

REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, MARCH 4, 1997
MUNICIPAL ROOM - 305 MONROE STREET

The Mayor and Board of Aldermen of the City of Clinton, Mississippi met in Regular Meeting on Tuesday, March 4, 1997, 7 P.M. at the 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 Alderman Brabham followed by the Pledge of Allegiance to the Flag led by Alderman Ferrell.

ROLL CALL - City Clerk Nelson Byrd

Present - Jehu Brabham - Alderman-at-Large
George Ferrell - Alderman Ward 1
Rodney DePriest - Alderman Ward 2
Ben Todd - Alderman Ward 3
Phil Fisher - Alderman Ward 4
Herb Touchton - Alderman Ward 5
Sharbert Lott - Alderman Ward 6

AGENDA CHANGES

Mayor Aultman stated that Items 8 A and 8 C are removed from the agenda.

APPROVAL OF CONSENT AGENDA ITEMS A-T

MOTION made by Alderman Todd and SECONDED by Alderman Fisher to approve Consent Agenda Items A-T as listed on pages 447-448 of this Minute Book Y, noting that Consent Agenda Item C will serve to advertise favorably the opportunities, possibilities, and resources of the City of Clinton. Quotes listed in Items F, L, and P can be found in the office of the City Clerk. MOTION CARRIED UNANIMOUSLY

PUBLIC HEARING 7:03 P.M. - NEW ZONING ORDINANCE AND MAP

As shown by Proofs of Publication found on pages 449 and 450 of this Minute Book Y, a Public Hearing was held on December 10, 1996 and March 4, 1997 for public comments on a New Official Zoning Ordinance and Zoning Map for the City of Clinton.

It was noted that Larry Smith, with Central Mississippi Planning & Development District, the Clinton Planning and Zoning Board, the Mayor and Board of Aldermen, the City Attorney, and various City of Clinton employees have worked for years on this project. After a small discussion, the Public Hearing was closed at 7:17 P.M. by Mayor Aultman.

MOTION made by Alderman Fisher and SECONDED by Alderman Ferrell to adopt the New Zoning Ordinance and Official Zoning Map for the City of Clinton. MOTION CARRIED UNANIMOUSLY

Copy of the ordinance and map can be found in the City Clerk's office and is referred to in its entirety in these official minutes. Said ordinance will become official thirty days after March 4, 1997. A summary of said ordinance and a proof of publication of said summary can be found on pages 451 and 452 respectively of this Minute Book Y, and on pages 672 and 673 of City of Clinton Ordinance Book II.

APPROVAL OF PRELIMINARY SITE PLAN REVIEW FOR HUNTER'S RIDGE SUBDIVISION, PART 2

Upon recommendation of City Engineer Richard Broome, **MOTION** made by Alderman Todd and **SECONDED** by Alderman Brabham to approve the Preliminary Site Plan Review for 22 more lots in Hunter's Ridge Subdivision, Part 2 for JFP, Inc. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF GENERAL SERVICE AGREEMENT SUBMITTED BY MICHAEL BAKER, JR., INC.

Upon recommendation of City Engineer Richard Broome, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman DePriest to approve General Services Agreement submitted by Michael Baker, Jr., Inc. contingent on final legal review by City Attorney Ken Dreher. **MOTION CARRIED UNANIMOUSLY** Said agreement may be found on pages 453-460 of this Minute Book Y.

APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF CLINTON AND WILLIFORD, GEARHART & KNIGHT, INC. FOR SOUTHSIDE WATER FACILITIES

Upon recommendation of City Engineer Richard Broome **MOTION** made by Alderman Touchton and **SECONDED** by Alderman Fisher to approve Professional Services agreement between City of Clinton and Williford, Gearhart & Knight, Inc. for Southside water facilities contingent on final review by City Attorney Ken Dreher. **MOTION CARRIED 4-3 WITH ALDERMEN BRABHAM, DEPRIEST AND TODD VOTING "NAY"** Said agreement may be found on pages 461-490 of this Minute Book Y.

APPROVAL OF LOW BID ON WOODS BATWING ROTARY CUTTER FOR PARKS AND RECREATION

Upon recommendation of Parks and Recreation Director David Freeman, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Lott to award bid on Woods Batwing Rotary Cutter to the lowest and best bidder Crane Ford Tractor at \$7,237.00. Bid Tabulation and Proof of Publication can be found on pages 491-492 of this Minute Book Y. **MOTION CARRIED UNANIMOUSLY**

DALE KEITH APPOINTED TO PARKS AND RECREATION ADVISORY BOARD

Recommendation and **MOTION** made by Alderman Todd and **SECONDED** by Alderman DePriest to appoint Dale Keith to fill the unexpired term of Keith Fraser serving on the Parks and Recreation Advisory Board with the term ending June 30, 1997. **MOTION CARRIED UNANIMOUSLY**

MIKE BISHOP APPOINTED TO PARKS AND RECREATION ADVISORY BOARD

Upon recommendation by Mayor Aultman **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Lott to appoint Mike Bishop to fill the unexpired term of Tommy Bobo serving on the Parks and Recreation Advisory Board with the term ending June 30, 1997. **MOTION CARRIED UNANIMOUSLY**

EXECUTIVE SESSION

MOTION made by Alderman Todd and **SECONDED** by Alderman Fisher at 7:47 p.m. to consider entering executive session for the purpose of discussing personnel matters. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Fisher and **SECONDED** by Alderman Todd at 7:48 p.m. to enter executive session for the stated purpose. **MOTION CARRIED UNANIMOUSLY**

Present for executive session were Mayor Aultman; Aldermen Brabham, Ferrell, DePriest, Todd, Fisher, Touchton and Lott; City Attorney

Ken Dreher; Public Works Director Tim Rogers, City Engineer Richard Broome, and City Clerk Nelson Byrd.

Following discussion MOTION made by Alderman Todd and SECONDED by Alderman Ferrell to exit executive session at 8:44 p.m. MOTION CARRIED UNANIMOUSLY

PERSONNEL CHANGES

MOTION made by Alderman Brabham and SECONDED by Alderman DePriest to initiate the new position and pay grade for Public Works Building Inspector/Zoning Inspector at GS 14-9 for Gary Ward. MOTION CARRIED 6-1 WITH ALDERMAN FERRELL VOTING "NAY"

MOTION made by Alderman Brabham and SECONDED by Alderman Lott to initiate the new position and pay grade for Public Works Construction Superintendent at LTC-20-10 for Wallis Schutt. MOTION CARRIED 6-1 WITH ALDERMAN FERRELL VOTING "NAY"

MOTION made by Alderman Brabham and SECONDED by Alderman Ferrell to move Julion Lowther, Building Inspector to GS 14-11 effective April 1, 1997. MOTION CARRIED UNANIMOUSLY

MOTION made by Alderman Brabham and SECONDED by Alderman Todd to move Denise Gable from Secretary II, GS-06-8 to Secretary III GS-08-8 effective April 1, 1997. MOTION CARRIED 6-1 WITH ALDERMAN FERRELL VOTING "NAY"

MOTION made by Alderman Brabham and SECONDED by Alderman Lott to move Pam Flesher, receptionist from GS-04-4 to Secretary II GS06-4 effective April 1, 1997. MOTION CARRIED 6-1 WITH ALDERMAN FERRELL VOTING "NAY"

CITY LIMITS MAXIMUM AMOUNT FOR ANNUAL ADDITIONAL BENEFIT PAYMENT (COLA) TO RETIREES OF THE POLICE AND FIRE DISABILITY AND RELIEF FUND

MOTION made by Alderman DePriest and SECONDED by Alderman Todd to adopt that Resolution found on page 493 of this Minute Book Y to place a cap on COLAS not to exceed 10% of the recipients annual retirement allowance and to introduce proper legislation to establish this motion for the Clinton Police and Fire Disability and Relief Fund. MOTION CARRIED UNANIMOUSLY

ADJOURNMENT - 8:58 P.M.

There being no further business to discuss, MOTION made by Alderman DePriest and SECONDED by Alderman Lott to Recess until March 18, 1997. MOTION CARRIED UNANIMOUSLY

APPROVED:

Rosemary G. Aultman
Rosemary G. Aultman, Mayor

Date

March 12, 1997

ATTEST:

Nelson Byrd
Nelson Byrd, City Clerk

Date

March 12, 1997

SEAL

PROOF OF PUBLICATION
THE STATE OF MISSISSIPPI
HINDS COUNTY

PASTE PROOF HERE



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

Shirley Waits,

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:

Date November 21, 1996

Date _____, 19____

Date _____, 19____

Date _____, 19____

Date _____, 19____

Number of Lines/Words 35/128

Published 1 Times

Total \$ 12.24

Signed Shirley Waits
 Authorized Clerk
 of The Clarion-Ledger

SWORN to and subscribed before me the 21 day of November, 1996.

My Commission Expires:

Marie Mills
 Notary Public

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE.
 MY COMMISSION EXPIRES: Nov. 8, 2000.
 BONDED THRU NOTARY PUBLIC UNDERWRITERS.

(SEAL)

PROOF OF PUBLICATION
THE STATE OF MISSISSIPPI
HINDS COUNTY

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NOTICE OF INTENT
TO ADOPT:
NEW ZONING ORDINANCE
FOR CITY OF CLINTON,
MISSISSIPPI
Notice is hereby given to
those parties in interest that
on Tuesday, March 4, 1997,
the Mayor and Board of Al-
dermen of the City of Clinton,
Mississippi, intend to consider
for adoption a proposed
NEW ZONING ORDINANCE
FOR THE CITY OF CLIN-
TON, MISSISSIPPI and a
NEW OFFICIAL ZONING
MAP of the City. A public
hearing will be held before
the Mayor and Board of Al-
dermen, at 7:00 P. M. on
Tuesday, March 4, 1997, at
the Justice Building, 205
Monroe Street, in Clinton,
Mississippi, to hear any final
public comments prior to
considering the new ordi-
nance for adoption.
Copies of the text of the pro-
posed new ZONING ORDI-
NANCE and the proposed
new OFFICIAL ZONING
MAP will be available for
public inspection at Clinton
City Hall, 300 Jefferson
Street, in Clinton beginning on
Monday, February 17, 1997,
at 8:00 A. M.
APPROVED:
/s/ Rosemary Aultman
Rosemary Aultman
MAYOR
ATTEST:
/s/ Nelson Byrd
Nelson Byrd
CITY CLERK
November 21, 1996
February 17, 1997

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

Amy Ham

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:

Date February 17, 1997
Date _____, 19____
Date _____, 19____
Date _____, 19____
Date _____, 19____

Number of Lines/Words 47/174

Published 1 Times

Total \$ 15.92

Signed Amy Ham
Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me the 17 day of February,
1997.

My Commission Expires:

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE.
MY COMMISSION EXPIRES: Nov. 8, 2000.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

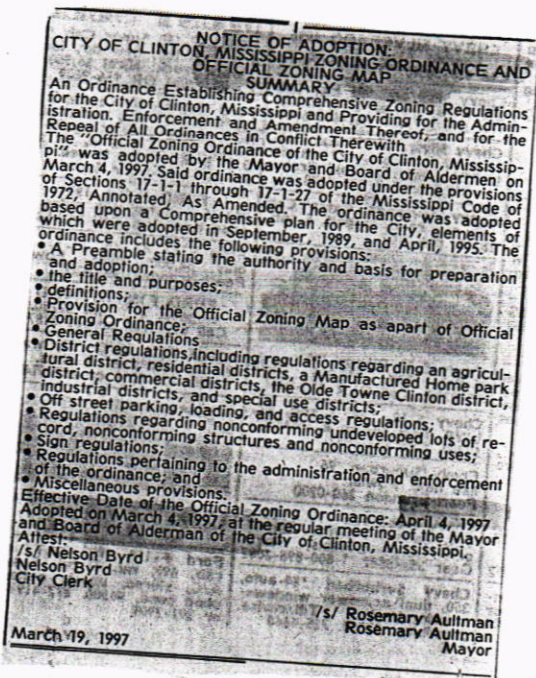
Marie Mills
Notary Public

(SEAL)

PROOF OF PUBLICATION
THE STATE OF MISSISSIPPI
HINDS COUNTY

Summary

PASTE PROOF HERE



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

Amy Ham

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:

Date March 19, 1997
Date _____, 19____
Date _____, 19____
Date _____, 19____
Date _____, 19____
Date _____, 19____

Number of Lines/Words 45 X 2 Column/274

Published 1 Times

Total \$ 23.92

Signed *[Signature]*
Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me the 19 day of March,
1997

My Commission Expires:

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE.
MY COMMISSION EXPIRES: Nov. 8, 2000.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

Marie Mills
Notary Public

(SEAL)

PROOF OF PUBLICATION
THE STATE OF MISSISSIPPI
HINDS COUNTY

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NOTICE OF ADOPTION:
CITY OF CLINTON, MISSISSIPPI ZONING ORDINANCE AND OFFICIAL ZONING MAP SUMMARY

An Ordinance Establishing Comprehensive Zoning Regulations for the City of Clinton, Mississippi and Providing for the Administration, Enforcement and Amendment Thereof, and for the Repeal of All Ordinances in Conflict Therewith.

The "Official Zoning Ordinance of the City of Clinton, Mississippi" was adopted by the Mayor and Board of Aldermen on March 4, 1997. Said ordinance was adopted under the provisions of Sections 17-1-1 through 17-1-27 of the Mississippi Code of 1972, Annotated, As Amended. The ordinance was adopted based upon a Comprehensive plan for the City, elements of which were adopted in September, 1989, and April, 1995. The ordinance includes the following provisions:

- A Preamble stating the authority and basis for preparation and adoption;
- the title and purposes;
- definitions;
- Provision for the Official Zoning Map as apart of Official Zoning Ordinance;
- General Regulations
- District regulations, including regulations regarding an agricultural district, residential districts, a Manufactured Home park district, commercial districts, the Olde Towne Clinton district, industrial districts, and special use districts;
- Off street parking, loading, and access regulations;
- Regulations regarding nonconforming undeveloped lots of record, nonconforming structures and nonconforming uses;
- Sign regulations;
- Regulations pertaining to the administration and enforcement of the ordinance; and
- Miscellaneous provisions.

Effective Date of the Official Zoning Ordinance: April 4, 1997
Adopted on March 4, 1997, at the regular meeting of the Mayor and Board of Alderman of the City of Clinton, Mississippi.

Attest:
/s/ Nelson Byrd
City Clerk

/s/ Rosemary Aultman
Rosemary Aultman
Mayor

March 19, 1997

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

Amy Ham

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:

Date March 19, 1997

Date _____, 19____

Date _____, 19____

Date _____, 19____

Date _____, 19____

Number of Lines/Words 45 X 2 Column/274

Published 1 Times

Total \$ 23.92

Signed *Amy Ham*

Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me the 19 day of March,
1997

My Commission Expires:
NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE.
MY COMMISSION EXPIRES: Nov. 8, 2000.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

Marie Mills
Notary Public

(SEAL)

GENERAL SERVICES AGREEMENT
by and between
CITY OF CLINTON, MISSISSIPPI
and
MICHAEL BAKER JR., INC.

This is an Agreement made this the 4TH day of MARCH, 1997, by and between the City of Clinton, Mississippi, Post Office Box 156, Clinton, Mississippi 39060 (Owner) and Michael Baker Jr., Inc., Consulting Engineers, 2925 Layfair Drive, Jackson, Mississippi 39208-9507 (Engineer).

The Owner hereby employs the Engineer to perform certain professional engineering and land surveying services as may be identified from time to time, to serve as the Owner's professional representative on the services as may be authorized and to provide professional engineering consultation as may be required. The Engineer agrees to provide the professional services authorized by the Owner and the Owner agrees to compensate the engineer for the professional services rendered.

The Owner and Engineer further agree that the purpose of this Agreement is to authorize certain general professional engineering and land surveying services for which the scope of work is limited or not readily definable. In addition, the Owner and Engineer agree that for any professional services for which the scope of work is readily definable, that a separate agreement shall be prepared to authorize that work and such services shall be performed consistent with the terms and conditions of performance inconsistent with this agreement in which case the terms and conditions of the separate agreement shall control. Finally, the Owner and Engineer hereby agree to the following provisions:

SECTION 1 - ENGINEER'S RESPONSIBILITIES

- 1.1 The Engineer shall perform the necessary professional services in a timely manner so as not to delay the initiatives of the Owner;
- 1.2 The Engineer shall consult with the Owner to establish the Owner's requirements for the professional services identified by the Owner;
- 1.3 The Engineer shall advise the Owner regarding the need for the Owner to provide or secure certain other special services or consultants as may be needed to fulfill the requirements identified by the Owner, and to assist the Owner in securing such special services;
- 1.4 The Engineer shall furnish the professional services required by the Owner for such endeavors including the provision of evaluations, comparative analyses of potential alternatives, reports of the findings and recommendations, land surveys, planning reports, design engineering, construction engineering, opinions of probable

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CITY OF CLINTON - MBJ
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construction cost, project budgetary information and any other professional services deemed appropriate by the Owner;

- 1.5 The Engineer shall prepare and provide to the Owner at least three copies of any evaluation, analysis, report, survey, design or construction engineering document, opinion of cost or any other deliverable resulting from the services provided by the Engineer; and
- 1.6 The Engineer shall provide the general services relative to this Agreement in accordance with the general scope of services that may be prepared from time to time for various initiatives, which shall be and become attached to and made a part of this Agreement.

SECTION 2 - OWNER'S RESPONSIBILITIES

- 2.1 The Owner shall provide the necessary support and assistance in a timely manner so as not to delay the services of the Engineer;
- 2.2 The Owner shall provide all criteria and full information as to Owner's requirements for the professional services required and designate in writing a person with authority to act on the Owner's behalf on all matters concerning the work effort;
- 2.3 The Owner shall furnish to Engineer all existing studies, reports and other available data pertinent to the work, obtain or authorize Engineer to obtain or provide additional reports and data as required, and furnish to Engineer services of others required for the performance of Engineer's services hereunder, and Engineer shall be entitled to use and rely upon all such information and services provided by Owner or others in performing Engineer's services under this Agreement;
- 2.4 The Owner shall arrange for access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services hereunder; and
- 2.5 The Owner shall bear all costs incident to compliance with the requirements of this Section.

SECTION 3 - PERIOD OF SERVICE

- 3.1 The general services authorized by this Agreement shall be performed in accordance with this Agreement during calendar years 1997 and 1998;

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- 3.2 The general services performed after calendar year 1998, shall be provided in accordance with an amendment to this Agreement setting forth such new conditions, responsibilities, duties and hourly rates as may be mutually agreed upon between the Owner and Engineer; and
- 3.3 The general services for the work authorized by this Agreement shall be considered complete upon the acceptance of the work product by Owner or upon the passage of thirty days after the date the deliverable is submitted to the Owner, whichever date is earlier.

SECTION 4 - COMPENSATION TO THE ENGINEER

- 4.1 The Engineer shall provide the general services authorized herein on an hourly basis in accordance with the standard hourly billing rates of the Engineer, a copy of which is attached hereto for calendar year 1997;
- 4.2 The Engineer shall notify the Owner of the standard hourly billing rates that shall apply to the services rendered under this Agreement no less than annually after calendar year 1997;
- 4.3 The Owner shall compensate the Engineer for the general services authorized by this Agreement in accordance with the hourly rates, plus direct reimbursable expenses including printing, postage, travel, subsistence and the like;
- 4.4 The Engineer shall submit monthly invoices for the general services rendered in accordance with the hourly rates, and shall invoice for the direct expenses incurred at cost;
- 4.5 The Owner shall make prompt monthly payments to the Engineer for the services rendered;
- 4.6 The Engineer's general services and hourly rates are provided on the basis of prompt payment by the Owner of invoices rendered and continuous progress on the work by the Engineer until submission of the work product;
- 4.7 If the Owner fails to make any payment due the Engineer for services and expenses within thirty days after receipt of Engineer's statement therefor, the amounts due Engineer will be increased at the rate of 1% per month from said thirtieth day, and in addition, Engineer may, after giving seven day's written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses and charges.

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SECTION 5 - COST CONTROL

- 5.1 The Owner's budgetary requirements and considerations with respect to the work effort shall be established by mutual agreement between the Owner and Engineer; and
- 5.2 Opinions of probable construction cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by Engineer hereunder will be made on the basis of Engineer's experience and qualifications, and represent Engineer's best judgment as an experienced and qualified design professional. It is recognized, however, the Engineer does not have control over the cost of labor, material, equipment, or services furnished by others, or over market conditions or contractors' methods of determining their prices and that any utilitarian evaluation of any facility to be constructed or work to be performed on the basis of the work authorized herein must of necessity be speculative until completion of its detailed design. Accordingly, Engineer does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by Engineer to Owner hereunder.

SECTION 6 - GENERAL CONSIDERATIONS

- 6.1 Ownership of Documents: All Plans, Specifications, Contract Documents and other work product of the Engineer for this Project are instruments of services for this Project only, and shall remain the property of the Engineer whether the Project is completed or not. Re-use of any instruments of service of the Engineer by the Owner on extensions of this Project or on any other Project without the written permission of the Engineer shall be at the Owner's risk and the Owner agrees to defend, indemnify and hold harmless the Engineer from all claims, damages and expenses including attorney's fees arising out of such unauthorized re-use of the Engineer's instruments of service by the **Owner or by others acting through the Owner**. Any re-use or adaption of the Engineer's instruments of service occurring after the written agreement of the Engineer shall entitle the Engineer to further compensation in amount to be agreed upon by the Owner and Engineer.
- 6.2 Delegation of Duties: Neither the Owner nor the Engineer shall assign, sublet or transfer any rights under or interest in, including, but without limitation, moneys that are due, this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to any assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained

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in this paragraph shall prevent Engineer from employing such independent professional associates and consultants as Engineer may deem appropriate to assist in the performance of services hereunder.

- 6.3 Termination. This agreement may be terminated by either party by seven (7) days written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party. If this Agreement is terminated for failure of the Owner to perform, the Engineer shall be paid for service performed to the termination notice date including Reimbursable Expenses due plus Termination Expenses. Termination Expenses are defined as Reimbursable Expenses directly attributable to termination, plus a reasonable fee to be mutually agreed upon at the appropriate time by both parties to account for Engineer's rescheduling adjustments, reassignment of personnel and related costs incurred due to termination.
- 6.4 Extent of Agreement: This Agreement, together with such amendments which may be executed from time to time, represents the entire and integrated agreement between the Owner and the Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both the Owner and the Engineer.
- 6.5 Governing Laws: Unless otherwise specified within this Agreement this Agreement shall be governed by the law of the State of Mississippi.
- 6.6 Litigation: Should litigation occur between the two parties relating to the provisions of this Agreement, all litigation or arbitration expenses, collection expenses, witness fees, court costs and attorneys' fees incurred by the prevailing party shall be paid by the non-prevailing party to the prevailing party.
- 6.7 Performance: Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other or the other's employees and agents.
- 6.8 Validity: In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be and remain valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
- 6.9 Safety: The Engineer has not been retained or compensated to provide design and construction review services relating to the Contractor's safety precautions or to

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means, methods, techniques, sequences, or procedures required for the Contractor to perform his work but not limited to shoring, scaffolding, underpinning, temporary retainment of excavations and any erection methods and temporary bracing.

- 6.10 Practices: The Engineer intends to render the services under this Agreement in accordance with generally accepted professional practices for the intended use of the Project and makes no warranty, either express or implied.
- 6.11 Benefits: Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Owner and Engineer, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer, and not for the benefit of any other party.
- 6.12 Binding: Owner and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer, and to the extent permitted herein, the assigns of Owner and Engineer, are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives, and said assigns, of such other party, in respect of all covenants, agreements and obligations of the Agreement.

SECTION 7 - SPECIAL PROVISIONS

- 7.1 Engineer's Insurance: The Engineer shall acquire and/or maintain statutory workmen's compensation insurance coverage, errors and omissions, employer's liability and general liability insurance coverage, for the life of this Agreement.
- 7.2 Any construction contract for a project as a result of the Engineer's design shall contain the following provision:

The Bidder is skilled and experienced in the use and interpretation of plans and specifications. He has carefully reviewed the plans and specifications for this project and has found them to be free of ambiguities and sufficient for bid purposes. Further, he has carefully examined the site of the work and, from his own observations, has satisfied himself as to the nature and location of the work; the character, quality and quantity of materials; the difficulties likely to be encountered; and other items which may affect the performance of the work. He has based his bid solely on these documents and observations and has not relied in any way on any explanation or interpretation, oral or written, from any other source. Therefore, the Bidder agrees to limit the liability of the Engineer and the Owner for negligence, errors or omissions of the Engineer to a total aggregate sum of \$50,000.

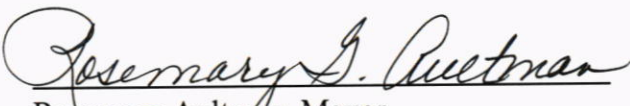
**GENERAL SERVICES AGREEMENT
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SECTION 8 - EXECUTION

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

CITY OF CLINTON, MISSISSIPPI

MICHAEL BAKER JR., INC.


Rosemary Aultman, Mayor
City of Clinton, Mississippi


A. Glenn Calloway, P.E., P.L.S.
Regional Office Manager

ATTEST:


Nelson Byrd
City Clerk

ATTEST:


Martha N. Nelson
Manager, Support Services Administrator



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**STANDARD HOURLY BILLING RATES
1997**

<u>Classification</u>	<u>Hourly Rate</u>
Principal/Project Manager	\$90
Project Engineer	75
Engineer	58
Engineering Assistant	45
Surveyor - Party Chief	51
Surveying Assistant - Party Member	35
Designer - CADD	48
Technician - CADD	39
Clerical	34
Construction Review	40
Survey Party - 3 Person	90

**PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN THE
CITY OF CLINTON, MISSISSIPPI
AND
WILLIFORD, GEARHART & KNIGHT, INC.**

THIS IS AN AGREEMENT made this the 12th day of March, 1997, by and between the City of Clinton, Post Office Box 156, Clinton, MS 39060 (OWNER) and Williford, Gearhart & Knight, Inc., Engineers & Surveyors, Post Office Box 318, Clinton, MS 39060 (ENGINEER). Gregory A. Gearhart, P.E., Mississippi Registration Number 8730, will bear the primary responsibility for the professional services rendered under this agreement.

This Agreement is hereby established to provide the basis for provision of certain professional services on that certain project described as City of Clinton, Southside Wastewater Facilities; said project includes approximately 38,000 linear feet of gravity sewer and 5,000 feet of force mains, stormwater equalization facilities and an approximate 3.0 MGD wastewater treatment facility, said improvements having a current total probable construction cost of approximately \$9,230,000; as more particularly described in the Sewer Master Plan Executive Summary, dated November 10, 1996; as referred to herein as the PROJECT. The ENGINEER shall maintain all records, plans, specifications and other documents produced under this contract for a minimum of three (3) years after PROJECT close out.

It is anticipated that the Project will be constructed under as many as four (4) separate construction contracts, with all contracts approximately concurrent during an 18 month construction period.

The Project may be financed, in part, by funds derived from the State Revolving Funds (SRF) Program, administrated by the Mississippi Department of Environmental Quality, Office of Pollution Control. If so, all the professional services provided incident to this contract shall conform to the requirements of the SRF program. Further, the Office of Pollution Control staff and its designated representatives shall have access to and the right to audit, inspect, copy and examine all books, financial records, and other documents relating directly to the receipt and disbursement of the SRF program funds.

The OWNER hereby employs the ENGINEER to perform the professional services described herein, the ENGINEER agrees to provide the professional services prescribed herein, and the OWNER agrees to compensate the ENGINEER for the services rendered under this Agreement.

SECTION 1 - ENGINEER'S RESPONSIBILITIES

- 1.1 **DESCRIBED SERVICES:** The ENGINEER agrees to perform the professional services specified herein, as necessary for the successful prosecution of the PROJECT, including normal civil engineering and land surveying services related to the design and construction phases of the PROJECT, as described in detail as follows:

1.2 **PRELIMINARY DESIGN PHASE SERVICES:** Upon receipt of the written authorization of the OWNER to proceed with the Design Phase, the ENGINEER shall provide the following types of service:

1.2.1 **Basic Preliminary Design Services:** Consult with the OWNER to ascertain the specific requirements of the Project, to review the scope of professional services to be rendered, and to discuss the scope of the intended construction contract.

1.2.1.1 Perform preliminary design of the sewer mains, pump station and treatment plant.

1.2.1.2 Perform preliminary plan/profile design drawings for the gravity mains.

1.2.1.3 Perform preliminary plan and hydraulic profile for the selected treatment plant.

1.2.1.4 Evaluate a total of up to three (3) processes and prepare a summary report to assist Owners in selection of the process. If so directed by Owner, provide additional information required to comply with SRF Facilities Plan requirements and formal report per SRF requirements.

1.2.2 **Process Evaluation Site Visits:** Assist Owner in process selection by accompanying Owner's representative on site visits to operating treatment facilities.

1.2.3 **Natchez Trace Parkway Crossing Permit:** Assist Owner in applying for one or more permits for crossing the NTP right-of-way with the current and future projects.

1.2.4 **Reconnaissance and Design Surveys:** Perform surveys for route selection and design of the project. Complete the detailed field survey data collection of the project area to obtain accurate points for use during the design.

1.2.5 **Preliminary Right-of-Way Surveys:** Perform preliminary property or easement acquisition surveys to identify property owners.

1.2.6 **Geotechnical Coordination:** Contract with a qualified geotechnical subconsultant to complete the subsurface explorations and prepare a geotechnical report for the project.

1.3 **FINAL DESIGN PHASE SERVICES:** Following approval of the Preliminary Engineering Report and associated estimate of probable construction cost, commence Final Design Phase Services as follows:

1.3.1 **Basic Final Design Phase Services:** Perform the detailed design for the Project in accordance with the design alternative selected by the OWNER.

- 1.3.1.1 Prepare detailed construction plans, specifications, and contract documents required for the PROJECT, and submit same to the OWNER and appropriate regulatory agencies for review and approval.
- 1.3.1.2 Prepare a final Opinion of Probable Construction Cost based on the final design.
- 1.3.1.3 Design the PROJECT in conformance with all applicable Federal, State and local standards for air or water pollution such that all required approvals, permits and certifications may be obtained.
- 1.3.1.4 Provide deductive alternates, where feasible, so that should the lowest responsive bid for construction of the project exceeds the funds available, deductive alternatives can be taken to reduce the bid amount and allow budget flexibility.
- 1.3.1.5 Provide design of facilities to be used by the public such that access shall be available to the handicapped.
- 1.3.1.6 Prepare documents which include forms for instructions to bidders, general conditions, contract, bid bond, performance bond, and payment bond.
- 1.3.1.7 Comply with all pertinent provisions of the regulations of the U.S. Department of Commerce issued pursuant to the Civil Rights Act of 1964, in regard to nondiscrimination in employment because of race, religion, color, sex, or national origin, where applicable.
- 1.3.1.8 Provide with the project documents a sufficiently clear delineation of the labor categories and wage rates that are applicable to the PROJECT, in conformance with all local and State laws on practices, where applicable.
- 1.3.1.9 Advise the OWNER regarding the need for other special services or consultants that may be needed by the ENGINEER to fulfill the requirements identified by the OWNER.
- 1.3.1.10 Assist the OWNER in securing final approvals of the Plans, Specifications and Contract Documents from the appropriate regulatory agencies, including any modifications to the documents and follow-up contacts as needed to secure such approvals.

- 1.3.2 **Environmental Assessment Services:** Arrange for a qualified subcontractor to perform an environmental assessment of the treatment plant site.
- 1.3.3 **Value Engineering Review:** Assist the Owner in selecting an independent consultant for a value engineering review of the project at the end of the preliminary design phase, and participate in the value engineering process.
- 1.3.4 **Right-of-Way Services:** Prepare permits, license agreements, plats and descriptions for right-of-way and easement acquisition and acquisition of the treatment plant site; perform field surveys to identify property limits and monument acquired property.
- 1.3.5 **Layout Surveys:** Provide "stake out" surveys and establish temporary bench marks and offset stakes for selected components of the project.
- 1.3.6 **Rate Calculation and Financing Services:** Provide assistance with rate calculations and reporting information required for securing financing, as requested.
- 1.4 **PRECONSTRUCTION PHASE SERVICES:** Upon receipt of the written approval of the OWNER and appropriate regulatory agencies for the Plans, Specifications, Contract Documents and final Opinion of the Construction Cost, and upon receipt of the written authorization of the OWNER to proceed with the Preconstruction Phase, the ENGINEER shall:
 - 1.4.1 Furnish Advertisement for Bids to newspapers, trade journals, contractors, minority groups, subcontractors and suppliers, as appropriate.
 - 1.4.2 Schedule and conduct a site inspection trip to the project site with prospective bidders, and assist in scheduling and conducting a pre-bid conference, where appropriate.
 - 1.4.3 Investigate reported omissions and discrepancies in the plans, specifications and contract documents, and formulate and mail addenda as needed.
 - 1.4.4 Attend and assist in conducting the bid opening with OWNER and Contractors.
 - 1.4.5 Analyze bids received for irregularities, errors or omissions.
 - 1.4.6 Review submittal of substitute materials and equipment, and recommend acceptance/rejection to the OWNER.
 - 1.4.7 Review proof of bidder's qualifications and recommend contract award or rejection to the OWNER.

- 1.4.8 Prepare and distribute certified tabulation of bids for project to OWNER, Contractors and other parties as appropriate.
- 1.4.9 Prepare a bid package in accordance with the regulatory/funding program requirements, and submit same to the appropriate agencies for review and approval.
- 1.4.10 Prepare a Notice-of-Award and assist in securing its execution by successful Contractor.
- 1.4.11 Collect proofs of publication, and assist in securing approval of award and procurement procedures, where applicable.
- 1.4.12 Prepare contract documents for signature by Contractor and assist the OWNER in securing their execution, and prepare Notice-to-Proceed to Contractor for PROJECT.
- 1.4.13 Prepare and distribute contract price estimate breakdown to OWNER and Contractor, as appropriate.
- 1.4.14 Assist in scheduling and conducting a pre-construction conference with OWNER, Contractor, utility companies, regulatory agencies, and other parties as appropriate.
- 1.4.15 Provide the OWNER two copies of the plans, specifications, and contract documents.
- 1.4.16 Furnish additional copies of the plans, specifications, and contract documents as requested by prospective bidders, material suppliers, and other interested parties, to facilitate bidding and contracting of the PROJECT.
- 1.4.17 Furnish to the CONTRACTOR six additional copies of the plans, specifications, and contract documents for execution after contract award, and for use during construction phase.

1.5 CONTRACT ADMINISTRATION PHASE SERVICES: Upon receipt of the written approval of the OWNER and appropriate regulatory agencies of the Construction Contract prepared based upon the Contract Documents compiled by the ENGINEER, and upon receipt of the written authorization of the OWNER to proceed with the construction activities, the ENGINEER shall:

- 1.5.1 Function as the OWNER's representative with duties and responsibilities and limitations of authority as described in the General Conditions to the Construction Contract Documents, and the other provisions set forth herein.

- 1.5.2 Advise and consult with the OWNER during the construction activities, and assist the OWNER in the issuance of appropriate instructions to the Contractor.
- 1.5.3 Establish any additional appropriate survey bench marks and survey control points in close proximity to the PROJECT for use by the Contractor in laying out the work.
- 1.5.4 Make periodic visits to the site of the construction to observe the progress and quality of the construction work and to determine, in general, if the results of the construction work are in accordance with the Plans and the Specifications. On the basis of his on-site observations as an ENGINEER, he shall endeavor to guard the OWNER against apparent defects and deficiencies in the permanent work constructed by the Contractor, but does not guarantee the performance of the Contractor. The ENGINEER shall not be required to make exhaustive or continuous on-site observations to verify the quality or quantity of the construction work. Visits and observations by ENGINEER and/or construction review personnel are not intended to extend to every aspect of work in progress, but rather are to be limited to spot checking and selective sampling of the work being done by the Contractor. The ENGINEER shall determine, in general, if the work is proceeding in accordance with the Contract Documents, and shall advise the OWNER of his progress as needed. The ENGINEER is not responsible for construction means, methods, techniques, sequences or procedures, time of performance, programs, or for any safety precautions in connection with the construction work. The ENGINEER is not responsible for the Contractor's failure to execute the work in accordance with the Construction Contract.
- 1.5.5 Review the Contractor's requests for progressive payments, and based upon said on-site observation, advise the OWNER as to the ENGINEER's opinion of the extent of the work completed in accordance with the terms of the Construction Contract as of the date of the Contractor's payment request, and issue for processing by the OWNER, a Certificate for Payment in the amount owed the Contractor. The issuance of Certificates for Payment shall constitute a declaration by the ENGINEER to the OWNER, based upon said on-site observations, and review of any data accompanying the request for payment, that the Contractor's work has progressed to the point indicated; that to the best of the ENGINEER's knowledge, information and belief, the quality of the Contractor's work is in accordance with the Construction Contract Documents (subject to subsequent correction of minor deviations from the Construction Contract Documents and to qualifications stated in the Certificate for Payment); and that the Contractor is entitled to the amount stated. The issuing of the Certificate for Payment by the ENGINEER shall not represent that he has made any investigation to determine the uses made by the Contractor of sums paid to the Contractor.

- 1.5.6 The ENGINEER shall review the Contractor's requests for progressive payments in a timely fashion, and shall forward same to the OWNER for approval and payment on a routine basis. The OWNER shall consider the Contractor's payment requests at the next regular meeting of the Mayor and Board of Alderman, and issue payments to the Contractor on a timely basis thereafter.
- 1.5.7 Make recommendations to the OWNER on all claims relating to the execution and progress of the construction work. The ENGINEER's decisions in matters relating to the ENGINEER's design shall be final.
- 1.5.8 Notify the OWNER of permanent work which does not conform to the result required in the Construction Contract, prepare a written report describing any apparent non-conforming permanent work and make recommendations to the OWNER for its correction and, at the request of the OWNER, have recommendations implemented by the Contractor.
- 1.5.9 Review shop drawings, samples and other submittal of the Contractor, only for general conformance to the design concept of the Project, and for general compliance with the Construction Contract. The ENGINEER shall evaluate and determine the acceptability of substitute or "equal" items proposed for use by the Contractor.
- 1.5.10 Prepare and/or issue necessary field orders, clarifications and interpretations of the Contract Documents, as needed, to facilitate the orderly completion of the work in accordance with the design intent.
- 1.5.11 Prepare for the OWNER's approval, Change Orders which address minor revisions of or adjustments to the original project scope of work.
- 1.5.12 Conduct a pre-final review of the construction project upon receipt of the Contractor's notice of substantial completion.
- 1.5.13 Conduct a final review of the construction project upon receipt of the Contractor's certification of final completion; receive and review written guarantees and related data assembled by the Contractor; and issue to the OWNER a Certificate of Final Payment.
- 1.5.14 The ENGINEER shall not be responsible for the defects or omissions in the work result of the Contractor(s), or any Subcontractor(s), or any of the Contractor's or Subcontractor's employees, or that of any other persons or entities responsible for performing any of the work result as contained in the Construction Contract.
- 1.5.15 Submit a written report to the OWNER not less frequently than monthly providing a status report on the general progress of the Project, summarizing the accomplishments to date and highlighting points of concern.

- 1.5.16 Conduct a one year warranty review of the completed construction, and advise OWNER of any defects that may need further attention by the Contractor.

1.6 CONSTRUCTION REVIEW PHASE SERVICES: Upon initiation of the construction activities, the ENGINEER shall:

- 1.6.1 Provide one or more "full time" Construction Review Representatives to assist the ENGINEER in order to render more extensive representation at the Project site during the Construction Phase. The construction review representative shall monitor the Contractor's activities, and shall prepare daily reports providing details regarding the weather conditions, state of the work in progress, soil conditions, personnel on-site, equipment in use, materials incorporated into the project, stored materials on the site, visitors to the site, problems encountered and remedies employed, and other pertinent information.
- 1.6.2 The purpose of the construction review representative at the site shall be to enable the ENGINEER to better perform his duties during the construction activities. The purpose shall also be to provide the OWNER a greater degree of confidence that the work in progress and/or completed by the Contractor will conform to the intent of the Contract Documents, such that the integrity of the design concept is preserved by the Contractor, and that the work functions as a whole as planned when completed. The ENGINEER and his representatives shall not, however, supervise, direct or have direct control over the Contractor's work.
- 1.6.3 The limits of the authority, duties and responsibilities of a Construction Review Representative shall be described before such services begin by written instruments referenced herein as EJCDC publication No. 1910-1-A, and made a part of this Agreement by inclusion as Exhibit 1. By means of the more extensive on-site observations of the work in progress, the ENGINEER will endeavor to provide further protection for the OWNER against defects and deficiencies in the Contractor's work, but the furnishing of such services shall not constitute direction or approval of the Contractor's construction means, methods, techniques, sequences or procedures, or of any safety precautions and programs in connection with the work, and the ENGINEER shall not be responsible for the Contractor's failure to carry out the work in accordance with the Construction Contract.
- 1.6.4 The construction review representative will review all Contractor's requests for progressive payments, and all claims for materials stored on the site, and shall assist the ENGINEER in verifying the accuracy and completeness of all claims for payment.
- 1.6.5 ENGINEER shall determine the appropriate times for the Construction Review Representative to be present on the PROJECT site to provide for such review.

- 1.7 **O & M MANUAL PHASE SERVICES:** Prior to completion of the construction activities, the ENGINEER shall prepare an Operation and Maintenance (O & M) Manual for the Project including:
- 1.7.1 A narrative description of all unit processes, operations and components of the completed treatment plant portion of the Project.
 - 1.7.2 Schematic drawings indicating the general operational characteristics of the facility, and providing recommendations regarding maintenance intervals and procedures.
 - 1.7.3 A listing of all pertinent equipment manufacturers and suppliers of materials which were incorporated into the completed Project, and other information necessary to the successful continued operation, maintenance and function of the facilities constructed.
 - 1.7.4 Documentation in accordance with and as required by identified regulatory agencies and/or funding agencies, as necessary to secure final approvals of the completed O & M Manual.
- 1.8 **RECORD DOCUMENTS PHASE SERVICES:** Upon completion of the construction activities, the ENGINEER shall prepare "record" drawings of the finished work. Such drawings shall be prepared by the ENGINEER upon completion of the project and acceptance by the OWNER, and one set of "record" drawings shall be provided to the OWNER within thirty (30) days after the final construction review.
- 1.9 **FACILITIES START-UP PHASE SERVICES:** Upon completion of the construction activities, the ENGINEER shall be available for thirty (30) days of Project start-up including:
- 1.9.1 Assistance in coordinating the services provided by equipment manufacturers' technicians for the initial start-up, testing, adjusting or balancing, or operation of equipment or systems.
 - 1.9.2 Assistance to the Owner and his operators regarding the operation and maintenance of the completed facilities, and consultation regarding the design concept and performance standards for the completed facilities.
 - 1.9.3 Service to the Owner and his agents in an advisory and consulting capacity of ensure the successful initial and continued operation of the completed facilities.
- 1.10 **ADDITIONAL SERVICES:** Upon receipt of the written authorization of the OWNER, the ENGINEER agrees to furnish or obtain from others, additional professional services related to the Project, as set forth herein below and contained within this Agreement:

- 1.10.1 Monitoring the performance of the completed improvements and making periodic visits to the facilities to verify the overall operational characteristics.
- 1.10.2 Providing a one year performance certificate and letter certifying the completion of one year of successful operation.
- 1.10.3 Preparation of applications, engineering reports, technical investigations, maps and exhibits, and other supporting documents for government grants, loans or advances.
- 1.10.4 Preparation of drawings from field measurements of existing construction when required for planning additions or alterations thereto.
- 1.10.5 Services due to changes in the scope of the Project or its design including, but not limited to, changes in scope, complexity, schedule or character of construction, or services required resulting from significant delays, changes in prices of materials, or equipment and energy shortages.
- 1.10.6 Revision of studies, reports, design documents, plans or specifications which have previously been approved by the OWNER, or when such revisions are due to causes beyond the control of the ENGINEER.
- 1.10.7 Preparation of design documents for alternate bids or for out-of-sequence work requested by the OWNER.
- 1.10.8 Preparation of detailed renderings, exhibits or scale models for the Project.
- 1.10.9 Provision of special drawings or charts, and other similar materials for use by the OWNER in the operation, maintenance, repair or modification of the completed Project.
- 1.10.10 Provision of comparative studies of prospective sites.
- 1.10.11 Provision of any type of field surveys not previously included for construction purposes.
- 1.10.12 Provision of additional copies of reports, correspondence, submittal data, contract documents and specifications, and prints of construction plans.
- 1.10.13 Investigations involving detailed considerations of operations, maintenance and overhead expenses; the performance of value engineering analyses; the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, and valuations; detailed quantity surveys of material and labor; and material audits or inventories required by the OWNER.

- 1.10.14 Additional services when the Project involves more than four (4) Construction Contracts, or separate equipment contracts, where only four (4) contracts were envisioned originally.
- 1.10.15 Preparation of special Change Orders when requested by the OWNER, and/or where not within the original project scope of work.
- 1.10.16 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) defective or incomplete work of the contractor, (3) prolongation of the initial Construction Contract time beyond the contract time, and (4) the Contractor's default under Construction Contract due to delinquency or insolvency.
- 1.10.17 Provision of additional assistance in the start-up, testing, adjusting or balancing, or operation of equipment or systems, or arranging for training personnel for operation or maintenance of equipment or systems, following the initial thirty (30) day start-up period.
- 1.10.18 Provision of design services relating to future facilities, systems and equipment which are intended to be constructed or operated as a part of the Project.
- 1.10.19 Provision of services as an expert witness for the OWNER in connection with litigation or other proceedings involving or relating to the Project.
- 1.10.20 Provision of additional services required by the acceptance of substitute materials or equipment other than "or equal" items.
- 1.10.21 Provision of other services not otherwise provided for in this Agreement, including services normally furnished by the OWNER.

SECTION 2 - OWNER'S RESPONSIBILITIES

Under the provisions of this Agreement, the OWNER shall:

- 2.1 Provide the necessary support and assistance in a timely manner so as not to delay the services of the ENGINEER.
- 2.2 Provide the ENGINEER all criteria, design and construction standards and full information as to the OWNER's requirements for the project.
- 2.3 Designate in writing a person authorized to act as the OWNER's representative. The OWNER or his representative shall receive and examine documents submitted by the ENGINEER, interpret and define the OWNER's policies and render decisions and

authorizations in writing promptly to prevent unreasonable delay in the progress of the ENGINEER's services.

- 2.4 Furnish to the ENGINEER complete land deed records and title opinions for all lands on the Project site which shall include, but not be limited to, ownership, easements, rights-of-way, encroachments, zoning and deed restrictions.
- 2.5 Furnish existing soils data including but not limited to reports, test borings, test pits, probing, subsurface explorations, soil bearings values, percolation test, ground corrosion and resistivity test, all with appropriate professional interpretation.
- 2.6 Furnish existing laboratory tests, air and water pollution tests, reports and inspections of samples, materials or other items required by law or by governmental authorities having jurisdiction over this project.
- 2.7 Provide legal, accounting, and insurance counseling services necessary for the PROJECT, legal review of the Construction Contract Documents, and such auditing services as the OWNER may require to account for expenditures of sums paid to the Contractor.
- 2.8 Furnish permits and approvals from all governmental authorities having jurisdiction over this project and from others as may be necessary for completion of the Project.
- 2.9 Furnish above services at the OWNER's expense and in such manner that the ENGINEER may rely upon them in the performance of his services under this Agreement.
- 2.10 Protect and preserve all survey stakes and markers placed at the Project site prior to the assumption of this responsibility by the Contractor and bear all cost of replacing stakes or markers damaged or removed during said time interval.
- 2.11 Guarantee full and free access for the ENGINEER to enter upon all property required for the performance of the ENGINEER's services under this Agreement.
- 2.12 Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project or other event which may substantially affect the ENGINEER's performance of services under this Agreement.
- 2.13 Compensate the ENGINEER for the services rendered under this Agreement in a timely manner.
- 2.14 Bear the costs of permits, legal advertisements, notices, approvals, and other direct expenses incident to completion of the Project.
- 2.15 Bear all costs incident to compliance with or performance of the requirements of this provision.

SECTION 3 - PERIOD OF SERVICE

- 3.1 The professional services authorized by this Agreement shall be performed in accordance with this Agreement during calendar years 1997 and 1998 and 1999, if required.
- 3.2 The professional services provided according to hourly rates and performed after calendar year 1997 shall be provided in accordance with an amendment to this Agreement setting forth such new hourly rates as may be mutually agreed upon between the OWNER and ENGINEER. The annual percentage increase in rates is agreed in advance to not exceed the published Federal Consumer Price Index plus 1%.
- 3.3 This Agreement shall commence upon the date set forth herein above, and shall expire upon completion of the one year warranty period, upon receipt of the one year performance certification, and upon final acceptance of the completed Project by the OWNER.

SECTION 4 - ENGINEER'S COMPENSATION

- 4.1 **GENERAL:** In accordance with the terms and conditions of this Agreement, the ENGINEER shall provide professional services for which the OWNER shall compensate the ENGINEER as set forth herein below. Compensation shall consist of a combination of agreed lump sum amounts (for work where the scope is readily definable) and hourly allowances for work items where the scope is variable.
 - 4.1.1 Projected amounts for hourly allowances for budgetary planning purposes are depicted on Exhibit 2 to this Agreement.
- 4.2 **PRELIMINARY DESIGN PHASE SERVICES:** As defined in Section 1.2 with compensation on the basis of either a lump sum amount or hourly plus allowable cost basis as identified below.
 - 4.2.1 **Basic Preliminary Design:** (Sect 1.2.1 through 1.2.1.3)
A lump sum of \$275,000.
 - 4.2.2 **Process Evaluation Site Visits:** (Sect 1.2.2)
Hourly plus reimbursable expenses.
 - 4.2.3 **Natchez Trace Parkway Crossing Permit:** (Sect 1.2.3)
Hourly plus reimbursable expenses.
 - 4.2.4 **Reconnaissance and Design Surveys:** (Sect 1.2.4)
Hourly

- 4.2.5 **Preliminary Right-of-Way Surveys:** (Sect 1.2.5)
Hourly
- 4.2.6 **Geotechnical Coordination:** (Sect 1.2.6)
Hourly plus subconsultant costs.
- 4.3 **FINAL DESIGN PHASE SERVICES:** As defined in Section 1.3 with compensation on the basis of either a lump sum amount or hourly plus allowable cost basis as identified below.
 - 4.3.1 **Basic Final Design Phase Services:** (Sect 1.3.1 through 1.3.1.10)
Lump sum of \$320,000.
 - 4.3.2 **Environmental Assessment Services:** (Sect 1.3.2)
Hourly plus subconsultant costs.
 - 4.3.3 **Value Engineering Review:** (Sect 1.3.3)
Hourly plus subconsultant costs.
 - 4.3.4 **Right-of-Way Services:** (Sect 1.3.4)
Hourly plus reimbursable expenses.
 - 4.3.5 **Layout Surveys:** (Sect 1.3.5)
Hourly
 - 4.3.6 **Rate Calculation and Financing Services:** (Sect 1.3.6)
Hourly
- 4.4 **PRECONSTRUCTION, CONTRACT ADMINISTRATION, RECORD DOCUMENTS AND FACILITIES STARTUP:** (Sect 1.4, 1.5, 1.8 and 1.9)
A combined Lump Sum of \$138,000.
- 4.5 **CONSTRUCTION REVIEW PHASE:** (Sect 1.6)
Hourly plus reimbursable expenses.
- 4.6 **O & M MANUAL:** (Sect 1.7)
A Lump Sum of \$15,000.
- 4.7 **ADDITIONAL SERVICES:** As defined in Section 1.9.2 with compensation as set forth herein below, plus direct reimbursable expenses.
 - 4.7.1 Additional professional services shall be provided on an hourly basis in accordance with the hourly rates set forth herein below. These hourly rates shall apply to the additional services rendered herein, and shall be adjusted no less than annually following calendar year 1997 in accordance with Section 3.2.

<u>PERSONNEL CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$80
Project Engineer	65
Engineer	60
Engineering Assistant	50
Surveyor	60
Surveying Assistant	50
Designer	45
Technician	35
Computer Aided Design (CAD)	15
Administrative	35
Clerical	25
Construction Review	45
Survey Party (Two Men)	70
Survey Party (Three Men)	80

- 4.7.2 Cost of services provided under Section 1.10, Additional Services, of other professional consultants billed to the ENGINEER by the professional consultants for such services. These services may include geotechnical, architectural, structural, mechanical and electrical consultants.

4.8 REIMBURSABLE EXPENSES: As defined herein below, shall be reimbursed to the ENGINEER at cost.

- 4.8.1 Reimbursable expenses are in addition to compensation to the ENGINEER for Additional Services and include expenditures made by the ENGINEER, his employees or his consultants in the interest of the Project. Reimbursable Expenses include, but are not limited to, those listed herein below.

4.8.1.1 Expense of transportation, mileage, subsistence, rentals and lodging when traveling in connection with the Project.

4.8.1.2 Expense of long distance or toll telephone calls, telegrams, messenger service, field office expenses and fees paid for securing approval of authorities having jurisdiction over the Project.

4.8.1.3 Expense of all reproduction, postage and handling of Plans, Specifications, Contract Documents, reports or other Project related work product of the ENGINEER.

4.9 PAYMENTS TO THE ENGINEER: Shall be made by the OWNER to the ENGINEER as specified herein below.

- 4.9.1 Progress payments for all parts of this Contract shall be made in proportion to services rendered as indicated within this Agreement, and shall be due and owing within thirty days of the ENGINEER's submittal of his monthly statement. Invoices for professional services rendered will be prepared in accordance with the ENGINEER's standard practices, and will be submitted to the OWNER by the ENGINEER on a monthly basis. Past due amounts owed to the ENGINEER shall include an interest charge of one percent compounded monthly from the thirtieth day. Payments received from the OWNER will be credited first to any accrued interest, and then to the principal balance. In the event of a disputed or contested invoice, the OWNER may withhold only that portion in question, and shall render payment for the agreed portion to the ENGINEER on a timely basis.
- 4.9.2 For the **Preliminary Design Phase Services**, as specified in Sect 4.2, payments shall be made monthly based on the ENGINEER's estimate of the percentage completion of Basic Preliminary Design (Sect 4.2.1) and based upon actual hours and reimbursable expenses to date for the services listed in Sect 4.2.2 through 4.2.6.
- 4.9.3 For the **Final Design Phase Services**, as specified in Sect 4.3, payments shall be made monthly based on the ENGINEER's estimate of the percentage completion of the Final Design and based upon actual hours and reimbursable expenses to date for the services listed in Sect 4.3.2 through 4.3.6.
- 4.9.4 For the **Preconstruction, Contract Administration, Record Documents and Facilities Startup Phase Services**, as specified in Section 4.4, payments shall be made monthly based on the ENGINEER's estimate of the percentage of completion of each sub-phase indicated herein below, which shall represent the following percentages of the total lump sum compensation specified:
- | | |
|---|--------|
| Pre-Construction Phase | 10.0% |
| Contract Administration Phase | 80.0% |
| Record Documents Phase | 5.0% |
| Facilities Startup Phase | 5.0% |
| TOTAL OF LUMP SUM | |
| | 100.0% |
- 4.9.5 Payment for the **Operations and Maintenance Manual** shall be made upon approval of the manual by the OPC and delivery of the Owner's three (3) copies.
- 4.9.6 If the OWNER fails to make monthly payments due to the ENGINEER, the ENGINEER may, after giving seven (7) days written notice to the OWNER, suspend services under this Agreement.

- 4.9.7 No deductions shall be made from the ENGINEER's compensation on account of penalty, liquidated damages or other sums withheld from payments to Contractors.
- 4.9.8 If the Project is delayed or if the ENGINEER's services for the Project are delayed or suspended for more than three months for reasons beyond the ENGINEER's control, the ENGINEER may, after giving seven (7) days written notice to the OWNER, terminate this Agreement and the OWNER shall compensate the ENGINEER in accordance with the termination provision contained hereafter in this Agreement, or the ENGINEER shall be entitled to an adjustment of the amounts and rates of compensation specified herein, in addition to consideration for the expenses incurred by the ENGINEER in the suspension and/or reactivation of his services.

SECTION 5 - COST CONTROL

- 5.1 The OWNER's budgetary requirements and considerations with respect to each work effort or initiative shall be established from time to time by mutual agreement between the OWNER and ENGINEER; and
- 5.2 Opinions of probable construction cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by ENGINEER hereunder will be made on the basis of ENGINEER's experience and qualifications, and represent ENGINEER's best judgment as an experienced and qualified design professional. It is recognized, however, the ENGINEER does not have control over the cost of labor, material, equipment, or services furnished by others, or over market conditions or contractors' methods or determining their prices, and that any utilitarian evaluation of any facility to be constructed or work to be performed on the basis of the work authorized herein must of necessity be speculative until completion of its detailed design. Accordingly, ENGINEER does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by ENGINEER to OWNER hereunder.

SECTION 6 - GENERAL PROVISIONS

- 6.1 Ownership of Documents: All Plans, Specifications, Contract Documents and other work product of the ENGINEER for this Project are instruments of services for this Project only, and shall remain the property of the ENGINEER whether the project is completed or not. Re-use of any instruments of service of the ENGINEER by the OWNER on extensions of this Project or on any other Project without the written permission of the ENGINEER shall be at the OWNER's risk and the OWNER agrees to defend, indemnify and hold harmless the ENGINEER from all claims, damages, and expenses including attorney's fees arising out of such unauthorized re-use of the ENGINEER's instruments

of service by the OWNER OR BY OTHERS ACTING THROUGH THE OWNER. Any re-use or adaption of the ENGINEER's instruments of service occurring after the written agreement of the ENGINEER shall entitle the ENGINEER to further compensation in amount to be agreed upon by the OWNER AND ENGINEER.

- 6.2 Delegation of Duties: Neither the OWNER nor the ENGINEER shall assign, sublet or transfer any rights under or interest in, including, but without limitation, moneys that are due, this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to any assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.
- 6.3 Termination: This Agreement may be terminated by either party by seven (7) days written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party. If this Agreement is terminated, the ENGINEER shall be paid for service performed to the termination notice date including Reimbursable Expenses due plus Termination Expenses. Termination Expenses are defined as Reimbursable Expenses directly attributable to termination, plus a reasonable fee to be mutually agreed upon at the appropriate time by both parties to account for ENGINEER's rescheduling adjustments, reassignment of personnel and related costs incurred due to termination.
- 6.4 Extent of Agreement: This Agreement, together with such amendments which may be executed from time to time, represents the entire and integrated Agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and the ENGINEER.
- 6.5 Governing Laws: Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the principal place of business of the ENGINEER.
- 6.6 Litigation: Should litigation occur between the two parties relating to the provisions of this Agreement, all litigation or arbitration expenses, collection expenses, witness fees, court costs and attorneys fees incurred by the prevailing party shall be paid by the nonprevailing party to the prevailing party.
- 6.7 Performance: Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents of other events beyond the control of the other or the other's employees and agents.
- 6.8 Validity: In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be and remain valid and binding upon the

parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

- 6.9 Safety: The ENGINEER has not been retained or compensated to provide design and construction review services relating to the Contractor's safety precautions or to means, methods, techniques, sequences, or procedures required for the Contractor to perform his work but not relating to the final or completed structure; omitted services include but are not limited to shoring, scaffolding, underpinning, temporary retainment of excavations and any erection methods and temporary bracing.
- 6.10 Practices: The ENGINEER intends to render the services under this Agreement in accordance with generally accepted professional practices for the intended use of the Project and makes no warranty, either express or implied.
- 6.11 Benefits: Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER, and not for the benefit of any other party.
- 6.12 Binding: OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER, and to the extent permitted herein, the assigns of OWNER and ENGINEER, are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives, and said assigns, of such other party, in respect of all covenants, agreements and obligations of the Agreement.
- 6.13 The ENGINEER will comply with all pertinent provisions of the regulations of the U.S. Department of Commerce issued pursuant to the Civil Rights Act of 1964, in regard to nondiscrimination in employment because of race, religion, color, sex, disability, national origin or veterans status on all phases of the project.

SECTION 7 - SPECIAL PROVISIONS

- 7.1 **ENGINEER'S INSURANCE:** The ENGINEER shall acquire and/or maintain statutory workmen's compensation insurance coverage, employer's liability and general liability insurance coverage, for the life of this Agreement. Engineer currently maintains \$1,000,000 professional liability coverage, and agrees to attempt to maintain continuous professional liability coverage for the life of this Agreement, if such coverage is reasonably available at commercially affordable premiums. For the purposes of this Agreement, "reasonably available" and "commercially affordable" shall mean that more than half the design professionals practicing in this state in this discipline are able to obtain such coverage.

- 7.2 **CONTRACTOR'S INSURANCE:** Prior to the commencement of the construction work, the OWNER shall require the Contractor and any Subcontractor to submit evidence that he (they) have obtained for the period of the construction Contract and the guarantee period comprehensive general liability insurance coverage (including completed operations coverage). This coverage shall provide for bodily injury and property damage arising directly or indirectly out of, or in connection with, the performance of the work under the Construction Contract, and have a limit of not less than **\$1,000,000** for all damages arising out of bodily injury, sickness or death of one person and an aggregate of **\$2,000,000** for damage arising out of bodily injury, sickness and death of two or more persons in any one occurrence. The Property damage portion will provide for a limit of not less than **\$500,000** for all damages arising out of injury to or destruction of property of others arising directly or indirectly out of or in connection with the performance of the work under the Construction Contract and in any one occurrence including explosion, collapse and underground explosions. Included in such coverage will be contractual coverage sufficiently broad to insure the provision of Section 7.4 "Indemnity". The comprehensive general liability insurance will include as additional named insureds: the OWNER; the ENGINEER; and each of their officers, agents and employees.
- 7.3 **BUILDERS RISK "ALL RISK" INSURANCE:** Before commencement of the work, the OWNER will require that the Contractor and any Subcontractors submit written evidence that he (they) have obtained for the period of the Construction Contract, Builders Risk "All Risk" Completed Value Insurance Coverage (including earthquake and flood) upon the entire Project which is the subject of the Construction Contract. Such insurance shall include as additional named insureds; the OWNER; the ENGINEER; and each of their officers, agents, employees and any other persons with an insurable interest as may be designated by the OWNER. Such insurance may have a deductible clause not to exceed \$5,000, except that the earthquake deductible may be in accordance with generally accepted insurance practices in the locale where the coverage is issued.
- 7.4 **INDEMNITY:** The OWNER will require that any Contractor or Subcontractors performing work in connection with the Drawings and Specifications produced under this Agreement to hold harmless indemnify and defend, the OWNER and the ENGINEER, their consultants and each of their officers, agents, and employees from any and all liability claims, losses or damage arising out of or alleged to arise from the Contractor's (or Subcontractor's) negligence in the performance of the work described in the Construction Contract Documents, but not including liability that may be due to the sole negligence of the OWNER, the ENGINEER, their consultants or their officers, agents and employees.
- 7.5 **LIMITATION OF LIABILITY:** OWNER hereby agrees that to the fullest extent permitted by law, that the design professional's total aggregate liability to OWNER, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of, or in any way related to, the work efforts authorized herein, or this Agreement, from any cause or causes, including, but not limited to, the design professional's negligence, errors,

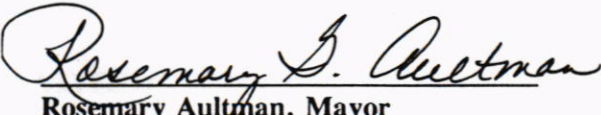
omissions, strict liability, breach of contract or breach of warranty, shall not exceed the minimum that is allowed under the prevailing laws of the State of Mississippi.

SECTION 8 - EXECUTION

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their duly authorized representatives on the day and year first above written.

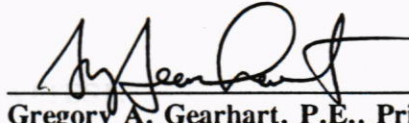
OWNER:

CITY OF CLINTON, MISSISSIPPI

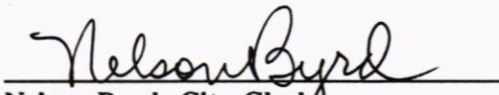

Rosemary Aultman, Mayor

ENGINEER:

WILLIFORD, GEARHART & KNIGHT, INC.


Gregory A. Gearhart, P.E., Principal

ATTEST:


Nelson Byrd, City Clerk

ATTEST:

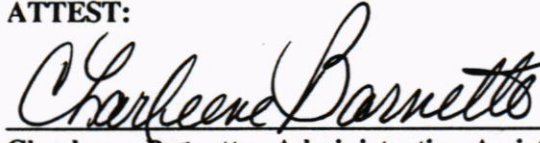

Charleene Barnette, Administrative Assistant

EXHIBIT 1

This is EXHIBIT 1 consisting of 3 pages, referred to in the Agreement between OWNER and ENGINEER for Professional Services, dated 3-12 19 97

Duties, Responsibilities and Limitations of Authority
of Resident Project Representative

Initial:
OWNER _____
ENGINEER ME

ENGINEER shall furnish a Resident Project Representative ("RPR"), assistants and other field staff to assist ENGINEER in observing progress and quality of the work of Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of Contractor. However, ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures selected by Contractor, for safety precautions and programs incident to the work of Contractor, for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's performing and furnishing the work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. *In particular, the specific limitations set forth in paragraph 1.6.3 of the Agreement are applicable*

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

A. General

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER and Contractor, keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

B. Duties and Responsibilities of RPR

1. *Schedules*: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with ENGINEER concerning acceptability.
2. *Conferences and Meetings*: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. *Liaison*:
 - a. Serve as ENGINEER's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of Contract Documents; and assist ENGINEER in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's on-site operations.
 - b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.
4. *Shop Drawings and Samples*:
 - a. Record date of receipt of Shop Drawings and Samples.
 - b. Receive Samples which are furnished at the site by Contractor, and notify ENGINEER of availability of Samples for examination.
 - c. Advise ENGINEER and Contractor of the commencement of any Work requiring a Shop Drawing or Sample if the submittal has not been approved by ENGINEER.

5. *Review of Work, Rejection of Defective Work, Inspections and Tests:*
- Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - Report to ENGINEER whenever RPR believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - Verify that tests, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and start-ups.
 - Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
6. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by ENGINEER.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to Contractor in writing decisions as issued by ENGINEER.
8. *Records:*
- Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, reproductions of original Contract Documents including all Work Change Directives, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing submittals received from and delivered to Contractor and other Project related documents.
 - Prepare a daily report or keep a diary or log book, recording Contractor's hours on the job site, weather conditions, data relative to questions of Work Change Directives, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
 - Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.
9. *Reports:*
- Furnish to ENGINEER periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
 - Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
 - Draft proposed Change Orders and Work Change Directives, obtaining backup material from Contractor and recommend to ENGINEER Change Orders, Work Change Directives, and Field Orders.
 - Report immediately to ENGINEER and OWNER the occurrence of any accident.
10. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.
11. *Certificates, Maintenance and Operation Manuals:* During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. Completion:

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Observe whether Contractor has had performed inspections required by laws, rules, regulations, ordinances, codes, or orders applicable to the work, including but not limited to those to be performed by public agencies having jurisdiction over the work.
- c. Conduct a final inspection in the company of ENGINEER, OWNER and Contractor and prepare a final list of items to be completed or corrected.
- d. Observe whether all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptance of the Work.

C. Limitations of Authority by RPR

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
3. Shall not undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawing or Sample submittals from anyone other than Contractor.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

[Note: If the work designed or specified by ENGINEER is to be provided or performed under more than one prime contract or the times of performance are to be staggered, the provisions of this Exhibit should be amended or supplemented as required.]

EXHIBIT 2
PROPOSED SERVICES SCHEDULE
SOUTHSIDE WASTEWATER FACILITIES
CITY OF CLINTON, MISSISSIPPI
FEBRUARY 5, 1997

ACTIVITY	BILLING METHOD	CONTRACT OR ESTIMATED AMOUNT	SCOPE ITEM	AMOUNT
PRELIMINARY DESIGN PHASE (1)				
BASIC PRELIMINARY DESIGN	Lump Sum	CONTRACT		\$275,000
PLANT SITE VISITS	Hourly + Costs	EST	16	\$7,000
NTP PERMIT APPLICATION	Hourly + Costs	EST	11	\$7,000
RECONNAISSANCE & DESIGN SURVEYS	Hourly	EST	4,6,7,8,9	\$51,300
PRELIMINARY RIGHT-OF-WAY SURVEYS	Hourly	EST	1,2,3,5	\$9,500
GEOTECHNICAL	Hourly + Costs	EST	10	\$30,000
SUBTOTAL OF PRELIMINARY DESIGN SERVICES				\$379,800
FINAL DESIGN PHASE (2)				
BASIC FINAL DESIGN	Lump Sum	CONTRACT		\$320,000
ENVIRONMENTAL ASSESSMENT	Consultant + Hourly	EST		\$1,500
VALUE ENGINEERING REVIEW	Consultant + Hourly	EST	17	\$50,000
RIGHT-OF-WAY SERVICES	Hourly	EST	11,12,13,15	\$35,000
LAYOUT SURVEYS	Hourly	EST	14	\$8,900
RATE CALCULATION AND FINANCING SERVICES	Hourly	EST		\$5,000
SUBTOTAL OF FINAL DESIGN SERVICES				\$420,400
CONSTRUCTION PHASE (3)				
PRE-CONSTRUCTION, CONTRACT ADMINISTRATION, RECORD DOCUMENTS, AND START-UP	Lump Sum	CONTRACT		\$138,000
OPERATIONS AND MAINTENANCE MANUAL	Lump Sum	EST		\$15,000
CONSTRUCTION REVIEW	Hourly	EST		\$330,000
SUBTOTAL OF CONSTRUCTION PHASE SERVICES				\$483,000
TOTAL FOR ENGINEERING SERVICES				<u>\$1,283,200</u>

EXHIBIT 3

Scope of Work
Engineering Design Phase - Non Basic Services
Southside Wastewater Facilities
City of Clinton, Mississippi
Revised February 5, 1997

Design Phase

- | | |
|---|--|
| P | 1. Complete tax map level property research for proposed interceptor alignment and proposed treatment plant site.
(50 Parcels) |
| P | 2. Prepare right-of-entry letter for surveys and borings on entire interceptor alignment and proposed treatment plant site, with list of owners and addresses per tax records.
(50 Parcels) |
| P | 3. Locate survey control monuments and property ownership monuments in field. |
| P | 4. Perform route location/reconnaissance walk-over of entire interceptor alignment and treatment plant site.
(52,800 LF @ 1 mile per day) |
| P | 5. Review proposed interceptor alignment with property owners in field as needed. |
| P | 6. Perform profile, cross-section, and property ownership surveys of entire interceptor alignment.
(52,800 LF @ 50' x sect, 20' wide, 4 points per x sect, 3 mins per point) |
| P | 7. Perform boundary and topographic survey of proposed treatment plant site.
(Ten to 20 acres) |
| P | 8. Run level loops along entire interceptor alignment and on treatment plant site setting TBM's as needed.
(60,000 LF @ 10,000 LF/day) |
| P | 9. Stake and flag interceptor alignment in field as needed for borings and permits.
(2 miles per day) |
| P | 10. Complete soil borings along interceptor alignment, at road bore sites, and on treatment plant site. (borings by subcontractor) |
| P | 11. Prepare highway / road / Natchez Trace Parkway / pipeline crossing / power line crossing / road boring permits as needed. |

Design Phase

- F 12. Prepare plats and descriptions for acquisition of all interceptor easements and for acquisition of treatment plant site, with additional surveying as needed.
(36 parcels @ 4 hrs. each)
- F 13. Assist in securing interceptor easements and treatment site property as needed.
- F 14. Set iron pins at all PI's in interceptor alignment with witness pins as needed.
(115 PI's and 115 offsets)
- F 15. Set iron pins at treatment plant site corners with control points on site as needed.
- P 16. Participate in reconnaissance visits with City representatives to existing treatment plants to evaluate potential options. (Four days of visits)
- P 17. Conduct Value Engineering Review at preliminary design level.

EXHIBIT 4												PAGE 1											
PROJECTION OF NON-BASIC SERVICES																							
SOUTHSIDE WASTEWATER FACILITIES																							
WILLIFORD, GEARHART & KNIGHT, INC.																							
WGK# 97-100																							
FEBRUARY 5, 1997																							
Task	Principal Hours	Proj. Eng. Hours	Engineer Hours	Surveyor Hours	Survey Party Chief Hours	Survey Crewman Hours	CADD Hours	Administrative Hours	Clerical Hours	Principal Cost	Project Engineer Cost												
1	2	4	8	24	0	0	0	1	2	\$160	\$260												
2	2	0	8	5	0	0	0	1	4	\$160	\$0												
3	1	3	3	3	24	24	6	1	2	\$80	\$195												
4	0	80	80	8	0	160	0	1	2	\$0	\$5,200												
5	4	24	24	0	0	0	0	2	2	\$320	\$1,560												
6	4	8	24	24	200	400	30	2	4	\$320	\$520												
7	4	4	12	24	44	88	24	2	4	\$320	\$260												
8	2	2	8	16	40	80	10	2	4	\$160	\$130												
9	4	8	12	24	40	80	24	2	4	\$320	\$520												
10	8	4	2	4	0	0	4	1	2	\$640	\$260												
11	24	16	100	8	0	0	40	1	30	\$1,920	\$1,040												
12	8	16	36	144	0	0	80	1	2	\$640	\$1,040												
13	12	12	12	24	0	0	4	1	2	\$960	\$780												
14	4	8	24	40	46	92	20	2	4	\$320	\$520												
15	2	4	4	8	8	16	8	1	1	\$160	\$260												
16	48	12	30	0	0	0	0	1	8	\$3,840	\$780												
17	65	40	32	0	0	0	0	2	8	\$5,200	\$2,600												
Total Hours	129	205	387	356	402	940	250	22	77														
Hourly Rate	80	65	60	60	60	10	15	35	25														
Total Cost	\$10,320	\$13,325	\$23,220	\$21,360	\$24,120	\$9,400	\$3,750	\$770	\$1,925														
Note: Does not include costs for printing, postage, soil borings, out-of-state travel, etc.																							

EXHIBIT 5
GENERAL COST GUIDELINES
SOUTHSIDE WASTEWATER FACILITIES
CITY OF CLINTON, MISSISSIPPI
FEBRUARY 5, 1997

PHASE DESCRIPTION	PERCENT COMPENSATION(1,2)
DESIGN ENGINEERING	6.47%
CONSTRUCTION ENGINEERING(4)	1.50%
TOTAL OF ENGINEERING	7.97%
CONSTRUCTION REVIEW(4)	3.53%
GEOTECHNICAL	0.33%
SURVEYS AND RIGHT-OF-WAY SERVICES	1.11%
VALUE ENGINEERING	0.54%
NTP PERMIT APPLICATION, RATE CALCULATIONS, O&M MANUAL	0.33%
ENVIRONMENTAL ASSESSMENT	0.016%
PLANT SITE VISITS	0.08%
TOTAL PERCENT COMPENSATION	13.90%
ESTIMATED PROJECT CONSTRUCTION COST	\$9,230,000
ESTIMATED BASIC ENGINEERING AND NON-BASIC SERVICES FEE	\$1,283,200

NOTES:

1. PERCENT COMPENSATION VALUES ARE ROUNDED.
2. PERCENTAGES BASED ON PROJECT CONSTRUCTION VALUE OF \$9,230,000
3. APPLICABLE SRF ALLOWANCES TOTAL 16.27%
4. ASSUMES THREE (3) CONSTRUCTION CONTRACTS

BID OPENING REPORT

Project: Park & Recreation
Woods Model MD 315
Bathing Rotary Cutter

Owner: City of Clinton

Engineer: _____

Pre Bid Estimate: _____

Bid Date: 2-19 at 10 a.m.

Location: City Hall
300 Jefferson Street
Clinton, MS 39056

BIDDER	C.O.R. #	BID BOND	BASE BID	ALTERNATIVE options	ALTERNATIVE #2	TOTAL BASE BID & ALTERNATIVES
Magnolia Sales			\$9,400.00			
Carlton Farm Eq.			\$7,890.00			
Brain Ford Tractor		(LOW BID)	\$6,494.00 1,743.00 OPTION 7,237.00 TOTAL			
						11.
Attendance: Nelson Byrd Raymond Quetner Don J. Miller						

The above bid amounts have not been checked. The bid totals are subject to correction after the bids have been completely reviewed.

Signed: Nelson Byrd
Date: 2-19-96

11.

PROOF OF PUBLICATION
THE STATE OF MISSISSIPPI
HINDS COUNTY

PASTE PROOF HERE

NOTICE TO RECEIVE BIDS
Notice is hereby given that
the City of Clinton Parks and
Recreation Department will
receive sealed bids at the
City Hall, 300 Jefferson
Street, Clinton, Mississippi at
10:00 a.m. on the 19th day of
February, 1997 for the Woods
Model MD315 Batwing Rota-
ry Cutter, Company Brand
Name: Woods. For specific
information concerning the
equipment please call Parks
and Recreation at 924-6082.
The City of Clinton reserves
the right to reject all bids or
to accept the bid most favor-
able to the City of Clinton.
Rosemary Aultman, Mayor
/s/ Nelson Byrd
Nelson Byrd, City Clerk
Seal
January 31, February 7, 1997

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

Amy Ham

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:

Date January 31, 19 97

Date February 7, 19 97

Date _____, 19 _____

Date _____, 19 _____

Date _____, 19 _____

Number of Lines/Words 24/105

Published 2 Times

Total \$ 15.65

Signed Amy Ham

Authorized Clerk
of The Clarion-Ledger

SWORN to and subscribed before me the 7 day of February,
19 97.

My Commission Expires:

Maire Mills
Notary Public

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE.
MY COMMISSION EXPIRES: Nov. 8, 2000.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

(SEAL)

**RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE
CITY OF CLINTON, MISSISSIPPI, TO SET THE
MAXIMUM AMOUNT OF ADDITIONAL BENEFIT PAYMENT (COLA)
TO RETIREES OF THE POLICE AND FIRE DISABILITY AND RELIEF FUND**

WHEREAS, the City of Clinton desires to grant an annual cost of living adjustment ("COLA") to qualified retirees through the Clinton Police and Fire Disability and Relief Fund (the "Fund"), subject to such limitations as the City may reasonably place on this payment; and

WHEREAS, to maintain the actuarial and fiscal soundness of the Fund, the City of Clinton finds that such benefit should be limited to an amount not to exceed ten (10%) percent of the recipients' annual retirement allowance; and

WHEREAS, the City of Clinton finds that such actions should be accomplished by appropriate and proper legislative action by the Mississippi Legislature.

NOW THEREFORE BE IT RESOLVED that the City of Clinton acting through the Mayor and Board of Aldermen is hereby authorized to take such action as is appropriate to establish an annual costs of living adjustment for all qualified retirees under the City Police and Fire Disability and Relief Fund not to exceed ten (10%) percent of the recipients' annual retirement allowance and to request that the Mississippi Legislature enact appropriate legislation to authorize and empower the City of Clinton to accomplish this so long as the Fund remains actuarially and fiscally sound.

Alderman DePriest moved that the foregoing resolution be adopted. Alderman Todd seconded. The vote was as follows:

Alderman Brabham voted: Aye

Alderman DePriest voted: Aye

Alderman Lott voted: Aye

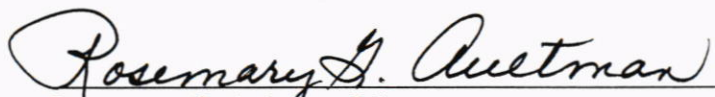
Alderman Todd voted: Aye

Alderman Ferrell voted: Aye

Alderman Touchton voted: Aye

Alderman Fisher voted: Aye

Approved this the 4th day of March, 1997.


Rosemary G. Aultman, Mayor

ATTEST:


Nelson Byrd, City Clerk

(S E A L)