

CITY OF CLINTON
REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, OCTOBER 5, 1999 - 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 Mayor Aultman followed by the Pledge of Allegiance to the Flag led by Alderman Brabham.

ROLL CALL - City Clerk Nelson Byrd

Present: Jehu Brabham - Alderman-At-Large
Tony Hisaw - Alderman Ward 1
Rodney DePriest - Alderman Ward 2
Clint Brantley - Alderman Ward 3
Phil Fisher - Alderman Ward 4
Herb Touchton - Alderman Ward 5
Sharbert Lott - Alderman Ward 6 - Arrived 7:12 P.M.
Ken Dreher - City Attorney
Nelson Byrd - City Clerk

APPROVAL OF CONSENT AGENDA ITEMS A-Q

MOTION made by Alderman Touchton and **SECONDED** by Alderman Fisher to approve Consent Agenda Items A-Q listed on page 326 of this Minute Book AA. Item C will serve to advertise favorably the opportunities, possibilities, and resources of the City of Clinton. Quotes listed in Item H can be found in the Office of the City Clerk. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF PRELIMINARY SITE PLAN FOR CLINTON BUSINESS PARK

Upon recommendation of Zoning Administrator Gary Ward and the Planning & Zoning Board, **MOTION** made by Alderman Hisaw and **SECONDED** by Alderman Brantley to approve the preliminary site plan for the Clinton Business Park. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF PRELIMINARY SITE PLAN FOR SOUTHERN HAIRSTYLING & TANNING AT 606 SPRINGRIDGE RD.

Upon recommendation of Zoning Administrator Gary Ward and the Planning & Zoning Board, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Fisher to approve the preliminary site plan for Southern Hairstyling and Tanning Salon at 606 Springridge Rd. **MOTION CARRIED UNANIMOUSLY**

APPROVAL FOR PRELIMINARY SITE PLAN FOR FAZOLI'S RESTAURANT

Upon recommendation of Zoning Administrator Gary Ward and the Planning & Zoning Board, **MOTION** made by Alderman Touchton and **SECONDED** by Alderman Brantley to approve the preliminary site plan for Fazoli's Restaurant located at 121 Clinton Center Dr. **MOTION CARRIED UNANIMOUSLY**

DENIAL OF ZONING REQUEST CHANGE AT NORTHSIDE DR. & SUZIE LANE

Alderman Brabham stated that he had visited the property sought to be rezoned and that he and the other members of the Board were familiar with the area. Alderman Brabham stated that rezoning had to occur in an orderly and legal manner. He reviewed the criteria for rezoning: the character of the neighborhood has changed to such an extent as to justify reclassification and that there is a public need for the rezoning. No change in character of the neighborhood was shown to the extent necessary to justify a rezoning and no public need was demonstrated at this time. **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Hisaw to deny the request of Mr. Thomas Lynn Davis to rezone the property as described in Exhibit "A" on page 332 of this Minute Book AA from A-1 to C-2, it being the finding of the Mayor / Board of Aldermen that the rezoning applicant failed to show the necessary changes in the character of the neighborhood and the public need for rezoning as required under Section 2406.03 of the City of Clinton Zoning Ordinance. **MOTION CARRIED UNANIMOUSLY** with Alderman Lott being present for the voting.

ADOPTION OF WIRELESS COMMUNICATION ORDINANCE

MOTION made by Alderman Brabham and **SECONDED** by Alderman Brantley to adopt that Wireless Communications Ordinance and proof of publication found on pages 333-349 and 864-880 of this Minute Book AA and Ordinance Book II, respectively. **MOTION CARRIED UNANIMOUSLY**

AGREEMENTS AND RESOLUTIONS ADOPTED FOR 1999 CDBG

MOTION made by Alderman Touchton and **SECONDED** by Alderman Lott to approve that Administrative Agreement found on pages 350-356 of this Minute Book AA. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Lott and **SECONDED** by Alderman Touchton to approve that Resolution Stating a Firm Commitment to Comply With the National Policy Objective of the CDBG project number 99-147-ED-IF01 found on page 357 of this Minute Book AA. **MOTION CARRIED 5-2** with Aldermen Fisher and DePriest voting "No".

MOTION made by Alderman Brantley and **SECONDED** by Alderman Lott to approve that Resolution Endorsing Civil Rights Laws and Executive Orders Applicable to the CDBG Program found on pages 358-359 of this Minute Book AA. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Lott and **SECONDED** by Alderman Touchton to approve that Resolution Protecting Individuals Engaged in Non-Violent Civil Rights Demonstrations found on page 360 of this Minute Book AA. **MOTION CARRIED 6-1** with Alderman Fisher voting "No".

MOTION made by Alderman Brantley and **SECONDED** by Alderman Touchton to approve that Fair Housing Resolution found on page 361 of this Minute Book AA. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Touchton and **SECONDED** by Alderman Lott to approve that Resolution Adopting Standards of Conduct and Procurement for the CDBG found on page 362 of this Minute Book AA. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF INSURANCE PROPOSALS FOR 1999-2000

Upon recommendation of Sam Bryson, Insurance Agent of Record for the City of Clinton, **MOTION** made by Alderman Fisher and **SECONDED** by Alderman Brabham to approve all insurance proposals as presented for the fiscal year 1999-2000. **MOTION CARRIED UNANIMOUSLY**. Copy of insurance proposal can be found in the Office of the City Clerk.

ALDERMAN HISAW ELECTED AS VOTING BOARD MEMBER OF THE CHAMBER OF COMMERCE

MOTION made by Alderman Brabham and **SECONDED** by Alderman Fisher to elect Alderman Hisaw to another term as voting Board Member of the Clinton Chamber of Commerce for one year. **MOTION CARRIED UNANIMOUSLY**

MAYOR AULTMAN AUTHORIZED TO SIGN SRF LOAN AGREEMENT FOR THE SOUTHSIDE WASTEWATER TREATMENT FACILITY

MOTION made by Alderman Brabham and **SECONDED** by Alderman Lott to authorize Mayor Aultman to sign that SRF Loan Agreement found on pages 363-380 of this Minute Book AA. **MOTION CARRIED UNANIMOUSLY**

ADJOURN 7:45 p.m.

MOTION made by Alderman Fisher and **SECONDED** by Alderman Brantley to adjourn. **MOTION CARRIED UNANIMOUSLY**

Copy of Agenda can be found on page 326 of this Minute Book AA.

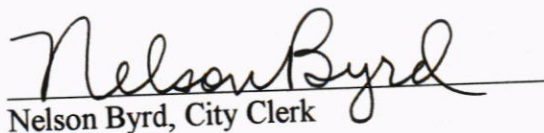
APPROVED:


Rosemary G. Aultman, Mayor

Date

October 11, 1999

ATTEST:


Nelson Byrd, City Clerk

Date

October 11, 1999

SEAL:

CLINTON MS.
(MUNICIPALITY)

Certification to Municipal Compliance Questionnaire

Year Ended September 30, 1999

We have reviewed all questions and responses as contained in this Municipal Compliance Questionnaire for the Municipality of CLINTON, MS., and, to the best of our knowledge and belief, all responses are accurate.

Nelson Byrd
(City Clerk's Signature)

October 4, 1999
(Date)

Rosemary J. Guitman
(Mayor's Signature)

October 4, 1999
(Date)

Minute Book References:

Book Number AA

Page 326A-331

(Clerk is to enter minute book references when questionnaire is accepted by board.)

IV-A8
326A

MUNICIPAL COMPLIANCE QUESTIONNAIRE

INFORMATION

Note: Due to the size of some municipalities, some of the questions may not be applicable. If so, mark N/A in answer blanks. Answers to other questions may require more than "yes" or "no," and, as a result, more information on this questionnaire may be required and/or separate workpapers may be needed.

1. Name and address of municipality: CITY OF CLINTON
P.O. Box 156 CLINTON, MS. 39056
2. List the date and population of the latest official U.S. Census or most recent official census:
1990 21,847
3. Names, addresses and telephone numbers of officials (include elected officials, chief administrative officer, and attorney).
SEE ATTACHED
4. Period of time covered by this questionnaire:
From: 10-1-98 To: 9-30-99
5. Expiration date of current elected officials' term: JULY 2001

IV-A7
326B

CITY OF CLINTON

aldermen/list4-98 (updated 09/98)

Street Address: 300 Jefferson Street
Clinton, Mississippi 39056

Mailing Address: Post Office Box 156
Clinton, Mississippi 39060

Telephone Numbers

924-5462 City Hall
924-5252 Police Department
925-1010 Fire Department
924-2239 Public Works Dept. FAX-924-8532
924-6082 Parks & Recreation
924-3374 Economic Development
925-4605 Fax Number

Mayor

Rosemary Aultman
(Lester) 07-01-46

107 Caroline Cove
Post Office Box 156

924-4830 (home)
924-5462 (City Hall)

Alderman-At-Large

Jehu W. Brabham
(Cheryl) 09-02-49

106 Longwood Drive

924-0418 (home)
924-9912 (office)

Alderman Ward 1

Tony Hisaw
(Diane) 11-04-49

102 Autumn Way

924-9475 (home)
968-0283 (office)
362-9827 (fax)

Alderman Ward 2

Rodney DePriest
(Becki) 08-21-66

202 Country Cove Circle

924-2660 (home)
973-8338 (pager)
925-9767 (fax at home)

Alderman Ward 3

Clint Brantley
(Anita) 10-15-40

1617 Tanglewood Drive

924-1897 (home)
461-5812 (pager)

Alderman Ward 4

Phil Fisher
(Kathy) 07-21-54

1012 Post Road

924-4419 (home)
1-800-436-4154 ext. 90661 (voice mail)

Alderman Ward 5

Herb Touchton
05-07-34

530 Belle Place

924-6797 (home)

Alderman Ward 6

Sharbert K. Lott
(Martha) 06-22-43

306 Church Street

924-0335 (home)
961-1882 (office)

Elected June 6, 1997 with term of office running through July, 2001

MUNICIPAL COMPLIANCE QUESTIONNAIRE

ANSWER ALL QUESTIONS: Y - YES, N - NO, N/A - NOT APPLICABLE

PART I - GENERAL

1. Have all ordinances been entered into the ordinance book and included in the minutes? (Section 21-13-13) yes
2. Do all municipal vehicles have public license plates and proper markings? (Sections 25-1-87 and 27-19-27) yes
3. Are municipal records open to the public? (Section 25-61-5) yes
4. Are meetings of the board open to the public? (Section 25-41-5) yes
5. Are notices of special or recess meetings posted? (Section 25-41-13) yes
6. Are all required personnel covered by appropriate surety bonds?
 - Appointed officers and those handling money, see statutes governing the form of government (i.e., Section 21-3-5 for Code Charter) yes
 - Municipal clerk (Section 21-15-38) yes
 - Deputy clerk (Section 21-15-23) yes
 - Chief of police (Section 21-21-1) yes
 - Deputy police (Section 45-5-9) (if hired under this law) yes
7. Are minutes of board meetings prepared to properly reflect the actions of the board? (Sections 21-15-17 and 21-15-19) yes
8. Are minutes of board meetings signed by the mayor or majority of the board within 30 days of the meeting? (Section 21-15-33) yes
9. Has the municipality complied with the nepotism law in its employment practices? (Section 25-1-53) yes
10. Did all officers, employees of the municipality, or their relatives avoid any personal interest in any contracts with the municipality during their term or within one year after their terms of office or employment? (Section 25-4-105) yes

IV-A9

MUNICIPAL COMPLIANCE QUESTIONNAIRE

11. Does the municipality contract with a Certified Public Accountant or an auditor approved by the State Auditor for its annual audit within twelve months of the end of each fiscal year? (Section 21-35-31)
12. Has the municipality published a synopsis or notice of the annual audit within 30 days of acceptance? (Section 21-35-31 or 21-17-19)

yesyesPART II - CASH AND RELATED RECORDS

1. Where required, is a claims docket maintained? (Section 21-39-7)
2. Are all claims paid in the order of their entry in the claims docket? (Section 21-39-9)
3. Does the claims docket identify the claimant, claim number, amount and fund from which each warrant will be issued? (Section 21-39-7)
4. Are all warrants approved by the board, signed by the mayor or majority of the board, attested to by the clerk, and bearing the municipal seal? (Section 21-39-13)
5. Are warrants for approved claims held until sufficient cash is available in the fund from which it is drawn? (Section 21-39-13)
6. Has the municipality adopted and entered on its minutes a budget in the format prescribed by the Office of the State Auditor? (Sections 21-35-5, 21-35-7 and 21-35-9)
7. Does the municipality operate on a cash basis budget, except for expenditures paid within 30 days of fiscal year end or for construction in progress? (Section 21-35-23)
8. Has the municipality held a public hearing and published its adopted budget? (Section 21-35-5)
9. Has the municipality complied with legal publication requirements when budgetary changes of 10% or more are made to a department's budget? (Section 21-35-25)

yesyesyesyesyesyesyesyesyes

IV-A10

MUNICIPAL COMPLIANCE QUESTIONNAIRE

10. If revenues are less than estimated and a deficit is anticipated, did the board revise the budget by its regular July meeting? (Section 21-35-25) yes
11. Have financial records been maintained in accordance with the chart of accounts prescribed by the State Auditor? (Section 21-35-11) yes
12. Does the municipal clerk submit to the board a monthly report of expenditures against each budget item for the preceding month and fiscal year to date and the unexpended balances of each budget item? (Section 21-35-13) yes
13. Does the board avoid approving claims and the city clerk not issue any warrants which would be in excess of budgeted amounts, except for court-ordered or emergency expenditures? (Section 21-35-17) yes
14. Has the municipality commissioned municipal depositories? (Sections 27-105-353 and 27-105-363) yes
15. Have investments of funds been restricted to those instruments authorized by law? (Section 21-33-323) yes
16. Are donations restricted to those specifically authorized by law? [Section 21-17-5 (Section 66, Miss. Constitution) -- Sections 21-19-45 through 21-19-59, etc.] yes
17. Are fixed assets property tagged and accounted for? (Section 7-7-211 - Municipal Audit and Accounting Guide) yes
18. Is all travel authorized in advance and reimbursements made in accordance with Section 25-3-41? yes
19. Are all travel advances made in accordance with the State Auditor's regulations? (Section 25-3-41) yes

PART III - PURCHASING AND RECEIVING

1. Are bids solicited for purchases, when required by law (written bids and advertising)? [Section 31-7-13(b) and (c)] yes
2. Are all lowest and best bid decisions properly documented? [Section 31-7-13(d)] yes

IV-A11

MUNICIPAL COMPLIANCE QUESTIONNAIRE

3. Are all one-source item and emergency purchases documented on the board's minutes? [Section 31-7-13(m) and (k)]
4. Do all officers and employees understand and refrain from accepting gifts or kickbacks from suppliers? (Section 31-7-23)

yes

yes

PART IV - BONDS AND OTHER DEBT.

1. Has the municipality complied with the percentage of taxable property limitation on bonds and other debt issued during the year? (Section 21-33-303)
2. Has the municipality levied and collected taxes, in a sufficient amount for the retirement of general obligation debt principal and interest? (Section 21-33-87)
3. Have the required trust funds been established for utility revenue bonds? (Section 21-27-65)
4. Have expenditures of bond proceeds been strictly limited to the purposes for which the bonds were issued? (Section 21-33-317)
5. Has the municipality refrained from borrowing, except where it had specific authority? (Section 21-17-5)

yes

yes

yes

yes

yes

PART V - TAXES AND OTHER RECEIPTS

1. Has the municipality adopted the county ad valorem tax rolls? (Section 27-35-167)
2. Are interest and penalties being collected on delinquent ad valorem taxes? (Section 21-33-53)
3. Has the municipality conducted an annual land sale for delinquent ad valorem taxes? (Section 21-33-63)
4. Have the various ad valorem tax collections been deposited into the appropriate funds? (Separate Funds for Each Tax Levy) (Section 21-33-53)

yes

yes

yes

yes

IV-A12

MUNICIPAL COMPLIANCE QUESTIONNAIRE

5. Has the increase in ad valorem taxes, if any, been limited to amounts allowed by law? (Sections 27-39-320 and 27-39-321) yes
6. Are local privilege taxes collected from all businesses located within the municipality, except those exempted? (Section 27-17-5) yes
7. Are transient vendor taxes collected from all transient vendors within the municipality, except those exempted? (Section 75-85-1) yes
8. Is money received from the state's "Municipal Fire Protection Fund" spent only to improve municipal fire departments? (Section 83-1-37) yes
9. Has the municipality levied or appropriated not less than 1/4 mill for fire protection and certified to the county it provides its own fire protection or allowed the county to levy such tax? (Sections 83-1-37 and 83-1-39) yes
10. Are state-imposed court assessments collected and settled monthly? (Section 99-19-73) yes
11. Are all fines and forfeitures collected when due and settled immediately to the municipal treasury? (Section 21-15-21) yes
12. Are bids solicited by advertisement or, under special circumstances, three appraisals obtained when real property is sold? (Section 21-17-1) yes

IV-A13

**WARRANTY DEED
THOMAS LYNN DAVIS**

Lots One (1) and Two (2), Block "B" Ann Putman
Survey, Town of Clinton, according to a map or
plat thereof on file and of record in the office of the
Chancery Clerk of Hinds County at Jackson,
Mississippi, in Plat Book "B" at Page
111.

EXHIBIT "A"

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CLINTON BY ADDING ARTICLE XXVI, **WIRELESS COMMUNICATIONS ORDINANCE**, AND FOR OTHER RELATED MATTERS.

WHEREAS, notice of a public hearing to add new Section 2600 Wireless Communications Ordinance to the Zoning Ordinance of the City of Clinton was published in the Clarion Ledger on September 13, 1999; and

WHEREAS, a public hearing on the proposed amendment was held on September 28, 1999; and

WHEREAS, there was no adverse public comment on the proposed amendment.

BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Clinton that the Zoning Ordinance of the City of Clinton is amended as follows:

Add Article XXVI to City of Clinton Zoning Ordinance.

ARTICLE XXVI
WIRELESS COMMUNICATIONS ORDINANCE

Section 2600 - Purpose

The City recognizes that the city of Clinton desires to encourage the orderly development of wireless communications technologies for the benefit of the city and its citizens. The City also recognizes the excellent character of the residential communities of the City and the dramatic increase in residential growth.

As a matter of public policy the City aims to encourage the delivery of new wireless technologies throughout the City while controlling the proliferation of communications towers. Such development activities will promote and protect the health, safety, prosperity, and general welfare of the citizens of Clinton.

The WIRELESS COMMUNICATIONS ORDINANCE is designed to achieve the following:

- A. Provide a range of locations for communication towers in various zoning districts;
- B. Encourage the location of Wireless Communications Facilities onto existing structures to reduce the number of new communication towers needed within the City of Clinton;
- C. Encourage collocation and site sharing of new and existing communication towers;
- D. Control the type of tower facility constructed, when towers are permitted;
- E. Establish adequate development and design criteria to enhance the ability of providers of telecommunications services to provide service to the community quickly, effectively, and efficiently;
- F. Protect the residential areas and the Olde Towne Clinton District "OTC" from the development of wireless communications facilities;
- G. Promote the use of suitable sites (public and private) for the location of wireless antennae, towers, and/or wireless communication facilities;
- H. Insure the harmonious, orderly, and efficient growth and development of the City;

- I. Maximize the economy of the City through the continued use of the City's public resources;
- J. Provide areas in which the zoning laws permit the development of wireless communication facilities which are consistent with the requirements of the Telecommunications Act of 1996 and in the best interest of the future of the City of Clinton;
- K. Provide clear performance standards addressing the siting of wireless communication facilities; and
- L. Streamline and expedite the permitting procedures to effect compliance with the Federal Telecommunications Act of 1996;

SECTION 2601 - CERTAIN USES NOT COVERED BY THIS ORDINANCE

Nothing in this ordinance shall reduce any of the permitted uses of any zoned property within the City of Clinton. Nothing in this ordinance shall affect the right of a property owner to continue any legal non-conforming use.

SECTION 2602 - INTERPRETATION AND DEFINITIONS

2602.01 Construction of other ordinances

To the extent this ordinance conflicts with the Zoning Ordinance, Sign Ordinance or any other ordinances of the City of Clinton, this ordinance shall control.

2602.02 Rules for words and phrases

For the purpose of this Ordinance, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory; the word "may" is permissive; the word "used" includes "designed" and "intended" or arranged to be used or occupied; and the word "person" includes a firm, association, organization, partnership, trust, foundation, company, or corporation as well as an individual.

2602.03 Definitions

For the purpose of this Ordinance certain words, phrases, and terms used herein shall be interpreted as stated in this Section II. The Zoning Administrator shall define any word, phrase or term not defined herein. The interpretation shall be based upon its common and ordinary usage. For the purpose of this Ordinance, all definitions defined herein are in addition to all definitions in the City of Clinton Zoning Ordinance.

Antenna Array. An Antenna Array is one or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The Antenna Array does not include the Support Structure.

Attached Wireless Communication Facility (Attached WCF). An Attached WCF is an Antenna Array that is attached to an existing building or structure (Attachment Structure), which structures shall include but not be limited to utility poles, signs, water towers, rooftops, towers with any accompanying pole or device (Attachment Device) which attaches the Antenna Array to the existing building or structure and associated connection cables, and an Equipment Facility which may be located either inside or outside of the Attachment Structure.

Collocation/Site Sharing. Collocation/Site Sharing shall mean use of a common WCF or common site by more than one wireless communication license holder or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

Equipment Facility. An equipment Facility is any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a building, or an existing structure, pedestals, and other similar structures.

FAA. Federal Aviation Administration.

FCC. Federal Communications Commission.

FTA. Federal Telecommunications Act of 1996.

Height. When referring to WCF, Height shall mean the distance measured from ground level to the highest point on the WCF, excluding the Antenna Array.

Setback. Setback shall mean the required distance from the property line of the parcel on which the WCF is located to the perimeter of the fenced area around the Support Structure or, in the case of guy-wire supports, the guy anchors.

Support Structure. A Support Structure is a structure designed and constructed specifically to support an Antenna Array, and may include a monopole, self supporting (lattice) tower, guy-wire-support tower and other similar structures. Any device (Attachment Device) which is used to attach an Attached WCF to an existing building or structure (Attachment Structure) shall be excluded from the definition of and regulations applicable to Support Structures.

Temporary Wireless Communication Facility (Temporary WCF).

Temporary Wireless Communication Facility shall mean a WCF to be placed in use for ninety (90) or fewer days.

Tower Use Permit (TUP). A permit issued by the City specifically for the location, construction and use of a WCF subject to an approved site plan and any special conditions determined by the Zoning Administrator to be appropriate under the provision of this Ordinance.

Wireless Communications. Wireless communications shall mean any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

Wireless Communication Facility (WCF). A WCF is any unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an Antenna Array, connection cable, and Equipment Facility, and a Support Structure to achieve the necessary elevation.

SECTION 2603 - APPLICABILITY AND DESIGNATION

Permit Required - No person, firm, or corporation shall install or construct a wireless communications facility unless and until the appropriate permit has been issued pursuant to the requirements of this ordinance.

Pre-existing Wireless Communications Facility - Wireless communications facilities for which a permit has been issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance.

Amateur Radio Exclusion - This Ordinance shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas. Such installations shall comply with any other applicable provisions of the Zoning Ordinance.

Relationship to Other Ordinances - This Ordinance shall supersede all conflicting requirements of other ordinances regarding the locating and permitting of wireless communications facilities except in the Olde Towne Clinton District.

Airport Zoning - Any wireless communications facility located or proposed to be located in airport areas governed by the FAA shall also comply with the provisions of all applicable local, state, and federal airport regulations.

Building Codes - Construction of all wireless communications facilities shall comply with the requirements of the standard building codes as adopted by the City of Clinton and permitting process in addition to the requirements of this Ordinance.

SECTION 2604 - ALLOWABLE USES/DEVELOPMENT CRITERIA

2604.01. Allowable Areas -

- 1.) Wireless communications facilities are prohibited in all residential zoned areas including A-1, R-1, R-2, R-3, R-4, R-5, R-M, P.U.D., and O. T. C.
- 2.) Wireless communications facilities are permitted as a conditional use (special exception) in C-1, C-2, C-3, C-4, I-1, I-2, and S-1 districts subject to conditions and exceptions noted hereafter.

2604.02 Height Standards - The following height standards shall apply to all wireless communications facility installations:

- 1.) Attached Wireless Communication Facilities shall not add more than twenty (20) feet to the height of the existing building or structure to which it is attached.
- 2.) Wireless communications facilities with support structures shall have a maximum height of 250' in I-1 & I-2, and 200' in C-1, C-2, C-3, C-4, & S-1.

2604.03. Setback Standards - The following setback standards shall apply to all wireless communications facility installations;

- 1.) Attached Wireless Communication Facilities - Antenna arrays for attached wireless communication facilities are exempt from the setback provisions of the zone in which they are located. An attached wireless communication facility antenna array may extend up to thirty (30) inches horizontally beyond the edge of the attachment structure so long as the antenna array does not encroach upon an adjoining parcel.
- 2.) Wireless Communications Facilities With Support Structures -
 - a. A minimum setback of a distance equaling the height of the tower. The setback shall be measured from the base of the tower to the boundary line of the property owned, leased, or controlled by easement by the applicant.
 - b. A minimum distance requirement of a distance equaling the height of the tower plus 200 feet from A-1, R-1, R-2, R-3, R-4, R-M, P.U.D., and O.T.C. districts or the nearest part of any existing dwelling, school, church, or institution for human care, in any other district.

2604.04. Landscaping and Screening - The following landscaping and screening requirements shall apply to all wireless communications facility installations.

- 1.) New Construction - New wireless communications facilities with support structures and attached wireless communications facilities with new building construction shall be landscaped in accordance with the applicable provisions of the landscape ordinance that may now or hereafter be adopted.
- 2.) Land Form Preservation - Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided however; that vegetation that causes interference with the antennas or inhibits access to the equipment facility may be trimmed or removed.
- 3.) Existing Vegetation - Existing vegetation on a wireless communication facility site may be used in lieu of required landscaping where approved by the Zoning Administrator.

2604.05. Aesthetics, Placement, Materials, and Colors - Wireless communications facilities shall be designed so as to be compatible with existing structures and surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the wireless communication facility, the use of compatible or neutral colors, or stealth technology. A

monopole type structure shall be used, unless approved by the Mayor and Board of Aldermen.

2604.06 Lighting and Signage - The following lighting and signage requirements shall apply to all wireless communications facility installations:

- 1.) Artificial Illumination - Wireless communications facilities shall not be artificially illuminated, directly or indirectly, except for:
 - a.) security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the site; and
 - b.) such illumination of the wireless communications facility as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences. White strobe lighting shall be permitted during daylight hours, however, red beacon shall be utilized during night time hours.
- 2.) Signage - Wireless communications facilities shall not display any signage, logos, decals, symbols, or any messages of a commercial or noncommercial nature, except a small message containing provider identification and emergency telephone numbers and such other information as may be required by local, state, or federal regulations governing wireless communications facilities.

2604.07 Security Fencing - Wireless communications facilities with support structures shall be enclosed by an opaque security fence not less than six (6) feet in height. Security features may be incorporated into the buffer, landscaping, and screening requirements for the site. Nothing herein shall prevent security fencing that is necessary to meet requirements of state or federal agencies.

2604.08 Radio Frequency Emissions/Sound - The following radio frequency emissions standards shall apply to all wireless communications facility installations:

- 1.) RF Impact - The FTA gives the FCC jurisdiction of the regulation of radio frequency (RF) emissions, and wireless communications facilities that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.
- 2.) FCC Compliance - In order to provide information to its citizens, copies of ongoing FCC information concerning wireless communications facilities and RF standards may be requested. Applicants for wireless communications facilities shall be required to provide information with the application on the measurement

of the effective radiated power of the facility and how this meets the FCC standards.

- 3.) Sound Prohibited - No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted.

2604.09. Structural Integrity - Wireless communications facilities with support structures shall be constructed to the Electronics Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled "Structural Standards for Steel Antennas Towers and Antenna Support Structures" (or equivalent), as it may be updated and amended.

2604.10. Collocation Agreement - No permit to construct a communications tower may be issued unless the applicant demonstrates to the Zoning Administrator or, where applicable, to the Board of Zoning Appeals, need for the tower and that the applicant has exhausted all alternatives to constructing a tower. Applicants are required to prove need by:

- 1.) Demonstrating via statement or other evidence that, in terms of location and construction, there are no existing towers, buildings, structures, elevated tanks, etc., able to provide the antenna platform required;
- 2.) Providing evidence, including coverage diagrams and technical reports, demonstrating that collocation on existing sites is not technically possible in order to serve the desired need. Collocation is not possible if:
 - a.) Planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;
 - b.) Planned equipment will cause RF interference with other existing or planned equipment for that tower, and the interference cannot be prevented at a reasonable cost;
 - c.) Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or planned; or
 - d.) Other reasons as determined by the Mayor and Board of Aldermen make it impracticable to place the equipment

planned by the applicant on existing approved towers.

SECTION 2605 - REVIEW PROCESS

The review process for installation of a wireless communications facility with support structures shall follow all requirements and guidelines as set forth in Section 2405 - Special Exceptions (Conditional Uses) of the City of Clinton Zoning Ordinance. (adopted April 4, 1997)

SECTION 2606 - APPROVAL PROCESS

2606.01. Application Submission

All requests for a permit, regardless of Wireless Communication Facility type shall submit an application in accordance with the requirements of this section.

- 1.) Application Contents. Each applicant requesting a conditional use under this Ordinance shall submit a scaled site plan containing a scaled elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of the wireless communications facility and all improvements associated therewith, including information concerning specifications, antenna locations, equipment facility and shelters, landscaping, parking, access, fencing and, if relevant as determined by staff, topography, adjacent uses and existing vegetation. Applicants proposing to collocate on an existing wireless communication facility shall include a Radio Frequency Intermodulation Study with their application.
- 2.) Submission Requirements. Application for a conditional use shall be submitted to the City on forms prescribed by the City. The application shall be accompanied by a site plan containing the information described above and a copy of the appropriate FCC license. The application and site plan shall be placed on the next available commission agenda in accordance with the agenda deadlines established by the City.
- 3.) Application Fees. A plan review fee of \$500. These fees may be used by the City to engage an engineer(s) or other qualified consultant(s) to review the technical aspects of the application or publish notices in local newspaper for public hearing as described in Zoning Ordinance.
- 4.) Technical Assistance. In the course of its consideration of an application, the City, the Zoning Administrator, the Planning

Commission, or the Board of Aldermen may deem it necessary, in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of wireless communication facilities to assist the City in the technical aspects of the application. In such cases, a five thousand dollar (\$5,000) deposit shall be submitted to the City for technical review and recommendations.

2606.02 Planning Commission Review - The following shall apply to all Tower Use Permit applications requiring submission to the Planning Commission.

- 1.) Review Authority. The Planning Commission shall be the review authority for TUP applications not eligible for Administrative Review or otherwise referred to the Commission.
- 2.) Notice. Notice of the application and the public hearing by the Planning Commission shall be accomplished in the same manner as a Conditional Use Permit under the Zoning Ordinance.
- 3.) Hearing. The Planning Commission shall review and consider the conditional use application at a public hearing. At the hearing, interested persons may appear and offer information in support or opposition to the proposed application. The Planning Commission shall consider the following in reaching a decision.
 - a.) Development Criteria Variance. The conditional use shall be reviewed for compliance with the Development Criteria set for in Section V; provided that the applicable Development Criteria may be amended or waived so long as the approval of the wireless communication facility meets the goals and purposes of the Ordinance. The Planning Commission may authorize a variance from the Development Criteria by specific inclusion in a motion for approval.
 - b.) Tower Siting Conditions. The Planning Commission may impose conditions and restrictions on the application or on the premises benefited by the conditional use as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the wireless communication facility with the surrounding property, in accordance with the purposes and intent of this Ordinance. The violation of any condition shall be grounds for revocation of the conditional use. The Planning Commission may impose such conditions in addition to the Development Criteria upon the following findings:

- i.) The wireless communication facility would result in significant adverse visual impact on nearby residences.
 - ii.) The conditions are based upon the purpose and goals of this Ordinance.
 - iii.) The conditions are reasonable and capable of being accomplished.
- c.) Action. Following the public hearing and presentation of evidence, the Planning Commission shall take one of the following actions:
 - i.) approve the application as submitted;
 - ii.) approve the application with conditions or modifications;
 - iii.) defer the application for additional information or neighborhood input; or
 - iv.) deny the application.
- 4. Findings. All decisions rendered by the Planning Commission concerning a Tower Use Permit shall be supported by written findings of fact and conclusions of law based upon substantial evidence of record.
- 5. Timing of Decision. The Planning Commission shall render its decision within 60 days or less of the final submission of all required application documents and technical evaluations, however this time may be increased due to deferrals by either the applicant or the Planning Commission.
- 6. Appeals. The decision of the Planning Commission may be appealed to the Board of Aldermen of the City under the following circumstances:
 - a.) Only the applicant and those who registered an objection to the conditional use in the record of the Planning Commission shall have standing to appeal.
 - b.) Only such evidence or testimony in support of or opposition to the issuance of the conditional use which was provided to the Planning Commission may be presented to the Board of aldermen unless the Board, by majority vote, decides to hear new information.
 - c.) Notice of appeal shall be accomplished by the appellant in the same manner as a conditional use permit under the Zoning Ordinance.

SECTION 2607 - SHARED FACILITIES AND COLLOCATION POLICY

Collocation. All new wireless communication facilities with support structures shall be engineered, designed and constructed to be capable of sharing the facility with other providers, to collocate with other existing wireless communication facilities and to accommodate the future collocation of other wireless communication facilities. A conditional use shall not be issued until the applicant proposing a new wireless communications facility shall demonstrate that it has made a reasonable good faith attempt to locate its WCF onto an existing structure. Competitive conflict and financial burden are not deemed to be adequate reasons against collocation.

All WCF's with support structure up to a height of 150 feet shall be engineered and constructed to accommodate at least the four (4) antenna array. All WCF's with support structure up to a height of more than 200 feet shall be engineered and constructed to accommodate at least five (5) antenna array. All WCF's with support structure over 200 feet shall be engineered and constructed to accommodate at least six (6) antenna array.

SECTION 2608 - REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES

Any wireless communication facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the wireless communication facility owner shall remove the wireless communication facility within 90 days after notice from the City to remove the wireless communication facility. If the abandoned wireless communication facility is not removed within 90 days, the City may remove it and recover its costs from the wireless communication facility owner. If there are two or more users of a single wireless communication facility, this provision shall not become effective until all providers cease to use the wireless communication facility. If the owner of an abandoned wireless communication facility cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the wireless communication facility is located. The City shall be notified of any technological advances within the industry that will require any changes in the facilities.

SECTION 2609 - NONCONFORMING WIRELESS COMMUNICATIONS FACILITIES

Wireless Communication Facilities in existence on the date of the adoption of this Ordinance which do not comply with the requirements of this Ordinance (nonconforming wireless communications facility) are subject to the following provisions:

- A. Expansion. Nonconforming wireless communication facilities may continue in use for the purpose now used, but may not be expanded without

complying with this Ordinance except as further provided in this Section.

- B. Additions. Nonconforming wireless communications facilities may add additional antennas (belonging to the same provider or other providers) subject to Administrative Review under this Ordinance.
- C. Repairs or Reconstruction. Nonconforming wireless communications facilities which become damaged due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this Ordinance. Provided, however, that if the damage to the wireless communication facility exceeds 50% of replacement cost, said wireless communication facility may only be reconstructed or repaired in compliance with this ordinance.
- D. Any wireless communications facility not in use for six months shall be deemed abandoned and all rights as a nonconforming use shall cease.

SECTION 2610 - REVOCATION OF TOWER USE PERMITS

Any Conditional Use Permit issued pursuant to this Ordinance may be revoked after a hearing as provided hereinafter. If the Mayor and Board of Aldermen finds that any permit holder has violated any provision of this Ordinance, or has failed to make good faith reasonable efforts to provide or seek collocation, the Mayor and Board of Aldermen may revoke the conditional use permit upon such terms and conditions, if any, that the Mayor and Board may determine. Prior to initiation of revocation proceedings, the City shall notify the permit holder, in writing, of the specific areas of non-compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed 60 days. The permit holder shall provide the City with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the Mayor and Board of Aldermen shall convene a public hearing to consider revocation of the Conditional Use Permit. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the city not less than 10 days prior to the hearing and by written notice to the permit holder. At any such hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The Mayor and Board of Aldermen may impose reasonable restrictions with respect to time and procedure. The proceedings shall be provided by the requesting party at that party's expense.

SECTION 2611 - PENALTY

The fine or penalty for violating any provisions of this Ordinance shall, upon conviction in the municipal court, not exceed one thousand dollars (\$1,000.00) for any one specified offense or violation further, that if a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof in violation of this Ordinance shall not exceed one thousand dollars (\$1,000.00) for each day that it may be unlawfully continued.

This Ordinance shall be effective 30 days from and after passage.

ORDAINED, ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, MISSISSIPPI, at a meeting thereof held on the 5th day of October, 1999.

A Motion for adoption was made by Alderman BRABHAM and seconded by Alderman BRANTLEY. The foregoing ordinance having been first reduced to writing, and no request being made by the Mayor or any member of the Board of Aldermen that the Ordinance be read by the City Clerk, before any vote was taken, it was submitted to the Board of Aldermen for the passage or rejection on roll call vote upon the vote begin as follows, to-wit:

Alderman Brabham voted:	<u>Aye</u>
Alderman Hisaw voted:	<u>Aye</u>
Alderman DePriest voted:	<u>Aye</u>
Alderman Brantley voted:	<u>Aye</u>
Alderman Fisher voted:	<u>Aye</u>
Alderman Touchton voted:	<u>Aye</u>
Alderman Lott voted:	<u>Aye</u>

Whereupon the Mayor declared the Motion carried and the ordinance approved and adopted.

The foregoing ordinance was approved this the 5th day of October, 1999.

City of Clinton

By: Rosemary G. Aultman
ROSEMARY G. AULTMAN, Mayor

ATTEST:

Nelson Byrd
NELSON BYRD, City Clerk

(SEAL)

Z RESOLUTION RECORD.wps

NOTICE OF ADOPTION

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF CLINTON BY ADDING ARTICLE XXVI, WIRELESS COMMUNICATIONS ORDINANCE, AND FOR OTHER RELATED MATTERS.

SUMMARY

WHEREAS, notice of a public hearing to add new Section 2600 Wireless published in *The Clarion-Ledger* on September 13, 1999; and

WHEREAS, a public hearing on the proposed amendment was held on September 28, 1999; and

WHEREAS, there was no adverse public comment on the proposed amendment.

BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Clinton that the Zoning Ordinance of the City of Clinton is amended as follows:

ADD ARTICLE XXVI TO CITY OF CLINTON ZONING ORDINANCE

This Ordinance shall be effective 30 days from and after passage.

ORDAINED, ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, MISSISSIPPI, at a meeting thereof held on the 5th day of October, 1999.

A Motion for adoption was made by Alderman Brabham and seconded by Alderman Brantley. The foregoing ordinance having been first reduced to writing, and no request being made by the Mayor or any member of the Board of Aldermen that the Ordinance be read by the City Clerk, before any vote was taken, it was submitted to the Board of Aldermen for the passage or rejection on roll call vote upon the vote begin as follows, to-wit:

Alderman Brabham voted:	Aye
Alderman Hisaw voted:	Aye
Alderman DePriest voted:	Aye
Alderman Brantley voted:	Aye
Alderman Fisher voted:	Aye
Alderman Touchton voted:	Aye
Alderman Lott voted:	Aye

Whereupon the Mayor declared the Motion carried and the ordinance approved and adopted.

The foregoing ordinance was approved this the 5th day of October, 1999. The ordinance will encourage the orderly development of wireless communications technologies for the benefit of the City and its citizens and encourage the delivery of new wireless technologies throughout the City while controlling the proliferation of communications towers. Such development activities will promote and protect the health, safety, prosperity, and general welfare of the citizens of Clinton.

The ordinance is designed to provide for tower locations, collocation and site sharing; insure harmonious, orderly, and efficient growth and development within the City; and effect compliance with the Federal Telecommunications Act of 1996.

Nothing in the ordinance shall reduce any of the permitted uses of any zoned property within the City of Clinton or affect the right of a property owner to continue any legal non-conforming use.

The ordinance sets out procedures to install or construct wireless communications facilities and sets out the relationship to other ordinances, zoning and building codes.

The ordinance sets out allowable uses and development criteria including allowable areas; height standards; setback standards; landscaping and screening requirements; aesthetics, placement, material and colors; lighting and signage; security fencing; radio frequency emissions/sound; structural integrity; and collocation agreement.

A review process and approval process are set out in the ordinance including hearing and appeals procedures. The ordinance provides a shared facilities and collocation policy; a provision for removal of abandoned facilities; a policy for non-conforming facilities; revocation of permits; and penalties for violations of the ordinance.

Effective date of the Wireless Communications Ordinance; November 5, 1999. Adopted on October 5, 1999, at the regular meeting of the Mayor and Board of Aldermen of the City of Clinton, Mississippi.

City of Clinton

By: Rosemary G. Aultman,
Mayor

ATTEST:

/s/ Nelson Byrd
Nelson Byrd, City Clerk

October 26, 1999

Proof of Publication

State of Mississippi

Hinds County

PERSONALLY appeared before me, the undersigned notary public in and for Hinds County, Mississippi,

Shirley Mize

an authorized clerk of THE CLARION-LEDGER, a daily newspaper as defined and prescribed in Sections 13-3-31 and 13-3-32, of the Mississippi Code of 1972, as amended, who, being duly sworn, states that the notice, a true copy of which is hereto attached, appeared in the issues of said newspaper as follows:

Dates of Publication:

Tuesday, October 26, 1999

Lines:	206
Words:	616
Issues:	1
Total:	\$79.92

Signed

Authorized Clerk
of The Clarion-Ledger

Notary Public

SWORN to and subscribed before me on 10/26/99

Notary Public State of Mississippi At Large.

My Commission Expires: Nov. 8, 2000.

Bonded thru Notary Public Underwriters.

(SEAL)

**AGREEMENT
CONSULTING SERVICES
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into this the 5th day of OCTOBER 1999, by and between Jimmy G. Gouras, Urban Planning Consultants, Inc., herein called the "Consultant", and the City of Clinton, Mississippi, herein called the "City".

WITNESSETH THAT:

WHEREAS, the City of Clinton applied for and received a 1999 Community Development Block Grant Economic Development Project Number 99-147-ED-IF01 for public infrastructure improvements to serve Wal-Mart SuperCenter, under Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the City needed application preparation assistance and needs subsequent administrative assistance in implementing this Community Development Block Grant Economic Development Project Number 99-147-ED-IF01; and

WHEREAS, the City desires to engage the Consultant to render certain technical and professional services hereinafter described in connection with the application preparation and subsequent implementation of the Community Development Block Grant Economic Development Project Number 99-147-ED-IF01, and the Consultant desires to provide said services; and

WHEREAS, the City and the Consultant acknowledge that this contract shall not become effective until the date of execution of a Grant Agreement for the above referenced Community Development Block Grant.

NOW, THEREFORE, the parties hereto mutually agree as follows:

**TITLE I
EMPLOYMENT OF CONSULTANT**

The City hereby agrees to employ the Consultant, and the Consultant hereby agrees to perform services set forth hereinafter in connection with the City's Community Development Block Grant Program which is to be financed by grant funds provided by HUD to the State of Mississippi under Title I of the Housing and Community Development Act of 1974, as amended.

TITLE II
SCOPE OF SERVICES

The Consultant shall do, perform and carry out in a satisfactory and proper manner such work as the City determines is necessary to accomplish the activities funded by the Community Development Block Grant Program. Specific job tasks that the Consultant shall assist the City in performing include, but are not necessarily limited to the following:

A. **Application Preparation**

B. **General Services**

1. Establish a filing system to keep and maintain the necessary records as appropriate for implementation of the grant in accordance with applicable federal, state, and local rules and regulations. The filing system and records shall include, among other things, the following records:
 - a. Citizen Participation
 - b. Environmental
 - c. Labor Standards
 - d. Acquisition
 - e. Relocation
 - f. Procurement
 - g. Financial Management
 - h. Other Resources
 - i. Equal Opportunity
 - j. General Correspondence

C. **The Consultant shall be responsible for:**

1. Overall coordination of project activities;
2. Attending state monitoring visits, meetings, etc.;
3. Establishing and maintaining financial records;
4. Preparing the necessary documentation to request funds from the State; and
5. Providing all other services considered normal administrative services within the course of this Agreement.

D. **Close-Out Project**

The Consultant shall prepare close-out documents required by the State.

The Consultant shall be available at all times to assist the City in performing such work in a satisfactory and proper manner as the City deems necessary under this program. Specific job tasks that we, as the Consultant, shall perform shall not be limited to the above, but would conform to the specific needs of the City.

TITLE III
DISPOSITION OF WORK MATERIALS

All contract documents and similar work materials prepared by the Consultant in completing the scope of services set forth herein shall be the property of the City.

TITLE IV
TIME OF PERFORMANCE

The services provided under this Agreement by the Consultant shall continue as long as is mutually agreeable to the parties hereto or until the project is closed out. The terms of the Agreement, specifically the "Scope of Services" and "Compensation" to the Consultant can, however, be reviewed annually and modified as is mutually agreeable to the two parties.

TITLE V
PERSONNEL

The Consultant represents that he has, or will secure at his own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

All of the services required hereunder will be performed by the Consultant or under his supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under the State, Federal, and Local law to perform such services.

TITLE VI
TERMINATION FOR CONVENIENCE OF THE CITY

The City may terminate this Contract at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof. Such written notice shall be furnished the Consultant at least thirty (30) days before the effective date of termination. In the event all finished or unfinished documents and other materials as described above shall, at the option of the City become its property. If the Contract is terminated by the City as provided herein, the Consultant shall be paid for all work completed up to the termination date.

TITLE VII
TERMINATION FOR CONVENIENCE OF CONSULTANT

The Consultant may terminate this Contract at any time by giving written notice to the City of such termination and specifying the effective date thereof. Such written notice shall be furnished the City at least thirty (30) days before the effective date of termination. In the event of termination, all materials as described above shall become the property of the City. The Consultant shall be paid for all work completed up to the termination date.

TITLE VIII
CHANGES

The City or Consultant may, from time to time, request changes in the terms of this Agreement. Such changes, including any increase or decrease in the amount of compensation due to the Consultant, shall be mutually agreed upon by the parties hereto and shall be incorporated in written amendments to this Contract.

TITLE IX
COMPENSATION DUE TO CONSULTANT
and
METHOD OF PAYMENT

The City agrees to pay the Consultant in two phases. Phase I will include all services rendered pertaining to the application preparation, and Phase II will include all services rendered pertaining to administration and implementation of the Community Development Block Grant Economic Development Project Number 99-147-ED-IF01:

Phase I	
1. Application Preparation	\$3,500
Phase II	
1. Completion of Environmental Review Procedure	2,000
2. For services from Notification of Grant Award to Release of Funds from the Department of Economic and Community Development including, but not limited to: preparation and submission of quarterly reporting worksheets; draft letter appointing Equal Opportunity and Labor Compliance Officer; draft letter appointing FSP Manual Coordinator; establishment of City's record keeping and financial management system in accordance with all Federal and State laws and regulations; preparation of a Fair Housing Resolution; preparation of a Code of Conduct and Procurement Procedures; assist the City in procuring professional services as needed; and any other services necessary to implement the City's project.	1,000
3. Beginning with the first month following the Execution of the Contract for the construction of the project, the Consultant will submit monthly invoices in the amount of \$5,200 for services rendered as outlined in items A, B, and C in the Scope of Services. Invoices will be submitted for five (5) consecutive months.	26,000
4. Retainage for acceptance and approval of close-out documents by the Department of Economic and Community Development.	2,500

TITLE X
EQUAL EMPLOYMENT OPPORTUNITY

The Consultant will not discriminate against any employee or applicant for employment because of race, religion, sex, color, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin.

TITLE XI
INTEREST OF MEMBERS OF THE CITY AND OTHERS

No officer, member, or employee of the City and no member of its governing body, and no other public official of the governing body, the locality or localities in which the Project is situated or being carried out who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of the project, shall participate in any decision relating to this Contract which affects his personal association in which he is, directly or indirectly, interested or have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

TITLE XII
ASSIGNABILITY

The Consultant shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or notation) without prior written consent of the City thereto; provided, however, that claims for money due or to become due the Consultant from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

TITLE XIII
INTEREST OF CONSULTANT

The Consultant covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

TITLE XIV
FINDINGS CONFIDENTIAL

Any reports, information, data, etc., given to or prepared or assembled by the Consultant under this Contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Consultant without prior written approval of the City.

TITLE XV
OFFICIALS NOT TO BENEFIT

No members of or delegate to the Congress of the United States of America and no Resident Commissioner shall be admitted to any share or part hereof or to any benefit to arise herefrom.

The Consultant is advised that no member, officer, or employee of the local public body or its designers or agents, no member of the governing body of the locality in which the project is situated, and no other public officials of such locality or localities who exercise any functions or responsibilities with respect to the project during their tenure or for one year thereafter, shall have any interest, direct or indirect in the contract or subcontract, or the proceeds thereof for work to be performed in connection with the project.

TITLE XVI
AUDITS AND INSPECTIONS

The Consultant shall keep and maintain books, records, and other documents relating to the receipt and disbursement of such grant funds; and any duly authorized representative of the Department of Economic and Community Development, Division of Community Development, the City, HUD, and/or the Comptroller General of the United States shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other project documents until the completion of all close-out procedures respecting this grant and the final settlement and conclusion of all issues arising out of this grant. Records shall be retained for three (3) years after project closeout.

The Consultant agrees that any duly authorized representative of the Department of Economic and Community Development, the City, HUD, and/or the Comptroller General of the United States shall, at all reasonable times, have access to any portion of the project in which the Consultant is involved until the completion of all close-out procedures respecting this grant.

TITLE XVII
REMEDIES

Except as may be otherwise provided in this Agreement, all claims, counterclaims, disputes, and other matters in question between the City and Consultant arising out of or relating to this Agreement or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

TITLE XVIII
CITY'S RESPONSIBILITIES

Provide full information to the Consultant as to his requirements for the Project.

Pay all costs incidental to obtaining bids or proposals from contractors.

Provide such legal, accounting, independent costs estimating and insurance counseling services as may be required for the Project.

TITLE XIX
PUBLICATION, REPRODUCTION, AND USE OF MATERIAL

No material produced in whole or in part under this Agreement shall be subject to copy right in the United States or in any other country. The City and the State of Mississippi and the Department of Housing and Urban Development shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any report, data, or other materials prepared under this Agreement.

TITLE XX
FEDERAL AND STATE GUIDELINES

The Consultant does hereby bind itself, certified and gives its assurance that it will comply with all requirements of the grantor agency, as they relate to the application, acceptance and use of federal funds for the federally and state assisted projects.

TITLE XXI
SECTION 504 HANDICAPPED

The Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

TITLE XXII
SUCCESSORS AND ASSIGNS

The City and Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns, or such other party, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Consultant.

TITLE XXIII
MISCELLANEOUS PROVISIONS

This Agreement shall be construed as in accordance with the laws of the State of Mississippi and all obligations of the parties created hereunder are performable in the City.

In case one or more of the provisions in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

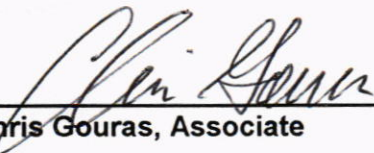
IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement this the 5th

day of OCTOBER, 1999.

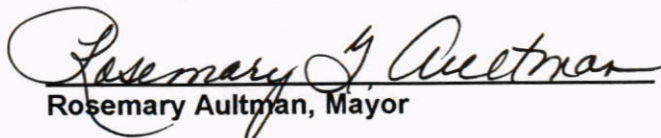
WITNESS:


Nelson Byrd, City Clerk

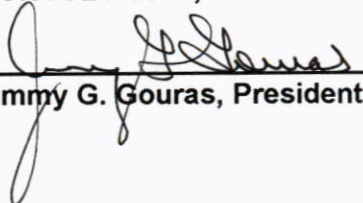
WITNESS:


Chris Gouras, Associate

THE CITY OF CLINTON, MISSISSIPPI


Rosemary Aultman, Mayor

JIMMY G. GOURAS, URBAN PLANNING
CONSULTANTS, INC.


Jimmy G. Gouras, President

RESOLUTION STATING A FIRM COMMITMENT
TO COMPLYING WITH THE NATIONAL POLICY OBJECTIVE
OF COMMUNITY DEVELOPMENT BLOCK GRANT
PROJECT NO. 99-147-ED-IF01

WHEREAS, the City of Clinton has applied for and received a Community Development Block Grant for road improvements, traffic signalization, and sewer improvements to serve Wal-Mart Stores, Inc. in Clinton, Mississippi;

WHEREAS, as a part of said CDBG project, Wal-Mart Stores, Inc. has executed a Memorandum of Agreement to create at least 100 full-time permanent jobs of which a minimum of fifty-one percent (51%) will accrue to the benefit of persons from low and moderate income households;

WHEREAS, the Grant Agreement for said CDBG Project No. 99-147-ED-IF01 requires that the City of Clinton shall submit to the Community Services Division, Department of Economic and Community Development, an official resolution stating firm commitment to the National Objective for this Community Development Block Grant project, which is making at least fifty-one percent (51%) of the 100 permanent, full-time jobs to be created by Wal-Mart Stores, Inc. available to persons from low and moderate income households.

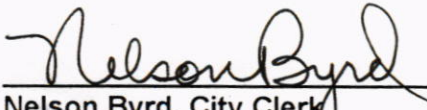
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Aldermen of the City of Clinton that:

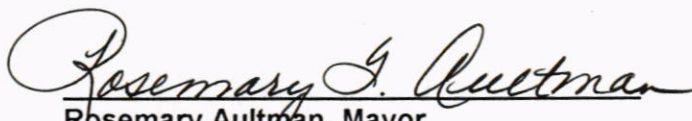
The City of Clinton stands firm in its commitment to insure that at least fifty-one (51%) of the one hundred (100) permanent, full-time jobs to be created by Wal-Mart Stores, Inc. are made available to persons from low and moderate income households.

RESOLVED this the 5th day of OCTOBER, 1999.

The City of Clinton, Mississippi

Attest:


Nelson Byrd, City Clerk


Rosemary Aultman, Mayor

**RESOLUTION
ENDORISING CIVIL RIGHT LAWS AND EXECUTIVE
ORDERS APPLICABLE TO THE COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM**

WHEREAS, the City of Clinton has received funds through the Mississippi Department of Economic and Community Development, Economic Development Program for Community Development Block Grant Project Number 99-147-ED-IF01; and

WHEREAS, the City is required under the Economic Development Program to comply with all Civil Rights Laws and Executive Orders pertaining to Civil Rights; and

WHEREAS, the policy of the City is to comply with all regulations of the Economic Development Program including applicable Civil Rights Laws and Executive Orders such as:

**Civil Rights Laws and Executive Orders Applicable
to Community Development Block Grants**

Title VI, Civil Rights of 1964

Provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 109, Housing and Community Development Act of 1974

Provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.

Title VIII, Civil Rights Act of 1968

Provides for fair housing throughout the United States. Kinds of discrimination prohibited: refusal to sell, rent, or negotiate, or otherwise to make unavailable; discrimination in terms, conditions, and privileges; discriminatory advertising; false representation; blockbusting; discrimination in financing; and discrimination in membership in multiple-listing services and real estate brokers' organizations.

The Secretary of HUD (and grantees) shall administer programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this Title.

Executive Order 11063

Requires equal opportunity in housing and related facilities provided by Federal financial assistance.

Executive Order 11246

Requires nondiscrimination in employment under federally-assisted construction contracts.

Section 3, HUD Act of 1968

Provides that to the greatest extent feasible, opportunities for training and employment shall be given to lower income residents of HUD-assisted project areas, and that contracts for work in connection with such projects be awarded to business concerns which are located in, or are owned in substantial part by persons residing in the area of the project.

Fair Housing Amendments Act of 1988
(P.L. 100-430)

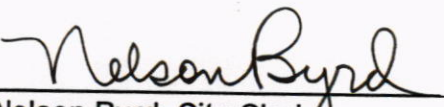
The Fair Housing Amendments Act of 1988 provides strong federal enforcement measures against discrimination in housing. It gives the Department of Housing and Urban Development authority to initiate enforcement actions and to penalize those who discriminate in the sale, rental, or financing of housing. In addition, the Act adds persons with handicaps and families with children to those protected under Title VIII of the Civil Rights Act of 1968.

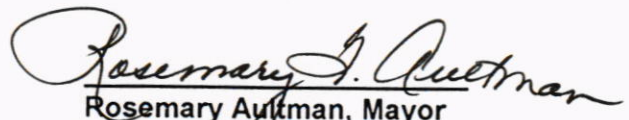
NOW, THEREFORE, BE IT RESOLVED that the Mayor and Aldermen of the City of Clinton hereby endorse said Civil Rights Laws and Executive Orders and endorses actions to implement said laws and Executive Orders.

RESOLVED, this the 5TH day of OCTOBER, 1999.

ATTEST:

THE CITY OF CLINTON


Nelson Byrd, City Clerk


Rosemary Aultman, Mayor



**RESOLUTION
PROTECTING INDIVIDUALS ENGAGED
IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS
CDBG PROJECT NUMBER 99-147-ED-IF01**

WHEREAS, from time to time, the City of Clinton receives federal funds from the United States Department of Housing and Urban Development (HUD) through the State of Mississippi, Department of Economic and Community Development; and

WHEREAS, the State Department of Economic and Community Development has advised the City of Clinton that it is a requirement of Community Development Block Grant recipients to comply with Public Law 101-144 by adopting and enforcing a policy to prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations; and

WHEREAS, the Mayor and Aldermen of the City of Clinton, Mississippi, deem it in the best interest of the citizens of the City of Clinton to comply with such grant requirements.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Aldermen of the City of Clinton that the foregoing policy be adopted and enforced:

The City of Clinton hereby prohibits the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.

RESOLVED, this the 5TH day of OCTOBER, 1999.

THE CITY OF CLINTON

BY: Rosemary A. Aultman
Mayor Rosemary Aultman

ATTEST:

Nelson Byrd
Nelson Byrd, City Clerk



**FAIR HOUSING RESOLUTION
COMMUNITY DEVELOPMENT BLOCK GRANT
ECONOMIC DEVELOPMENT PROJECT NUMBER 99-147-ED-IF01**

WHEREAS, the Mayor and Aldermen of the City of Clinton has applied for and received grant funds under the Community Development Block Grant Program from the State of MS, and

WHEREAS, the rules and regulations governing the Community Development Block Grant Program require that grant recipients recognize and adhere to Title VIII of the Civil Rights Act of 1968 (The Federal Fair Housing Act) and the Fair Housing Amendment, Act of 1988, and

WHEREAS, the aforementioned Acts provide for equal opportunity for all Americans in the sale, rental and financing of housing and prohibit housing discrimination on the basis of race, color, religion, sex, age, national origin, or handicap; and,

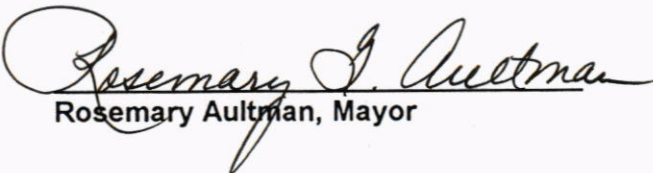
WHEREAS, the Mayor and Aldermen of the City of Clinton recognize the existence of the Federal Fair Housing Acts and desires to adhere to the requirements and provisions of the Acts,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Aldermen of the City of Clinton, that:

The Mayor and Aldermen fully support the intent and purpose of the Federal Fair Housing Act and urges all citizens and institutions, public and private to fully support the Federal Fair Housing Acts.

RESOLVED this the 5TH day of OCTOBER, 1999.

THE CITY OF CLINTON


Rosemary Aultman, Mayor

ATTEST:


Nelson Byrd, City Clerk



**RESOLUTION
ADOPTING STANDARDS OF CONDUCT AND PROCUREMENT
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
ECONOMIC DEVELOPMENT PROJECT NUMBER 99-147-ED-IF01**

WHEREAS, from time to time the City of Clinton receives Federal funds from Housing and Urban Development (HUD) through the Governor's Office of Federal-State Programs, Department of Community Development; and

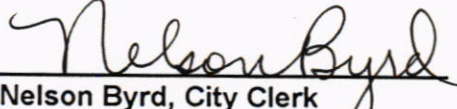
WHEREAS, the Department of Community Development has advised the City of the acceptable "Standards of Conduct" for CDBG recipients; and

WHEREAS, the Mayor and Aldermen of the City is interested in following sound business practices, prescribed standards of conduct, and CDBG requirements for the purpose of protecting CDBG grant funds as well as those who administer the program.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Aldermen of the City of Clinton that the attached hereto "Standards of Conduct" be adopted and strictly adhered to in the implementation of all Community Development Block Grant programs of the City.

RESOLVED, this the 5th day of OCTOBER, 1999.

ATTEST:


Nelson Byrd, City Clerk

THE CITY OF CLINTON


Rosemary Aultman, Mayor



ORIGINAL

LOAN NUMBER: SRF-C280805-02-0

STATE REVOLVING FUND LOAN AGREEMENT
AND INITIAL REPAYMENT AGREEMENT

THIS AGREEMENT is executed by the STATE OF MISSISSIPPI COMMISSION ON ENVIRONMENTAL QUALITY (Commission) acting through the DEPARTMENT OF ENVIRONMENTAL QUALITY (Department) and the CITY OF CLINTON, existing as a local government or agency (Loan Recipient) under the laws of the State of Mississippi.

WITNESSETH:

WHEREAS, pursuant to Sections 49-17-81, et seq. Mississippi Code Annotated (1972), the Department is authorized to make loans to certain local government agencies to finance the construction of eligible pollution control projects, the planning and design of which have been reviewed by the Department; and

WHEREAS, the City of Clinton, has made application for the financing of the Project, and the Department has determined that such Project meets all requirements for a loan;

NOW, THEREFORE, in consideration of the Department loaning money to the Loan Recipient, in the principal amount and the covenants hereinafter set forth, it is agreed as follows:

ARTICLE I - DEFINITIONS

1.01. WORDS AND TERMS. Words and terms used herein shall have the meanings set forth in the SRF Regulations and as set forth below:

Form SRF67 (May 28, 1999)

(1) "Agreement" or "Loan Agreement" shall mean this Agreement, as amended.

(2) "Loan" shall mean the amount of money to be loaned pursuant to this Agreement.

(3) "Loan Repayment" shall mean the monthly payment due from the Loan Recipient to the Department, comprised of principal and interest.

(4) "Project" shall mean facilities funded under this Agreement as described in Article IX.

(5) "Revenues" shall mean all income or earnings received by the Loan Recipient from the ownership or operation of its facilities, including investment income, all as calculated in accordance with generally accepted accounting principles as prescribed by the State Auditor. Revenues shall not include proceeds from the sale or other disposition of any part of the facilities, condemnation awards or proceeds of insurance, except use and occupancy or business interruption insurance, received with respect to the facilities.

(6) "SRF Regulations" shall mean the State Revolving Fund Loan Program Regulations effective June 1, 1995, as amended.

1.02. CORRELATIVE WORDS. Words of the masculine gender shall be understood to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural and the word "person" shall include corporations and associations, including public bodies, as well as natural persons.

ARTICLE II - WARRANTIES, REPRESENTATIONS AND COVENANTS

2.01. WARRANTIES, REPRESENTATIONS AND COVENANTS. The Loan Recipient warrants, represents and covenants that:

(1) The Loan Recipient has full power and authority to enter into this Agreement and to comply with the provisions hereof.

(2) The Loan Recipient is not subject to bankruptcy, insolvency, or reorganization and is not in default of, or otherwise subject to, any agreement or any law, administrative regulation, judgment, decree, note, resolution, charter or ordinance which would restrain or enjoin it from entering into, or complying with, this Agreement.

(3) There is no material action, suit, proceeding, inquiry or investigation, at law or in equity, before any court or public body pending which seeks to restrain or enjoin the Loan Recipient from entering into or complying with this Agreement.

(4) All permits, real property interests (unless loan eligible), and approvals required as of the date of this Agreement have been obtained for construction, operation and maintenance of the Project. The Loan Recipient knows of no reason why any future required permits or approvals cannot be obtained.

(5) The Loan Recipient shall undertake the Project on its own responsibility, and, to the extent permitted by law, shall release and hold harmless the State, its officers, members, and employees from any claim arising in connection with the planning, design, construction, operation, maintenance, replacement, performance, or fiscal integrity of the Project. The Loan Recipient is responsible for the proper planning, design, construction, operation, maintenance, replacement, performance, and fiscal integrity of the project. The Department's approval of any document does not relieve the Loan Recipient or any others of any liabilities or responsibilities. Such approval of any document is for loan eligibility or allowability purposes only and does not establish or convey any such liability or responsibility.

(6) a. Contract Claims

- 1) The Department is not a party to any contract between the SRF Loan Recipient and the construction contractor(s), the consulting engineer(s), the attorney(s), the equipment supplier(s), the subcontractor(s) or any other parties.
- 2) Upon execution of any contract between the Loan Recipient and any other party in regard to an SRF funded project, the Department does not assume any authorities, duties, responsibilities, or liabilities under such a contract.
- 3) The Department does not have any authority, duty, responsibility, or liability in contract claims identification, negotiation, resolution, or any other actions regarding contract claims under the contract(s) between the Loan Recipient and any other party.
- 4) No actions taken by the Department, either directly or indirectly, in regard to the SRF loan funded project constitute or establish any determinations, authority, duty, responsibility, or liability under the contract(s) between the Loan Recipient and any other party.

- 5) The Loan Recipient and the contracting party must resolve all claims and contract disputes by negotiation, arbitration, litigation, or other means as provided in the contract documents and State law, prior to submission of any documents regarding SRF loan participation to the Department.

b. Change Orders

- 1) After completion of the claims resolution and/or change order negotiation process between the Loan Recipient and the contracting party, a fully executed change order must be submitted to the Department staff for review and approval, in order to obtain an SRF loan eligibility/allowability determination, in accordance with SRF Regulation III.E.(5).
- 2) If any change order is submitted to the Department that is not complete and fully executed by the Loan Recipient, the contracting party, and the consulting engineer if appropriate, the Department may return such change order without review. However, unilateral change orders executed by the Loan Recipient, and the consulting engineer if appropriate, that are issued in accordance with the contract documents may be submitted to the Department for review and approval, in order to obtain an SRF loan eligibility/allowability determination, in accordance with SRF Regulation III.E.(5).
- 3) The Loan Recipient may submit a complete and fully executed change order which has been executed conditional upon an SRF loan eligibility/allowability determination by the Department of Environmental Quality.
- 4) The term "proposed change order" in Section III.E.(5) of the SRF Regulations means a fully executed change order that is submitted to the Department staff for approval of proposed SRF loan eligibility/allowability.

(7) The Loan Recipient has, or will have prior to advertisement of the project for bids, a procurement protest procedure in accordance with Appendix L of the SRF Regulations for dealing with third parties and shall independently resolve any bid protest or other dispute between the Loan Recipient and a third party.

(8) The financial information delivered by the Loan Recipient to the Department is current and correct. The Loan Recipient shall provide the Department with additional financial information via the audits required by Section 49-17-87 of the Mississippi Code and other notification of changing conditions relating to the Loan Recipient's ability to repay this Loan.

(9) The Loan Recipient agrees to construct the Project in accordance with the Project schedule, delays incident to strikes, riots or acts of God beyond the reasonable control of the Loan Recipient excepted.

(10) The Loan Recipient covenants that this Agreement is entered into for the purpose of borrowing moneys to construct, and place in operation, the Project which will in all events serve a public purpose. The Loan Recipient covenants that it will, under all conditions, complete and place the Project in operation to the end that the public need will be met.

(11) The Loan Recipient must accept flows from any community or area designated in the approved facilities plan to be served by the system funded by the SRF loan, generally without regard to any condition other than user charges developed on an equitable cost basis and the terms of the interlocal agreements required by the SRF Regulations.

2.02. COMPLIANCE WITH STATE STATUTES AND REGULATIONS. The Loan Recipient agrees to comply with all applicable state statutes and regulations including, but not limited to, the SRF Regulations. The SRF Regulations are attached hereto and made a part hereof for all purposes.

2.03. PROHIBITION AGAINST ENCUMBRANCES. The Loan Recipient is prohibited from selling, leasing or disposing of any part of the Project which would materially reduce its operational integrity unless the written consent of the Department is first secured. The Loan Recipient is also prohibited from selling, leasing or transferring ownership of all or a substantial portion of the Project to another entity unless the written consent of the Department is first secured.

2.04. LOCAL FUNDS. In addition to the proceeds of this Loan, the Loan Recipient covenants that it has obtained, or will obtain within 90 days after loan award, sufficient moneys from other sources to complete and place the Project in operation on, or prior to, the completion date specified in this Agreement. Failure of the Department to award additional loan funds shall not constitute a waiver of the Loan Recipient's covenants to complete and place the Project in operation.

ARTICLE III - OPERATION AND FISCAL INTEGRITY OF THE SYSTEM

3.01. OPERATION AND MAINTENANCE OF THE PROJECT. The Loan Recipient shall operate and maintain the Project in a proper, sound and economical manner and shall promptly make all necessary repairs and replacements. The Loan Recipient shall comply and require compliance with the approved Sewer Use Ordinance during the life of the Project.

3.02. ADDITIONS AND MODIFICATIONS. The Loan Recipient may make any additions, modifications or improvements to the Project which it deems desirable and which do not materially reduce the operational integrity of any part of the Project. All such additions, modifications, or improvements must be approved by the Department and, if approved, shall become part of the Project.

3.03. COLLECTION OF REVENUES. The Loan Recipient shall use its best efforts to collect all rates, fees and other charges due to it. The Loan Recipient shall establish liens on premises served by the Project for the amount of all delinquent rates, fees and other charges where such action is permitted by law. The Loan Recipient shall, to the full extent permitted by law, cause to discontinue the services of the Project and use its best efforts to shut off water service furnished to persons who are delinquent beyond customary grace periods in the payment of Project rates, fees and other charges. The Loan Recipient shall comply and require compliance with its approved User Charge System during the life of the Project.

3.04. LOAN RECIPIENT ACCOUNTING AND AUDITING PROCEDURES. The Loan Recipient shall maintain project accounts in accordance with generally accepted accounting principles as prescribed by the State Auditor.

ARTICLE IV - DEFAULTS AND REMEDIES

4.01. EVENTS OF DEFAULT. Each of the following events is hereby declared an event of default:

(1) Failure of the Loan Recipient to make any loan repayment when it is due and such failure shall continue for a period of thirty (30) days.

(2) Failure to comply with the provisions of this Agreement or in the performance or observance of any of the covenants or actions required by this Agreement.

(3) Any warranty, representation or other statement by, or on behalf of, the Loan Recipient contained in this Agreement or in any information furnished in compliance with, or in reference to, this Agreement, which is false or misleading in any material respect.

(4) An order or decree entered, with the acquiescence of the Loan Recipient, appointing a receiver of any part of the Project or Revenues thereof; or if such order or decree, having been entered without the consent or acquiescence of the Loan Recipient, shall not be vacated or discharged or stayed on appeal within sixty (60) days after the entry thereof.

(5) Any proceeding instituted, with the acquiescence of the Loan Recipient, for the purpose of effecting a compromise between the Loan Recipient and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are payable from Revenues of the Project.

(6) Any bankruptcy, insolvency or other similar proceeding instituted by, or against, the Loan Recipient under federal or state bankruptcy or insolvency laws now or hereafter in effect and, if instituted against the Loan Recipient, is not dismissed within sixty (60) days after filing.

(7) Failure to give timely notice of default as required below when such failure shall continue for a period of thirty (30) days.

4.02. NOTICE OF DEFAULT. The Loan Recipient shall give the Department immediate written notice of an event of default.

4.03. REMEDIES. Upon any event of default and subject to the rights of bondholders with prior liens, the Department may enforce its rights by utilizing one or more of the following remedies:

(1) By mandamus or other proceeding at law or in equity, cause to establish and collect fees and charges for use of the Project and to require the Loan Recipient to fulfill this Agreement.

(2) By action or suit in equity, require the Loan Recipient to account for all moneys received from the Department or from the ownership of the Project and to account for the receipt, use, application or disposition of the Revenues.

(3) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Department.

(4) By applying to a court of competent jurisdiction, cause to appoint a receiver to manage the Project, establish and collect fees and charges, and apply the Revenues to the reduction of the obligations under this Agreement.

(5) By certifying to the Tax Commissioner delinquency on loan repayments, the Department may intercept the delinquent amount, plus ten (10) percent annual penalty interest on the amount due to the Department, from any unobligated funds due to the Loan Recipient under any revenue or tax sharing fund established by the State. Penalty interest shall accrue on any amount due and payable beginning on the thirtieth (30th) day following the date upon which payment is due. The penalty interest shall be compounded monthly.

(6) By notifying financial market credit rating agencies.

(7) By administratively charging or suing for payment of amounts due, or becoming due, plus ten (10) percent annual penalty interest which shall accrue on any amount due and payable beginning on the thirtieth (30th) day after such notification by the Department, together with all costs of collection, including attorneys' fees. The penalty interest shall be compounded monthly.

(8) By accelerating the repayment schedule or increasing the interest rate in accordance with the SRF Regulations.

(9) By withholding payments to the Loan Recipient.

(10) By terminating the Loan Agreement, after providing thirty (30) days written notice of such intent to terminate the Loan Agreement. Such termination will not affect the duty of the Loan Recipient to repay loan funds paid thus far.

4.04. DELAY AND WAIVER. No delay or omission to exercise any right or power accruing upon event of default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient. No waiver or any default under this Agreement shall extend to or affect any subsequent event of default, whether of the same or different provision of this Agreement, or shall impair consequent rights or remedies.

ARTICLE V - GENERAL PROVISIONS

5.01. DISCHARGE OF OBLIGATIONS. All loan repayments required to be made under this Agreement shall be cumulative. Any deficiencies in any month shall be added to the repayment due in the succeeding month and all months thereafter until fully repaid. Repayments shall continue to be secured by this Agreement until all of the repayments required shall be fully repaid to the State Water Pollution Control Revolving Fund. If, at any time, the Loan Recipient shall have repaid the Loan and interest required, the pledge of, and lien on, the Revenues to the State Water Pollution Control Revolving Fund shall be no longer in effect.

5.02. PROJECT RECORD AND STATEMENT. Books, records, reports, design documents, contract documents, and papers related to the Project shall be available to the authorized representatives of the Department and the U.S. Environmental Protection Agency for inspection at any reasonable time after the Loan Recipient has executed a loan agreement and before one year has elapsed after the Loan Recipient repays the loan in full. If litigation, a claim, an appeal, or an audit is begun before the end of the one year period, all records must be kept for one year after the litigation, appeal, claim, or audit is complete or resolved.

5.03. ASSIGNMENT OF RIGHTS UNDER AGREEMENT. The Department may assign any part of its rights under this Agreement without the consent of the Loan Recipient. The Loan Recipient shall not assign rights created by this Agreement without the consent of the Department.

5.04. AMENDMENT OF AGREEMENT. Modification, changes or amendments to this Agreement may be made upon mutual agreement of the parties hereto. However, any change, supplement, modification or amendment of any term, provision or condition of this Agreement shall be (1) in writing and signed by both parties, and (2) consistent with applicable statutes, rules, regulations, executive orders, or written agreements between the Department and the U.S. Environmental Protection Agency.

5.05. SEVERABILITY CLAUSE. If any provision of this Agreement shall be held invalid or unenforceable, the remaining provisions shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

5.06. CONFLICTS CLAUSE. In the event that any provision of this Agreement conflicts with the SRF Regulations, the Regulations will govern unless this Agreement specifically provides otherwise.

5.07. EXECUTION OF AGREEMENT. This Agreement becomes effective upon execution by the Department and the Loan Recipient. This Agreement will not be altered by the Loan Recipient after execution by the Department.

5.08. BONDS AND INSURANCE REQUIRED. The Loan Recipient shall require contractors to provide performance and payment bonds for the full amount of the contracts. Insurance against all risks during the period of construction shall be provided. Builder's risk or similar types of insurance in the amount of the full replacement cost of the Project shall be provided to the extent that such insurance is obtainable from time to time against any one or more of such risks.

The Loan Recipient shall cause insurance to be obtained and maintained against such risks as is customary during construction. Insurance requirements include workers' compensation, comprehensive general liability, contractors' indemnification obligations, vehicle liability, flood and property insurance. The Department reserves the right to require business interruption insurance when the Project includes revenue producing facilities and when such revenue produced therefrom is to be used for repayment of the loan. Any such requirement shall be included in the Project Specific Loan Conditions. The proceeds of insurance policies received as a result of damage to, or destruction of, facilities or structures shall be used to restore or replace damaged portions of the facilities. If such proceeds are insufficient, the Loan Recipient shall provide such restoration or replacement of the damaged portions of the facilities. Such restoration or replacement shall be promptly completed.

The Loan Recipient shall cause the Project, as each part thereof is certified by the engineer responsible for overseeing construction as completed, to be insured by an insurance company or companies licensed to do business in the State of Mississippi against such risks as are customary in connection with the operation of facilities of like size, type and location in customary amounts to the extent such insurance is obtainable from time to time against any one or more of such risks. Such insurance shall be maintained at least until such time as the loan amount has been completely repaid.

ARTICLE VI - CLEAN WATER ACT AND OTHER FEDERAL REQUIREMENTS

6.01. TITLE VI PROVISIONS. The Loan Recipient shall comply with all provisions of Title VI of the Clean Water Act and regulations thereunder.

6.02. CROSS-CUTTING FEDERAL LAWS AND AUTHORITIES. The Loan Recipient shall comply with the crosscutting Federal Laws and Authorities as required by the SRF Regulations, Appendix H.

6.03. SINGLE AUDIT ACT. The Loan Recipient shall comply with all provisions of the Single Audit Act Amendments of 1996 and regulations thereunder. When required by the Act, the Loan Recipient must submit the required copies of its Single Audit to the Department of Environmental Quality and the designated Federal Clearinghouse, within the timeframes allowed in the Act, for each operating fiscal year of the Loan Recipient in which \$300,000 or more in federal SRF Loan funds are expended.

ARTICLE VII - DETAILS OF FINANCING

7.01. AMOUNT OF LOAN. The amount of the Loan authorized is \$13,455,296.

7.02. PROJECT BUDGET. The Loan Recipient agrees to the following Project Budget. Loan payments to the Loan Recipient for construction, equipment and supplies, and testing may not exceed the project budget line items for each, plus construction contingency. Loan payments for land, the facilities planning and design allowance, and for the construction phase services allowance may not exceed the project budget line items for each. Amendments to the project budget must be requested by the Loan Recipient and approved by the Department, and must be in accordance with the SRF Regulations.

	<u>Loan Amount</u>
(1) Construction	\$10,105,704
(2) Equipment and Supplies	\$ -0-
(3) Testing	\$ -0-
(4) Construction Contingency	\$ 1,010,570
(5) Land	\$ -0-
(6) Allowance for Facilities Planning and Design	\$ 931,332
(7) Allowance for Construction Phase Services	\$ 766,962
(8) SRF Administrative Fee	\$ 640,728
Total Loan Amount	\$13,455,296

7.03. BIDS IN EXCESS OF BUDGET AMOUNTS. Should the bids for construction, equipment and supplies, and testing for this project exceed the budget amounts for these items plus construction contingency, the Department may terminate this loan agreement in accordance with the procedures described in Article 4.03 (10).

7.04. AVAILABILITY OF FUNDS. The Loan Recipient understands and agrees that this loan award is based upon anticipated federal, state match, and other funds being made available to the Department. The Loan Recipient agrees that should such anticipated funds not be made available to the Department, the Department may delay payments to the Loan Recipient, may terminate the loan agreement, and/or may recover any previous payments made to the Loan Recipient. The Loan Recipient releases the Department from all liability for any claims or damages related to such actions and further agrees not to take any legal or other actions against the Department in regard to such claims, damages, or actions by the Department.

7.05. PROHIBITION OF DUPLICATE FUNDING. The Loan Recipient hereby agrees that all costs requested for reimbursement from the State Revolving Fund have not been, and will not be, also requested or received from other State or Federal agency funding sources.

7.06. INTEREST RATE. The rate of interest on the unpaid principal of the Loan is 3.5 percent per annum, to be compounded monthly.

7.07. INITIAL REPAYMENT SCHEDULE. The Loan Recipient hereby authorizes the State Tax Commission to withhold \$78,718.10 monthly from the amount of sales tax reimbursement it is to remit to said Loan Recipient under Section 27-65-75, Mississippi Code of 1972 as amended, for repayment of the loan amount as specified in Article 7.01. of this Agreement to the State Water Pollution Control Revolving Fund for a period of 237 months, to begin December 2001, subject to amendment in accordance with the SRF Regulations. The monthly repayments to be made by the State Tax Commission to the State Water Pollution Control Revolving Fund from the Loan Recipient for the repayment of the loan amount as specified in Article 7.01. of this Agreement made to said Loan Recipient are hereby determined to be \$78,718.10 for a period of 237 months, to begin January 2002, subject to amendment in accordance with the SRF Regulations.

ARTICLE VIII - PROJECT BUDGET PERIOD

8.01. PROJECT BUDGET PERIOD. Unless amended, the budget period for this project begins on September 30, 1999, and expires on November 18, 2001. No costs that are incurred or requested after the expiration date will be eligible. The expiration date was determined based on 30 days after the final construction inspection. Department approval of loan eligible time extension change orders will automatically extend the budget period through such loan eligible date.

ARTICLE IX - PROJECT DESCRIPTION

9.01. PROJECT DESCRIPTION. The Project shall mean facilities funded in whole or in part under this Loan Agreement described as follows:

The selected alternatives include the construction of approximately 8 miles of 10" to 36" gravity sewer interceptors; a 3.0 MGD pump station and 1 mile of 14" force main interceptors. The existing South Central Lagoon and Southwest WWTF will be converted to storm water equalization facilities. Construction also consists of a new 3.5 MGD Oxidation Ditch System which includes influent pump station, headworks, yard piping, aeration/clarification, disinfection/post aeration, sludge lagoons, electrical and controls, operations building, and all necessary appurtenances.

The loan eligible scope is specifically limited to that identified as eligible in the approved plans, specifications and contract documents, and as subsequently modified by contract change orders approved as eligible by the Department. The Loan Recipient hereby agrees that no additional eligible scope will be added to this Project Description. The plans, specifications and contract documents were approved by the Department on September 30, 1999.

ARTICLE X - PROJECT SPECIFIC LOAN CONDITIONS

10.01. PROJECT SPECIFIC LOAN CONDITIONS. The Loan Recipient shall comply with the following Project Specific Loan Conditions and any amendments made thereto pursuant to the provisions of the SRF Regulations.

(1) The Loan Recipient agrees to the following Project Performance Standards and will certify that they are being met one year after initiation of operation, in accordance with SRF Regulation III.F(8). This certification will be submitted on October 19, 2002.

- a. The Project performs in the manner it was planned and designed to perform, as described in the approved facilities plan, plans, specifications and contract documents.
- b. There is no evidence of wear, corrosion, loss of efficiency or other problems which indicate that the actual useable life of any portion of the Project will be significantly shorter than the design life.
- c. All NPDES permit requirements are being met.

(2) The Loan Recipient shall comply with the following schedule in accordance with SRF Regulation III.E.(7). Earlier completion of certain actions may require earlier completion of other actions.

- a. By December 29, 1999 (no later than 90 days after loan award), advertise all construction related contracts for bids and submit proof of such advertisement;
- b. By December 29, 1999 (no later than 90 days after loan award), all local funds necessary for the project shall be secured and proof of such shall be submitted;
- c. By January 28, 2000 (no later than 30 days after advertisement), receive bids on all construction related contracts;

- d. By February 11, 2000 (no later than 14 days after receipt of bids), submit the completed MBE/WBE, EEO, and related documentation on all construction related contracts;
- e. By February 18, 2000 (no later than 21 days after receipt of bids), submit bid package on all construction related contracts;
- f. By March 28, 2000 (no later than 60 days after receipt of bids), execute and submit all construction related contract documents and issue and submit a notice to proceed on all such contracts;
- g. By December 23, 2000 (fixed date), submit a completed operation and maintenance manual;
- h. By July 27, 2001 (fixed date), secure approval of the operation and maintenance manual;
- i. By September 19, 2001 (may change due to change orders), complete construction on the last construction related contract. All other contracts must be completed by their original contract completion date, or as amended by approved change orders;
- j. By October 19, 2001 (no later than 30 days after the last construction contract completion date), hold final construction inspection and initiate operation of the entire Project. Note that a final inspection will be held on each contract within 30 days after current construction contract completion date on that contract;
- k. By November 18, 2001 (no later than 30 days after final construction inspection), submit final payment requests, approvable summary change orders for all construction related contracts, a complete set of as-built plans for the entire project funded in whole or in part with SRF loan funds, and all other administrative forms and documents required by the loan agreement. *Payment requests submitted after this date are not allowable, regardless of when the costs were incurred;*
- l. On October 19, 2002 (one year after initiation of operation), certify that Project meets performance standards.

(3) Should the Loan Recipient be subject to any administrative order, court order, or other enforcement action presently or in the future, the Loan Recipient shall comply with such enforcement action regardless of any schedules, document submittals or approvals, or any other requirements under this Loan Agreement. Any such

schedules, document submittals or approvals, or any other requirements under this Loan Agreement which vary from the enforcement action requirements shall in no way relieve the Loan Recipient from compliance with such enforcement action, nor shall such enforcement action relieve the Loan Recipient from compliance with any Loan Agreement requirement.

(4) If any ineligible construction, equipment, supplies, or testing are added to this Project, the final payment for the allowance for construction phase services shall be reduced to reflect eligible costs using one of the following methods.

- a. The Loan Recipient shall submit separate invoices for eligible and ineligible work. All contracts for construction phase services shall have separate compensation clauses and cost ceilings for eligible and ineligible work.
- b. The allowance payment shall be prorated by the eligibility ratio shown below. The final ratio shall be based on actual, final costs for construction, equipment and supplies, and testing; an interim ratio may be used as needed.

$$\text{Eligibility Ratio} = \frac{\text{Eligible Construction/Equipment/Supplies/Testing Cost}}{\text{Total Construction/Equipment/Supplies/Testing Cost}}$$

If it becomes apparent that the allowance payments will exceed the eligible amount, the Department may limit payments prior to the final payment.

(5) The Loan Recipient shall undertake the six affirmative steps as stated in Section IV, Appendix E, of the SRF Regulations and as further described in the Department's MBE/WBE Utilization Guidance to assure minority and women's business enterprises have the maximum feasible opportunity to participate in a fair share of the subagreements awarded under this Project. The fair share objectives negotiated for this Project are 5.9% minority and 1.6% women's business enterprises.

IN WITNESS WHEREOF, the Commission has caused this Agreement to be executed on its behalf by the Executive Director of the Department and the Loan Recipient has caused this Agreement to be executed on its behalf by its Authorized Representative.

CITY OF CLINTON

STATE OF MISSISSIPPI
DEPARTMENT OF ENVIRONMENTAL
QUALITY

By: Rosemary G. Aultman
Rosemary G. Aultman
Mayor

By: for Keith Hals?
J. I. Palmer, Jr.
Executive Director

OCTOBER 5, 1999
(Date)

September 30, 1999
(Date)



MISSISSIPPI STATE TAX COMMISSION

Chairman

Associate Commissioner

Associate Commissioner

(Date)



COPY

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

James I. Palmer, Jr., Executive Director

September 30, 1999

CERTIFIED MAIL NO. Z 389 970 702

Mr. Richard L. Broome, City Engineer
City of Clinton
P. O. Box 156
Clinton, Mississippi 39060-0156

Dear Mr. Broome:

Re: City of Clinton
Wastewater Treatment & Interceptors Facility
SRF Loan Offer
SRF-C280805-02-0

I am pleased to offer the enclosed State Revolving Fund Loan in the amount of \$13,455,296 to the City of Clinton for construction of your pollution control facilities.

Enclosed are one (1) original and two (2) copies of the loan agreement for your signature. Before signing, please carefully review the loan agreement and the SRF Regulations (copy enclosed). After signature, keep one copy with your official project files, and send one copy to your consulting engineer. Send the original by certified mail to Ray Eaton, Jr., Department of Environmental Quality, at the address below, along with a certified copy of the resolution authorizing your acceptance of the loan. If you wish, we will hold a Project Management Conference at your offices in which administrative and technical guidance will be provided to assist you in the management of your project. Please contact Ray Eaton, Jr. at 601/961-5171 if you wish to schedule a date and time for the Project Management Conference.

The signed loan agreement and authorizing resolution must be submitted to the Department by November 11, 1999. If a time extension is needed, a written request with a detailed justification must be submitted by this date. Failure to submit the signed agreement or request for time extension by the specific date will void this loan offer.

You may advertise for bids as soon as you submit the signed loan agreement and authorizing resolution to the Department and institute a procurement protest resolution procedure in accordance with Appendix L of the SRF Regulations, unless a Project Specific Loan Condition states otherwise. However, you are cautioned not to advertise unless you have a proper wage decision that will not expire before the contract can be awarded. For your convenience we have enclosed the current wage decision for your project.

OFFICE OF POLLUTION CONTROL

P.O. Box 10385 Jackson, MS 39289-0385 Phone 601.961.5171 Fax 601.354.6612

Since the Commission on Environmental Quality is considering an amendment to the program regulations that would change the manner in which the administrative fee is collected, we are not transmitting to you a payment request for the administrative fee at this time. The Commission is also considering a reduction in the interest rate from 3.5% to 3.0% for all FY-99 loans. Should these program changes be adopted by the Commission, we intend to include them in the next amendment of your loan agreement.

Enclosed are two (2) copies of partially completed Payment Request No. 1 for the first half of your allowance for planning and design. Please complete and submit both forms, with original signatures, to the Department along with the signed loan agreement and authorizing resolution. This will expedite the payment process.

Of particular importance is Article 10.01(2) of the loan agreement, which is the schedule of actions you must take on this project. It is extremely important that you comply with this schedule in order to avoid default of your loan agreement and subsequent loss of SRF loan funding for this project.

If you have any questions or need assistance, please call our project manager, Ray Eaton, Jr., at 601/961-5114.

Sincerely,


for J. I. Palmer, Jr.
Executive Director

JIP:RE:mch

Enclosures

cc: Mr. Greg Gearhart, P.E., (w/enclosures)
Ray Eaton, Jr., P.E.