

**CITY OF CLINTON
REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, JUNE 21, 2011 - 7:00 P.M.
MUNICIPAL COURTROOM – 305 MONROE STREET**

WELCOME AND CALL TO ORDER Mayor Rosemary Aultman

INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG

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

ROLL CALL City Clerk, Russell Wall

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

APPROVAL OF CONSENT AGENDA ITEMS A - O

MOTION made by Alderwoman Peace and **SECONDED** by Alderman Brabham to approve the Consent Agenda Items A-O. **MOTION CARRIED UNANIMOUSLY**

DEMOLITION OF 406 HATHAWAY CIRCLE CLINTON MS

Upon presentation by Jerry Bounds, Director of Community Development, **MOTION** made by Alderman Cashion and **SECONDED** by Alderman Brabham the board approved a resolution determining the necessity for the demolition of a house located at 406 Hathaway Drive, under the authority granted to municipalities by Section 21-19-11, Mississippi Code of 1972, as amended and other applicable statutes and ordinances. A public hearing was held and no one representing the property owner was present. No one from the public had any comments. The resolution is on file with the City Clerk. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF THE APPOINTMENT OF BILL OWEN, P.E. AS CONSULTING ENGINEER FOR THE CITY OF CLINTON

Upon presentation by Rosemary Aultman, Mayor, **MOTION** made by Alderman Hisaw and **SECONDED** by Alderman Greer the board approved the appointment of Bill Owen, P.E. as Consulting Engineer for the City of Clinton. **MOTION CARRIED UNANIMOUSLY**

AUTHORIZE THE MAYOR TO ACCEPT THE MUTUAL AID AGREEMENT BETWEEN THE CITY OF CLINTON FIRE DEPARTMENT AND THE CITY OF JACKSON FIRE DEPARTMENT

Upon presentation by Barry Burnside, Fire Chief, **MOTION** made by Alderman Greer and **SECONDED** by Alderman Cashion the board approved authorizing the Mayor to accept the Mutual Aid Agreement between the City of Clinton Fire Department and the City of Jackson Fire Department. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF A HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENT GRANT

Upon presentation by Rosemary Aultman, Mayor, **MOTION** made by Alderman Barnett and **SECONDED** by Alderman Morgan the board approved a Household Hazardous Waste Collection Event Grant. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF THE CONSULTANT AGREEMENT FOR CONSTRUCTION, ENGINEERING AND INSPECTION SERVICES IN CONNECTION WITH PINEHAVEN DRIVE

Upon presentation by Richard Broome, City Engineer, **MOTION** made by Alderman Brabham and **SECONDED** by Alderwoman Peace the board approved the Consultant Agreement for Construction, Engineering and Inspection Services in connection with Pinehaven Drive contingent upon the approval of the Mississippi Department of Transportation. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF CONSULTANT AGREEMENT FOR ENGINEERING SERVICES IN CONNECTION WITH THE IMPROVEMENTS TO NORTHSIDE DRIVE AND TANGLEWOOD INTERSECTION

Upon presentation by Richard Broome, City Engineer, **MOTION** made by Alderman Cashion and **SECONDED** by Alderman Brabham the board approved the Consultant Agreement for Engineering Services in connection with the improvements to Northside Drive and Tanglewood Intersection contingent upon the approval of the Mississippi Department of Transportation. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF THE RIGHT-OF-WAY INSTRUMENT FROM ENTERGY MISSISSIPPI IN CONNECTION WITH THE PINEHAVEN DRIVE PROJECT

Upon presentation by Richard Broome, City Engineer, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Greer the board approved the Right-Of-Way Instrument from Entergy Mississippi in connection with the Pinehaven Drive project. **MOTION CARRIED UNANIMOUSLY**

AUTHORIZE THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF CLINTON, MISSISSIPPI AND CLINTON PUBLIC SCHOOL DISTRICT REGARDING THE ARROW DRIVE PROJECT

Upon presentation by Ken Dreher, City Attorney, **MOTION** made by Alderman Greer and **SECONDED** by Alderman Brabham the board authorized the Mayor to execute an Interlocal Agreement between the City of Clinton, Mississippi and Clinton Public School District regarding the Arrow Drive project. **MOTION CARRIED UNANIMOUSLY**

OTHER BUSINESS

The Mayor and Board of Aldermen presented a plaque to Richard Broome, City Engineer on his retirement for 18 ½ years of service to the City of Clinton, Mississippi.

ADJOURN 7:40 P.M.

MOTION made by Alderman Brabham and **SECONDED** by Alderman Cashion to adjourn until the next regular meeting of the Mayor and Board of Aldermen to be held on July 5, 2011 at 7:00 pm. **MOTION CARRIED UNANIMOUSLY**

APPROVED:

Rosemary G. Aultman
Rosemary G. Aultman, Mayor

Date

June 22, 2011

ATTEST:

Russell L. Wall
Russell L. Wall, City Clerk

Date

June 22, 2011



RESOLUTION FOR THE DEMOLITION OF PROPERTY IN THE CITY OF CLINTON, MS

There came on for public hearing before the Mayor and Board of Aldermen of the City of Clinton, Mississippi, the matter of unkempt property located at 406 Hathaway, Clinton, Mississippi, and after full consideration of the matter, Alderman CASHION Offered the following Resolution:

Resolution of the Mayor and Board of Aldermen of the City of Clinton, Mississippi, determining the necessity for the demolition and debris removal, of the property located at 406 Hathaway, Clinton, Mississippi, under the Authority granted to Municipalities by Section 21-91-11, Mississippi Code of 1972 as Amended, and other applicable Statutes and Ordinances.

WHEREAS, it has come to the attention of the Mayor and Board of Aldermen that the property located at 406 Hathaway, Clinton, Mississippi, may constitute a menace to the public health and safety of the community because of its present condition and state of uncleanness; and

WHEREAS, notice was given to the owner of said property as required Section 21-19-11 of the Miss. Code of 1972, as amended, of a public hearing on this matter; and

WHEREAS, a public hearing was held at 7:00 p.m. JUNE 21, 2011, at the Municipal Room of the Public Safety Complex, 305 Monroe Street, Clinton, Mississippi; and

WHEREAS, based upon the information and evidence provided at said public hearing, the Mayor and Board of Aldermen of the City of Clinton, Mississippi, has determined that this property, in its present condition and state of uncleanness, constitutes a menace to the public health and safety of the community and does adjudicate said property in its present condition to be a menace to the public health and safety of the community. The Director of Community Development is directed to take such action as appropriate under Section 21-19-11 of the Miss. Code of 1972, as amended, and other applicable statutes and ordinances, to use municipal employees or, by contract, to have the property demolished and debris removed at 406 Hathaway.

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

- 1.** It is hereby adjudicated that the property located at 406 Hathaway, Clinton, Mississippi, in its present condition, constitutes a menace to the public health and safety of the community.
- 2.** The Director of Community Development is hereby directed to take such action as appropriate under Section 21-19-11, Miss. Code of 1972, as amended, and other applicable statutes and ordinances to have the property demolished and debris removed from 406 Hathaway, Clinton, MS 39056.

3. The Director of Community Development is hereby directed that upon completion of this demolition that he advise the Mayor and Board of Aldermen of the City of Clinton, Mississippi, of the actual costs incurred in demolition of the property so that the Mayor and Board of Aldermen for the City of Clinton, Mississippi, may adjudicate the costs of such action and impose such penalty as it adjudicates, all as provided by under Section 21-19-11, Miss. Code of 1972, as amended, and other applicable statutes and ordinances.

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

Alderman Brabham voted: AYE

Alderman Hisaw voted: AYE

Alderman Greer voted: AYE

Alderman Barnett voted: AYE

Alderwoman Peace voted: AYE

Alderman Morgan voted: AYE

Alderman Cashion voted: AYE

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

The foregoing Resolution was approved this the 21st day of JUNE 2011.

CITY OF CLINTON

BY: Rosemary G. Aultman ATTEST: Russell L. Wall
ROSEMARY G. AULTMAN, Mayor Russell L. Wall, City Clerk (SEAL)





466 Hathaway

6-7-11



AGREEMENT FOR MUTUAL AID IN FIRE PROTECTION

This agreement is entered into on this 21st day of JUNE, 2011, by and between the City of Jackson, Mississippi, hereinafter called "Jackson", and the City of Clinton, Mississippi, hereinafter called "Clinton", for the purpose of securing for each the benefits of mutual aid in fire suppression and in the protection of life and property from fire and natural disaster.

WITNESSETH:

That and for in consideration of the mutual benefits and advantages each to the other, as hereinafter set forth, the parties hereto agree as follows:

- (1) On request by Clinton, the Jackson Fire Department will dispatch fire equipment and personnel to any designated point within the firefighting jurisdiction of the Clinton Fire Department to assist in firefighting actions.
- (2) On request by Jackson, the Clinton Fire Department will dispatch fire equipment and personnel to any designated point within the firefighting jurisdiction of the Jackson Fire Department to assist in firefighting actions.
- (3) An area one-half mile on each side of boundary line between Clinton and Jackson will be an area of Automatic Aid with each Fire Department responding upon notification of a fire. Fire equipment responding will be determined in Joint Operating Procedures agreed upon by the Fire Chiefs of the parties hereto.
- (4) Any dispatch of equipment and personnel pursuant to this agreement is subject to the following conditions:
 - a. Any request for aid here under shall be accomplished and fulfilled according to the Joint Operating Procedures agreed upon by the Fire Chiefs of the parties hereto.
 - b. The amount and type of equipment and personnel to be furnished shall be determined by the organization providing aid at the time of the request, considering fire safety needs of its jurisdiction.
 - c. The organization providing aid shall report to the officer in charge for the jurisdiction to which the equipment responds and shall be subject to the orders of that official.
 - d. The organization providing aid shall be released by the requesting organization when the respondent's services are no longer needed or when the aiding organization is needed within its own jurisdiction.
- (5) All equipment used in furtherance of this Agreement will be owned by the responding organization and all personnel responding on behalf of the organization providing aid will be an employee or volunteer member of that organization.
- (6) Each party waives all claims against every other party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this agreement.

- (7) To ensure safe and efficient operations, the Fire Chief of each department will coordinate Joint Operating Procedures to be used during mutual aid actions. These procedures, which will be reviewed and updated as deemed necessary, will include training, communications, and firefighting and safety procedures.
- (8) This Agreement shall remain in force until terminated in writing by either party hereto and may be amended by written instrument executed by the two parties.

IN WITNESSETH WHEREOF, the parties hereto have affixed their signatures on this the 21st, day of JUNE, 2011.

CITY OF CLINTON, MISSISSIPPI:

CITY OF JACKSON, MISSISSIPPI:

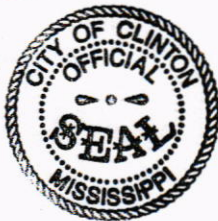
BY: Rosemary G. Aultman BY: _____
Rose Mary Aultman, Mayor 6/22/11 Harvey Johnson, Jr., Mayor
Clinton, Mississippi Jackson, Mississippi

ATTEST:

Russell Wall
City Clerk

City Clerk

(Seal)



(Seal)

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY ASSISTANCE AGREEMENT		Assistance ID No. SWC365	
		Date of Staff Approval 09-Jun-11	
AGREEMENT TYPE		Recipient Type CITY	
Cooperative Agreement		Tax ID No.	
Grant Agreement	X		
Assistance Amendment			
RECIPIENT CITY OF CLINTON 527 SPRINGRIDGE ROAD CLINTON, MS 39056		PROJECT MANAGER MIKE PARKER PUBLIC WORKS DIRECTOR	
ISSUING OFFICE MS DEPT. OF ENVIRONMENTAL QUALITY OFFICE OF POLLUTION CONTROL P. O. BOX 20305 JACKSON, MS 39289		PROJECT MANAGER DENISE WILSON SOLID WASTE POLICY, PLANNING AND GRANTS BRANCH	
ASSISTANCE PROGRAM LOCAL GOVERNMENT SOLID WASTE ASSISTANCE PROGRAM		STATUTORY AUTHORITY SECTION 17-17-65, MS CODE ANN.	
PROJECT TITLE AND DESCRIPTION HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENT			
PROJECT LOCATION CITY CLINTON COUNTY STATE MS		PROJECT PERIOD The project period shall begin upon execution of the grant agreement by the Executive Director of MDEQ and end no later than DECEMBER 31, 2012.	
		TOTAL PROJECTED PERIOD COST \$ 25,000.00	
FUNDS	Former Award	This Action	Amended Total
MDEQ Amount This Action --Allocated (4049)			
MDEQ Amount This Action --Competitive (4050)		\$ 25,000.00	
Recipient Contribution			
Other Contribution			
Total Project Cost		\$ 25,000.00	
APPROVED BUDGET			
Personnel-(Enforcement Officer)			
Indirect			
Travel			
Equipment			
Supplies			
Educational Material			
Construction			
Other --		\$ 25,000.00	
Total Charges		\$ 25,000.00	
METHOD OF PAYMENT			
Advance			
Reimbursement	X		

SPECIAL TERMS AND CONDITIONS FOR ASSISTANCE AGREEMENT
(Local Governments Solid Waste Assistance Program)

Method of Payment

Reimbursement shall be the method of payment. The recipient shall submit Attachment A, Request for Payment, and additional documentation for verification of service/work performed prior to payment being issued. Request for Payment forms and supporting documentation shall be submitted to Mississippi Department of Environmental Quality (MDEQ) on a quarterly basis and include a report of activities to date, (i.e., unauthorized dump sites cleaned, etc.) The recipient shall submit a payment request for eligible program activities performed through June 30 of each year no later than July 31 of that year. All requests for payment related to this grant agreement shall be submitted to MDEQ no later than forty-five (45) days after the expiration date of the grant agreement after which time, the grant agreement will be considered closed and funds will no longer be available to the recipient. Funds utilized and/or disbursed under this grant award shall be consistent with the recipient's approved grant application, incorporated herein by reference. This clause shall supercede Clause 5, Method of Payment of the Standard Terms and Conditions.

Disposal of Wastes

Disposal of solid wastes from the clean-up of unauthorized dumps or from other collection activities funded by this grant shall be conducted in accordance with existing solid waste disposal laws and regulations. The preferred method of disposal shall be the removal of the wastes to a permitted/authorized solid waste landfill, or where appropriate, rubbish landfill. However, if conditions warrant, the recipient, upon concurrence from MDEQ, may elect to abate an unauthorized dump by on-site burial of such wastes as allowed by state law. On-site burial of wastes shall be considered by MDEQ on a case-by-case and shall be limited to nonhazardous wastes.

Grant Administration Costs

The recipient shall use not more than three percent (3%) of funds provided through this grant to defray the costs of administration of the grant.

Responsible Party

If a person is found to be responsible for creating an unauthorized dump, the recipient shall make a reasonable effort to require that person to clean up the property before expending any monies from this funding to clean up the property. If the recipient is unable to locate the person responsible for creating the dump, or if the recipient determines that person is financially or otherwise incapable of cleaning up the property, the recipient may use the monies from the fund to clean up the property and shall make a reasonable effort to recover from the responsible person any funds expended.

Enforcement Officer

Upon selection or designation of the enforcement officer the Recipient agrees to provide MDEQ with the following information:

1. Name, address, telephone number, fax number, and, where applicable, e-mail address for the enforcement officer;
2. Detailed description of the duties and responsibilities for the enforcement officer.

Should the enforcement officer be replaced due to resignation, or attrition, the recipient shall provide the information above upon selection of the replacement.

Recipient further agrees that the enforcement officer shall be required to investigate local complaint related matters, which may be directed to the enforcement officer by MDEQ.

Recipient further agrees to adhere to the Local Solid Waste Enforcement Officers Duties and Procedures guidance document prescribed by MDEQ.

Household Hazardous Waste Collection Project (HHW)

The Recipient shall conduct a HHW project in accordance with Sections 17-17-439 through 17-17-445 and the Mississippi "Right-Way to Throw Away Program."

The Recipient shall provide to MDEQ a comprehensive report following the HHW collection day event which would include, at a minimum, the following:

1. Description of the public notification efforts;
2. Amounts of waste collected, by type;
3. Cost summary;
4. Number of residents participating in the HHW collection day event.

The Recipient shall ensure that all hazardous materials collected shall be disposed by a contractor who is properly licensed and approved by all applicable regulatory agencies.

STANDARD TERMS AND CONDITIONS FOR ASSISTANCE AGREEMENTS

1. Workplan

The workplan (grant application) constitutes the Recipient's and MDEQ's commitment to accomplish the program goals and objectives. MDEQ's review and evaluation of performance under this agreement and MDEQ's response to the findings of oversight will be carried out in accordance with the stated policies.

2. Expenditure Commitment

The Recipient commits to expend the funds awarded in this agreement and to complete the funded project in accordance with the workplan included in this grant application (workplan) and incorporated into this agreement by reference.

3. Financial Management

MDEQ requires that Recipients have in place, prior to the receipt of funds, a financial management system that will be able to isolate and trace every grant dollar from receipt to expenditure and have on file appropriate support documentation for each transaction. Examples of documentation are vendor invoices, bills of lading, payment vouchers, payrolls, bank statements and reconciliations.

4. Audit: Access to Records

Recipient assures that it will give MDEQ, the Comptroller General of the United States, and the State of Mississippi, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives; and will retain all required records relating to this agreement for three years after project completion and all other pending matters are closed.

5. Method of Payment

Reimbursement shall be the preferred method of funding. Recipients shall be paid a predetermined sum for services/work performed. Recipient shall submit a Request for Payment, as provided in Attachment A, and additional documentation for verification of service/work performed prior to payment being issued. In special cases, funding advances may be allowed, subject to approval by MDEQ. Requests for Payment and applicable supporting documentation shall be submitted to MDEQ upon project completion. All requests for payments related to this grant shall be submitted to MDEQ no later than forty-five (45) days after the expiration date of the grant.

6. Final Payment

Pursuant to satisfactory completion of the work performed under this agreement as may be determined by final inspection, and as a condition before final payment under this agreement or as termination settlement under this agreement, the Recipient shall execute and deliver to MDEQ a release of all claims against MDEQ arising under, or by virtue of, this agreement, except claims which are specifically exempted by the Recipient to be set forth therein. Such release is provided in Attachment B of this agreement. Unless otherwise provided in this agreement, by state law, or expressly agreed to by the parties in this agreement, final payment under this agreement or settlement upon termination of this agreement shall not constitute waiver of MDEQ's claims against the Recipient or his sureties under this agreement or applicable performance and payment of bonds.

7. Procurement

Recipient shall comply with purchasing guidelines established in 31-7-13 of the Mississippi Code in the procurement of commodities and services.

8. Disadvantaged Businesses

Recipient will ensure that its best efforts will be used in making available to minority businesses a minimum of 5% of the grant funds that may be expended as necessary in obtaining any supplies, construction, equipment, or services in completing the project detailed in the Workplan.

9. Title to Real Property, Equipment and Supplies

Unless otherwise agreed to, title to any real property, equipment and supplies that may be acquired under this agreement shall vest upon acquisition in the Recipient. Real property, equipment and supplies shall be used by the Recipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by grant funds.

10. Changes and Amendments

Changes may be made to the agreement in relation to the effective period of the agreement, the total amount of the agreement, budgetary categories associated with the funding of the agreement, and the work to be performed as defined in the work plan. Such changes shall be constructively made by way of a formal agreement amendment, which shall require written approval of the Executive Director of MDEQ prior to any such changes being made. Changes which affect the total amount of the agreement may also require prior approval by the Commission on Environmental Quality.

11. Recycled Paper

Recipient agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to MDEQ.

12. Gratuities

- A. If MDEQ finds, after a notice and hearing, that the Recipient or any of the Recipient's agents or representatives offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any employee, official or agent of MDEQ, the state agency providing funds used in this agreement in an attempt to secure a agreement or favorable treatment in awarding, amending or making any determination related to the performance of this agreement, MDEQ may, by written notice to the Recipient, terminate this agreement. MDEQ may also pursue other rights and remedies that the law or this agreement provides. However, the existence of the facts on which MDEQ bases such findings shall be in issue and may be reviewed in proceedings under the Remedies clause of this agreement.
- B. In the event this agreement is terminated as provided in paragraph A., MDEQ may pursue the same remedies against the Recipient as it could pursue in the event of a breach of the agreement by the Recipient, and as a penalty, in addition to any other damages to which it may be entitled by law, be entitled to exemplary damages in an amount (as determined by MDEQ) which shall be not less than three nor more than ten times the costs the Recipient incurs in providing any such gratuities to such officer or employee.

13. Publication and Publicity

- A. Recipient may publish results of its participation pursuant to this agreement after prior review by and consent by MDEQ's Project Manager provided that (1) such publications acknowledge that the program is supported by funds granted by MDEQ, and (2) that one (1) copy of the publication is furnished to MDEQ.
- B. Recipient shall use its best efforts to ensure that any publicity received by the Recipient as a result of the work funded by this agreement shall acknowledge that the program is supported by funds granted by MDEQ.

14. Hold Harmless for Personnel Claims

To the extent permitted by Mississippi law, recipient agrees to indemnify, save and hold harmless the Mississippi Commission on Environmental Quality, MDEQ and the state of Mississippi, as well as their employees, from and against any and all losses, claims, debts, demands, damages, suits or actions at law, judgments, and costs, including attorney's fees, or expenses on the part of MDEQ or MDEQ's agents or employees arising out of or attributable

to work performed under this agreement or the use of facilities or equipment provided to Recipient under the terms of this agreement.

15. Assurances

The Recipient certifies that:

- A. It maintains the legal authority to apply for state assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-state share of project costs) to ensure proper planning, management and completion of the project described in the grant application.
- B. It is not presently debarred, suspended, proposed for debarment, declared ineligible from participating in government projects; has not within a three year period preceding this application been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing public transactions; has not within a three year period preceding this proposal been convicted of violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; is not presently indicted or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and has not within a three year period preceding this application had one or more public transactions terminated for default.
- C. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- D. It will comply with all applicable requirements or State and Federal laws, executive orders, regulations and policies governing this program.
- E. The Recipient shall maintain current permits and approvals necessary from applicable regulatory agencies to carry out the project/program activities.

16. Enforcement

- A. If a Recipient materially fails to comply with any term of an award, whether stated in Federal and State statute or regulation, an assurance, in a State plan or application, a notice of an award, or elsewhere, MDEQ may take one or more of the following actions, as appropriate in the circumstances:
 - 1. Temporarily withholding payments pending correction of the deficiency by the Recipient or more severe enforcement by MDEQ;

2. Disallow (that is deny both use of funds and matching credit for) all or part of the cost of the activity of action not in compliance;
 3. Wholly or partly suspend or terminate the current award for the Recipient's program.
 4. Withhold further awards for the program, or
 5. Take other remedies that may be legally available.
- B. In taking an enforcement action, MDEQ will provide the Recipient an opportunity for such hearing, appeal, or other administrative proceeding to which the Recipient is entitled under any statute or regulation applicable to the action involved.
- C. Costs of Recipient resulting from obligations incurred by the Recipient during a suspension or after termination of an award are not allowable unless MDEQ expressly authorizes them in the notice of suspension or termination or subsequently. Other Recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:
1. The costs result from obligations which were properly incurred by the Recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are non-cancelable, and
 2. The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

17. Termination for Convenience

This agreement may be terminated in whole or in part as follows:

- A. By MDEQ with the consent of the Recipient in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of a partial termination, the portion to be terminated; or
- B. By the Recipient upon written notification to MDEQ, setting forth the reasons for such termination, the effective date, and in the case of a partial termination, the portion to be terminated. However, if, in the case of a partial termination, MDEQ determines that the remaining portion of the award will not accomplish the purposes for which the award was made, MDEQ may terminate the award in its entirety under paragraph A. of this section.

18. Remedies

Unless otherwise provided in this agreement, all claims, counter-claims, disputes and other matters in question between MDEQ and the Recipient arising out of, or relating to, this agreement or the breach of it will be decided in a court of competent jurisdiction within the State of Mississippi. Before pleading to the Mississippi judicial system at any level, the Recipient must exhaust all administrative remedies in effect on the date the agreement giving rise to the dispute was executed.

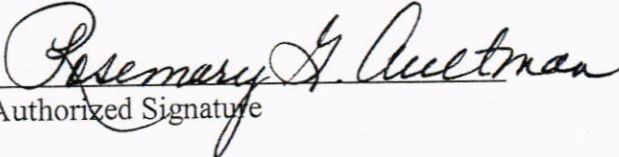
The State of Mississippi, acting by and through the Mississippi Department of Environmental Quality, hereby offers assistance/amendment to **CITY OF CLINTON** for all approved costs incurred up to and not exceeding \$25,000.00 for the support of approved budget period effort described in application (including all application modifications) cited in this agreement for the **HOUSEHOLD HAZARDOUS WASTE COLLECTION EVENT**.

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

Trudy D. Fisher
Executive Director

Date

CITY OF CLINTON



Authorized Signature

6-22-11
Date

ATTACHMENT B

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

RELEASE OF CLAIMS

Agreement Number SWC365

WHEREAS, by the terms of the above-identified agreement entered into by the Mississippi Department of Environmental Quality and the Recipient, **CITY OF CLINTON** it is provided that after completion of all work, and prior to final payment, the Recipient will furnish the Mississippi Department of Environmental Quality with a release of all claims;

NOW, THEREFORE, in consideration of the above premises and the payment by the Mississippi Department of Environmental Quality to the Recipient of the amount now due under the agreement, to wit, the sum of \$ _____, the Recipient hereby remises, releases, and forever discharges the Mississippi Department of Environmental Quality, its officers, agents, and employees, of and from all manner of debts, dues, liabilities, obligations, accounts, claims, and demands whatsoever, in law and equity, under or by virtue of the said agreement except:

CITY OF CLINTON

Authorized Signature

ATTACHMENT A
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
ATTN: INVOICES
P. O. BOX 2369
JACKSON, MS 39225

REQUEST FOR PAYMENT

Name of Recipient _____ Grant Agreement No. _____
Address _____ Person preparing report: _____
_____ Telephone number: _____
_____ Request period: From _____ To _____

1. Amount of this payment request: \$ _____
2. Total amount of grant: \$ _____
3. Total prior payments approved: \$ _____
4. Total funds requested to date (*line 1 plus line 3*): \$ _____
5. Balance of grant funds remaining after this request (*line 2 minus line 4*) \$ _____

TO BE COMPLETED ONLY IF RECIPIENT IS PROVIDING FUNDS TO THE GRANT PROJECT.

6. Total funds to be contributed by recipient: \$ _____
7. Amount contributed by recipient to date: \$ _____
8. Balance to be contributed by recipient (*line 6 minus line 7*): \$ _____

I hereby certify that the amount requested is for reimbursement of allowable costs consistent with the terms of this agreement, that request for reimbursement of these costs has not previously been made, and that the amounts requested herein do not exceed budgeted amounts stipulated in the award.

NOTE: Please attach appropriate documentation that supports this payment request (for example, payroll records for Enforcement officer, billing records, volume of tires disposed, volume of solid wastes disposed, location of solid waste sites cleaned up).

Signature of Authorized Official

Typed Name and Title of Authorized Official

Date



STATE OF MISSISSIPPI

HALEY BARBOUR

GOVERNOR

DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

June 9, 2011

Man, Mayor
s Director

Parker:

ed a favorable review of the solid waste assistance grant
elf of the City of Clinton (City). Based on this review, the
ount of \$25,000 has been preliminarily approved, subject to
al grant agreements. The terms of the grant agreements will
s proposed by the City.

have been enclosed for your review and signature. **Please
of the agreements and return these three copies of each
ove date to Mr. Brad Ware at our Department.** (Please do
se of Claims Form, at this time.) Please contact our office at
ny questions concerning your grant award.

as moved and has a new mailing address of: P.O. Box 2261,
l as a new street address of 515 East Amite Street, Jackson,

Sincerely,

Denise Wilson

Solid Waste Policy, Planning & Grants Branch

enclosures

Please do not sign Attachment B Release of Claims at this time.
Attachment B should only be signed when you are requesting your FINAL
Request for Payment form.

Reminder

OFFICE OF POLLUTION CONTROL

POST OFFICE BOX 2261 • JACKSON, MISSISSIPPI 39225-2261 • TEL: (601) 961-5171 • FAX: (601) 354-6612 • www.deq.state.ms.us

AN EQUAL OPPORTUNITY EMPLOYER

CONSTRUCTION ENGINEERING & INSPECTION SERVICES CONTRACT

Pinehaven Drive Improvements

Project No. *SPTD-7306-00(004)LPA/104103 801000*

Hinds County

THIS CONTRACT, is made and entered into by and between the *City of Clinton*, a body Corporate of the State of Mississippi (the "LPA"), and, *Neel-Schaffer, Inc* (the "CONSULTANT"), a *Mississippi* Corporation, duly registered to do business in the State of Mississippi, whose address for mailing is *P.O. Box 22625, Jackson, MS 39225-2625*, effective as of the date of latest execution below.

WITNESSETH:

WHEREAS, the LPA proposes to perform the construction *engineering* services for *the widening of Pinehaven Dr. from two lanes to five lanes from Northside Dr to north of Berry Dr including a underground storm water system and widening Northside Dr to five lanes from Monroe St. to east of Pinehaven Dr, and widening Northside Dr to provide a third, left-turn lane at the new library entrance*, hereinafter called the "PROJECT"; and,

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

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

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

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

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

ARTICLE I. GENERAL RECITALS

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

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

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

ARTICLE II. SCOPE OF WORK

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

ARTICLE III. CONTRACT TERM

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

The construction *engineering* services of the CONSULTANT under this contract shall start with the **date of FHWA/MDOT concurrence in the award of the construction contract by the LPA**, and be completed within 60 days after the final inspection and acceptance of the construction work performed by others. The services of the CONSULTANT are anticipated to be needed and completed in an expedient manner. It is understood that construction progress of force account work by the LPA and/or contractor's work shall influence the time period for the CONSULTANT's services. Therefore, it is necessary that construction be completed in accordance with the original time limit set forth in the original construction schedule. The estimated fees in the Cost/Fee breakdown are based on the initial construction time estimate as included in the Contract Documents. If the construction time extends beyond the contract time, through no fault of the CONSULTANT, the LPA agrees to pay the CONSULTANT for the construction *engineering* services to complete the project with or without Federal participation, subject to approval by MDOT and FHWA.

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

ARTICLE IV. TIME OF PERFORMANCE

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

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

ARTICLE V. RELATIONSHIP OF THE PARTIES

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

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

ARTICLE VI. COMPENSATION, BILLING & AUDIT

A. Cost and Fees

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

B. Monthly Billing

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

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

C. Record Retention

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

D. Retainage

The LPA shall retain 5% of the CONSULTANT'S contract amount until the final payment request has been received and an audit of the total PROJECT cost to date has been completed by the LPA or its designee.

ARTICLE VII. FINAL PAYMENT

The CONSULTANT agrees that acceptance of the final payment shall be in full and final settlement of all claims arising against the LPA for work done, documents furnished, cost incurred, or otherwise arising out of this CONTRACT and shall release the LPA from any and all further claims of whatever nature, whether known or unknown, for and on account of said CONTRACT, including payment for any and all work done, and labor and material furnished in connection with the same. Errors and/or omissions discovered subsequent to the acceptance by the LPA of the final contract documents shall be corrected by the CONSULTANT without additional compensation.

ARTICLE VIII. REVIEW OF WORK

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

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

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

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

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

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

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

ARTICLE IX. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

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

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

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

ARTICLE X. INSURANCE

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

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

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

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

The Insurance coverage recited above shall be maintained in full force and effect by CONSULTANT during the life of this CONTRACT. Should CONSULTANT cease to carry the errors and omissions coverage listed above for any reason, it shall obtain "tail" coverage at the same limits for a period of not less

than three (3) years subsequent to policy termination or contract termination, whichever is longer. Should CONSULTANT change insurance carriers for errors and /or coverage, it shall obtain a "retroactive coverage" endorsement from its new insurance carrier.

Insurance carriers must be admitted to do business in the State of Mississippi by the Mississippi Insurance Department.

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

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

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

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

ARTICLE XI. COVENANT AGAINST CONTINGENT FEES AND LOBBYING

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

ARTICLE XII. EMPLOYMENT OF LPA'S PERSONNEL

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

ARTICLES XIII. MODIFICATION

If, prior to the satisfactory completion of the SERVICES under this CONTRACT, the LPA materially alters the scope, character, complexity or duration of the SERVICES from those required under this CONTRACT, a supplemental agreement may be executed between the parties. Also, a supplemental agreement may be executed between the parties in the event that both parties agree the CONSULTANT's

compensation should be increased due to an unanticipated increase in the nature, scope or amount of work necessary to properly provide the SERVICES required on any particular phase or project begun hereunder.

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

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

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

ARTICLE XIV. SUBLETTING, ASSIGNMENT OR TRANSFER

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

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

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

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

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

If for any reason the Work would not be considered a work made for hire under applicable law, or in the event this CONTRACT is determined to be other than a contract or agreement for a work made for hire, the CONSULTANT does hereby transfer and assign to the LPA, and its successors and assigns, the entire right, title, and interest in and to any Work prepared hereunder including, without limitation, the

following: the copyright and all trademark, patent, and all intellectual property rights in the Work and any registrations and copyright, and/or all other intellectual property, applications relating thereto and any renewals and extensions thereof; all works based upon, derived from, or incorporating the Work; all income, royalties, damages, claims, and payments now or hereafter due or payable with respect thereto; all causes of action, either in law or in equity, for past, present, or future infringement based on the copyrights and/or all other intellectual property; all rights, including all rights to claim priority, corresponding to the foregoing in the United States and its territorial possessions and in all foreign countries. The CONSULTANT agrees to execute all papers and perform such other proper acts as the LPA may deem necessary to secure for the LPA or its designee the rights herein assigned.

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

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

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

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

ARTICLE XVI. PUBLICATION AND PUBLICITY

The CONSULTANT agrees that it shall not for any reason whatsoever communicate to any third party, with the exception of the MDOT and the FHWA, in any manner whatsoever concerning any of its CONTRACT work product, its conduct under the CONTRACT, the results or data gathered or processed under this CONTRACT, which includes, but is not limited to, reports, computer information and access, drawings, studies, notes, maps and other data prepared by and for the CONSULTANT under the terms of this CONTRACT, without prior written approval from the LPA, unless such release or disclosure is required by judicial proceeding. The CONSULTANT agrees that it shall immediately refer any third party who requests such information to the LPA and shall also report to the LPA any such third party inquiry, with the exception of the MDOT and/or the FHWA. This Article shall not apply to information in

whatever form that comes into the public domain, nor shall it restrict the CONSULTANT from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the CONSULTANT to defend itself from any suit or claim.

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

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

ARTICLE XVII. CONTRACT DISPUTES

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

ARTICLE XVIII. COMPLIANCE WITH APPLICABLE LAW

- A. The undersigned certify that to the best of their knowledge and belief, the foregoing is in compliance with all applicable laws.
- B. The CONSULTANT shall observe and comply with all applicable federal, state, and local laws, rules and regulations, policies and procedures, ordinances, and orders and decrees of bodies or tribunals of the United States of America or any agency thereof, the State of Mississippi or any agency thereof, and any local governments or political subdivisions, that are in effect at the time of the execution of this CONTRACT or that may later become effective.
- C. The CONSULTANT shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this CONTRACT because of race, creed, color, sex, national origin, age or disability.
- D. IT IS FURTHER SPECIFICALLY AGREED that the CONSULTANT shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and all other applicable federal regulations as stated in "Exhibit 5" which is incorporated herein by reference.
- E. It is agreed that the CONSULTANT will comply with the provisions set forth in Department of Transportation, 49 CFR, Section 18, Et Seq., regarding Uniform Administrative Requirements for Grants and Cooperative agreements in its administration of this CONTRACT or any subcontract resulting herefrom.
- F. The CONSULTANT agrees that it will abide by the provisions of 49 CFR Section 26 regarding disadvantaged business enterprises and include the certification made in "Exhibit 5" to this CONTRACT in any and all subcontracts which may result from this CONTRACTS.

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

ARTICLE XIX. WAIVER

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

ARTICLE XX. SEVERABILITY

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

ARTICLE XXI. ENTIRE AGREEMENT

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

ARTICLE XXII. CONFLICT OF INTEREST

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

ARTICLE XXIII. AVAILABILITY OF FUNDS

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

ARTICLE XXIV. STOP WORK ORDER

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

- (1) cancel the stop work order; or
- (2) terminate the work covered by such order according to and as provided in Article III of this CONTRACT.

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

B. **Cancellation or Expiration of the Order.** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONSULTANT shall have the right to resume work. If the LPA decides that it is justified, an appropriate adjustment may be made in the delivery schedule. If the stop work order results in an increase in the time required for or in the CONSULTANT'S cost properly allocable to the performance of any part of this CONTRACT and the CONSULTANT asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage, an equitable adjustment in this CONTRACT may be made by written modification of this CONTRACT as provided by the terms of this CONTRACT.

C. **Termination of Stopped Work.** If a stop work order is not canceled and the work covered by such order is terminated, the CONSULTANT may be paid for services rendered prior to the Termination. In addition to payment for services rendered prior to the date of termination, the LPA shall be liable only for the costs, fees, and expenses for demobilization and close out of this CONTRACT, based on actual time and expenses incurred by the CONSULTANT in the packaging and shipment of all documents covered by this CONTRACT to the LPA. In no event shall the LPA be liable for lost profits or other consequential damages.

ARTICLE XXV. KEY PERSONNEL & DESIGNATED AGENTS

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

LPA:

For Contractual Matters:

Rosemary Aultman, Mayor

City of Clinton

P.O. Box 156

Clinton, MS 39060

601-925-6103

mayor@clintonms.org

For Technical Matters:

CONSULTANT:

For Contractual Matters:

Mark G. Bailey P.E.

Vice President, Senior Eng. Manager

Neel-Schaffer, Inc.

P.O. Box 22625

Jackson, MS 39225-2625

601-948-3071

Mark.Bailey@neel-schaffer.com

For Technical Matters:

Stephanie Vivians, P.E.

Project Manager

Neel-Schaffer, Inc.

P.O. Box 22625

Jackson, MS 39225-2625

601-948-3071

stephanie.vivians@neel-schaffer.com

Licensure Number

from the Mississippi

Board of Licensure

for Professional

Engineers/Architects and Surveyors:

P.E. #8245

Licensure Number

from the Mississippi

Board of Licensure

for Professional

Engineers/Architect's and Surveyors:

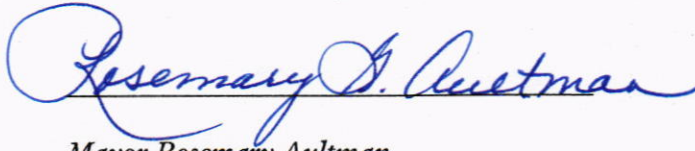
P.E.#18336

ARTICLE XXVI. AUTHORIZATION

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

WITNESS this my signature in execution hereof, this the 21st day of JUNE, 2011.

CITY OF CLINTON, MISSISSIPPI



Mayor Rosemary Aultman

WITNESS this my signature in execution hereof, this the ____ day of _____, 20____.

NEEL-SCHAFFER, INC.

BY: _____

ATTEST: _____

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

LIST OF EXHIBITS

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

EXHIBIT 1

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

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

EXHIBIT 2

Scope of Work

ENGINEERING ADMINISTRATION:

The **engineering** administration of construction will be the responsibility of the LPA acting through the CONSULTANT, and will be subject to inspection and approval of the Chief Engineer of the MISSISSIPPI D.O.T., (hereinafter designated as the MDOT), and of the Federal Highway Administration (FHWA) or their representatives.

CONSTRUCTION ENGINEERING SERVICES:

Construction **engineering** services shall consist of all **engineering** work, respectively, involved from the contract stage, beginning the date of FHWA/MDOT concurrence in award of the construction contract, through the preparation and submission of the final estimate and supporting documents to the MDOT, and shall include the following:

- A. Setting of all stakes to control the work unless otherwise performed by the contractor as dictated by the construction plans, and the resident Project **Engineer** and other controls to insure that work is performed in accordance with the plans and specifications. All materials to be used in the construction of this project shall be tested and certified by the CONSULTANT as meeting the requirements of the approved plans and specifications in accordance with Federal Aid Policy Guide (FAPG) 23CFR637B, Construction Inspection and Approval.
- B. The CONSULTANT shall promptly prepare, verify and recommend payment of all eligible Contractor's estimates; he shall maintain a project daily diary as the official project record for each project, showing the Contractor's daily operation; and the **Engineer's** daily activities by names, function performed and hours worked. He shall check and verify the quantities of all materials incorporated in the project; and shall make prompt preparation and submission of the final estimate and supporting documents to the LPA for approval and payment. He shall likewise make such records available at all reasonable times during the contract period. These records, documents, and data shall be available for inspection by the LPA, MDOT, and the Federal Highway Administration and any other authorized representative of the Federal Government, and copies thereof shall be furnished if requested.
- C. **Subsurface Conditions and Utilities.** LPA recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of CONSULTANT or CONSULTANT's subconsultants with appropriate equipment may fail to detect certain hidden conditions. LPA also recognizes that actual environmental, geological and geotechnical conditions that CONSULTANT properly inferred to exist between sampling points may differ significantly from those that actually exist.

CONSULTANT will locate utilities which will affect the project from information provided by the LPA and utility companies and from CONSULTANT's surveys. In that these utility locations are based, at least in part, on information from others, CONSULTANT cannot and does not warrant their completeness and accuracy.

- D. The duties, responsibilities, and limitations of authority of the resident Project **Engineer** are listed in this scope of work.

A LISTING OF THE DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT **ENGINEER** .

The CONSULTANT shall furnish a resident Project **Engineer** }, assistants and other field staff to inspect performance of the Work of the CONTRACTOR. Through more extensive on-site inspections of the Work in progress and field checks of materials and equipment by the resident Project **Engineer** and assistants, the CONSULTANT shall endeavor to provide further protection for the LPA against defects and deficiencies in the Work; but, the furnishing of such services will not make the CONSULTANT responsible for or guarantee the CONTRACTOR'S performance. The duties and responsibilities of the resident Project **Engineer** are limited to this agreement with the LPA and in the construction Contract Documents, and are further limited and described as follows:

I. General:

The resident Project **Engineer** 's dealings in matters pertaining to the on-site work shall in general be with the CONTRACTOR, keeping the LPA advised as necessary. The resident Project **Engineer** dealings with subcontractors shall only be through or with the full knowledge and approval of the CONTRACTOR. The resident Project **Engineer** shall generally communicate with the LPA.

II. Duties and Responsibilities of the resident Project **Engineer**:

A. Schedules:

Review progress schedule of Shop Drawing submittals and schedule of values prepared by the CONTRACTOR and consult with the LPA concerning acceptability.

B. Conferences and Meetings:

Attend meetings with the CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

C. Liaison:

- a. Work principally through the CONTRACTOR'S superintendent and assist in understanding the intent of the Contract Documents; and serve as the LPA'S liaison with the CONTRACTOR when the CONTRACTOR's operations affect the LPA's on-site operations.
- b. Assist in obtaining from the LPA additional details or information, when required for Proper execution of the Work.

D. Shop Drawings and Samples:

- a. Record the date of receipt of Shop Drawings and samples.

- b. Take samples and receive samples which are furnished at the site by the CONTRACTOR, and notify the the LPA of availability of samples for examination.
 - c. Advise the LPA and the CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by the CONSULTANT.
- E. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the Work in progress to determine if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to the LPA any Work that is believed to be unsatisfactory, faulty or defective or does not conform to 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 the LPA of Work that should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that the CONTRACTOR maintains adequate records thereof-, and observe, record and report to the LPA appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing the public or other agencies having jurisdiction over the Project, record the results of these inspections and report to theLPA.
- F. Interpretation of Contract Documents:

Report to the LPA when clarifications and interpretation of the Contract Documents are needed and transmit to the CONTRACTOR clarifications and interpretations as issued by theLPA.
- G. Modifications:

Consider and evaluate the CONTRACTOR'S suggestions for modifications in Drawings or Specifications and report to theLPA. Transmit to the CONTRACTOR decisions as issued by theLPA.
- H. Records:
 - a. 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 Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarification and interpretations of the Contract Documents, progress reports, and other Project related documents.
 - b. Keep a diary signed daily, recording the CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities of

the prime contractors and all subcontractors, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to the LPA.

- c. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.

I. Reports:

- a. Furnish the LPA periodic reports as required of progress of the Work and of the CONTRACTOR'S compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
- b. Consult with the LPA in advance of scheduled major tests, inspections or start of important phases of the Work.
- c. Draft proposed Supplemental Agreements, Quantity Adjustments and Work Directive Changes, obtaining backup material from the CONTRACTOR; and recommend Supplemental Agreements, Quantity Adjustments, Work Directive Changes, and Field Orders to the LPA.
- d. Report immediately to the LPA upon the occurrence of any accident.

J. Payment Requests:

- a. Review applications for payment with the CONTRACTOR for compliance with the established procedure for their submission and forward to the LPA, noting particularly the relationship of the payment requested to the schedule of values and Work completed and materials and equipment delivered to the site but not incorporated in the Work.

K. Certificates, Maintenance and Operation Manuals:

During the course of the Work verify that certificates, maintenance and operations manuals and other data required to be assembled and furnished by the CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the LPA prior to final payment for the Work.

L. Completion:

- a. Before issuing a Certificate of Substantial Completion, submit a list of observed items requiring completion or correction to the Contractor.
- b. Conduct a final inspection in the company of the LPA, the CONTRACTOR, the MDOT, & FHWA, and prepare a final list of items to be completed or corrected.
- c. Observe that all items on the final list have been completed or corrected and make recommendations to the LPA concerning acceptance.

III. Limitations of Authority

The resident Project **Engineer**:

- A. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by the LPA.
- B. Shall not exceed the limitations of the LPA'S authority as set forth in the Contract Documents.
- C. Shall not undertake any of the responsibilities of the CONTRACTOR, subcontractors or the CONTRACTOR's superintendent.
- D. Shall not advise on, issue directions relative to, or assume control over any aspect of the means, method, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
- E. Shall not accept Shop Drawings or sample submittals from anyone other than the Contractor.
- F. Shall not authorize the LPA to occupy the Project in whole or in part.
- G. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by LPA.

**ESTIMATE OF PROJECT TIME FOR CONSTRUCTION {select ENGINEERING or
ARCHITECTURAL} SERVICES**

Working Days X Increase* = Project Construction Duration

____ X 1.25% = ____ Days = Project Construction Duration + Project Closeout = Time for
Construction **Engineering** Services.

25% increase attributed the use of two project observers at times when contractor is working
multi sites, as well as project kickoff and non-chargeable days i.e., partial or no-work days
over the course of the project and project closeout.

Resident Project Engineer

____ days X 8.0 hour/day average = ____ HRS

PROJECT MANAGER

____ DAYS + ____ DAYS (STARTUP/CLOSEOUT) = ____ DAYS

____ days X ____ hour/day average = ____ Hrs

ASSISTANT ENGINEER/ARCHITECT

____ days X ____ hours/day = ____ HRS

"EXHIBIT 3

FEES AND EXPENSES

EXHIBIT 3

FEES AND EXPENSES

The LPA shall pay the CONSULTANT on a Labor-Hour/Unit Cost Basis, with an upset limit of \$565,268.13 for the satisfactory completion of the Scope of Work set forth under "Exhibit 2", hereto, for all salaries, overhead, direct costs and the CONSULTANT'S fixed fees attributable to this CONTRACT.

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

Direct Costs:

Direct Costs are those expenses deemed reasonably necessary by the LPA for the successful completion of the Scope of Work, which are charged directly to the project and not included in overhead. These direct expenses, as used herein, include the costs of travel, subsistence, shipping charges, long distance telephone calls and printing if it is not company accounting policy to include these costs in overhead rates. The LPA will reimburse the CONSULTANT'S actual documented expenses; or the amount allowable under the current edition of the MDOT State Travel Handbook, whichever is lower. Except as otherwise specifically provided herein, the procedures generally outlined in the MDOT State Travel Handbook shall govern the allowability of any expense reimbursement. (e.g. no meal reimbursement when there is no overnight stay).

Labor Hour / Unit-cost Rates:

Labor Hour as the term is used herein shall include all direct salaries, audited overhead rate (as approved by MDOT), and profit. The audited overhead rate shall consist of fringe benefits and the general overhead. Unit-costs, as the term is used herein shall include all direct costs and profit. Labor Hour / Unit-Costs are not subject to any adjustments on the basis of the CONSULTANT's cost experience in performing the PROJECT. The Labor Hour / Unit-costs shall be paid based on the rates established in EXHIBIT 3 (found in Table 1 and Table 1A: Rate Schedule for Labor Hours and Overtime Labor Hours).

Once the LPA has approved and accepted the work of the CONSULTANT, the LPA will pay the CONSULTANT any unpaid amounts of the PROJECT.

Table 1: Rate Schedule for Labor Hours

LABOR CLASSIFICATION	Rate (2011)	2012	2013
Senior Engineer Manager	155.86	161.10	165.93
Project Engineer	95.54	98.40	101.35
Engineer I	76.43	78.72	81.08
Engineer Intern	68.24	70.29	72.40
Admin Secretary	58.69	60.45	62.26
Supervisory Inspector	85.24	87.80	90.44
Engineer Technician IV	73.07	75.26	77.52
Engineer Technician III	54.80	56.44	58.14

Table 1A: Rate Schedule for Overtime Labor Hours

LABOR CLASSIFICATION	Rate (2011)	2012	2013
Supervisory Inspector	102.74	105.83	109.00
Engineer Technician IV	88.07	90.71	93.43
Engineer Technician III	66.05	68.03	70.07

SCHEDULE OF MAXIMUM RATES, EXPENSES & FEES:

Contract Maximums:

Under no circumstances shall the amount payable by the LPA for this CONTRACT exceed \$565,268.13 (Total of all Charges) without the prior written consent of both parties

Fee and Expense Summary

Labor Cost	Direct Cost	SubConsultant	Total
\$483,323.27	\$16,380.00	\$65,564.87	\$565,268.13

EXAMPLE OF OVERHEAD RATE SCHEDULE."

SCHEDULE OF OVERHEAD

FISCAL YEAR ENDING DECEMBER 31, 2001

	ALLOWABLE EXPENSES PER AUDIT	ALLOCATION HOME	FIELD	% ALLOCATED TO FIELD OFFICE
DIRECT LABOR	2,188,095.04	1,590,102.69	597,992.35	9.66%
FRINGE BENEFITS				
Bonuses	981,477.87	886,631.84	94,846.03	9.66%
Insurance-Employee	610,363.60	551,627.16	59,009.44	9.66%
Payroll Taxes	726,021.38	655,861.63	70,159.75	9.66%
Pension Plan/Profit Sharing	726,021.38	223,275.91	23,884.59	9.66%
GENERAL OVERHEAD				
Computer Expenses	234,693.80	226,709.76	7,984.04	3.40%
Continuing Education	610,363.60	551,627.16	5,009.44	3.40%
Depreciation	726,021.38	655,861.63	7,159.75	3.40%
Dues & Subscriptions	726,021.38	655,861.63	3,884.59	3.40%
Insurance-Business	226,709.76	220,159.75	655,861.63	3.40%
Indirect Salaries	115,627.00	126,021.38	655,861.63	3.40%
Miscellaneous	7,984.04	10,363.60	6,363.60	3.40%
Rent-Building	1,884.59	1,021.42	5,984.22	3.40%
Rent-Equipment	985.68	849.56	555.26	3.40%
Travel	0	0	0	3.40%
Interest	0	0	0	3.40%
Other Unallowed	0	0	0	3.40%
	<u>2,859,191.61</u>	<u>2,469,698.67</u>	<u>389,492.94</u>	

Indirect salaries were allocated to the Field Office on the basis of Field Office Direct Labor divided by Total Direct Labor = 9.66%

211,369.98 / 2,188,095.04

Indirect expenses supporting field office for support of the indirect salaries were allocated to the Field Office on the basis of the allocated indirect salaries as determined above, divided by Total Home Office Salaries = 3.40%

157,322.37 / 4,627,128.58

	Total	Home Office	Field Office
Fringe Benefits	907,184.20 2,188,095.04	659,256.57 1,590,102.69	87,633.99 211,369.98
General O/H	2,071,688.38 2,188,095.04	155,681.98 1,590,102.69	137,665.27 211,369.98
Total O/H	136.14%	139.30%	106.59%
Facility Cost of Capital	0.61%	0.61%	0.61%
Combined Rate	136.75%	139.91%	107.20%

NOTE: Please refer to the AASHTO Uniform Audit & Accounting Guide for instructions

COST FEE BREAKDOWN

Classification	Hours	Hourly Wage	Overhead % (approved by audit)	Overhead Costs	Profit Costs	Total Labor Rate	Total Labor cost
Principle							
Project Manager							
Engineer Tech							
Clerical							
??????							

Total Labor

\$0.00

Direct Costs:

Mileage 0.00
Lodging 0.00
Meals 0.00
0.00

Total Direct Cost

Subconsultant Cost:

Subconsultant A 0.00
Subconsultant B 0.00

Total Subconsultant Cost

*** All subconsultants must also provide back-up ***

Project Total

\$0.00

EXHIBIT 4

SAMPLE INVOICE
[Labor-Hour/Unit Cost]

LPA's name
LPA's address

DATE:

ATTENTION: LPA, Consultant Services Administrator

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

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

	<u>CURRENT</u> <u>PERIOD</u>	<u>PREVIOUS</u> <u>ESTIMATE</u>	<u>TOTAL ALLOWED</u> <u>TO DATE</u>
* DIRECT SALARIES	\$	\$	\$
** DIRECT COSTS	\$	\$	\$
PROJECT TOTAL	\$	\$	\$

AMOUNT DUE THIS INVOICE: \$

NOTE:

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

SUPPORTING DATA

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

<u>Employee and Classification</u>	<u>Rate of Pay (in contract)</u>	<u>Current Period Hours</u>	<u>Previous Period Costs</u>	<u>Costs To Date</u>
DIRECT LABOR AND DIRECT COSTS				
John P. Public, Jr Engineer	0.00	0.00	0.00	0.00
John P. Public, Jr Designer	0.00	0.000	0.00	0.00
John P. Public, Jr Engineer	0.00	0.00	0.00	0.00
John P. Public, Jr Technician	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Sub Total		0.00	0.00	0.00
Total Labor			0.00	0.00
Direct Costs			<u>0.00</u>	<u>0.00</u>
Project Total			0.00	0.00

EXHIBIT 5

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

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

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

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

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

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

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

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

Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

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

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

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

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

EXHIBIT 6

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

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

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

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

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

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

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

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

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

SO CERTIFIED this ____ day of _____, 20____.

CONSULTANT

BY: _____

ATTEST: _____

My Commission Expires: _____

Notary

EXHIBIT 7

CERTIFICATION OF THE LPA

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

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

SO CERTIFIED on the 21st day of JUNE, 2011.

City of Clinton

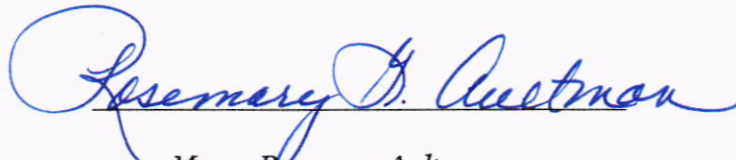

Mayor Rosemary Aultman

EXHIBIT 8

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EXHIBIT 9

PRIME CONSULTANT / CONTRACTOR EEV CERTIFICATION AND AGREEMENT

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

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

EEV* Company Identification Number [Required]

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

BY: _____ Date _____
Authorized Officer or Agent

Printed Name of Authorized Officer or Agent Title of Authorized Officer or Agent of Contractor / Consultant

SWORN TO AND SUBSCRIBED before me on this the ____ day of _____,
20____.

NOTARY PUBLIC

My Commission Expires: _____

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

Neel-Schaffer Inc.
CE&I Fee Summary
Pinehaven Dr/Northside Dr

Year	Amount	
2011	\$ 89,118.57	
2012	\$ 345,756.86	
2013	<u>\$ 48,447.84</u>	
Total Labor	\$ 483,323.27	
Total Directs	<u>\$ 16,380.00</u>	
NSI Total		\$ 499,703.27
Subconsultants		
MapTech	\$ 11,139.63	
SoilTech	<u>54,425.23</u>	
Total Subs		65,564.87
Total Contract		<u><u>\$ 565,268.13</u></u>

BILLING RATE TABLE - 2011

SUB-CONSULTANT: Neel-Schaffer, Inc

Construction Engineering and Inspection Services

Total OH FCCM

Field OH	121.430%	121.270%	0.160%
Office OH	148.180%	147.810%	0.370%

Period of time for which rates are applicable: January, 2011 thru December, 2011

Classification	Raw Wage	Overhead	FCCM	10% Profit	Regular Billing Rate	** OT Billing Rate
Supervisory Inspector	\$ 35.00	\$ 42.44	\$ 0.06	\$ 7.74	\$ 85.24	\$ 102.74
Engineering Tech IV	\$ 30.00	\$ 36.38	\$ 0.05	\$ 6.64	\$ 73.07	\$ 88.07
Engineering Tech III	\$ 22.50	\$ 27.29	\$ 0.04	\$ 4.98	\$ 54.80	\$ 66.05
Administrative Secretary	\$ 21.50	\$ 31.78	\$ 0.08	\$ 5.33	\$ 58.69	
Project Engineer	\$ 35.00	\$ 51.73	\$ 0.13	\$ 8.67	\$ 95.54	
Engineer I	\$ 28.00	\$ 41.39	\$ 0.10	\$ 6.94	\$ 76.43	
Engineer Intern	\$ 25.00	\$ 36.95	\$ 0.09	\$ 6.20	\$ 68.24	
Senior Engineering Manager	\$ 57.10	\$ 84.40	\$ 0.21	\$ 14.15	\$ 155.86	
	\$ -	\$ -	\$ -	\$ -	\$ -	

BILLING RATE TABLE - 2012

SUB-CONSULTANT: Neel-Schaffer, Inc

Construction Engineering and Inspection Services

	Total	OH	FCCM	Salary Adj.
Field OH	121.430%	121.270%	0.160%	
Office OH	148.180%	147.810%	0.370%	103.000%

Period of time for which rates are applicable: January, 2012 thru December, 2012

Classification	Raw Wage	2012 Wage	Overhead	FCCM	10% Profit	Regular Billing Rate	** OT Billing Rate
Supervisory Inspector	\$ 35.00	\$ 36.05	\$ 43.72	\$ 0.06	\$ 7.98	\$ 87.80	\$ 105.83
Engineering Tech IV	\$ 30.00	\$ 30.90	\$ 37.47	\$ 0.05	\$ 6.84	\$ 75.26	\$ 90.71
Engineering Tech III *	\$ 22.50	\$ 23.18	\$ 28.10	\$ 0.04	\$ 5.13	\$ 56.44	\$ 68.03
Administrative Secretary	\$ 21.50	\$ 22.15	\$ 32.73	\$ 0.08	\$ 5.49	\$ 60.45	
Project Engineer	\$ 35.00	\$ 36.05	\$ 53.29	\$ 0.13	\$ 8.93	\$ 98.40	
Engineer I	\$ 28.00	\$ 28.84	\$ 42.63	\$ 0.11	\$ 7.15	\$ 78.72	
Engineer Intern	\$ 25.00	\$ 25.75	\$ 38.06	\$ 0.10	\$ 6.38	\$ 70.29	
Senior Engineering Manager	\$ 57.30	\$ 59.02	\$ 87.24	\$ 0.22	\$ 14.63	\$ 161.10	
			\$ -		\$ -	\$ -	

*Asphalt Plant

BILLING RATE TABLE - 2013

SUB-CONSULTANT: Neel-Schaffer, Inc

Construction Engineering and Inspection Services

	Total	OH	FCCM	Salary Adj.
Field OH	121.430%	121.270%		
Office OH	148.180%	147.810%	0.160%	103.000%
			0.370%	

Period of time for which rates are applicable: January, 2013 thru December, 2013

Classification	Raw Wage	2012 Wage	2013 Wage	Overhead	FCCM	10% Profit	Regular Billing Rate	** OT Billing Rate
Supervisory Inspector	\$ 35.00	\$ 36.05	\$ 37.13	\$ 45.03	\$ 0.06	\$ 8.22	\$ 90.44	\$ 109.00
Engineering Tech IV	\$ 30.00	\$ 30.90	\$ 31.83	\$ 38.60	\$ 0.05	\$ 7.04	\$ 77.52	\$ 93.43
Engineering Tech III *	\$ 22.50	\$ 23.18	\$ 23.87	\$ 28.95	\$ 0.04	\$ 5.28	\$ 58.14	\$ 70.07
Administrative Secretary	\$ 21.50	\$ 22.15	\$ 22.81	\$ 33.71	\$ 0.08	\$ 5.65	\$ 62.26	
Project Engineer	\$ 35.00	\$ 36.05	\$ 37.13	\$ 54.88	\$ 0.14	\$ 9.20	\$ 101.35	
Engineer I	\$ 28.00	\$ 28.84	\$ 29.71	\$ 43.91	\$ 0.11	\$ 7.36	\$ 81.08	
Engineer Intern	\$ 25.00	\$ 25.75	\$ 26.52	\$ 39.20	\$ 0.10	\$ 6.57	\$ 72.40	
Senior Engineering Manager	\$ 57.30	\$ 59.02	\$ 60.79	\$ 89.85	\$ 0.22	\$ 15.06	\$ 165.93	
				\$ -		\$ -	\$ -	

*Asphalt Plant

HOUR DISTRIBUTION / LABOR COSTS - 2011

Subconsultant: Neel-Schaffer, Inc
 Construction Engineering and Inspection Services

POSITION TITLE	No. of Crews	2011 - Regular												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Supervisory Inspector										200	160	160			520	\$ 85.24	\$ 44,327.37
Engineering Tech IV															0	\$ 73.07	\$ -
Engineering Tech III										40	40	40			120	\$ 54.80	\$ 6,576.04
Administrative Secretary										20	8				36	\$ 58.69	\$ 2,112.72
Project Engineer										100	60	60			220	\$ 95.54	\$ 21,018.00
Engineer I															0	\$ 76.43	\$ -
Engineer Intern															0	\$ 68.24	\$ -
Senior Engineering Manager										24	12	12			48	\$ 155.86	\$ 7,481.32
Subtotals		0	0	0	0	0	0	0	0	0	384	280	280	Subtotal	944		

Labor Subtotal 2011 (Regular) \$ 81,515.44

POSITION TITLE	No. of Crews	2011 - Overtime												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Supervisory Inspector										50	24	0			74	\$ 102.74	\$ 7,603.13
Engineering Tech IV															0	\$ 88.07	\$ -
Engineering Tech III															0	\$ 66.05	\$ -
															0		
															0		
															0		
															0		
															0		
															0		
Subtotals		0	0	0	0	0	0	0	0	0	50	24	0	Subtotal	74		

Labor Subtotal 2011 (Overtime) \$ 7,603.13

TOTAL LABOR - 2011 \$ 89,118.57

HOUR DISTRIBUTION / LABOR COSTS - 2012

Subconsultant: Neel-Schaffer, Inc
 Construction Engineering and Inspection Services

POSITION TITLE	No. of Crews	2012 - Regular												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Supervisory Inspector		160	160	200	160	160	200	160	160	200	160	120	80		1920	\$ 87.80	\$ 168,580.41
Engineering Tech IV															0	\$ 75.26	\$ -
Engineering Tech III *		40	40	40	80	80	40	40	40	80	80	40			600	\$ 56.44	\$ 33,866.60
Administrative Secretary		8	8	8	8	8	8	8	8	8	8	8			96	\$ 60.45	\$ 5,802.93
Eng. II or Project Manager		60	60	60	60	60	60	60	60	60	60	60	100		760	\$ 98.40	\$ 74,785.85
Engineer I															0	\$ 78.72	\$ -
Engineer Intern															0	\$ 70.29	\$ -
Senior Engineering Manager		10	10	10	10	10	10	10	10	10	10	10			120	\$ 161.10	\$ 19,331.86
Subtotals		278	278	318	318	318	278	278	278	358	318	238	198	Subtotal	3496		

Labor Subtotal 2012 (Regular) \$ 302,367.66

POSITION TITLE	No. of Crews	2012 - Overtime												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Supervisory Inspector		20	50	50	50	50	50	50	50	50	40				410	\$ 105.83	\$ 43,389.19
Engineering Tech IV															0	\$ 90.71	\$ -
Engineering Tech III *															0	\$ 68.03	\$ -
															0		
															0		
															0		
Subtotals		0	20	50	50	50	50	50	50	50	40	0	0	Subtotal	410		

Labor Subtotal 2012 (Overtime) \$ 43,389.19

TOTAL LABOR - 2012 \$ 345,756.86

HOUR DISTRIBUTION / LABOR COSTS - 2013

Subconsultant: Neel-Schaffer, Inc
 Construction Engineering and Inspection Services

POSITION TITLE	No. of Crews	2013 - Regular												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Supervisory Inspector		100	100	40											240	\$ 90.44	\$21,704.73
Engineering Tech IV															0	\$ 77.52	\$ -
Engineering Tech III *															0	\$ 58.14	\$ -
Administrative Secretary		8	8	8											24	\$ 62.26	\$ 1,494.26
Eng. II or Project Manager		80	40	80											200	\$ 101.35	\$20,270.90
Engineer I															0	\$ 81.08	\$ -
Engineer Intern		10	10	10											30	\$ 72.40	\$ -
Senior Engineering Manager															0	\$ 165.93	\$ 4,977.95
Subtotals		198	158	138	0	0	0	0	0	0	0	0	0	0	Subtotal	494	

Labor Subtotal 2013 (Regular) \$48,447.84

POSITION TITLE	No. of Crews	2013 - Overtime												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Supervisory Inspector															0	\$ 109.00	\$ -
Engineering Tech IV															0	\$ 93.43	\$ -
Engineering Tech III *															0	\$ 70.07	\$ -
Subtotals		0	0	0	0	0	0	0	0	0	0	0	0	0	Subtotal	0	

Labor Subtotal 2013 (Overtime) \$ -

TOTAL LABOR - 2013 \$48,447.84

[illegible]

\$ 16,380.00

{List employee, where they are traveling from, how many miles, how many nights, etc...}
 Supervisor Inspector - 350 days @ 50 miles/day
 Eng Tech 3 - 150 days @ 40 miles/day
 Project Manager - 140 days @ 40 miles/day
 Senior Eng. Manager 25 days at 40 miles/day
 Cell phone service 17 months at \$60/month

SoilTech Consultants, Inc. - Subconsultant
Pinehaven - ST Materials Testing
STPD7306-00(004)LPA/104102 801000

Pinehaven Drive from Northside Dr to Berry Drive

Clinton, MS

Classification	Hours	Rate of Pay	Extension
Principle	15	50.50	757.50
Project Engineer	100	29.80	2,980.00
Senior Engineer Tech	50	20.20	1,010.00
Engineer Tech	610	16.14	9,845.40
(Engineer Tech time also includes the time pertaining to nuclear density testing)			
Clerical	75	17.24	1,293.00
Raw Labor			<u>15,885.90</u>

Overhead	161.11	25,593.77
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Total Labor + O/H		<u>41,479.67</u>
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Fixed Fee	12	<u>4,977.56</u>
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F.C.C.M.	0.0017	27.01
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Direct Costs:

Mileage @ .50 per mile	160 trips at 26 mi./trip	\$2,080.00
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Meals @ \$31 per day

Lodging: \$70 per night

Postage

Supplies

LABORATORY TESTING

Atterberg Limits:	9	tests	@	\$50.00 /test	\$450.00
Sieve Analysis:	16	tests	@	\$68.00 /test	\$1,088.00
No. 200 Wash:	0	tests	@	\$38.00 /test	\$0.00
Standard Proctor:	5	tests	@	\$200.00 /test	\$1,000.00
Concrete Compression:	100	tests	@	\$21.00 /test	\$2,100.00
Asphalt Density Testing	50	cores	@	\$25.00 /test	\$1,250.00
					<u>\$5,888.00</u>

Total Direct Cost		<u>\$7,968.00</u>
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Subconsultant Cost:

Subconsultant A

Subconsultant B

Subconsultant C

Total Subconsultant Cost		<u>-</u>
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Total		<u><u>54,425.23</u></u>
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Maptech, Inc.
CE&I Fee Summary
Pinehaven Dr/Northside Dr

Year	Amount
2011	\$ 10,824.63
Total Labor	\$ 10,824.63
Total Directs	<u>\$ 315.00</u>
Maptech Total	\$ 11,139.63

BILLING RATE TABLE - 2011

SUB-CONSULTANT: Maptech, Inc

Construction Engineering and Inspection Services

Total OH FCCM

Field OH	165.480%	165.320%	0.160%
Office OH	165.690%	165.320%	0.370%

Period of time for which rates are applicable: January, 2011 thru December, 2011

Classification	Raw Wage	Overhead	FCCM	10% Profit	Regular Billing Rate	** OT Billing Rate
Professional Surveyor/Manager	\$ 50.00	\$ 82.66	\$ 0.08	\$ 13.27	\$ 146.01	\$ 171.01
Survey Party Chief	\$ 22.94	\$ 37.92	\$ 0.04	\$ 6.09	\$ 66.99	\$ 78.46
Instrument Technician	\$ 17.60	\$ 29.10	\$ 0.03	\$ 4.67	\$ 51.39	\$ 60.19
Survey Technician	\$ 13.00	\$ 21.49	\$ 0.05	\$ 3.45	\$ 37.99	
Senior Cad Technician	\$ 26.00	\$ 42.98	\$ 0.10	\$ 6.90	\$ 75.98	
		\$ -	\$ -	\$ -	\$ -	
		\$ -	\$ -	\$ -	\$ -	
		\$ -	\$ -	\$ -	\$ -	
		\$ -	\$ -	\$ -	\$ -	

HOUR DISTRIBUTION / LABOR COSTS - 2011

Subconsultant: Maptech, Inc

Construction Engineering and Inspection Services

POSITION TITLE	No. of Crews	2011 - Regular												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Professional Surveyor/Manager	1								10						10	\$ 146.01	\$ 1,460.06
Survey Party Chief	1								56						56	\$ 66.99	\$ 3,751.30
Instrument Technician	1								56						56	\$ 51.39	\$ 2,878.07
Survey Technician	1								56						56	\$ 37.99	\$ 2,127.38
Senior Cad Technician	1								8						8	\$ 75.98	\$ 607.82
	0														0	\$ -	\$ -
	0														0	\$ -	\$ -
	0														0	\$ -	\$ -
																\$ -	\$ -
Subtotals		0	0	0	0	0	0	0	186	0	0	0	0	0	186		

Labor Subtotal 2011 (Regular) \$ 10,824.63

POSITION TITLE	No. of Crews	2011 - Overtime												On Job Months	Subtotal Hours	Hourly Rate	Extension
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
Professional Surveyor/Manager															0	\$ 171.01	\$ -
Survey Party Chief															0	\$ 78.46	\$ -
Instrument Technician															0	\$ 60.19	\$ -
															0	\$ -	\$ -
															0	\$ -	\$ -
															0	\$ -	\$ -
															0	\$ -	\$ -
															0	\$ -	\$ -
Subtotals		0	0	0	0	0	0	0	0	0	0	0	0	0	0		

Labor Subtotal 2011 (Overtime) \$ -

TOTAL LABOR - 2011 \$ 10,824.63

DIRECT COSTS

TOTAL: \$ 315.00

NOTES FOR EMPLOYEES:

{List employees, where they are traveling from, how many miles, how many nights, etc...}
 Supervisor Inspector - 350 days @ 50 miles/day
 Eng Tech 3 - 150 days @ 40 miles/day
 Project Manager - 140 days @ 40 miles/day
 Senior Eng. Manager 25 days at 40 miles/day
 Cell phone service 17 months at \$60/month

PRELIMINARY ENGINEERING SERVICES CONTRACT

Northside Drive at Tanglewood Drive Roadway Improvements

Project No. *Goes Here*

City of Clinton, Hinds County, Mississippi

THIS CONTRACT, is made and entered into by and between the *City of Clinton (Clinton)*, a body Corporate of the State of Mississippi (the "LPA"), and, *Neel-Schaffer, Inc.* (the "CONSULTANT"), a Mississippi Corporation, duly registered to do business in the State of Mississippi, whose address for mailing is P.O. Box 22625, Jackson, Mississippi 39225-2625, effective as of the date of latest execution below.

WITNESSETH:

WHEREAS, the LPA proposes to make geometric improvements to the intersection of Northside Drive and Tanglewood Drive. Northside Drive and Tanglewood Drive will be widened to 3 lanes to improve the capacity through the intersection. The geometric improvements will include curb and gutter, underground drainage improvements, a new sidewalk adjacent to one side of Northside Drive, and ADA accessible curb ramps. The traffic signal will be modified to a fully actuated mast arm type installation, as provided for in Project No. *goes here*, hereinafter called the "PROJECT"; and,

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

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

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

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

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

ARTICLE I. GENERAL RECITALS

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

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

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

ARTICLE II. SCOPE OF WORK

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

ARTICLE III. CONTRACT TERM

This CONTRACT shall commence upon the latest date of execution below and continue until such time as the above named project is successfully completed to the satisfaction of the LPA or until **December 31, 2013**, at 11:59 p.m. CDT, at which time this CONTRACT shall absolutely and finally terminate.

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

ARTICLE IV. TIME OF PERFORMANCE

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

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

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

ARTICLE V. RELATIONSHIP OF THE PARTIES

The relationship of the CONSULTANT to the LPA is that of an independent contractor, and said CONSULTANT, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the LPA by reason hereof. The CONSULTANT will not by reason hereof, make any claim, demand or application or for any right or privilege applicable to an officer or employee of the LPA, including

but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, or any form of tax withholding whatsoever.

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

ARTICLE VI. COMPENSATION, BILLING & AUDIT

A. Cost and Fees

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

B. Monthly Billing

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

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

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

C. Record Retention

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

D. Retainage

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

ARTICLE VII. FINAL PAYMENT

The CONSULTANT shall clearly indicate on its last Invoice for the CONTRACT that the Invoice is "FINAL". The LPA will confirm that the CONTRACT is ready to be closed and the "FINAL" Invoice may be paid. All "FINAL" invoices shall pay any retainage withheld on the CONTRACT. However, under no circumstances will the total amount paid exceed the maximum not to exceed amount established for the CONTRACT. The CONSULTANT agrees that acceptance of the final payment shall be in full and final settlement of all claims arising against the LPA for work done, documents furnished, cost incurred, or otherwise arising out of this CONTRACT and shall release the LPA from any and all further claims of whatever nature, whether known or unknown, for and on account of said CONTRACT, including payment for any and all work done, and labor and material furnished in connection with the same. Errors and/or omissions discovered

subsequent to the acceptance by the LPA of the final contract documents shall be corrected by the CONSULTANT without additional compensation. The CONSULTANT shall submit their "FINAL" invoice no later than 45 days following termination of the CONTRACT.

ARTICLE VIII. REVIEW OF WORK

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

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

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

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

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

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

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

ARTICLE IX. RESPONSIBILITIES FOR CLAIMS AND LIABILITY

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

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

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

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

ARTICLE X. INSURANCE

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

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

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

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

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

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

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

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

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

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

ARTICLE XI. COVENANT AGAINST CONTINGENT FEES AND LOBBYING

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

ARTICLE XII. EMPLOYMENT OF LPA'S PERSONNEL

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

ARTICLES XIII. MODIFICATION

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

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

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

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

ARTICLE XIV. SUBLETTING, ASSIGNMENT OR TRANSFER

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

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

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

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

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

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

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

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

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

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

ARTICLE XVI. PUBLICATION AND PUBLICITY

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

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

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

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

ARTICLE XVII. CONTRACT DISPUTES

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

ARTICLE XVIII. COMPLIANCE WITH APPLICABLE LAW

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

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

ARTICLE XIX. WAIVER

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

ARTICLE XX. SEVERABILITY

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

ARTICLE XXI. ENTIRE AGREEMENT

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

ARTICLE XXII. CONFLICT OF INTEREST

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

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

ARTICLE XXIII. AVAILABILITY OF FUNDS

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

ARTICLE XXIV. STOP WORK ORDER

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

- (1) cancel the stop work order; or
- (2) terminate the work covered by such order according to and as provided in Article III of this CONTRACT.

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

B. **Cancellation or Expiration of the Order.** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONSULTANT shall have the right to resume work. If the LPA decides that it is justified, an appropriate adjustment may be made in the delivery schedule. If the stop work order results in an increase in the time required for or in the CONSULTANT'S cost properly allocable to the performance of any part of this CONTRACT and the CONSULTANT asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage, an equitable adjustment in this CONTRACT may be made by written modification of this CONTRACT as provided by the terms of this CONTRACT.

C. **Termination of Stopped Work.** If a stop work order is not canceled and the work covered by such order is terminated, the CONSULTANT may be paid for services rendered prior to the Termination. In addition to payment for services rendered prior to the date of termination, the LPA shall be liable only for the costs, fees, and expenses for demobilization and close out of this CONTRACT, based on actual time and expenses incurred by the CONSULTANT in the packaging and shipment of all

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

ARTICLE XXV. KEY PERSONNEL & DESIGNATED AGENTS

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

LPA: CITY OF CLINTON

For Contractual Matters:

Kenneth Dreher
P.O. Box 17
Clinton, MS 39205-0017
Email: kennethdreher@aol.com

For Technical Matters:

The City Engineer Office
P.O. Box 156
Clinton, MS 39060

CONSULTANT: NEEL-SCHAFFER, INC.

For Contractual Matters:

Mark G. Bailey, P.E.
Vice President
P.O. Box 22625
Jackson, MS 39225-2625
Email: mark.bailey@neel-schaffer.com

For Technical Matters:

Stephanie S. Vivians, P.E.
Project Manager
P.O. Box 22625
Jackson, MS 39225-2625
Email: stephanie.vivians@neel-schaffer.com

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

P.E. #8245

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

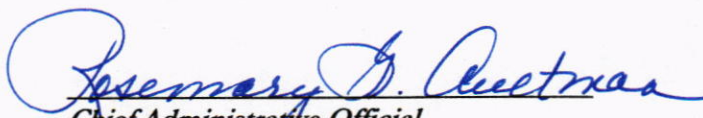
P.E. #18336

ARTICLE XXVI. AUTHORIZATION

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

WITNESS this my signature in execution hereof, this the 21st day of JUNE, 2011.

CITY OF CLINTON


Chief Administrative Official
Rosemary Aultman, Mayor

WITNESS this my signature in execution hereof, this the ____ day of _____, 20____.

NEEL-SCHAFER

BY: _____

ATTEST: _____

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

LIST OF EXHIBITS

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

EXHIBIT 1

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

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

EXHIBIT 2

Scope of Work

Professional and engineering design services will be provided for the geometric improvements of the intersection of Northside Drive and Tanglewood Drive. Northside Drive and Tanglewood Drive will be widened to a 3-lane section to improve capacity through the intersection. The limits for the design will extend from the intersection of Northside Drive and Tanglewood Drive approximately 650 feet each way on Northside Drive and approximately 500 feet each way on Tanglewood Drive. The geometric improvements will include milling and overlaying the existing intersection, curb and gutter, sidewalk adjacent to one side of Northside Drive, and ADA accessible curb ramps. The underground utilities will also be relocated accordingly. In addition, the existing traffic signal will be upgraded to reflect the geometric improvements at this project intersection. The upgraded traffic signal will be fully actuated and mounted on mast arm poles.

Because the project will be funded in part with Federal Aid funds administered by the Mississippi Department of Transportation (MDOT), the project development, design, and construction process will be required to follow the procedures outlined in the MDOT Project Development Manual (PDM) for Local Public Agencies (LPA).

Utilities along Northside Drive and Tanglewood are located overhead and underground. The CONSULTANT will work closely with utility companies in coordinating the project work elements. The water and sewer lines as well as possible drainage changes may impact existing underground utility lines.

Although Neel-Schaffer, Inc. was selected to provide both design and construction related services, due to MDOT requirements, construction engineering services are required to be provided under a separate contract, therefore, no scope or fees for construction engineering and inspection services are included in this agreement. The following items are noted as additional services:

- 1) Purchasing right-of-way and/or temporary construction easements,
- 2) Conflicting encroachment resolutions,
- 3) Construction engineering and inspection services for each construction project (MDOT requires separate construction engineering and inspection contracts for each construction project),

- 4) Future projects along the Northside Drive Corridor, and
- 5) Collecting Traffic Data.

The following engineering services shall be performed by the CONSULTANT on behalf of the LPA in accordance with this CONTRACT at the direction of the Roadway Design Division Engineer or his designee, unless otherwise modified by the LPA:

- 1) Project Schedule. Work progression is to proceed in accordance with the attached agreed project schedule
- 2) Monthly Status Report. This report is to be submitted with the invoice of each month to the LPA. This monthly report is to be submitted by the CONSULTANT, and will update the LPA on the status of the project. Recent milestones in plan development such as the submittal of plans for review shall be documented.

TYPICAL ITEMS/MATERIALS PROVIDED BY THE LPA:

Based upon availability, the LPA will provide within normal resources of the LPA, the following:

1. Maps, aerial photographs, and other cartographic items that may be available;
2. Available traffic data, including volume, classification, and turning movement counts, required for the analysis and provided for the specific CONTRACT;
3. Names, addresses, and telephone numbers of points of contact which may prove useful to the CONSULTANT in conducting this analysis; and
4. A single point of contact within the LPA for day-to-day coordination of each CONTRACT.

GENERAL REQUIREMENTS:

As directed, the CONSULTANT shall provide engineering and technical assistance to perform specific assignments requiring needed expertise or staff resources unavailable to the LPA.

Manuals, guides, and specifications applicable to this CONTRACT shall be those approved and/or adopted by MDOT and/or the LPA and in effect on the effective date of this CONTRACT unless otherwise

specified in the CONTRACT or subsequently directed by MDOT or the LPA during the course of the CONTRACT.

Roadway design will be in compliance with the MDOT Roadway Design Manual and supplemented with AASHTO's Policy on Geometric Design of Highways and Streets, MDOT Standard Drawings (roadway and bridge), MDOT Roadway CADD Manual, MDOT Standard Specifications for Highway Construction, ADA Accessibility Guidelines for Buildings and Facilities, AASHTO's Roadside Design Guide, Draft Guidelines for Accessibility Right-of-Way, Roadway Design Memo (k values and stopping site distance), Manual on Uniform Traffic Control Devices (MUTCD), and MDOT Survey Manual. The latest edition of the aforementioned documents shall be used.

This project shall be designed in English units unless stated otherwise by MDOT.

All plan sheets shall be developed with Microstation (Version 8.1 or later) and GeoPak. If deemed necessary, the CONSULTANT will be advised of a time and place for a meeting to discuss the proposed work. Also, if necessary, the LPA may authorize the CONSULTANT to conduct a field inspection of the proposed work to obtain essential information for preparing an estimate of time and costs to perform the work.

The CONSULTANT shall not begin work in any phase of this CONTRACT until a written Notice to Proceed has been issued.

The Scope of Work shall be divided into eight parts and two phases as follows:

Engineering Design:

Part 1 – Project Activation

Part 2 – Oversight (Pre-Design Conference, Approval of Consultant Services, MOU)

Part 3 – Environmental Documentation

Part 4 – Design & Plan Preparation of Plans (Survey, Conceptual Plans, Field Review Plans)

Part 5 – Right-of-Way Plans and Acquisition

Part 6 – Final Preliminary Engineering (Office Review Plans, Specifications, Updated Construction Cost Estimate, Permits, Materials Testing Requests)

Part 7 – Plans, Specifications, and Estimates Assembly (PS&E)

Part 8 – Advertisement, Opening and Award of Bids

Phase 1 – Overview of Required Submittal Format

Print Type	Printed Sheets (1/2 Scale)		Contract Documents & Specifications	Construction Cost Estimate
	Plans	XS		
Conceptual Plans	1 Set			
Field Review Plans	10 Sets	No	No	1 Copy
Office Review*	10 Sets	Yes	10 Sets	1 Copy
Final Plans (P S & E)**	3 Sets	No	3 Sets	3 Sets

* Provide status of Right-of-Way Acquisitions, utility relocation, and construction cost estimate.

**LPA shall submit (3) sets of all items listed on the PS&E assembly checklist.

Phase 2 – Roadway Plan Requirements

Roadway plans submitted in the form of original drawings shall be ink drawings (plots) on vellum or opaque paper. If the CONSULTANT elects to submit plans in the form of reproducible, they shall submit a sample plan in advance for approval and state the brand name of the photographic material proposed. All additions or revisions shall be done by CADD.

Scale of Drawings:

Plans shall be prepared at the following scales:

	<u>RURAL</u>	<u>URBAN</u>
(1) Plan/Profile Sheets with Geometrics		
Horizontal - - - - -	1" = 100'	1" = 20'
Vertical - - - - -	1" = 10'	1" = 5'
(2) Cross-Sections - - - - -	1" = 10'	1" = 5'

(3) Other sheets at appropriate scale.

A. Size of Drawings:

All drawings shall measure 22x36 inches and shall have a left-hand margin of 1-1/2 inches, top & bottom margins of 1/2 inch, and right-hand margin of 1/4 inch. Trim lines will not be necessary on these plans.

B. Size of Lettering:

The contract plans shall be a 50% reduction of the original plans; therefore, the CONSULTANT shall provide a minimum letter size of 1/8 inch (preferably 0.15 inch) in order to be legible when reduced to 50% of the original size.

C. PDF Files:

Although not required at this time, the LPA reserves the right to require the CONSULTANT to submit Final Plans as PDF files as described in the Roadway Design Division's CADD Manual in addition to or in place of printed plans. Office review plans shall be submitted in format B shown below. Final cross sections shall be submitted in format A.

A. Black & White PDF files (22"x36", 300DPI) on CD or other approved media as described in Roadway Design Division's CADD Manual.

B. Printed 1/2 Scale Plan Sheets.

SPECIFIC WORK REQUIREMENTS FOR PROJECT DEVELOPMENT

The CONSULTANT shall not begin work until a Notice to Proceed has been issued.

Project development shall follow procedures outlined in the LPA Project Development Manual (PDM).

Unless stated otherwise in the CONTRACT, the following specific requirements for project development are typical:

PRE-DESIGN CONFERENCE

The purpose of the conference is to discuss LPA procedures, contract administration, data required by this CONTRACT, the design criteria, and other matters as the parties deem necessary. After the Pre-Design Conference, the LPA Project Director shall authorize the CONSULTANT in writing to proceed with the preparation of the conceptual design plans.

MONITOR FUNDS/COSTS

The CONSULTANT will assist the LPA in monitoring the project funding and estimated costs in order to recommend project phasing and in coordinating Memorandums of Understanding or other agreements for securing project funding.

PROJECT DOCUMENTATION

The CONSULTANT will prepare LPA forms and supporting documents such as LPA-001, LPA-700, Design Variances requests and/or Design Exceptions requests, and the environmental re-evaluation request to submit to the LPA for the LPA to forward to MDOT.

ENVIRONMENT DOCUMENTATION

The environmental documentation for this project was completed under the environmental analysis for Northside Drive Corridor. The Findings of No Significant Impact (FONSI) was approved by the Federal Highway Administration on June 3, 2003. The LPA requested a re-evaluation of the FONSI in July 2008. The re-evaluation which was approved by the FHWA in August 2008 expires August 2011. The LPA is required to request for a re-evaluation. The CONSULTANT will prepare the environmental re-evaluation request to submit to the LPA for the LPA to forward to MDOT.

SPECIFIC WORK REQUIREMENTS FOR CONTRACT PLANS

Contract Plans shall consist of all services required for the production of final contract plans. The CONSULTANT shall not begin work until a written Notice to Proceed has been issued.

Roadway plans shall conform to the Roadway Design Division's CADD specifications as described in the Roadway Design Division's CADD USER'S MANUAL.

Unless stated otherwise in the CONTRACT, the following specific requirements for contract plans are typical:

FIELD SURVEY

The CONSULTANT shall survey the project utilizing standard surveying practices as required to prepare preliminary and final contract plans in accordance with the current MDOT Design Manual. The work shall

be performed in accordance with the current MDOT Survey Manual, unless specifically accepted, and with any additional instructions or requests as specified by the LPA, including the following:

A. *Centerline Survey and Control:*

1. Document "good faith" efforts to notify the property owners prior to entering upon the property for survey purposes;
2. Establish horizontal and vertical control, intermediate control, and centerline in accordance with the MDOT Survey Manual;
3. Obtain locations, sizes, and flowlines of existing hydraulic structures, along with existing ditches;
4. Perform complete topographic survey along the proposed centerline in accordance with the MDOT Survey Manual within the existing right-of-way and any areas where additional right of way will be required, plus areas adjacent to the proposed new right-of-way;
5. Any local road to be relocated on the project will be submitted to the LPA for approval. A site visit by the appropriate representatives of the LPA will be made with the CONSULTANT to review the proposed relocations. The approved relocations will then be staked and cross-sections developed by one of the methods outlined in the MDOT Survey Manual;
6. In the case of any discrepancy or ambiguity between the MDOT Survey Manual, the Mississippi Board's "Standards of Practice" or specifications listed within this CONTRACT, the CONSULTANT shall adhere to the most stringent requirement for the specific task in question, unless otherwise directed, in writing, by a representative of the LPA authorized to make alterations to this CONTRACT;
7. The location of any utility within the CONSULTANT'S survey limits should be delineated, as described in the MDOT Survey Manual; and
8. Location and description of all roadway signs within existing right-of-way within the CONSULTANT'S survey limits.

B. *Field Staking:*

1. The 100 foot centerline stationing shall be staked in accordance with the MDOT Survey Manual within the CONSULTANT'S survey limits, then recovered/or re-established and flagged just prior to the centerline inspection, and the field inspection;
2. Iron pins (3/4"x30" rebar) shall be set at the locations of proposed right-of-way monuments after final right-of-way plans have been furnished to the LPA. Accuracy standards for placement of monuments shall be 0.05 feet relative to the project control established by MDOT or in accordance with the Mississippi Board's "Standards of Practice, Class "A", for surveying in the State of Mississippi as set forth and published by the State Board of Registration for Professional Engineers and Surveyors." The more stringent of these two accuracy standards will apply and shall be used. The top of the pins shall be two to six inches below the ground surface.

CONCEPTUAL PLANS

The CONSULTANT shall prepare and submit conceptual plans for the project to the LPA for review. The conceptual plans shall include, where applicable:

ROADWAY AND UTILITY PLANS: Title Sheet(s), typical sections, plan-profile sheets, traffic control sheets, conceptual pavement marking sheets, special design sheets where needed, phase construction sheets as required (plan & elevation), and right-of-way limits with or without property boundaries.

The CONSULTANT will make any adjustments deemed necessary by the LPA.

Conceptual plans shall conform to Roadway Design Division's CADD Specifications as described in Roadway Design Division's CADD User's Manual.

GEOTECHNICAL INVESTIGATION

A CONSULTANT shall perform a geotechnical investigation for the project. The geotechnical investigation shall consist of a field investigation, laboratory testing, and an engineering report that will

present recommendations for a pavement design for the roadway improvements and traffic signal foundation. A CONSULTANT will base the flexible pavement design using the MDOT design procedures. The design will also be based on traffic loading determined during the investigation.

FIELD REVIEW PLANS

The CONSULTANT shall prepare and submit field review plans in accordance with the latest edition of the Project Development Manual. The project field review will be held on the project location when the plans are approximately thirty to fifty percent (30-50%) complete. The **LPA Coordinator** and the **LPA** will agree on the percentage on the onset of the project development.

The **CONSULTANT** shall submit 1 set of plans for review by the LPA prior to requesting the field review. The LPA shall mark on these copies of the plans "ALL REVISIONS OR CHANGES REQUIRED" and return same to the CONSULTANT. Allow approximately three weeks for review by the LPA. After the CONSULTANT completes the revisions, the **LPA** shall furnish, up to ten (ten) (contact **MDOT** District LPA Coordinator for exact number) sets of half scale copies of the field review plans and an updated **construction cost estimate** to the **MDOT** District LPA Coordinator, who will distribute to the appropriate **MDOT** division(s). The field review plans shall contain, as a minimum:

ROADWAY PLANS: Title sheet, typical sections, pay items (blank summary of quantities sheets), plan and profile sheets showing all geometrics, profile grades, construction limits, cross-sections, preliminary earthwork quantities, preliminary permanent directional signing layout sheets, preliminary pavement marking sheets, right-of-way limits, size and location of all drainage structures, construction signing, as well as any traffic control that will be required during construction. Cross drain structures will be plotted on the cross sections. The right-of-way limits will be based on the normal border width and will represent the actual proposed right-of-way for the project. The cost estimate must be submitted along with plans. The Field Review Plans shall also include Preliminary Bridge Plans with hydraulic design/analysis computations, supporting data, and reports, if applicable.

Plans shall be provided at least three (3) weeks prior to the field review. These plans must be marked in RED as "FIELD REVIEW".

Just prior to the Field Review, all bridge abutments and bent locations shall be staked in the field, if applicable. Additionally, all utilities shall be clearly marked in the field for the Field Review.

After the field review is conducted, the CONSULTANT shall provide the LPA with written updated right-of-way and construction cost estimates. These estimates shall be based on historical cost data from similar MDOT projects.

REVISED FIELD REVIEW PLANS

Subsequent to the field review, the CONSULTANT shall make all required revisions noted during the field review and the Field Review report detailing all revisions. After completion of all revisions and changes noted during the field review, the CONSULTANT shall furnish one set of the revised plans to the LPA for verification. Once the LPA has verified the modifications, the LPA shall submit the Field Review report detailing all revisions and one set of the revised plans to the MDOT District LPA Coordinator. After the MDOT District LPA coordinator receives the plans, the MDOT District LPA Coordinator will notify the LPA to begin finalizing the construction plans.

If Right-of-Way acquisition is required for the project, the MDOT District LPA Coordinator will also at this time direct, in writing, that the LPA may begin development of the maps and deeds for the subsequent Right-of-Way phase of the project.

RIGHT OF WAY PLANS AND ACQUISITION

According to the Project Development Manual, The LPA shall acquire the necessary right-of-way in accordance with 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and the Right-of-Way Operations Manual (ROM). The LPA shall not begin the ROW phase without written approval from the MDOT District LPA Coordinator.

The LPA may select consultants to provide right-of-way services on LPA projects. A CONSULTANT will

provide plats and descriptions for the acquisition of right of way and temporary and/or permanent easements. A **CONSULTANT** will provide right of way services including Title Investigation Services, Right of Way Acquisition Services, Project Management Services, Appraisal Services and Appraisal Review Services.

OFFICE REVIEW PLANS

The **CONSULTANT** shall submit 1 set of plans for review by the LPA prior to requesting the field review. The LPA shall mark on these copies of the plans "ALL REVISIONS OR CHANGES REQUIRED" and return same to the **CONSULTANT**. Allow approximately three weeks for review by the LPA. An office review with the **LPA** and its **CONSULTANT**, the **MDOT** District LPA Coordinator, and the necessary **MDOT** division(s) at which time plans are at least ninety percent (90%) complete. According to the PDM Before the **LPA** holds the office review, up to ten (10) (Contact **MDOT** District LPA Coordinator for exact number) sets of half-scale copies of the draft office review plans, specifications, status of right-of-way acquisitions, and the status of all required utility relocations shall be furnished to the **MDOT** District LPA Coordinator, who will distribute to the appropriate **MDOT** division(s). These plans must be marked in RED as "OFFICE REVIEW". The OFFICE REVIEW plans shall contain, as a minimum:

ROADWAY PLANS: Title sheet, typical sections, summary of quantities sheets, plan and profile sheets showing all geometrics, profile grades, construction limits, cross-sections, preliminary earthwork quantities, preliminary permanent directional signing layout sheets, preliminary pavement marking sheets, right-of-way limits, size and location of all drainage structures, construction signing, as well as any traffic control that will be required during construction. Cross drain structures will be plotted on the cross sections. The right-of-way limits will be based on the normal border width and will represent the actual proposed right-of-way for the project.

During the office review the LPA is required to make notes of comments made during the review and submit a copy to the MDOT District LPA Coordinator.

The **CONSULTANT** will prepare the office review minutes for the **LPA**. After the office review is complete,

the **MDOT** District LPA Coordinator shall be provided a copy of the office review report, and the **LPA** shall also furnish a memo describing the corrective action taken by the **LPA**.

FINAL CONSTRUCTION PLANS AND PS&E ASSEMBLY SUBMITTALS

The final construction plans shall include all items required in the final right-of-way plans and all other information such as, but not limited to:

ROADWAY PLANS: Title sheet, detailed index, general notes, typical sections, summary of quantities, estimated quantities, plan-profile sheets, special design sheets, erosion control sheets, traffic control plan, permanent directional signing sheets that include layouts and sign details and estimated quantities, detailed pavement marking sheets, final cross-sections, and all notes and data used to develop the plans.

The **CONSULTANT** shall prepare all Special Provisions pertinent to the intent of the plans unless the **LPA** has on hand suitable Special Provisions that will be used.

PS&E ASSEMBLY SUBMITTAL

According to the **MDOT LPA Project Development Manual**:

1. PS& E Assembly Checklist
2. Letter of Transmittal from the city requesting authorization for construction and to advertise along with the contract information
3. Approved LPA funding worksheets
4. Project Plans
5. Proposal/Specifications;
6. LPA profession's Design Statement;
7. Stamped copy Cost Estimate;
8. Encroachment and ROW Utility Certification;
9. Sampling and Testing letter from the **MDOT** district;
10. Copy of original FHWA-approved environmental document and copy of the environmental re-evaluation;
11. MPO letter about project funding;
12. Copy of any applicable permits;
13. CE&I agreement.

EXHIBIT D

PROJECT SCHEDULE
PRELIMINARY DESIGN ROW
NORTHSIDE DRIVE AT TANGLEWOOD DRIVE
CLINTON, MISSISSIPPI

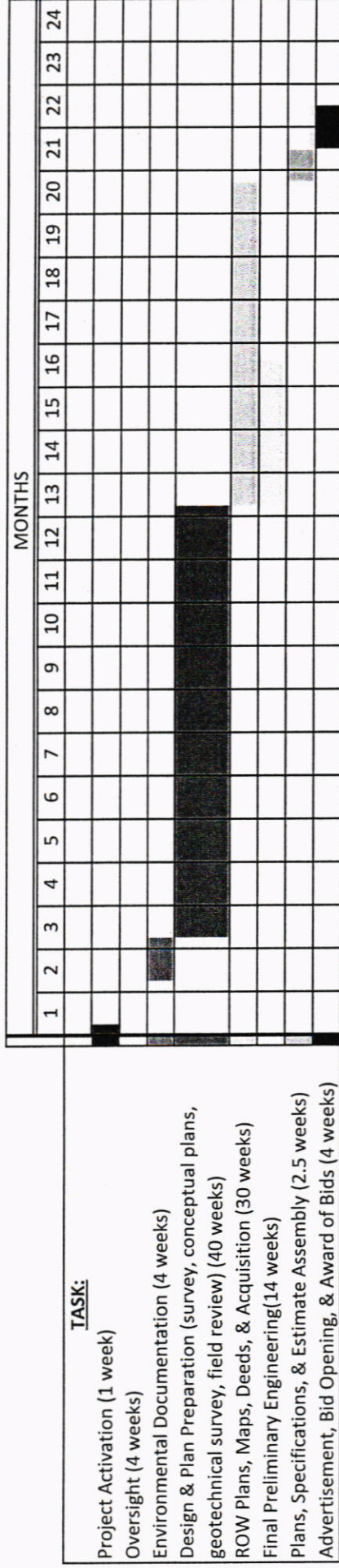


EXHIBIT 3

FEES AND EXPENSES

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

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

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

SCHEDULE OF MAXIMUM RATES, EXPENSES & FEES:

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

Direct Salaries:

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

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

Payroll Additive & Overhead:

The rate, based on the CONSULTANT'S latest governmental audited rate, not to exceed two (2) years, and as approved by MDOT, for payroll additives and overhead shall be computed at 147.81 % (FCCM: 0.37 %) of direct salary cost. This rate shall be used to calculate costs under this CONTRACT and in the preparation of costs estimates for Supplemental Agreements under this CONTRACT. The estimated FCCM for cost proposals in Supplemental Agreements must be specially identified and distinguished from the other costs. Profit/Fee shall not include amounts applicable to FCCM. Final payment of these costs shall be adjusted after completion of the final audit to reflect the actual rates experienced by the CONSULTANT during the course of this CONTRACT; however, in no event shall such an adjustment allow the CONTRACT'S cost to exceed the maximum limitation stated. Said audit of the CONSULTANT will be conducted by the LPA, or the LPA's designated auditor at the conclusion of the contract in accordance with Federal and LPA requirements.

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

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

Direct Costs:

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

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

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

Fixed Fee:

The CONSULTANT's fixed fee shall be \$22,576.00, which sum shall be paid incrementally each month in an amount determined by multiplying the total fixed fee by the project completion percentage, less any amounts previously paid for fixed fees.

Contract Maximums:

Under no circumstances shall the amount payable by the LPA for this assignment exceed \$ 479,569.00 (Total of all Charges) without the prior written consent of both parties.

Fee and Expense Summary

Labor Cost & Overhead	Direct Cost	Fixed Fee	FCCM	Sub-Consultant	Total
\$188,138.00	\$216,999.00 6004	\$22,576.00	\$281.00	\$262,570.00	\$479,569.00

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

EXHIBIT E-1
Northside Drive at Tanglewood Drive
Mill, Overlay, Sidewalk, Traffic Signals, Lighting, Landscaping and Signing Project
Project Number
Preliminary Engineering and Final Contract Documents

MAN-HOUR AND FEE ESTIMATE

Task Description	No. of Sheets	Estimated Hours							Total Hours
		Senior Engineer Manager	Senior Project Manager	Senior Engineer	Project Manager	Designer	Senior Tech.	Clerical	
Administrative/Coordination/Team Meetings		24			16	6		10	56
Survey/site visit		6	8		16		8		38
ROW Plans	5	8			16	50			74
ROW Acquisition Oversight					60		16		76
Review of Plats, Descriptions, & Appraisal maps					20			6	26
LPA Process									
MOU coordination		6						2	8
LPA forms 100 and 700		1			12	12			25
Re-evaluation of Environmental Document		1			6				7
Traffic Count							8		8
Exception to Design (Lane Width) if needed					6		2		8
Project Progress information via email, enews, website, other		4			8				12
Preliminary Plans 1"=20'									
Title Sheet, Index Sheet	2				6	16			22
General Notes	1				4		8		12
Typical Sections	2				8	32	16		56
SQS Spreadsheet					4		8		12
Summary of Quantities	2				8	8			16
Estimated Quantities					16	40			56
Opinion of Costs		2			16	8	8		34
Plan Profile Sheet (widen, Mill, & Overlay)	5					65			65
Cross Section Sheets	20				16	60			76
Intersection Details/Sidewalk Ramps	5				8	24			32
Drainage	7			20	80	60			160
Utility Coordination	7	8			60		80		148
Traffic Signals (Temporary, Permanent, Standards)	10	2			4	32	24		62
Pavement Markings/Signing	5				8		56		64
Traffic Control Plans (3 Phases & CSD)	16				20	12	40		72
Erosion Control	7				8		8		16
Detail Sheets	25					40	25		65
Quality Control		4			8	16		2	30
Field Review		8			12	12	8	2	42

Task Description	No. of Sheets	Senior Engineer Manager	Senior Project Manager	Senior Engineer	Project Manager	Designer	Senior Tech.	Clerical	Total Hours
Field Review-Reply to comments					8		32		40
Quality Assurance & Control (70%)			24			24			48
Office Review Plans, Quantities, Pay Items/Tables, Contract		8			80	60			148
Office Review, Reply to comments		20			40	60	40	5	165
Project notebook with design calculations, etc.			8		20		12		40
SWPPP					12		40		52
Final Contract Documents					40			10	50
Revise opinion of construction costs		2			8	4		2	16
PS&E submittal to MDOT		8		8	40	16	24	2	98
Advertise, Bid, Award Contract									
Issue Contract Documents to prospective bidders					6		2	4	12
Prepare and issue addenda as needed		2			8			2	12
Provide information to potential bidders		2		2	24			2	30
Conduct a prebid conference if requested by OWNER		6		2	12		8	2	30
Attend bid opening, prepare bid tabulations, review bids and make a recommendation to the OWNER to award contract		2			16				18
Assist the OWNER in documents necessary to award the bid and gain approval by MDOT		4			16		12	2	34
Hour Totals		128	40	32	776	657	485	53	2171
Labor Rates		\$59.02	\$50.00	\$45.00	\$36.05	\$36.00	\$25.00	\$22.15	
Labor Cost		\$ 7,555	\$ 2,000	\$ 1,440	\$ 27,975	\$ 23,652	\$ 12,125	\$ 1,174	\$ 75,920
Overhead Cost (147.81%)		\$ 11,166	\$ 2,956	\$ 2,128	\$ 41,350	\$ 34,960	\$ 17,922	\$ 1,735	\$ 112,218
Total Labor Plus OH Cost								\$ 188,138	
Fixed Fee Amount								\$ 22,576	
Subtotal - Labor Plus Fixed Fee								\$ 210,714	
FCCM OH - (0.37 %)								\$ 281	
Direct Costs									
Mileage 400 miles @ .51/mile								\$204	
Copies 8000 sheets @ .10/sheet								\$800	
Reproduction (13 sets field review plans, 13 sets office review plans, 3 sets of PS&E assembly)								\$4,500	
Supplies								\$500	
Total Direct Costs								\$6,004	
SubTotal for NSI								\$216,999	
Subconsultants:									
MapTech (Survey)								\$31,520	
MapTech (Maps & Deeds)								\$54,000	
MapTech (Staking)								\$10,000	
SoilTech								\$7,500	
Right of Way Services (27 parcels)								\$159,550	
SubTotal for SubConsultants								\$262,570	
TOTAL ESTIMATED FEE								\$479,569	

MAPTECH, INC.

SURVEYING
MAPPING
GPS SERVICE

3181 GREENFIELD ROAD, JACKSON, MS 39208-8706 * PH: 601-664-1666 * FAX: 601-664-1890 * www.maptech-survey.com

June 06, 2011

Stephanie Vivians, PE
Project Manager
Neel-Schaffer, Inc.
P. O. Box 22625
Jackson, MS 39225

RE: Survey Services
Tanglewood Drive & Northside Drive
Clinton, Hinds County
Mississippi
Maptech Inc. Proposal No. 005-11tb

Dear Ms. Vivians:

Maptech, Inc. is pleased to submit our proposal to provide Boundary and Topographic Surveying services to support your project at the intersection of Northside Drive and Tanglewood Drive, Clinton, Hinds County, Mississippi.

The Horizontal Control for the project will be referenced to NAD83 Mississippi State Plane Coordinate East Zone. The Vertical Control datum will be NAVD88. Both will be based on OPUS GPS observations.

The limits for the project will extend from the intersection of Northside Drive and Tanglewood Drive, 650 feet each way on Northside Drive and 500 feet each way on Tanglewood Drive. The width of the limits shall extend from the respective centerline to the face of buildings, not to exceed 100 feet.

The topographic surveying will be at intervals of 50 feet and a one foot contour interval. All readily visible planimetric features will be shown on the mapping. The limits of the topographic surveying will be as shown on the attached aerial photograph.

Utilities will be located by visual observation, any maps or plats that can be provided to Maptech, Inc., and Mississippi One Call. We will request the services of Mississippi One Call upon a written notice to proceed and will wait the 48 hour response time before commencing our topographic mapping. Should Mississippi One Call not respond during the 48 hour response time, we will request their services during the course of our mapping. In the event Mississippi One Call does not respond before the conclusion of our mapping, any other services will be performed for an additional negotiated fee. We will obtain type sizes, inverts, etc on the utilities that are available. The characteristics of the utilities will be shown, if that information is

JACKSON, MISSISSIPPI
(601) 664-1666

POMPANO BEACH, FLORIDA
(954) 979-9071

provided to Maptech, Inc. Maptech, Inc. will not be responsible for the existence or the non-existence of underground structures in the event there are no surface indications thereof or their existence was not indicated by the above described methods of locating underground utilities.

Maptech's fee for providing these services is \$31,520.00

Maptech, Inc., will provide plats and descriptions for the acquisition of temporary and/or permanent easements and right-of-way to comply with the 'Standards of Practice for the State of Mississippi' for a Class B Boundary Survey. Maptech, Inc.'s fee for providing the plats and descriptions for the individual parcels will be as follows:

Plats and Descriptions: \$1,800.00 per parcel
Staking: \$500.00 per parcel

We will perform any additional services as requested at our normal hourly rate as shown below.

<u>Maptech Rate Schedule</u>	<u>Rate as Indicated</u>
1 Member Land Survey Crew	\$ 85.00/hour
2 Member Land Survey Crew	\$ 125.00/hour
3 Member Land Survey Crew	\$ 140.00/hour
4 Member Land Survey Crew	\$ 180.00/hour
Professional Surveyor	\$ 125.00/hour
Cadd Drafting	\$ 75.00/hour
Mileage	\$ 0.58/mile

This proposal shall be valid for ninety (90) days.

Maptech, Inc. appreciates this opportunity to provide these services.

If we can be of further assistance please don't hesitate to contact us at your convenience.

Thank You,
Maptech, Inc.



Tim Brewer, RF PS
Project Manager



June 6, 2011

Neel-Schaffer, Inc.
125 South Congress Street, Suite 1100
Jackson, Mississippi 39201

Attention: Mrs. Stephanie Vivians, P.E.

Re: Proposed Geotechnical Investigation
Northside Drive at Tanglewood Drive Improvements
Clinton, Mississippi

Dear Sir or Madam:

We understand that Neel-Schaffer, Inc. is preparing plans and specifications related to the improvements to the intersection of Northside Drive at Tanglewood Drive. We are please to submit this proposal to perform a geotechnical investigation for the project.

The geotechnical investigation proposed herein will consist of a field investigation, laboratory testing and an engineering report that will present recommendations for a pavement design for the roadway improvements and traffic signal foundation. We understand that Neel-Schaffer prefers a flexible pavement type for the relocation project; in this sense, we will provide several alternative designs for a flexible pavement with the expectation that one design will be more economical than the others. The design will be made using the Mississippi Department of Transportation design procedures and will be based on traffic loading determined during the investigation. For this investigation, we propose to complete a total of seven (7) – six (6) foot auger borings along Northside Drive, five (5) – six (6) foot auger borings along Tanglewood Drive and one (1) – ten (15) foot undisturbed boring where the proposed traffic signal is proposed to be placed. In addition to the borings, twelve Dynamic Cone Penetrometer soundings, DCPs, will be performed to assist with evaluation of subgrade conditions for pavement design. An extra field technician will be utilized to provide traffic control for the field investigation. Borings for this investigation will be advanced by a tractor-mounted drill rig utilizing machine auger drilling techniques.

Representative undisturbed samples of the cohesive soils encountered will be taken by pushing a 3-inch outside diameter thin-wall Shelby tube sampler a distance of approximately 2 ft into the soil with hydraulic cylinders on the drill rig (ASTM D 1587). After recovery from a boring, the samples will be carefully extruded in the field and visually examined. One representative portion will be selected and sealed with melted paraffin in a cylindrical cardboard container to prevent loss of moisture and to protect the sample during transportation to the laboratory. Another portion of each undisturbed sample will also be selected and sealed in a plastic jar for ease in subsequent visual examination.

Representative disturbed samples will be obtained directly from the cuttings of the short-flight earth auger used to complete the 6-ft borings. The samples will be placed and sealed in plastic jars to prevent loss of moisture. All jars will be placed in protective boxes for transportation to the laboratory for possible testing.

The field investigation will be expanded by means of data developed from laboratory tests. Laboratory tests will be conducted to determine the classification, undrained shear strength, and shrink-swell potential of the soils encountered. The laboratory tests will include unconfined compression, moisture content, grain size and Atterberg limits. All soil tests will be performed in accordance with recognized ASTM standards and procedures in our laboratory facility.

After the field and laboratory data have been collected and analyzed, an engineering report will be prepared to present the results of our investigation and guideline recommendations related to foundation design of the signal pole, subgrade preparation, pavement recommendations and construction. The engineering report will include a description of the work performed together with graphical logs of the borings, results of all field and laboratory soil tests and appropriate illustrations.

Charges for the geotechnical investigation and report outlined above will be based on our standard fee schedules. Based on the estimated scope of work as outlined generally above, the cost of this investigation will be a not to exceed amount of \$7,500.00.

The field investigation could begin within about two days of your early notice to proceed and would require about one day to complete. Laboratory testing, engineering analyses and the report could be completed and submitted to you within two weeks upon completion of the field work. Verbal information could be furnished as field and laboratory data become available.

Unanticipated soil conditions are commonly encountered during construction projects and cannot be fully predicted by mere soil samples or test borings. Such unexpected conditions frequently require that additional expenditures be made to attain a properly designed and constructed project. Therefore, provision for some construction contingency fund is recommended to accommodate such potential extra costs. The analyses, conclusions and recommendations contained in our report will be based on the assumption that the exploration borings are representative of subsurface conditions throughout the site, that is, that the subsurface conditions everywhere are not significantly different from those disclosed by the borings at the time they were completed.

We appreciate the opportunity to submit this proposal. If you would like for us to perform the investigation, your written notification to proceed will indicate your acceptance of the proposed scope of work, fee and attached General Conditions under which the work would be performed. If we can answer any questions or provide additional information, please call.

Very truly yours,
SoilTech Consultants, Inc.


Michael K. Volk, P. E.

Approved By: _____

Date: _____

SOILTECH CONSULTANTS, INC.
GENERAL TERMS AND CONDITIONS

1. **Relationship Between Engineer and Client.** Engineer shall serve as Client's professional engineering consultant in those phases of the Project to which this Agreement applies. The relationship is that of a buyer and seller of professional services and it is understood that the parties have not entered into any joint venture or partnership with the other. The Engineer shall not be considered to be the agent of the Client.
2. **Responsibility of the Engineer.** Engineer will strive to perform services under this Agreement in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement or in any report, opinion, document, or otherwise.
3. **Responsibility of the Client.** Client shall provide all criteria and full information as to his requirements for the Project. Client shall arrange for Engineer to enter upon property in order to complete the work. It is understood by Client that some disturbance of existing site conditions may occur during normal course of the work. Although the Engineer will take reasonable precautions to minimize disturbance, remediation to existing conditions is not part of this Agreement.
4. **Ownership of Documents.** Reports and other documents prepared by Engineer in connection with any or all of the services furnished hereunder shall be the property of Client. Engineer shall have the right to retain copies of all documents and drawings for its files.
5. **Reuse of Documents.** All documents furnished by Engineer pursuant to this Agreement, are intended for use on the Project only. They should not be used by Client or others on extensions of the Project or on any other project. Any reuse, without written verification or adaption by Engineer, shall be at Client's sole risk, and Client shall indemnify and hold harmless Engineer from all claims, damages, losses and expenses, including attorney's fees arising out of or resulting therefrom.
6. **Suspension of Services.** Client may, at any time, by written order to Engineer, require Engineer to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order, Engineer shall immediately comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the services covered by the order. Client will reimburse Engineer for the costs of such suspension and remobilization.
7. **Termination.** This Agreement may be terminated by either party upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. This Agreement may be terminated by Client, under the same terms, whenever Client shall determine that termination is in its best interests. Cost of termination, including salaries, overhead and fee, incurred by Engineer either before or after the termination date shall be reimbursed by Client.
8. **Notices.** Any notice or designation required to be given by either party hereto shall be in writing and, unless receipt of such notice is expressly required by the terms hereof, it shall be deemed to be effectively served when deposited in the mail with sufficient first

class postage affixed and addressed to the party to whom such notice is directed at such party's place of business or such other address as either party shall hereinafter furnish to the other party by written notice as herein provided.

9. **Indemnification.** Engineer shall indemnify and hold harmless Client from Client's loss or expense, including reasonable attorney's fees for claims for personal injury (including death) or property damage arising out of the sole negligent act, error or omission of Engineer.

Client shall indemnify and hold harmless Engineer from Engineer's loss or expense, including reasonable attorney's fees, for claims for personal injuries (including death) on property damage arising out of the sole negligent act, error or omission of Client.

In the event of joint or concurrent negligence of Engineer and Client, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to the total negligence (including that of third parties) which caused the personal injury or property damage.

Client shall not be liable to the Engineer, and the Engineer shall not be liable to the Client, for any special, incidental or consequential damages, including, but not limited to, loss of use and loss of profit, incurred by either party due to the fault of the other, regardless of the nature of this fault, or whether it was committed by the Client or the Engineer or their employees, agents or subcontractors, by reason of services rendered under this Agreement.

10. **Legal Proceedings.** In the event Engineer's employees are at any time required by Client to provide testimony, answer interrogatories or otherwise provide information ("testimony") in preparation for or at a trial, hearing, proceeding on inquiry ("proceeding") arising out of the services that are the subject of this Agreement, where Engineer is not a party to such proceeding, Client will compensate Engineer for its services and reimburse Engineer for all related direct costs incurred in connection with providing such testimony. This provision shall be of no effect if the parties have agreed in a separate agreement or an amendment to this Agreement to terms which specifically supersede this provision, nor shall this provision apply in the event Client engages Engineer to provide expert testimony or litigation support, which services shall be the subject of a separate agreement or an amendment to this Agreement.
11. **Successors and Assigns.** The terms of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided however, that neither party shall assign this Agreement in whole or in part without the prior written approval of the other.
12. **Insurance.** Within the context of prudent business practices, Engineer shall endeavor to maintain workmen's compensation and unemployment compensation of a form and in an amount as required by state law; comprehensive general liability with maximum limits of \$500,000/ \$1,000,000; automotive liability with maximum limits of \$500,000/ \$500,000; and professional liability insurance with an annual limit of \$500,000. Client

recognizes that insurance market is erratic and Engineer cannot guarantee to maintain the coverages identified above.

13. **Information Provided by the Client.** The Engineer shall indicate to the Client the information needed for rendering of services hereunder. The Client may elect to provide this information (including services by others) to the Engineer. In this case, the Client recognizes that the Engineer cannot assure the sufficiency of such information. Accordingly, the Engineer shall not be liable for any claims for injury or loss arising from errors, omissions or inaccuracies in documents or other information provided by the Client. In addition, the Client agrees to compensate the Engineer for any time spent or expenses incurred in defending such claim or in making revisions to his work as a direct or indirect result of information provided by the Client which is insufficient.
14. **Subsurface Conditions.** Client recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of Engineer or with appropriate equipment may fail to detect certain hidden conditions. Opinions and recommendations provided under this Agreement will be based on the Engineer's interpretation of field data collected the times and locations noted. The Engineer will not be responsible for subsurface conditions that may differ significantly than those that actually exist between sampling locations.
15. **Hazardous Materials.** When hazardous materials are known, assumed or suspected to exist at a project site, Engineer is required to take appropriate precautions to protect the health and safety of his personnel, to comply with the applicable laws and regulations and to follow procedures deemed prudent to minimize physical risks to employees and the public. Client hereby warrants that, if he knows or has any reason to assume or suspect that hazardous materials may exist at the project site, he will inform Engineer in writing prior to initiation of services under this Agreement.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Engineer agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Further, all soil samples collected under this Agreement will remain property of the Client. At the time of disposal, Engineer retains the right to return any soil samples that have detected or suspected hazardous materials to the Client.

Client waives any claim against Engineer and agrees to indemnify, defend and hold Engineer harmless from any claim or liability for injury or loss arising from Engineer's encountering unanticipated hazardous materials or suspected hazardous materials. Client also agrees to compensate Engineer for any time spent and expenses incurred by Engineer in defense of any such claim.

16. **Risk Allocation.** The Client recognizes that Engineer's fee includes an allowance for funding a variety of risks which affect the Engineer by virtue of his agreeing to perform services on the Client's behalf. One of these risks stems from the Engineer's potential for human error. In order for the Client to obtain the benefits of a fee which includes a lesser allowance for risk funding, the Client agrees to limit the Engineer's liability to the Client and all construction contractors arising from the Engineer's

professional acts, errors or omissions, such that the total aggregate liability of the Engineer to all those named shall not exceed \$50,000 or the Engineer's total fee for the services rendered on this project, whichever is greater.

17. **Payment.** Engineer shall submit monthly statements to Client. Payment in full shall be done upon receipt of the invoice. If payments are delinquent after 30 days from invoice date, the Client agrees to pay interest on the unpaid balance at the rate of one percent per month. Payment for Engineer's services is not contingent on any factor except Engineers ability to provide services in a manner consistent with that standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.
18. **Force Majeure.** Neither Client nor Engineer shall be liable for any fault or delay caused by any contingency beyond their control, including, but not limited to, acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of governmental agencies.
19. **Compliance with Laws.** To the extent they apply to its employees or its services, the Engineer shall comply with all applicable United States, state, territorial and commonwealth laws, including ordinances of any political subdivisions or agencies of the United States, any state, territory or commonwealth thereof.
20. **Separate Provisions.** If any provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions shall be valid and binding.
21. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the principal place of business of the Engineer.
22. **Amendment.** This Agreement shall not be subject to amendment unless another instrument is executed by duly authorized representatives of each of the parties.
23. **Entire Understanding of Agreement.** This Agreement represents and incorporates the entire understanding of the parties hereto, and each party acknowledges that there are no warranties, representations, covenants or understandings of any kind, matter or description whatsoever, made by either party to the other except as expressly set forth herein. Client and Engineer hereby agree that any purchase orders, invoices, confirmations, acknowledgments or other similar documents executed or delivered with respect to the subject matter hereof that conflict with the terms of this Agreement shall be null, void and without effect to the extent they conflict with the terms of this Agreement.

**CONSULTANT AGREEMENT
FOR
RIGHT OF WAY SERVICES**

THIS AGREEMENT, entered into this 13th day of May, 2011, by and between Neel-Schaffer, Inc. a Mississippi corporation authorized and qualified to do business in the State of Mississippi and located at 125 South Congress Street, Suite 1100, Jackson, Mississippi 39201, hereinafter referred to as "**ENGINEER**" and Right of Way Technology, Inc., 593 Risher Road, Carthage, Mississippi, 39051, hereinafter referred to as "**CONSULTANT**."

WHEREAS, **ENGINEER** has entered into a contract with City of Clinton (**OWNER**) for the purpose of furnishing certain professional services in connection with the Intersection of Northside Drive and Tanglewood Drive, in Hinds County (**PROJECT**); and

WHEREAS, **ENGINEER** desires **CONSULTANT** to perform certain technical and professional services in connection with the Project and **CONSULTANT** desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows:

I. SCOPE OF WORK

CONSULTANT shall perform in a proper manner, satisfactory to **ENGINEER**, the technical services as more fully described in Exhibit "A" "Scope of Work" which is attached hereto and incorporated herein by reference.

II. TIME OF PERFORMANCE

The services to be performed hereunder shall commence by **CONSULTANT** upon receipt of a written "Notice to Proceed" from **ENGINEER** and shall be completed in accordance with the Project Schedule.

III. COMPENSATION AND PAYMENT

For satisfactory performance of the services described above, **ENGINEER** shall pay to **CONSULTANT** the compensation provided for in Exhibit "B" "Fee Proposal", which is attached hereto and incorporated herein by reference. This compensation shall be paid after receipt and approval by **ENGINEER** of **CONSULTANT's** invoice prepared in such form and supported by such documents as **ENGINEER** may reasonably require. **ENGINEER** will make payment to the **CONSULTANT** within thirty (30) days after receipt of payment from the **OWNER**.

IT IS UNDERSTOOD AND AGREED TO BY THE CONSULTANT THAT PAYMENT FROM OWNER TO ENGINEER IS A CONDITION PRECEDENT FOR PAYMENT TO CONSULTANT FROM ENGINEER.

IV. COMPLIANCE WITH LAWS

CONSULTANT shall observe and abide by all applicable laws, ordinances and regulations of federal, state and local governments, in connection with the work performed hereunder.

V. SUBCONTRACT AND ASSIGNMENT

This Agreement may not be assigned or subcontracted, in whole or part, without the prior written consent of **ENGINEER**. Approval by **ENGINEER** of any subcontractor shall not

relieve the **CONSULTANT** of any liability or responsibility for the proper performance of the work under this Agreement.

VI. INSPECTIONS

All work performed by **CONSULTANT** shall be subject to the quality inspection and approval by **ENGINEER** at all times, but such approval shall not relieve **CONSULTANT** of responsibility for the proper performance of the work. **CONSULTANT** shall provide sufficient, safe and proper facilities at all times for such inspection of the work, and shall furnish all information concerning the work, and grant **ENGINEER's** duly authorized representatives free access at all reasonable times to **CONSULTANT's** facilities where the work under this Agreement is to be performed.

VII. CHANGES

ENGINEER shall have the right, at any time prior to completion of the work to direct changes in this Agreement, including but not limited to, change in the Scope of Work. If the change causes an increase or decrease in the cost of, or the time required for the **CONSULTANT's** performance under this Agreement; the **CONSULTANT** must submit to **ENGINEER** within ten (10) days after receipt of the change notice any request for adjustment. **ENGINEER** will issue an addendum to this Agreement for equitable adjustments.

VIII. TERMINATION FOR CONVENIENCE

a) **ENGINEER** shall have the right at any time to terminate this Agreement in whole, or in part, by written notice to **CONSULTANT**. Upon receipt of this notice the **CONSULTANT** shall immediately discontinue performance, will not place any further orders and will promptly cancel all orders to subcontractors.

b) In the event of termination for convenience **ENGINEER** shall pay the **CONSULTANT** for all work performed and accepted by **ENGINEER** prior to termination, plus the profit due for

the work performed. However, in no event shall **ENGINEER** be obligated to pay more than the Agreement value less any previously paid funds.

IX. DEFAULT

a) Should the **CONSULTANT** breach any provisions of this Agreement **ENGINEER** shall have the rights and remedies provided by law or under these terms and conditions.

b) **ENGINEER** shall have the right at any time to terminate this Agreement in whole, or in part, if the **CONSULTANT** fails to perform any of its obligations or if the **CONSULTANT** fails to give **ENGINEER** assurance of adequate performance within ten (10) working days after written request by **ENGINEER** for such assurances.

c) In the event of a breach of the Agreement **ENGINEER** may:

1) Declare the **CONSULTANT** to be in default.

2) Cancel this Agreement in whole or in part.

3) Withhold payment of any further funds which may be due the **CONSULTANT** until the default is corrected and/or

4) Pursue any and all other remedies afforded by law.

X. INDEMNIFICATION AND INSURANCE

a) **CONSULTANT** shall indemnify, defend and hold harmless **ENGINEER** and **OWNER**, and their respective officers, agents, servants and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the **CONSULTANT**'s negligent acts, errors or omissions in the performance of the services under this Agreement.

b) With respect to its indemnification obligation hereunder, **CONSULTANT** hereby assumes the entire responsibility and liability for any and all damages or injury (including death resulting therefrom) to employees of the **CONSULTANT** caused by, resulting from, arising out of or occurring in connection with the performance of the services under this Agreement, and if any claims for such damage or injury (including death resulting therefrom) be made or asserted, whether or not such claims are based upon **ENGINEER's** or **OWNER's** alleged or actual negligent acts, errors or omissions, **CONSULTANT** agrees to indemnify, defend and hold harmless **ENGINEER** and **OWNER**, and their respective officers, agents, servants and employees from and against all such claims, damages, losses and expenses, including but not limited to attorneys' fees, that they may directly or indirectly sustain, suffer or incur as a result thereof.

c) Unless otherwise required in this Agreement the **CONSULTANT** shall, during the performance of the Work, maintain the following insurance in the types and amounts, and with insurers satisfactory to **ENGINEER**.

- 1) Worker's Compensation: Statutory requirements at the locations of work and in accordance with the Contractor's established program for employees.
- 2) Automobile: \$1,000,000 Combined Single Limit per accident

Prior to commencing performance of the work the **CONSULTANT** shall furnish **ENGINEER** with a Certificate of Insurance as evidence of the required insurance and such Certificate shall provide for ten (10) days written notice to **ENGINEER** prior to cancellation thereof.

XI. INDEPENDENT CONSULTANT

The **CONSULTANT** is an independent contractor and shall not be regarded as an employee or agent of **ENGINEER**.

XII. CONFIDENTIALITY

No publicity releases (including news releases and advertising) relating to this Agreement or the Work hereunder shall be issued by the **CONSULTANT** without the prior written approval of **ENGINEER**.

XIII. EXAMINATION OF RECORDS

The **CONSULTANT** agrees that **ENGINEER** will have access to and the right to examine any books, documents, papers and records of any and all the transactions relating to this Agreement. The **CONSULTANT** shall maintain all records for a period of three (3) years after completion of the Work.

XIV. OWNERSHIP OF DOCUMENTS

Upon completion and payment in full of all monies due to **CONSULTANT**, all drawings, specifications, reports, information or data prepared by or furnished to **CONSULTANT** in connection with any or all work to be performed under this Agreement shall be the property of **ENGINEER**. The **CONSULTANT** shall have no liability for any claim, liability or cost arising out of any unauthorized reuse or modification of the Construction Documents without the written authorization of **CONSULTANT**.

XV. PARTIAL INVALIDITY

If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

XVI. HEADINGS

Headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

XVII. GOVERNING LAWS

The validity or construction of this Agreement, as well as the rights and duties of the parties hereinunder, shall be governed by the laws of the Commonwealth of Mississippi.

XVIII. COMPLIANCE WITH PRIME AGREEMENT

CONSULTANT hereby agrees to abide and be bound by the terms of Prime Agreement between **ENGINEER** and its client, which is incorporated herein by reference. In the event of any conflict between this Agreement and any other document(s), the stricter terms and conditions shall control.

XIX. SUPPLEMENTS TO AGREEMENT

The following exhibits, supplements or addendums form an integral part of this Agreement.

- : Exhibit "A" Scope of Work
- : Exhibit "B" Fee Proposal to Neel-Schaffer, Inc.

XX. ENTIRE AGREEMENT

This Agreement constitutes the whole agreement between the parties with respect to the subject matter contained herein and there are no terms other than those contained herein. No modification or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto.

ATTEST:

NEEL-SCHAFER, INC.

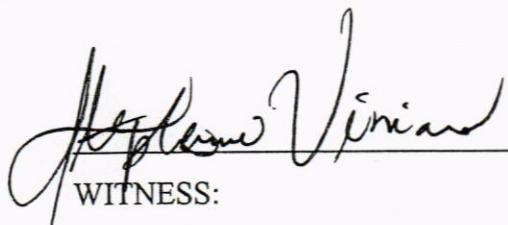
ENGINEER

Name: Mark Bailey

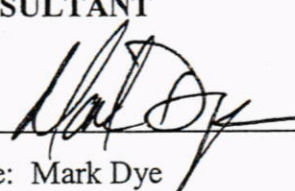
Title: V.P. & Sr. Eng. Mgr. of Transportation

RIGHT OF WAY TECHNOLOGY, INC

CONSULTANT



WITNESS:



Name: Mark Dye

Title: President

EXHIBIT "A"

SCOPE OF WORK

INTERSECTION OF NORTHSIDE DRIVE AND TANGELWOOD DRIVE

CITY OF CLINTON, MISSISSIPPI

HINDS COUNTY

EXHIBIT "A" SCOPE OF WORK

PROJECT: CITY OF CLINTON-PINEHAVEN ROAD- NORTHSIDE DRIVE-BERRY DRIVE

This Agreement is for Right of Way Services including, Title Investigation Services, Right of Way Acquisition Services, Project Management Services, Appraisal Services and Appraisal Review Services for approximately 44 parcels of right of way.

TITLE INVESTIGATION SERVICES

A completed Title Investigation shall be performed by Mississippi Valley Title Company and a Title Report for each parcel ownership shall be prepared in compliance with applicable State and Federal Laws and Regulations. The title report shall include all pertinent information normally included in a title report and shall include all liens and encumbrances against the property and any title defect

APPRAISAL SERVICES

An appraisal report for each parcel of property to be acquired for the project shall be done by Jim Terry, an independent appraiser, who is both qualified and experienced. Mississippi Department of Transportation appraisal procedures shall be followed and the appraisal report shall conform with all applicable federal and state laws and regulations. The Title Reports shall contain a "before and after" appraisal where applicable and state the highest and best use of the property. The appraisal value of the property to be acquired will separately state the value allocated to the land, improvements and damages to the remainder, if any. Uneconomic remainders, if any, shall be identified and the value separately stated.

The appraiser shall contact each property owner or his authorized representative and invite same to accompany him as he inspects the property and given a MDOT Acquisition Guide which explains the Appraisal Process and document the appraisal report accordingly.

APPRAISAL REVIEW SERVICES

Each appraisal is to be reviewed by Independent Appraiser John B. "Jeb" Stewart, who is both qualified and experienced as a Review Appraiser. A narrative appraisal review report shall be prepared for each parcel which exceeds \$2,500 in market value to assure it contain applicable appraisal standards and MDOT requirements for appraisal reviews. The review appraiser will make a physical review of each parcel to be acquired and of each comparable sale prior to completing the review.

The Review Appraiser as a minimum shall examine each appraisal report for the following:

1. Calculations are mathematically correct
2. Reasoning is clear and documentation is complete
3. Logical consistency in evaluation is maintained throughout the project
4. Value conclusion are fully supported and based on accepted appraisal procedures
5. The proper owner contact has been made
6. Uneconomic remainders are properly identified, if any.

The Review Appraiser may approve the value estimated by the appraiser or make an independent estimate of value which will be the basis of the Fair Market Value Offer.

ACQUISITION SERVICES

Right of Way Acquisition Services will be provided by Travis E. Dye and Mark Dye who are both qualified and experienced and will perform these services in accordance with MDOT Acquisition Regulations and Title 49 Code of "Uniform Act" Federal Regulations, Part 24 and any revisions thereto in effect at the time acquisition services are performed under this Agreement.

After this Agreement has been accepted and executed, a Notice to Proceed is received and the approved right of plans and property plats with legal descriptions have been received, right of way services will commence. Upon receipt of an appraisal and review appraisal for a parcel, a Fair Market Value Offer will be made promptly to the property owner/s. Acquisition services will include but are not limited to the following:

1. Preparation of acquisition instruments
2. Fair Market Value Offers prepared
3. Fair Market value Offers made expeditiously in person to local property owners and for owners more than 50 miles from Clinton, Fair Market Value Offers shall be made by Certified Mail.
4. Each property owner will be provide a MDOT Acquisition Guide and the Fair Market Value Offer will be explained in detail as to how the FMVO was determined.
5. Every reasonable effort will be made to acquire the parcel amicably and at the Fair Market Value Offer amount.
6. If the property owner rejects the Fair market Value Offer and the property cannot be acquired amicably and an administrative settlement is justifiable to prevent an eminent domain case, such will be recommended. If the administrative settlement is approved a revised Fair Market Value Offer will be prepared and made to the property owner.
7. For amicably acquired parcels, a request for payment with the necessary documentation will be submitted.
8. Closing procedures will commence for parcels acquired amicably as follows:
 - a. If there is a mortgage or lien of any kind against the property, a Payoff Statement for each will be obtained and Release of Mortgages or Partial Release of Mortgages will be obtained.
 - b. When all liens and encumbrances such as title defects have been cleared, the property owner may receive the balance of the Fair Market Value Offer.
9. After final payment has been made for a parcel, the executed Acquisition Instrument along with all Releases of Mortgages and Partial Releases of Mortgages will be recorded in the Hinds County Chancery Clerk's Office.
10. When all acquisition services have been completed for a parcel, the original file including all required and necessary documentation will be submitted to Neel-Schaffer, Inc. for the permanent records of the City of Clinton.
11. In the case where a parcel cannot be acquired amicably and it is recommended that the parcel be acquired through eminent domain procedures, the original file along with pertinent and required documentation will be submitted for use in the eminent domain case and for the permanent records of the City of Clinton .

PROJECT MANAGEMENT SERVICES

Project Management Services will include but not limited to the following:

Contracting with subcontractors for title, appraisal and review appraisal services.

1. Supervision and coordination of appraisal and review appraisal services will include but not be limited to the following:
 - a. Providing appraiser with right of way plans, property plats, legal descriptions and MDOT Acquisition Guides

- b. Make individual parcel appraisal assignments when the necessary information is available
- c. Receive completed appraisals from appraiser
- d. Deliver completed appraisals to review appraiser for review and also a set of right of way plans
- e. Receive completed reviews from review appraiser
- f. Remind appraiser and review appraiser when necessary that appraisals and review appraisals must be received on a timely bases and in accordance with the project schedule.
- i. Make prompt payment for title, appraisal and appraisal review services when properly invoiced
- j. Provide monthly Project Progress Reports
- k. Attend meetings with Neel-Schaffer, Inc. officials and City of Clinton Officials when requested.

EXHIBIT "B"

FEE PROPOSAL

INTERSECTION OF NORTHSIDE DRIVE AND TANGELWOOD DRIVE

CITY OF CLINTON, MISSISSIPPI

HINDS COUNTY

February 9, 2011

Stephanie Vivians, P.E.
Project Manager
Neel-Schaffer, Inc.
P.O. Box 22625
Jackson, MS 39225-2625

RE: City of Clinton
Intersection of Northside Drive and Tanglewood Drive
Fee Proposal

Service	Number	Cost per File/Parcel	Total Cost Per Function
<u>Title Investigation:</u>			
Title Reports	27	\$650.00	\$17,550.00
Updates (includes copy cost)	8	\$250.00	\$2,000.00
<u>Appraisal:</u>			
Initial Appraisal	27	\$1,500.00	\$40,500.00
Updates	8	\$900.00	\$7,200.00
Memo Rev/Change	8	\$700.00	\$5,600.00
<u>Appraisal Review:</u>			
Initial Review	27	\$600.00	\$16,200.00
Desk Updates	8	\$300.00	\$2,400.00
Field Updates	8	\$450.00	\$3,600.00
Memo Rev/Change	8	\$300.00	\$2,400.00
<u>Acquisition:</u>	27	\$1,800.00	\$48,600.00
<u>Project Management:</u>	27	\$500.00	\$13,500.00

Total Estimated Cost: \$159,550.00

Should the estimated number of parcels, updates, and changes be less or more than the estimated amount, the total cost will be reduced or increased consistent with the above stated fees.

EXHIBIT 4
SAMPLE INVOICE

LOCAL PUBLIC AGENCY
ADDRESS
CITY, STATE, ZIP CODE

DATE:

ATTENTION: ACCOUNTS PAYABLE

INVOICE NO. 0000

PERIOD , 20 THROUGH , 20

PROFESSIONAL SERVICES IN ACCORDANCE WITH

CONTRACT DATED , 20 , AS RELATES TO

PROJECT NO. - - - - - IN COUNTY, HIGHWAY .

CONSULTANT:

CUSTOMER NUMBER 0000000000

FILE NO. 000-000000

REPORT NUMBER: 0000 through 00000

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

NOTE:

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

SUPPORTING DATA

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

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

EXHIBIT 5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT 6

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

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

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

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

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

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

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

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

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

SO CERTIFIED this ____ day of _____, 20____.

NEEL-SCHAFER, INC.

BY: _____

ATTEST: _____

My Commission Expires: _____

Notary

EXHIBIT 7

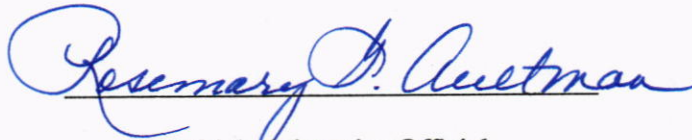
CERTIFICATION OF THE LPA

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

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

SO CERTIFIED on the 21st day of JUNE, 2011.

CITY OF CLINTON



***Chief Administrative Official
Rosemary Aultman, Mayor***

EXHIBIT 8

{Intentionally Left Blank}

EXHIBIT 9

PRIME CONSULTANT / CONTRACTOR EEV CERTIFICATION AND AGREEMENT

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

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

128686

EEV* Company Identification Number [Required]

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

BY: _____ Date _____
Authorized Officer or Agent

Printed Name of Authorized Officer or Agent Title of Authorized Officer or Agent of Contractor / Consultant

SWORN TO AND SUBSCRIBED before me on this the ____ day of _____,
20____.

NOTARY PUBLIC
My Commission Expires: _____

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

DO NOT WRITE ABOVE THIS LINE

Prepared by and return to: Name: Ray Steele Telephone: 601.925.6549
Entergy Mississippi, Inc., 905 Hwy. 80 East Clinton, MS 39056

STATE OF MISSISSIPPI
COUNTY OF HINDS

Indexing Instructions: SE ¼ SW ¼ Sec.17,T6N,R1W
Line/Project Identification: Proj. No. _____
WR No. _____

RIGHT-OF-WAY INSTRUMENT
ENTERGY MISSISSIPPI, INC.

KNOW ALL MEN BY THESE PRESENTS THAT: City of Clinton

Grantor(s), acting individually, and for, and on behalf of, my/our heirs, successors, assigns and any other person claiming the ownership to the property hereinafter described, collectively "Grantor", for and in consideration of One Dollar, in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, assign, convey unto and warrant and defend Entergy Mississippi, Inc., and its successors and assigns, collectively "Grantee", a right-of-way, servitude and easement 16 feet in width running adjacent to East Right of Way of Pinehaven Road for the location, construction, reconstruction, improvements, repairs, operation, inspection, patrol, replacement and maintenance of electric power and communication facilities, or the removal thereof, now or in the future, including, but not necessarily limited to, poles, cross arms, insulators, wires, cables, conduits, hardware, transformers, switches, guy wires, anchors and other equipment, structures, material and appurtenances, now or hereafter used, useful or desired in connection therewith by Grantee over, across, under or on that land of Grantor in the County of Hinds, State of Mississippi described as follows, to-wit:

A certain parcel of land lying and being situated in the SE quarter of the SW quarter of Section 17, Township 6N, Range 1W, HINDS County, Mississippi, as shown on Exhibit "A" attached hereto and made a part hereof.

together with the right of ingress and egress to and from said right-of-way across the adjoining land of the Grantor and the right to attach wires and cables of any other party to Grantee's facilities, and the right to install guy wires, anchors, and anchor assemblies beyond the limits of said right-of-way.

Grantee shall have the full and continuing right to clear and keep clear vegetation within or growing into said right-of-way and the further right to remove or modify from time to time trees, limbs, and/or vegetation outside the said right of way which Grantee considers a hazard to any of its electric power or communications facilities or a hazard to the rendering of adequate and dependable service to Grantor or any of Grantee's customers, by use of a variety of methods used in the vegetation management industry.

Grantor shall not construct or permit the construction of any structure, obstruction or other hazard within the said right-of-way, including but not limited to, house, barn, garage, shed, pond, pool or well, excepting only Grantor's fence(s) and Grantee's facilities. Grantor shall not construct or permit the construction of any buildings or other structures on land adjoining said right-of-way in violation of the minimum clearances from the lines and facilities of Grantee, as provided in the National Electrical Safety Code.

Proj. No. _____
WR No. _____

WITNESSES:

(signature)

(print name)

(signature)

(print name)

GRANTOR:

Rosemary G. Aultman
(signature)

Rosemary G. Aultman
(print name)

Mayor
(title)

CORPORATE ACKNOWLEDGMENT

STATE OF MISSISSIPPI
COUNTY OF HINDS

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 2011, within my jurisdiction, the within named _____, who acknowledged that (he)(she) is _____ of _____ CITY OF CLINTON _____, a _____ corporation, and that for and on behalf of the said corporation, and as its act and deed (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

Commission expires: _____

NOTARY PUBLIC

2

SEE SHEET 1000
SEE SHEET 1001
TOTAL AREA 7.61
1000-1001-1002
1000-1001-1003
1000-1001-1004

Surveyed by: [illegible]
Date: [illegible]

TABLE NUMBER 1-1-1-1
TABLE NUMBER 1-1-1-2
TABLE NUMBER 1-1-1-3

TABLE 1-1-1-1
TABLE 1-1-1-2
TABLE 1-1-1-3
TABLE 1-1-1-4

Surveyed by: [illegible]
Date: [illegible]

TABLE NUMBER 1-1-1-1
TABLE NUMBER 1-1-1-2
TABLE NUMBER 1-1-1-3

sidewalk
trail

226'

1-0-W

pole

anchor

SEE SHEET 1000 FOR TABLE 1-1-1-1

226'

Energy 16'
Easement
adjacent to South
Right of Way

SE 1/4 SW 1/4
Sec. 17, T.16N, R.1W

SW 1/4

pole

anchor

212'

pole

SEE SHEET 1000 FOR TABLE 1-1-1-1

PINEHURST DRIVE

Exhibit "A"

**Interlocal Agreement
Between
the City of Clinton, Mississippi
And the
Clinton Public School District**

This Interlocal Agreement ("Agreement") is made and entered into between the City of Clinton, Mississippi ("City"), acting through its duly authorized Mayor and Board of Aldermen, and the Clinton Public School District ("District"), acting through its Board of Trustees, pursuant to the provisions of §17-13-1, *et seq.*, of the Mississippi Code of 1972, as amended (the "Interlocal Cooperation Act of 1974").

Article I: Background and Objectives:

The District operates several schools, two of which, Clinton Park Elementary School and Clinton High School, are both located on the same public street, Arrow Drive. The District is currently building a third school on Arrow Drive. The three schools are all on sixteenth section land. Arrow Drive crosses the sixteenth section, providing access to all three schools. Because of the increased traffic from the three schools, Arrow Drive needs significant improvements, including a center lane and turn lanes as well as additional improvements to a connecting road, Cynthia Road (collectively the "Project"). Arrow Drive and Cynthia Road are, and will remain, public city streets, i.e., owned, operated and maintained by the City of Clinton.

The District was initially considering building its own acceleration/deceleration or traffic stacking lanes on the sixteenth section property, thereby connecting the schools' drive ways to Arrow Drive. The costs to the District would be approximately the same as the much more beneficial roadway improvements the City could undertake under the MDOT Grant, as described below. The City advises that it can undertake the Project if it receives a grant from the Mississippi Department of Transportation ("MDOT") for 80% of the costs of the Project (the "MDOT Grant"). The MDOT Grant requires the City to fund the remaining 20% of the costs, from whatever source. The City has requested the District to contribute the remaining 20% and certain related costs.

The Clinton Public School District has proposed to combine the efforts of the City and the District, as each entity has determined that the result of the cooperation will achieve maximum efficiency for governmental services at a minimum cost to the taxpayers of the City and the District, the majority of whom pay taxes to each entity, and will allow more efficient utilization of limited resources for providing services to the public.

Article II: Obligations of the City of Clinton:

The City of Clinton's obligations:

- Act as the owner of the project and direct activities of the engineer, contractor and other design professionals.
- Act as the liaison with MDOT.

- Secure the 80% federal match for construction and CE&I services.
- All construction contracts, including the Engineering Contract (defined below), will be subject to approval by both the City and the District prior to execution and all plans, designs and specifications for the Project will be subject to the approval of both the City and the District.

Article III: Obligations of the Clinton Public School District

The Clinton Public School District's obligations:

- Pay for certain costs of the Project as necessary for the City to obtain the 80% federal match for construction and CE&I services through the MDOT Grant, as follows:
 - Pay for 100% of the design engineering costs, not to exceed a maximum of \$250,000.00.
 - Pay for the 20% matching costs for construction and CE&I services, not to exceed a maximum aggregate of \$318,000.00 unless otherwise agreed by the parties in writing.
- Provide easements and rights-of-way as required for construction of the Project.

Article IV: Design Engineering Costs

It is anticipated by the parties that the cost of design engineering will be ascertained on or about mid-December, 2011, and that the costs will be communicated in writing to the City and the District by the design engineering firm. The parties agree that this cost will be paid by District and that the District shall pay to the City the cost of design engineering within 30 days of the determination of this cost and the approval of this Agreement as provided in Article XVII, subject to the maximum amount provided in Article II. The City shall deposit this payment in its usual course of business and make payment as determined by the City pursuant to the terms of the contract between the City and the engineering firm selected by the City (the "Engineering Contract"). Any amounts not paid pursuant to the Engineering Contract will be returned to the District. The Engineering Contract will include acceptable limits on costs prior to receiving the award of the MDOT Grant.

Article V: Construction, Engineering and Inspection Costs

It is anticipated that the Project will be bid in early 2012. The cost of construction, engineering and inspection ("CE&I") will be paid 80% by the City and 20% by the District, subject to the maximum amount provided in Article II. The District will deposit its 20% portion of CE&I with the City within 60 days of the written request by the City to the District, as required to begin the Project once the MDOT Grant is obtained.

Article VI: Construction Cost

The construction cost for the Project will be paid 80% by the City and 20% by the District, subject to the maximum amount provided in Article II. The District will deposit its 20% portion with the City within 90 days of the bid award. In the event of a change order to the Project that is approved by both the City and the District, these increases/decreases will be borne by the parties in the same 80% - 20% ratio, subject to the maximum amount provided in Article II.

Article VII: Selection of Contractor

The City shall select the Contractor for the Project pursuant to statutory bid standards to achieve the lowest and best bid. The Contractor will be required to meet all requirements for license, bond and insurance as normally required by the City for any construction project.

Article VIII: Notice & Designated Agents

For the purposes of implementing this section and all other sections of this Agreement with regard to notice, the following individuals are herewith designated as agents for the respective parties.

For Contractual Administrative Matters:

Clinton Public School District
Dr. Phil Burchfield, Superintendent
203 Easthaven Drive
Clinton, MS 39056
Phone: (601) 924-7533
Fax: (601) 924-6345

City of Clinton
Hon. Rosemary Aultman, Mayor
P.O. Box 156
Clinton, MS 39060
Phone: (601) 925-6103
Fax: (601) 925-4605

For Technical Matters:

Clinton Public School District
Dr. Phil Burchfield, Superintendent
203 Easthaven Drive
Clinton, MS 39056
Phone: (601) 924-7533
Fax: (601) 924-6345

City of Clinton
Interim City Engineer
P.O. Box 156
Clinton, MS 39056
Phone: (601) 925-6103
Fax: (601) 925-4605

Article IX: Relationship of the Parties

The relationship between the City and the District is that of independent contractors. This Agreement does not establish or create a general agency, joint venture, partnership or employment relationship between the parties.

The City shall act as the owner of the project, direct activities of the engineer, contractor and other design professionals, and oversee the construction of the new portions of the road. The City agrees to coordinate with the District on the date for commencement of the construction phase of the Project so as to minimize the impact of construction on the day-to-day operations of the schools within the construction zone. Additionally, the road and all appurtenances, including, without limitation, any necessary storm water drainage facilities or mechanisms, shall be constructed pursuant to all applicable building and safety codes, zoning ordinances, and any other applicable federal, state, and/or local laws, rules or regulations. It is agreed that all plans, designs and specifications for the Project shall be subject to the approval of both parties prior to commencing construction, though any such approval by District does not relieve the City of its obligations under this Agreement.

The City shall secure and maintain general liability and property damage insurance for the duration of the construction phase of the Project in an amount as is appropriate to fully insure for a project of similar scope and size, and such policies shall list the District as an additional named insured. Additionally, prior to commencement of construction, the City shall secure the issuance of performance and payment bonds to ensure completion of the Project. Both the amount of the insurance and the performance and payment bonds, and adequate proof of each, will be submitted to the District prior to construction for the District's approval.

After the completion of the Project, the roads and City right of way comprising the Project will be City streets and the City shall be responsible for all maintenance and upkeep of the roads and all appurtenances thereto.

Article X: Responsibilities for Claims and Liability

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

Article XI: Miscellaneous

No modification of this Agreement shall be binding unless such modification shall be in writing and signed by all parties.

Article XII: Authority to Contract

Both parties hereto represent that they have authority to enter into this Agreement and approval of this Agreement is reflected in the official minutes of each party.

Article XIII: Administration and Administrative Entity

This agreement will be administered in accordance with the terms and conditions set forth herein by the designated representative of the Clinton Public School District, under the direction of its Superintendent and Board of Trustees and the designated representative of the City under the direction of the Mayor and the Board of Aldermen. No separate legal or administrative agency will be created by this Agreement. The City's statutory authority for this Agreement is §21-37-3 and §21-37-4 of the Mississippi Code of 1972, as amended, and the District's statutory authority for this Agreement is §37-7-301, §37-7-301(dd) and §37-7-301.1 of the Mississippi Code of 1972, as amended.

Article XIV: Severability

If any part, term or provision of this Agreement shall be held illegal, unenforceable, or in conflict with any applicable law, the validity of the remaining portions or provisions shall not be affected thereby. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

Article XV: Term of Agreement

This Agreement shall become effective as of July 1, 2011, when the same has been approved by the Attorney General as set forth in Article XVII, and shall expire 60 days after the completed Project is accepted by the City or July 1, 2013, whichever occurs first. However, the same shall be subject to renewal by the City and the District, by resolution of each entity. This Agreement may be terminated by the mutual agreement of the parties.

Article XVI: Amendment

This Agreement may be amended upon the written agreement of the parties provided such amendment is approved by the Attorney General of the State of Mississippi, as provided in §17-13-1, *et. seq.* of the Mississippi Code of 1972, as amended.

Article XVII: Approval by Attorney General

The District and the City direct that after the execution of this Agreement the same shall be forwarded to the Attorney General of the State of Mississippi for his approval, as provided by law, and this Agreement will not be enforceable unless approved by the Attorney General, or sixty (60) days has passed since its submission to the Attorney General and the Attorney General has failed to disapprove this Agreement, in which event this Agreement will be considered approved and enforceable. In the event of disapproval of any section of the services listed herein, the authorities of the District and of the City will be required to adopt a newly drafted Agreement for submission to, and approval by, the Attorney General, before any provisions of the Agreement are enforceable and in full effect.

The Secretary of the District and the Clerk of the City shall spread this Agreement, after its execution, upon the minutes of the respective governing authorities and shall, upon the return of the approval or rejection of the Attorney General, spread upon the minutes of the respective governing authorities a notation of such approval or disapproval. The Agreement shall be in full force and effect after it is approved by the Attorney General of the State of Mississippi and it is recorded in the Office of the Secretary of State, State Auditor and Chancery Clerk of Hinds County.

Witness our signatures this the 22nd day of JUNE, 2011.

CITY OF CLINTON, MISSISSIPPI

By: Rosemary G. Aultman
Rosemary Aultman, Mayor

Attest:

Russell L. Wall
Russell Wall, City Clerk



CLINTON PUBLIC SCHOOL DISTRICT

By: Phillip G. Burchfield
Phillip G. Burchfield,
Superintendent

By: Ingrid Williams
Ingrid Williams, President
Board of Trustees