Pump Stations: Areas within the fences surrounding the pump stations, a two-foot wide area around the perimeter of the fences, and areas in close proximity of a curb, street, or drainage ditch.

Section 2.9 – Technical Support

The Operator's technical support group, which shall include persons not regularly employed at the Treatment Facilities, shall provide backup advice in process control, management, maintenance, and plant repair as necessary to assist the Treatment Facilities' staff and ensure performance of the Operator's obligations under this Agreement.

Section 2.10 – Staffing

The Operator shall provide a properly certified plant manager with skills and experience necessary for the management, operation, maintenance, and repair of the Treatment Facilities.

Employees of the Operator experienced in operating wastewater systems shall staff the Treatment Facilities, as required, and shall have the operator certifications required by State regulations. The staffing plan shall be consistent with the proper and efficient operation of the Treatment Facilities.

The Operator shall staff the Treatment Facilities with operations and maintenance personnel five (5) days per week, eight (8) hours per day. Personnel shall also be on call 24 hours per day, seven (7) days per week. The Operator shall respond to call-outs within one (1) hour. Should the scope of work under this Agreement be modified, Owner and Operator will negotiate the staffing plan to meet the operations and maintenance requirements of the scope of work.

The Operator's staffing plan is defined as:

- (1) Project Manager: Certified Class IV Operator responsible for all Management Activities and project coordination with the Owner.
- (1) Administrative Assistant: Responsible for assisting the Project Manager in the Administration of the project.
- (1) Lead Operator: Certified Class III Operator responsible for the performance and supervision of the day to day operations to include Laboratory Analyses, Process Control, Biosolids Dewatering and Solar Dryer Operations, and assist the Maintenance Department with Preventative and Corrective Maintenance Activities and the Grounds Maintenance at all facilities.
- (2) Operators: Qualified to assist the Lead Operator.
- (1) Lead Maintenance Technician: Qualified to perform and supervise

mechanical/electrical functions at the Facilities and insure performance of all Preventive and Corrective Maintenance functions.

- (2) Maintenance Technicians: Qualified to assist the Lead Maintenance Technician.

Section 2.11 – Training

The Operator shall implement a training program with both classroom and field training for all staff associated with the operation and maintenance of the Treatment Facilities. The training may include, but is not limited to, equipment operation, laboratory sampling and testing, process control, energy and chemical conservation, maintenance and repair, first aid, safety, emergency response, hazardous material handling, and right-to-know laws. The Operator's policy is to provide cross-training between operations and maintenance departments, as applicable. Representatives of the Owner are welcome to attend training sessions.

Section 2.12 – Security

The Operator shall use reasonable efforts to secure the Treatment Facilities within the limits of currently installed security devices. Any losses or other liabilities resulting from any theft, damage, or unauthorized use of Owner's property, properly secured within the limits of the existing security devices, shall be borne by the Owner, unless such loss or liability is a result of Operator's negligence.

Section 2.13 – Odor and Noise Control

The Operator shall operate the Treatment Facilities within the limits and capabilities of the Treatment Facilities to minimize odor and noise. Any additional expenses for process, equipment, or chemicals necessary to further reduce odors and noise shall be borne by the Owner.

Section 2.14 – Electricity

The Owner shall pay all electricity charges for the Treatment Facilities and shall provide the Operator with copies for all payment invoices. The Operator shall monitor electrical costs and usages at the various facility locations and present this information monthly to Owner.

Section 2.15 – Communications

The Operator shall keep the Owner informed about the operation and maintenance of the Treatment Facilities. The Operator shall attend Owner meetings, meetings with contractors, meetings with Owner's Engineer, meetings with the Owner's consulting engineers working on projects at Treatment Facilities, and meetings with regulatory agencies as requested and needed.

Section 2.16 – Recommendations on Capital Improvements and Budgets

The Operator shall, upon written request from Owner, prepare and submit recommendations for capital repairs, replacements, and Expenditures for Capital Improvements and Repairs.

The Operator shall, upon written request from Owner, prepare and submit recommendations for planning and review of Owner's budget. The recommendations may include, but are not limited to, the projection of present operations and suggestion of operation revisions based upon anticipated or actual changes in applicable processes, regulations, and codes.

Section 2.17 – Inventory

The Owner has provided to the Operator the existing inventory of equipment, tools, materials, supplies, and spare parts located at the Treatment Facilities on the effective date of this Agreement. The Operator shall maintain an up-to-date inventory list and will project a reasonable number of spare parts in stock (including standard lubricants, long-lead-time replacement items, and similar items) in accordance with recommendations by manufacturer. Owner and Operator agree to perform an equipment inventory of all tools, rolling stock, and other supplies, and identify those specifically as the equipment of the Owner, within 90 days of the commencement of this Agreement.

Section 2.18 – Other Costs and Expenses

Unless otherwise agreed in writing by the parties, the Operator shall not be required to pay the following expenses:

- Expenses resulting from a change in Scope of Services;
- Expenses resulting from a change in the Owner's NPDES permit (including any Consent Order), law, or regulations by any federal, state, or local agency or authority;
- Expenses resulting from hydraulic or organic loads that exceed Baseline Conditions;
- Expenses resulting from discharge of wastewater in violation of any part of the Owner's Sewer Use Ordinance;
- Expenses incurred and/or penalties assessed as a result of the existence at and/or the discharge to any of the Treatment Facilities of influent wastewater containing Abnormal or Biologically Toxic Material;
- Expenses resulting from the influent flow of wastewater that does not contain Adequate Nutrients;
- Expenses resulting from receipt of "Non-Processible Wastewater", which is defined as wastewater (i) which contains Abnormal or Biologically Toxic Materials; or (ii) which is otherwise detrimental to the operation and performance of the Facilities; or (iii) which exceeds the design capabilities of the Facilities as defined by the Operations and Maintenance Manual for the Facilities or as provided in submissions made to regulatory agencies in connection with the construction and/or the permitting of the Facilities.
- Costs of utilities, supplies and consumables to repair/ replace and maintain equipment , equipment, transportation and disposal fees for grit, screenings and wastewater sludges, payments made to subcontractors fees and all other costs

incurred by the Operator in discharging its responsibilities hereunder with the exception of (a) process chemicals costs (b) costs of materials and supplies (as provided in Section 5.3) for preventive maintenance function and (c) Operator's direct labor expenses and the cost of benefits associated therewith;

- Repair and Replacement Expenses as provided in Section 5.3 herein;
- Taxes as provided in Section 3.5 herein;
- Any damages sustained from force majeure, as specified in Section 7.8 herein;
- Water or sewage use fees;
- Expenditures for Capital Improvements and Repairs, as defined in Attachment A herein;
- Expenses arising from emergency repair or replacement of sewer lines or from emergency use of process chemicals;
- Expenses related to governmental or private surveillance and alarm monitoring by third party vendors;
- Fire protection;
- Industrial sampling/monitoring, including pretreatment sampling/monitoring;
- Pretreatment studies;
- Professional engineering fees;
- Repair and maintenance of high voltage sub stations; and
- The cost of underground line repairs.

If expenditures are made by the Operator on Owner's behalf for items specified above, Owner agrees to reimburse the Operator, within thirty (30) days, for such expenditures upon submission of reasonable documentation verifying such expenditures.

Section 2.19 – Emergency Situations

In the event of sudden damage or destruction of the Treatment Facilities or an emergency which in the reasonable judgment of the Operator is likely to result in material loss or damage to the Treatment Facilities or constitute a threat to human health or safety, the Operator may suspend operations of the Treatment Facilities and may make such emergency repairs, without the consent of the Owner, as are necessary to mitigate or reduce such loss, damage, or threat. The Operator shall provide prompt notice to the Owner of any such damage, destruction, or threat and of any emergency repairs which have been or will be taken. The Owner shall provide prompt notice to the Operator of any alarm(s) or other notices of emergency conditions at the Treatment Facilities. Owner and the Operator shall cooperate in good faith in pursuing reasonable measures to mitigate any threats to human health or safety and in preparing and implementing an emergency operations plan.

Owner shall be responsible for the direct payment or reimbursement to the Operator of all reasonable costs incurred by the Operator in responding to such emergency situation, including

emergency repairs. Such Operator costs may include direct labor charges at standard Operator rates for services exceeding those required pursuant to this Agreement.

Section 2.20 – Litigation Support

At the request of Owner, Operator shall provide or arrange for, at Owner's expense, legal, regulatory, or technical assistance in connection with the Owner's defense or prosecution of any actions, claims, suits, or administrative or arbitration proceedings or investigations, whether pending, threatened, or newly initiated, relating to the Treatment Facilities. For such services the Owner shall pay the Operator its total costs incurred in its performance of such services multiplied by 1.15.

Section 2.21 – Accounting Records

The Operator shall maintain up-to-date financial records as they apply to the services rendered by the Operator under the terms of this Agreement. All records will be kept in accordance with the Operator's standard accounting practices.

Section 2.22 – Disclosure of Information

The Operator represents and warrants that it has disclosed, and will in the future disclose, any and all information it has now, or may have in the future, relating to the Treatment Facilities that may be relevant to the Owner in performing its duties and obligations.

Section 2.23 – Law Changes

The Operator shall notify the Owner of any information received that concerns new or proposed laws, regulations, standards, or other requirements related to the operation of the Treatment Facilities. In the event that such legal changes result in increased efforts or costs, the Owner and the Operator shall cooperate to determine the amount of such increased efforts or costs. Operator and Owner agree to negotiate compensation for any such effort or cost increases resulting from new laws, regulations, standards, or other such requirements in good faith.

ARTICLE III RESPONSIBILITIES OF THE OWNER

Section 3.1 – Owner's Representative

On or before the effective date of this Agreement, the Owner shall designate an authorized representative (the "Authorized Representative") to administer this Agreement. Owner may change its Authorized Representative by written notice as provided in this Agreement. The Authorized Representative will be responsible for receiving and delivering all day-to-day communications exchanged between Owner and Operator during the term of this Agreement.

Section 3.2 – Permits

The Owner shall be responsible for obtaining and maintaining all necessary permits and licenses and for the payment of all fees required for Ownership and operation of the Treatment Facilities and the equipment owned by the Owner and used in connection with the Treatment Facilities.

Section 3.3 – Pretreatment Program

If enforcement of pretreatment standards for industrial user discharge is required by federal, state, or other applicable law, the Owner shall enact, maintain, and enforce an industrial pretreatment program that complies with federal, state, and local standards as well as all relevant permits, and the Clean Water Act.

Section 3.4 – Compliance With Laws

The Owner shall comply with all applicable local, state, and federal laws, codes, ordinances, and regulations as they pertain to the Treatment Facilities, except to the extent responsible for complying with the same is specifically delegated to the Operator in this Agreement.

The Operator shall assist the Owner in complying with all such laws, codes, ordinances, and regulations known to the Operator as they pertain to Operator services. Subject to the provisions of Section 2.1, the Owner shall be responsible for any fines or penalties arising out of noncompliance by Owner with all such laws, codes, ordinances and regulations.

Section 3.5 – Taxes

The Owner shall be responsible for all real and personal property ad valorem taxes, utility taxes and excise taxes applicable to the Treatment Facilities and the services provided for under this Agreement.

In the event that the State of Mississippi or any local governing authority should enact a professional service tax requiring the Operator to pay any sales or use taxes on the value of the services provided by the Operator hereunder, or the services provided by any subcontractor of the Operator, such payments shall be reimbursed by the Owner unless the Owner furnishes a valid and properly executed exemption certificate relieving the Owner and the Operator of the obligation for such taxes. In the event that Owner furnishes an exemption certificate which is invalid or not applicable to services by the Operator, the Owner shall, within thirty (30) days, indemnify and reimburse the Operator for any taxes, interest, penalties, and incremental costs, expenses, or fees which the Operator may incur or has incurred as a result of the Operator's reliance on such certificate.

Section 3.6 – Support

The Owner shall permit use by the Operator, without charge, of all facilities and equipment, under its Ownership as described in Exhibit One or as specified in future equipment or construction specifications. The Owner shall provide the Operator with all information necessary to operate and maintain the Treatment Facilities.

Section 3.7 – Expenditures for Capital Improvements and Repairs

The Owner is responsible for undertaking and paying Expenditures for Capital Improvements and Repairs (as defined in Attachment A) which become necessary under this Agreement. Within ninety (90) days after the effective date of this Agreement, the Operator shall provide the Owner with a list of necessary Capital Improvements and Repairs. The Operator's obligations

under this Agreement are predicated upon the Owner's completion of necessary Expenditures for Capital Improvements and Repairs at the Treatment Facilities in a timely manner. If the Owner fails to make the necessary Expenditures for Capital Improvements and Repairs, the Operator shall not be liable for any penalties, fines, costs, or damages arising from such failure.

During the period of Owner's annual budget preparation, Operator shall provide a list of recommended capital improvements believed to be required for proper operation of the facilities covered under this Agreement. Should the Owner not approve any requested capital improvement, the Operator shall continue to perform its responsibilities on a 'best effort' basis.

Section 3.8 – Storm Water Discharge

The Owner shall be responsible for complying with applicable storm water discharge regulations under federal, state, and local laws.

Section 3.9 – Notice of Litigation

In the event that the Owner or the Operator receives notice of or undertakes the defense or the prosecution of any actions, claims, suits, or administrative or arbitration proceedings or investigations in connection with the Treatment Facilities, the party receiving such notice or undertaking such prosecution shall give the other party timely notice of such proceedings and will inform the other party in advance of all hearings regarding such proceedings.

Section 3.10 – Disclosure of Information

The Owner represents and warrants that it has disclosed, and will in the future disclose, any and all information it has now, or may have in the future, relating to the Treatment Facilities that may be relevant to the Operator in performing its duties and obligations.

Section 3.11 – Electricity

The Owner shall continue to pay all electricity charges for the Treatment Facilities and shall provide the Operator with copies of all payment invoices. The Operator shall monitor electrical costs and usages at the various facility locations and present this information monthly to the Owner.

Section 3.12 – Law Changes

The Owner shall notify the Operator of any information received concerning new or proposed laws, regulations, standards, or other requirements concerning the operation of the Treatment Facilities. In the event such legal changes result in increased efforts or costs, the Operator and the Owner shall cooperate to determine the amount of such increased efforts or costs. The Owner and the Operator agree to negotiate in good faith concerning compensation for any such effort or cost increases resulting from new laws, regulations, standards or other such requirements.

Section 3.13 – General Authority

The Owner shall perform all duties and discharge all responsibilities and obligations relating to its wastewater treatment system and the operation and maintenance of the Treatment Facilities not expressly assumed by the Operator pursuant to the terms of this Agreement.

Section 3.14 – Maintenance

The Owner shall be responsible for maintaining the fencing around all Treatment Facilities.

The Owner agrees to provide a metal building of approximately 3,000 square feet to the Operator during the term of this lease or any extensions thereof. The Operator is to use this building solely to perform the operations, maintenance and management of the Treatment Facilities for the Owner. The Operator is responsible for the upkeep of this building, reasonable wear and tear accepted.

Section 3.15 – Prior Obligations

The Owner shall be responsible for obligations and liabilities incurred prior to the commencement date of the Operator providing services pursuant to this Agreement.

ARTICLE IV TERM AND TERMINATION

Section 4.1 – Term

The term of this Agreement shall commence on the 1st day of October 2011, at 12:01 A.M. C.S.T. and shall continue until midnight on September 30, 2016 (the “Scheduled Termination Date”), unless the Agreement is terminated as provided herein.

This Agreement may be extended for additional five (5) year period(s) beyond the term of this Agreement with affirmative action by, and with the written consent of both parties. Such extended term(s) shall be upon the terms and conditions hereof, as the same may have been modified or changed as of the date of such extension. At least 180 days prior to the Scheduled Termination Date, the parties should decide and finalize whether this Agreement will be extended or allowed to expire in order to allow both parties time to prepare for such extension or expiration.

Section 4.2 – Termination

This Agreement may be terminated for breach or default (collectively, “breach”), but only if (i) the breach is a material one; (ii) the party claimed to have committed the breach has received written notice from the other party of such breach given in accordance with the notice provisions of Article VII of this Agreement, which notice shall state with reasonable specificity the breach complained of and which shall state that the claimed breach is of such a nature that it, in the opinion of the non-breaching party, would give the non-breaching party a right to terminate this Agreement unless the default is cured as set forth below; and (iii) the party claimed to have breached shall have neither cured the breach within a reasonable time, but in any event within not less than ten (10) nor more than thirty (30) days from the date of its receipt of written notice

of breach or, with respect to a breach which cannot be cured within said period, shall have failed to take and continue within said period reasonable steps to cure such breach. Where a party is taking and continuing reasonable steps to cure such breach, the failure to complete the cure within the said period of thirty (30) days shall not constitute cause for the termination of this Agreement. It is expressly understood and agreed that the notice required and the right to cure afforded by this provision shall apply to each and every obligation of the parties under this Agreement, whether the obligation is a general or specific one.

In the event the Agreement is terminated by the Owner, the Owner may, at its option, request the Operator to continue to provide the Scope of Services as provided in this Agreement for ninety (90) days beyond the date of termination, in which event the Operator shall receive as compensation for such services its cost plus overhead, multiplied by 1.15. Notice of the intent to terminate shall be given in writing by personal service or by certified mail, return receipt requested, addressed to the person identified as the recipient of the notices pursuant to Article VII.

In the event that the Treatment Facilities shall be damaged or destroyed by natural disaster or otherwise, so that they are incapable of processing waste and the Owner, after consultation with the Operator, determines to shut down the Treatment Facilities, the Owner and the Operator shall each have the right, upon ninety (90) days prior notice to the other party, to terminate this Agreement. In the event the Owner determines to re-open the Treatment Facilities after such shut down, the Operator shall be entitled to provide services with respect to the Treatment Facilities upon the terms and conditions contained in this Agreement, as the same may be modified by the parties hereto based on good faith negotiations taking into account such changes as may have taken place with respect to the Treatment Facilities.

ARTICLE V COMPENSATION

Section 5.1 – Base Compensation

During each of the Owner's fiscal years, the Owner shall pay the Operator as compensation (the "Base Compensation") for services performed on the Treatment Facilities pursuant to this Agreement, Five Hundred Sixty Three Thousand, Six Hundred and Ninety Nine Dollars (\$563,699), subject to the adjustments hereinafter set forth. The Base Compensation shall be paid in twelve equal monthly installments of Forty Six Thousand, Nine Hundred and Seventy Four dollars and Ninety Two Cents (\$46,974.92).

On each Adjustment Date (defined in Attachment A), the amount of the Base Compensation shall be increased on compounded basis by the Price Index Increase (defined in Attachment A). In no event shall the Base Compensation be reduced by virtue of this Section. No adjustments or re-computations, retroactive or otherwise, shall be made due to any revision which may later be made in the first published figure of the Price Index for any year.

Section 5.2 – Existing Combined Wastewater Flow Characteristics

The Base Compensation stated above is for the operation and maintenance of the Treatment Facilities at the existing combined wastewater flow characteristics at the commencement of this

Agreement, as designated in Attachment B.

Section 5.3 – Repair and Replacement

In addition to the Base Compensation stated above, the Owner shall, on a monthly basis, reimburse the Operator for repair and replacement parts, maintenance materials and other consumables, to include sludge dewatering chemicals and maintenance work performed by subcontractors as utilized by the Operator in order to maintain, repair and replace equipment at the Owner's Treatment Facilities during the term of this Agreement (hereinafter "Repair and Replacement Expenses"). Repair and Replacement Expenses shall, however, specifically exclude materials and supplies (grease, oil, tools and shop supplies) used for routine and expected preventive maintenance care of the equipment at the Treatment Facilities. The cost of such materials and supplies used during routine preventive maintenance is included in the Base Compensation.

The Owner shall reimburse the Operator for all Repair and Replacement Expenses in arrears on a monthly basis.

In some cases, the replacement of equipment may be more beneficial than repair. In any repair/replacement event exceeding a cost of \$1,500.00, the Operator shall obtain the cost to repair or replace the equipment. Owner and Operator shall mutually agree upon which action is to be taken and shall be approved by Owner.

Section 5.4 – Invoices and Payments

For each month that this Agreement is in effect, the Operator shall present an invoice to the Owner for the services which have been rendered, or which will be rendered, during that month. Each invoice shall include the monthly installment for Base Compensation, the monthly adjustment for the Repair and Replacement Expenses and any other sums that may be owed by the Owner to the Operator. The Operator shall present the invoice for each month as early as reasonably possible on or after the fifteenth day of that month. Upon presentation of the invoice for each month, in the time and manner specified above, the Owner shall make the payment for that month to the Operator. Each payment for a particular month shall be made by the Owner to the Operator on the first Wednesday of the next month. For any payment for a particular month which is not paid by the Owner by the forty-fifth day after submission of the invoice for that payment, the Owner shall pay interest to the Operator at one and one-half percent per month on the unpaid balance from the said forty-fifth day after submission of the invoice until the date of payment, as provided by Section 31-7-305 of the Mississippi Code of 1972, as amended. The Owner shall further reimburse the Operator for its costs of collection, including reasonable attorney's fees, in the event the Operator commences legal action to collect any sum past due.

Section 5.5 – Expenditures for Capital Improvements and Repairs

The Operator shall not be responsible for Expenditures for Capital Improvements and Repairs, as defined in Attachment A. Except as provided in Article II under the heading "Emergency Situations", prior to proceeding with repairs or replacements, the Operator shall submit to the Owner for approval all proposed Expenditures for Capital Improvements and Repairs. Each request for approval will identify the Expenditures for Capital Improvements and Repairs needed

the cause, the estimated costs, and the degree of urgency. If the Owner fails to approve the request, the Operator shall not be liable for any penalties, fines, costs or damages arising from the failure to make such Expenditures for Capital Improvements and Repairs.

Section 5.6 – Changes in Scope of Services

Except in case of emergency, the Operator shall not perform additional services or work where such services or work exceeds or changes the Scope of Services contemplated under Article II of this Agreement, without obtaining the prior written approval of the Owner. The Operator shall be entitled to additional compensation for such additional services or work. Such additional compensation shall include, but not be limited to, the Operator's costs, including overhead, multiplied by 1.15. Such additional compensation will be retroactive to the time of such changes. Within ninety (90) calendar days from the date of notice of such additional work or services, the parties shall mutually agree upon an equitable sum of additional compensation.

Changes in the Scope of Service include, but are not limited to, requests for additional services by the Owner, additional costs incurred in treating Abnormal or Biologically Toxic Material, disposing of sludge, meeting new or changed governmental regulations, testing regulations, or reporting requirements, including changed effluent standards, which increase the cost of operating the Treatment Facilities, or arising from construction of additions to, or modification of, the Treatment Facilities.

ARTICLE VI RISK MANAGEMENT

Section 6.1 – Indemnification

Claims by Owner

With respect to any and all claims by Owner, the Operator agrees to indemnify and save harmless the Owner and each of its elected or appointed officers, employees and agents from and against any claims, demands, suits, liabilities, losses and expenses incurred by the Owner which are caused solely by the negligent acts or omissions of the Operator in the performance of its services under this Agreement; provided, however, that in the event that both Owner and Operator are determined by a finder of fact to be negligent and the negligence of both is a proximate cause of such claim for damage, then in such event, Owner and Operator shall each be responsible for the portion of the liability equal to its comparative share of the total negligence; provided further, however, that with respect to any loss, damage, injury or other claims made by Owner as a result of or based upon the presence, removal, handling, storage, release, discharge, escape or other disposition of any hazardous substances, waste, pollutants or contaminant, the Operator's obligations to Owner for indemnity or otherwise shall not apply (i) if such removal, handling, storage, release, discharge, or other disposition is required by, or executed in accordance with, local, state or federal law, rule or regulation; and (ii) unless such loss, damage, injury or claim results from the gross negligence or willful misconduct of the Operator. As used in this section, the work "solely" refers to acts or omissions of the Operator wherein there is no negligence by the Owner.

The Operator shall not be liable, as a result of performance or non-performance of its obligations

under the Agreement, for indirect or consequential damages, including, but not limited to, loss of profits or revenue or loss of the use of the Treatment Facilities, based upon contract negligence or any other cause of action, even if advised of the possibility of such damages. Provided, however, that this provision does not affect direct or actual damages for which the Operator may have liability to the Owner.

Section 6.2 – Operator's Insurance

The Operator shall maintain the following insurance during the term of this Agreement:

1. General Liability Insurance in the amount of not less than one million dollars (\$1,000,000) combined single limit for personal injury, bodily injury, and property damage.
2. Excess Liability Insurance (umbrella coverage) in the aggregate amount of Five Million (\$5,000,000) Dollars.
3. Worker's Compensation Insurance for all Operator employees employed at the Treatment Facilities in accordance with the requirements of Mississippi law.
4. Automobile Liability Insurance for motor vehicles owned by the Operator in the amount of five hundred thousand dollars (\$500,000) for collision, comprehensive, bodily injury and property damage coverage.

The Owner shall be included as an additional insured on the General Liability, Excess Liability and Auto Liability policies with respect to the Services performed under this Agreement, except for any claim against or loss suffered by the Owner arising as a result of the Owner's negligence or fault and, in circumstances of joint fault or negligence, except to the extent of the loss attributable to the Owner's proportionate degree of negligence or fault..

Within thirty (30) calendar days of the date hereof, the Operator shall furnish the Owner with a certification of such insurance coverage and the fact that the Owner has been designated as an additional insured. These policies will be in effect at the time the Operator commences services hereunder at the Treatment Facilities.

Section 6.3 – Owner's Insurance

The Owner shall purchase and maintain General Liability Insurance in regard to the Treatment Facilities. The Owner shall be an self insured in regard to damage or loss of property at the Treatment Facilities, provided, however, that the Owner shall have the right, in its discretion, to purchase property insurance in regard to the Treatment Facilities. .

Within thirty (30) calendar days of the date hereof, Owner shall furnish the Operator with a certification of such insurance coverage.

Section 6.4 – Owner's Liability

In the event that claim(s) raised against the Operator on account of this Agreement, or on

account of the Services performed hereunder, is/are covered under Operator's insurance policies required of the Operator hereunder, the Operator shall not be responsible for any loss, damage or liability beyond the policy amounts contractually required hereunder and the limits and conditions of such insurance policies. With respect to any causes of action and/or claims raised against the Operator that are not covered by the insurance policies required of the Operator hereunder arising under this Agreement, Operator's liability shall not exceed an aggregate amount equal to the Base Compensation in effect during the Agreement Year in which such cause of action and/or claim is raised against the Operator.

ARTICLE VII MISCELLANEOUS

Section 7.1 – Relationship

The relationship of the Operator to the Owner is that of an independent contractor and authorized agent and not one of employment. None of the employees or agents of the Operator shall be considered employees of the Owner. For the purposes of all state, local and federal laws and regulations, the Owner shall exercise primary management and operational and financial decision-making authority.

Section 7.2 – Nondiscrimination

The Operator shall refrain from unlawful discrimination in employment in employing personnel under this Agreement.

Section 7.3 – Entire Agreement; Amendments

This Agreement contains the entire agreement between the Owner and the Operator and supersedes all prior or contemporaneous communications, representations, understandings, or agreements. This Agreement may be modified only by a written amendment signed by both parties.

Section 7.4 – Headings, Attachments and Exhibits

The headings contained in this Agreement are for reference only and shall not in any way affect the meaning or interpretation of this Agreement. The Attachments and Exhibits to this Agreement shall be construed as an integral part of this Agreement.

Section 7.5 – Waiver

The failure on the part of either party to enforce its rights as to any provision of this Agreement shall not be construed as a waiver or its rights to enforce such provisions in the future.

Section 7.6 – Assignment

This Agreement may not be assigned by either party without the prior written consent of the other; provided, however, that the Operator may assign its rights and obligations under this Agreement to one of its affiliates without the prior written consent of the Owner.

Section 7.7 – Access and Inspection by Owner

The Owner shall have the right to inspect the Treatment Facilities during normal business hours. An Operator representative shall be notified prior to, and shall be permitted to observe, the inspection. The Operator shall provide the Owner with access, during normal business hours and upon reasonable prior notice, to the Operator's financial and operating records related to the Treatment Facilities for the purpose of auditing costs or verifying the Operator's performance under this Agreement.

Section 7.8 – Force Majeure

A party's performance of any obligation under this Agreement, other than an obligation to pay money, shall be excused if, and to the extent that, the party is unable to perform because of events of force majeure, which shall include, but shall not be limited to, storms, floods and other Acts of God, the acts of civil or military authority, quarantine restrictions, riots, strikes, lockouts or other labor disputes, commercial impossibility, epidemics, fires, explosions and bombings, the inability to obtain or delays in obtaining permits or other private or governmental approvals, or because of any other cause or causes beyond the reasonable control of the party seeking to be excused from performance. In any such event, the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or cause which excused performance hereunder. A party invoking this force majeure provision shall immediately give written notice to the other party.

The Owner shall be responsible for maintenance and repair costs resulting from Force Majeure.

Section 7.9 – Authority to Contract

Each party warrants and represents that it has full power and authority to enter into this Agreement and to perform its obligations, including any payment obligations, under this Agreement.

Section 7.10 – Governing Law

The Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi.

Section 7.11 – Notices

All notices will be in writing and will be delivered in person or transmitted by certified mail, return receipt requested. Notices required to be given to the Operator will be addressed to:

Severn Trent Environmental Services, Inc.
Attention: Richard Gardner
4837 Swift Road, Suite 100
Sarasota, Fl. 34231

With Copy To:

The Elias Group
Attention: Dan Elias
411 Theodore Fremd Avenue
Suite 102
Rye, NY 10580

Notices required to be given to the Owner will be addressed to:

City of Clinton
P.O. Box 156
Clinton, MS 39060

With Copy To:

Ken Dreher, Attorney at Law
111 Hillmont Circle
Clinton, MS 39056

Bill Owen
WGK, Inc.
P.O. Box 318
Clinton, MS 39060

Mike Parker, Public Works Director
City of Clinton
P.O. Box 156
Clinton, MS 39060

Section 7.12 – Severability

Should any part of this Agreement for any reason be declared invalid or void, such declaration will not affect the remaining parts of this Agreement, which will remain in full force and effect as if the Agreement had been executed with the invalid portion eliminated.

IN WITNESS WHEREOF the parties have duly executed this Amended and Restated Agreement effective as of _____.

ATTEST:

Renee W. [Signature]

ATTEST:

Joane Burns



Owner:

CITY OF CLINTON, MISSISSIPPI

BY: *Rosemary G. Autman*

Title: *Mayor*

Operator:

SEVERN TRENT ENVIRONMENTAL SERVICES, INC.

BY: *Dana [Signature]*

Title: *V.P.*

Attachment A Definitions

"Abnormal or Biologically Toxic Material" is defined as any substance or combination of substances contained in the plant influent in sufficient concentrations so as to (i) interfere with chemical constituents of the wastewater or cause a failure to meet the discharge requirements of the Owner's NPDES permit or (ii) create effluent, sludges, or other material classified as a hazardous waste under RCRA. Abnormal or Biologically Toxic Materials include, but are not limited to, heavy metals, phenols, cyanides, pesticides, herbicides, priority pollutants as listed by USEPA, or any substance that violates the local or USEPA industrial pretreatment standards, the Sewer Use Ordinance of the Owner, or any applicable sewer use ordinance.

"Adequate Nutrients" is defined as nitrogen, phosphorus and iron contained in the wastewater influent flow received at the WWTP in such proportionate amounts relative to the minimum ratio of five (5) parts nitrogen, one (1) part phosphorus, and one half (0.5) part iron for each one hundred (100) parts BOD₅.

"Adjustment Date" shall mean each and every first day of October commencing on October 1, 2011 during the term of this Agreement.

"Baseline Conditions" is defined as the existing flow and loading conditions specified in Attachment B.

"Discharge Violation" is defined as any violation of the Effluent Requirements as defined herein.

"Effluent Requirements" is defined as the following:

Effluent Requirements BOD₅

Plant	Flow gpd	BOD ₅ mg/l monthly average	BOD ₅ mg/l max. weekly average	BOD ₅ lbs. monthly average	BOD ₅ lbs. max. weekly average
Lovett Biolac	276,000	10	15	23	35
Northeast Biolac	300,000	10	15	25	38
Briars Biolac	630,000	10	15	53	79
Southside WWTP	3,500,000	(CBOD) 8	12	234	350

Effluent Requirements TSS

Plant	Flow gpd	TSS mg/l monthly average	TSS mg/l max. weekly average	TSS lbs. monthly average	TSS lbs. max. weekly average
Lovett Biolac	276,000	30	45	69	104
Northeast Biolac	300,000	30	45	75	113
Briars Biolac	630,000	30	45	157	236
Southside WWTP	3,500,000	30	45	876	1,314

Effluent Requirements NH₃-N and Fecal Coliform

Plant	NH ₃ -N	Fecal Coliform col./100 mls monthly average May – Oct.	Fecal Coliform col./100 mls max. weekly average May – Oct.	Fecal Coliform col./100 mls monthly average Nov. – April	Fecal Coliform col./100 mls max. weekly average Nov. – April
Lovett Biolac	2/3	200	400	2,000	4,000
Northeast Biolac	2/3	200	400	2,000	4,000
Briars Biolac	2/3	200	400	2,000	4,000
Southside WWTP	2/3	200	400	2,000	4,000

“Expenditures for Capital Improvements and Repairs” is defined as any expenditure for equipment, major repair or replacement, or structure that significantly extends services life, represents a non-routine type of purchase, and costs \$1,500 or more.

“Treatment Facilities” is defined as all facilities (including wastewater treatment facilities and pump station/collection systems), and equipment as described in Exhibit One, together with the grounds, sewers, structures, pipes, and pumps at the sites of the said facilities. “Treatment Facilities” shall not include any sewers, under-ground pipes or other equipment located off the sites of the said facilities.

“Price Index” shall mean the Consumer Price Index for all Urban Consumers (CPI-U) for the US City Average for all Items, 1982-84=100 as published by the U.S. Department of Commerce, Bureau of Labor Statistics. In the event that the Price Index is changed, or if a substantial change is made in the terms or number of items contained in the Price Index, then, the Price Index shall be adjusted to the figure that would have been arrived at had the manner of computing the Price Index in effect as of the date of this Agreement had not been altered. In the event such Price Index (or a successor or a substitute index) is not available, a reliable governmental or other non-partisan publication evaluating the information therefore used in determining the Price Index acceptable to both parties shall be used.

“Price Index Increase” shall mean the percentage increase in the monthly Price Index in effect on each and every Adjustment Date over the monthly Price Index in effect on October 1, 2011.

Other Definitions

Other terms defined in this Agreement have the meanings so given them.

Attachment B
Existing Flow and Loading Conditions

The Owner represents that the following are the flow and loading conditions at the Treatment Facilities during the period August 2006 to July 2011 (the "Baseline Conditions") and that the existing flow and loading conditions meet all the standards or requirements set forth in the Owner's sewer-use ordinance, meet all the standards or requirements of the Clean Water Act, as amended, and contain Adequate Nutrients, as defined in Attachment A.

Average Annual Flow and Loadings

Plant	Flow (MGD)	BOD ₅ (mg/l)	TSS (mg/l)
Lovett Biolac	0.050	123	251
Northeast Biolac	0.200	195	215
Briars Biolac	0.400	153	225
Southside WWTP	2.360	CBOD ₅ 149	217

The foregoing Average Annual Flow and Loadings for each plant, when considered together, constitute the existing combined wastewater flow characteristics.

Exhibit One
Treatment Facilities

Wastewater Treatment Facilities located at:

Wastewater Treatment Facility	Permit Number
Lovett Biolac	MS0023230
Northeast Biolac	MS0021164
Briars Biolac	MS0047619
Southside WWTP	MS0054992

Pump Station/Collection Systems located at:

1. Kelly Drive Pump Station
2. Susie Lane Pump Station
3. Rosa Lane Pump Station
4. Manyfield Drive Pump Station
5. Lorado Drive Pump Station
6. Clinton Heights Pump Station
7. Industrial Park Pump Station
8. Woodmoor Pump Station
9. Sleepy Hollow Pump Station
10. Garaywa Road Pump Station
11. Trailwood Pump Station
12. Royal Oak Pump Station
13. South Central Pump Station
14. Country Meadow Pump Station
15. Olde Vineyard Pump Station
16. Banks Road Pump Station
17. Hunter Oaks Pump Station
18. Parker Drive Pump Station
19. Northside Pump Station
20. Briars Treatment Plant Pump Station
21. Northeast Treatment Plant Pump Station
22. Shady Springs Pump Station
23. Jostens Pump Station
24. Cotton Acres Pump Station
25. Wickstead Road Pump Station