CITY OF CLINTON
REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, JANUARY 19, 2010 - 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 Hisaw followed by the pledge of allegiance to the flag led by Alderman Greer.

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 – J

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

ACCEPTANCE OF A DONATION IN THE AMOUNT OF $480.00 FROM THE CLINTON SOCCER ASSOCIATION

Upon presentation by Ray Holloway, Director of Parks and Recreation, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Greer the board approved the acceptance of a donation in the amount of $480.00 from the Clinton Soccer Association. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF AN UPDATE TO THE NEEL-SCHAFFER, INC. GENERAL SERVICES AGREEMENT

Upon presentation by Richard Broome, City Engineer, **MOTION** made by Alderman Hisaw and **SECONDED** by Alderman Barnett the board approved an update to the Neel-Schaffer, Inc. General Services Agreement. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF CLINTON, MISSISSIPPI AND NEEL-SCHAFFER, INC. FOR ENGINEERING SERVICES FOR THE ROADWAY SAFETY-STREET SIGN COMPLIANCE UPGRADE PROJECT

Upon presentation by Richard Broome, City Engineer, **MOTION** made by Alderman Greer and **SECONDED** by Alderman Morgan the board approved the agreement between the City of Clinton, Mississippi and Neel-Schaffer, Inc. for engineering services for the Roadway Safety-Street Sign Compliance Upgrade project. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF THE FINAL PLAT FOR OAK MEADOW PART III (A)

Upon presentation by Richard Broome, City Engineer, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Greer the board approved the final plat for Oak Meadow Part III (A) contingent on the City receiving the bond for the surface course. **MOTION CARRIED UNANIMOUSLY**

ADJOURN 7:14 P.M.

MOTION made by Alderman Brabham and **SECONDED** by Alderwoman Peace to adjourn until the next regular meeting of the Mayor and Board of Aldermen to be held on February 2, 2010 at 7:00 pm. **MOTION CARRIED UNANIMOUSLY**

APPROVED: Rosemary G. Aultman 1-20-10
Rosemary Aultman, Mayor Date

ATTEST: Russell L Wall 1-20-10
Russell L. Wall, City Clerk Date

CITY OF CLINTON OFFICIAL SEAL MISSISSIPPI

AGREEMENT FOR ENGINEERING SERVICES

BY AND BETWEEN

THE CITY OF CLINTON, MISSISSIPPI

AND

NEEL-SCHAFFER, INC.

This **AGREEMENT** made this _____ day of _____, 2010, by and between the **CITY OF CLINTON, MISSISSIPPI**, after this called "**OWNER**", and **NEEL-SCHAFFER, INC.**, with a mailing address of Post Office Box 22625, Jackson, Mississippi 39225-2625, after this called the "**ENGINEER**".

I. DESCRIPTION OF SERVICES

OWNER intends to engage the **ENGINEER** to provide professional engineering services. These services will be provided by **ENGINEER** upon receipt of individual delivery orders from the **OWNER** which will contain specific requirements and schedules for the work.

It is anticipated that the engineering services performed by delivery order (**Project**) will consist of the following two general types of work:

Type 1: Studies, reports, miscellaneous surveys, minor designs, cost estimates and general consultation.

Type 2: Surveys, design, preparation of contract documents, assistance with bidding, and consultation during construction for construction projects.

II. ADDITIONAL SERVICES

ENGINEER will provide services in accordance with the Exhibit A, "General Provisions" and Exhibit B, "A Listing of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative", attached to and made a part of this **AGREEMENT**. The **OWNER** will pay **ENGINEER** for additional services specified in Section 2 of the General Provisions on the same basis as for Type 1 and Type 2 services. For services of independent professional associates and consultants employed by **ENGINEER**, **OWNER** will pay **ENGINEER** the amount billed to **ENGINEER** times a factor of 1.10. Performance of Additional Services and employment of independent professional associates and consultants by **ENGINEER** will require prior written authorization of **OWNER**. **ENGINEER** will submit monthly statements for services rendered.

III. PAYMENT FOR SERVICES

OWNER will pay **ENGINEER** on an hourly basis with a multiplier of 2.85 to cover salary costs

and profit, plus Reimbursable Expenses. Subconsultant expenses will be billed to **OWNER** at their actual cost to **ENGINEER** times a factor of 1.10. Other reimbursable expenses will be billed to **OWNER** at the **ENGINEER**'s actual cost.

Both **OWNER** and **ENGINEER** recognize that certain occasions may arise for which the methods of payment to **ENGINEER** set forth in this **AGREEMENT** may not be appropriate or fair to either or both parties. On these occasions, the methods of payment will be negotiated separately and terms agreed to will be stated on the individual delivery orders which will supersede the methods of payment specified in the **AGREEMENT**.

IV. TIME SCHEDULE

This **AGREEMENT** shall remain in effect until such time as the **OWNER** terminates the agreement or requests the agreement to be re-negotiated.

V. CHANGES TO AGREEMENT

This **AGREEMENT**, the Exhibit A, "General Provisions", consisting of eight pages, and Exhibit B, "A Listing of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative", consisting of three pages, represent the complete **AGREEMENT** between **OWNER** and **ENGINEER** and may only be amended, supplemented, modified or canceled by a duly executed written instrument.

VI. ACCEPTANCE

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

CITY OF CLINTON, MISSISSIPPI	**NEEL-SCHAFFER, INC.**
Rosemary G. Quetman	Mark G Bailey
Mayor	**Mark G. Bailey** **Vice President**
ATTEST:	**ATTEST:**
Russell L Wall	

CITY OF CLINTON OFFICIAL SEAL MISSISSIPPI

EXHIBIT A

GENERAL PROVISIONS

Attached to and made a part of LETTER AGREEMENT, dated _____, 2008 between City of Clinton (OWNER) and Neel-Schaffer, Inc. (ENGINEER) in respect of the Project described therein.

SECTION 1 — BASIC SERVICES OF ENGINEER

1.1. General

1.1.1. ENGINEER shall perform for OWNER professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional engineering representative for the Project, providing professional engineering consultation and advice, and furnishing customary civil, structural, mechanical, and electrical engineering services and customary architectural services incidental thereto.

1.2. Study and Report Phase

After written authorization to proceed, ENGINEER shall:

1.2.1. Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in paragraph 3.2 and assist OWNER in obtaining such data and services.

1.2.3. Identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate in consultations with such authorities.

1.2.4. Provide analyses of OWNER's needs, planning surveys, site evaluations, and comparative studies of prospective sites and solutions.

1.2.5. Provide a general economic analysis of OWNER's requirements applicable to various alternatives.

1.2.6. Prepare a Report containing schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to OWNER and setting forth ENGINEER's findings and recommendations. This Report will be accompanied by ENGINEER's opinion of probable costs for the Project, including the following which will be separately itemized: Construction Cost, allowance for engineering costs and contingencies, and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges, and for other services to be provided by others for OWNER pursuant to paragraph 3.2. The total of all such costs, allowances, etc. are hereinafter called "Total Project Costs".

1.2.7. Furnish five copies of the Study and Report documents and review them in person with OWNER.

The duties and responsibilities of ENGINEER during the Study and Report Phase are amended and supplemented as indicated in paragraph 2 of Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

1.3. Preliminary Design Phase

After written authorization to proceed with the Preliminary Design Phase, ENGINEER shall:

1.3.1. In consultation with OWNER and on the basis of the accepted Study and Report documents, determine the general scope, extent, and character of the Project.

1.3.2. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.

1.3.3. Advise OWNER if additional data or services of the types described in the first subparagraph of paragraph 3.2. are necessary and assist OWNER in obtaining such data and services.

1.3.4. Based on the information contained in the preliminary design documents, submit a revised opinion of probable Total Project Costs.

1.3.5. Furnish five copies of the above Preliminary Design documents and present and review them in person with OWNER.

The duties and responsibilities of ENGINEER during the Preliminary Design Phase are amended and supplemented as indicated in paragraph 3 of Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

1.4. Final Design Phase

After written authorization to proceed with the Final Design Phase, ENGINEER shall:

1.4.1. On the basis of the accepted Preliminary Design documents and the revised opinion of probable Total Project Costs, prepare for incorporation in the Contract Documents final drawings to show the general scope, extent, and character of the work to be furnished and performed by Contractor(s) (hereinafter called "Drawings") and Specifications (which will be prepared in conformance with the sixteen division format of the Construction Specifications Institute).

1.4.2. Provide technical criteria, written descriptions, and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project and assist OWNER in consultations with appropriate authorities.

1.4.3. Advise OWNER of any adjustments to the latest opinion of probable Total Project Costs caused by changes in general scope, extent, or character or design requirements of the Project or Construction Costs. Furnish to OWNER a revised opinion of probable Total Project Costs based on the Drawings and Specifications.

1.4.4. Prepare for review and approval by OWNER, its legal counsel, and other advisors of contact agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid, and instructions to bidders (all of which shall be consistent with the forms and pertinent guide sheets prepared by the Engineers' Joint Contract Documents Committee) and assist in the preparation of other related documents.

1.4.5. Furnish five copies of the above documents and of the Drawings and Specifications and present and review them in person with OWNER.

The duties and responsibilities of ENGINEER during the Final Design Phase are amended and supplemented as indicated in paragraph 4 of Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

1.5. Bidding or Negotiating Phase

After written authorization to proceed with the Bidding or Negotiating Phase, ENGINEER shall:

1.5.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for each separate prime contract for construction, materials, equipment, and services and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, and receive and process deposits for Bidding Documents.

1.5.2. Issue addenda as appropriate to interpret, clarify, or expand the Bidding Documents.

1.5.3. Consult with and advise OWNER as to the acceptability of subcontractors, suppliers, and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents.

1.5.4. Consult with OWNER concerning and determine the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

1.5.5. Attend the bid opening, prepare bid tabulation sheets, and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services.

The duties and responsibilities of ENGINEER during the Bidding or Negotiating Phase are amended and supplemented as indicated in paragraph 5 of Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

1.6. Construction Phase

During the Construction Phase:

1.6.1. *General Administration of Construction Contract.* ENGINEER shall consult with and advise OWNER and act as OWNER's representative as provided in Articles 1 through 17, inclusive, of the Standard General Conditions of the Construction Contract, No. 1910-8 (1983 edition) of the Engineers' Joint Contract Documents committee. The extent and limitations of the duties, responsibilities, and authority of ENGINEER as assigned in said Standard General Conditions shall not be modified, except to the extent provided in paragraph 6 of Exhibit A, "Further Description of Basic Engineering Services and Related Matters", and except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor(s) will be issued through ENGINEER who will have authority to act on behalf of OWNER to the extent provided in said Standard General Conditions except as otherwise provided in writing.

1.6.2. *Visits to Site and Observation of Construction.* In connection with observations of the work of Contractor(s) while it is in progress:

1.6.2.1. ENGINEER shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor(s)' work. In addition, ENGINEER shall provide the services of a Resident Project Representative (and assistants as agreed) at the site to assist ENGINEER and to provide more continuous observation of such work. Based on information obtained during such visits and on such observations, ENGINEER shall endeavor to determine, in general, if such work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the work.

1.6.2.2. The Resident Project Representative (and any assistants) will be ENGINEER's agent or employee and under ENGINEER's supervision. The duties and responsibilities of the Resident Project Representative (and assistants) are set forth in Exhibit B, "Duties, Responsibilities, and Limitations of Authority of Resident Project Representative".

1.6.2.3. The purpose of ENGINEER's visits to and representation by the Resident Project Representative (and assistants, if any) at the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase and, in addition, by exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor(s). On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct, or have control over Contractor(s)' work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s) or for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, ENGINEER can neither guarantee the performance of the construction contracts by Contactor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

1.6.3. *Defective Work.* During such visits and on the basis of such observations, ENGINEER shall disapprove of or reject Contractor(s)' work while it is in progress if ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

1.6.4. *Interpretations and Clarifications.* ENGINEER shall issue necessary interpretations and clarifications of the Contract Documents and, in connection therewith, prepare work directive changes and change orders as required.

1.6.5. *Shop Drawings.* ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings (as that term is defined in the aforesaid Standard General Conditions), samples, and other data which Contactor(s) are required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.

1.6.6. *Substitutes.* ENGINEER shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor(s), but subject to the provision of the second subparagraph of paragraph 2.1.2.

1.6.7. *Inspections and Tests.* ENGINEER shall have authority, as OWNER's representative, to require special inspection or testing of the work and shall receive and review all certificates of inspections, testings, and approvals required by laws, rules, regulations, ordinances, codes, orders, or the Contract Documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents).

1.6.8. *Disputes between OWNER and Contractor.* ENGINEER shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work.

1.6.9. *Applications for Payment.* Based on ENGINEER's on-site observations as an experienced and qualified design professional, on information provided by the Resident Project Representative, and on review of applications for payment and the accompanying data and schedules:

1.6.9.1. ENGINEER shall determine the amounts owing to Contractor(s) and recommend in writing payments to Contractor(s) in such amounts. Such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated and that, to the best of ENGINEER's knowledge, information and belief, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation). In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classification of such work (subject to any subsequent adjustments allowed by the Contract Documents).

1.6.9.2. By recommending any payment, ENGINEER will not thereby be deemed to have represented that exhaustive, continuous, or detailed reviews or examinations have been made by ENGINEER to check the quality or quantity of Contractor(s)' work as it is furnished and performed beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. ENGINEER's review of Contractor(s)' work for the purposes of recommending payments will not impose on ENGINEER responsibility to supervise, direct, or control such work; or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto; or for Contractor(s)' compliance with laws, rules, regulations, ordinances, codes, or orders applicable to their furnishing and performing the work other than as set out herein. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price or to determine that title to any of the work, materials, or equipment has passed to OWNER free and clear of any lien, claims, security interests, or encumbrances or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

1.6.10. *Contractor(s)' Completion Documents.* ENGINEER shall receive and review maintenance and operating instructions, schedules, guarantees, bonds, and certificates of inspection, tests, and approvals which are to be assembled by Contractor(s) in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of and, in the case of certificates of inspection, tests, and approvals, the results certified indicate compliance with the Contract Documents); and shall transmit them to OWNER with written comments.

1.6.11. *Inspections.* ENGINEER shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed work is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor(s) and may give written notice to OWNER and the Contractor(s) that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 1.6.9.2.

1.6.12. *Limitation of Responsibilities.* ENGINEER shall not be responsible for the acts or omissions of any Contractor or of any subcontractor or supplier or any of the Contractor(s)' or subcontractor's or supplier's agents or employees or any other persons (except ENGINEER's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor(s)' work; however, nothing contained in paragraphs 1.6.1 through 1.6.11, inclusive, shall be construed to release ENGINEER from liability for failure to properly perform duties and responsibilities assumed by ENGINEER in the Contract Documents.

1.7. Operational Phase

During the Operational Phase, ENGINEER shall, when requested by OWNER:

1.7.1. Provide assistance in the closing of any financial or related transaction for the Project.

1.7.2. Provide assistance in connection with the refining and adjusting of any equipment or system.

1.7.3. Assist OWNER in training OWNER's staff to operate and maintain the Project.

1.7.4. Assist OWNER in developing systems and procedures for control of the operation and maintenance of and record keeping for the Project.

1.7.5. Prepare a set of reproducible record prints of Drawings showing those changes made during the construction process, based on the marked-up prints,

drawings, and other data furnished by Contractor(s) to ENGINEER and which ENGINEER considers significant.

1.7.6. In company with OWNER, visit the Project to observe any apparent defects in the completed construction, assist OWNER in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or correction of defective work.

The duties and responsibilities of ENGINEER during the Operational Phase are amended and supplemented as indicated in paragraph 7 of Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

SECTION 2 — ADDITIONAL SERVICES OF ENGINEER

2.1. Normal and customary engineering services do not include service in respect of the following categories of work which are usually referred to as Additional Services.

2.1.1. If OWNER wishes ENGINEER to perform any of the following Additional Services, OWNER shall so instruct ENGINEER in writing, and ENGINEER shall perform or obtain from others such services and will be paid therefor as provided in the Letter Agreement:

- Preparation of applications and supporting documents for governmental financial support of the Project in addition to those required under Basic Services; preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.
- Services to make measured drawings of or to investigate existing conditions or facilities.
- Services resulting from significant changes in the general scope, extent, or character of the Project or major changes in documentation previously accepted by OWNER where changes are due to causes beyond ENGINEER's control.
- Providing renderings or models.
- Preparing documents for alternate bids requested by OWNER for work which is not executed or for out-of-sequence work.
- Detailed consideration of operations, maintenance and overhead expenses; value engineering and the preparation of rate schedules, earnings and expense statements, cash flow and economic evaluations, feasibility studies, appraisals, and valuations.
- Furnishing the services of independent professional associates or consultants for other than Basic Services.
- If ENGINEER's compensation for Basic Services is not on the basis of Direct Labor or Salary Costs, services resulting from the award of more than one prime contract for construction, materials, equipment, or services for the Project or from the construction contract containing cost plus or incentive-savings provisions for Contractor's basic compensation or from arranging for performance by persons other than the principal prime contractors or from administering OWNER's contracts for such services.
- Services in connection with field surveys for design purposes and engineering surveys and staking out the work of Contractor(s).
- Services during out-of-town travel other than visits to the site.
- Preparation of operating and maintenance manuals to supplement Basic Services under paragraph 1.7.3.
- Preparing to serve or serving as a consultant or witness in any litigation, arbitration, or other legal or administrative proceeding except where required as part of Basic Services.

2.1.2. When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall perform or obtain from others any of the following Additional Services, as circumstances require, during construction and without waiting for specific instructions from OWNER, and ENGINEER will be paid therefor as provided in the Letter Agreement:

- Services in connection with work directive changes and change orders to reflect the changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.
- Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor; and evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.
- Services resulting from significant delays, changes, or price increases occurring as a di-

rect or indirect result of material, equipment, or energy shortages.

— Additional or extended services during construction made necessary by (1) work damage by fire or other causes during construction, (2) significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, (4) default by any Contractor.

SECTION 3 — OWNER'S RESPONSIBILITIES

3.1. OWNER shall provide all criteria and full information as to OWNER's requirements for the Project, designate a person to act with authority on OWNER's behalf in respect of all aspects of the Project, examine and respond promptly to ENGINEER's submissions, and give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any defect in the work.

3.2. OWNER shall also do the following and pay all costs incident thereto:

— Furnish to ENGINEER borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning and deed restrictions; all of which ENGINEER may rely upon in performing services hereunder.

— Guarantee access to and make all provisions for ENGINEER to enter upon public and private property.

— Provide such legal, accounting, independent cost estimating, and insurance counseling services as may be required for the Project, any auditing service required in respect of Contractor(s)' applications for payment, and any inspection services to determine if Contractor(s) are performing work legally.

— Provide engineering surveys to establish reference points for construction.

— Furnish approvals and permits from all governmental authorities having jurisdiction over the Project.

— If more than one prime contractor is to be awarded for construction, designate a party to have responsibility and authority for coordinating the activities of the various prime contractors.

3.3. OWNER shall pay all costs incident to obtaining bids or proposals from Contractor(s).

SECTION 4 — MEANING OF TERMS

4.1. As used herein, the term "this Agreement" refers to the Letter Agreement to which these General Provisions are attached and to these General Provisions, Exhibit A, "Further Description of Basic Engineering Services and Related Matters", and Exhibit B, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative", as if they were part of one and the same document.

4.2. The construction cost of the entire Project (herein referred to as "Construction Cost") means the total cost to OWNER of those portions of the entire Project designed and specified by ENGINEER, but it will not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties unless this Agreement so specifies, nor will it include OWNER's legal, accounting, insurance counseling, or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to paragraph 3.2. (Construction Cost is one of the items comprising Total Project Costs which is defined in paragraph 1.2.6.)

4.3. Direct Labor Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, and other technical and business personnel; but does not include indirect payroll-related costs or fringe benefits. For the purposes of this Agreement, the principals of ENGINEER and their current hourly Direct Labor Costs are:

N/A

The hourly Direct Labor Costs of principals of ENGINEER will be adjusted equitably to reflect changes in personnel and in ENGINEER's overall compensation procedures and practices.

4.4. The Salary Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, and other technical and business personnel; plus the cost of customary and statutory benefits including, but not limited to, social security

contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay, and other group benefits. For the purposes of this Agreement, the principals of ENGINEER and their current hourly Salary Costs are:

N/A

The hourly Salary Costs of principals of ENGINEER will be adjusted equitably to reflect changes in personnel and in ENGINEER's overall compensation procedures and practices.

4.5. Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants directly or indirectly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Section 1; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, when compensation for Basic Services is on the basis of cost plus a fixed fee, Direct Labor Costs, or Payroll Costs method of payment, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred for computer time and other highly specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques times a factor of 1.1.

SECTION 5— MISCELLANEOUS

5.1. Reuse of Documents

All documents including Drawings and Specifications prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project and ENGINEER shall retain an ownership and property interest therein whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's independent professional associates or consultants. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

5.2. Opinions of Cost

Since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others or over the Contractor(s)' methods of determining prices or over competitive bidding or market conditions, ENGINEER's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional engineer familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids, or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by ENGINEER. If, prior to the Bidding or Negotiating Phase, OWNER wishes greater assurance as to Total Project or Construction Costs, OWNER shall employ an independent cost estimator as provided in paragraph 3.2. ENGINEER's services to modify the Contract Documents to bring the Construction Cost within any limitations established by OWNER will be considered Additional Services and paid for as such by OWNER.

5.3. Other Provisions Concerning Payments

Mississippi law controls.

5.4. Termination

The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice. In the event of any termination, ENGINEER will be paid for all services rendered to the date of termination and all Reimbursables Expenses.

5.5. Controlling Law

This Agreement is to be governed by the law of the State of Mississippi.

5.6. Successors and Assigns

5.6.1. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators, and legal representatives of OWNER and ENGINEER (and to the extent permitted by para-

graph 5.6.2, the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

5.6.2. Neither OWNER nor ENGINEER shall assign, sublet, or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

5.6.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

5.7. Arbitration DELETED

5.8. Responsibility of ENGINEER

ENGINEER will render engineering services in accordance with generally acceptable and currently recognized professional practices and principals, but ENGINEER makes no other warranty, either express or implied, with respect to its services.

5.9. Subsurface Conditions and Utilities

5.9.1. OWNER recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of ENGINEER or ENGINEER's subconsultants with appropriate equipment may fail to detect certain hidden conditions. OWNER also recognizes that environmental, geologic, and geotechnical conditions that ENGINEER properly inferred to exist between sampling points may differ significantly from those that actually exist.

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

EXHIBIT B

A LISTING OF THE DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF THE RESIDENT PROJECT REPRESENTATIVE

This is an Exhibit attached to, made a part of, and incorporated by reference with the Agreement made on _____, 2010, between City of Clinton (OWNER) and Neel-Schaffer, Inc. (ENGINEER), providing for professional engineering services.

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

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of CONTRACTOR; but the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences, or procedures or safety precautions or programs; or responsibility for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents; and, in particular, the specific limitations set forth in paragraph 1.6 of the Agreement are applicable.

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

A. General

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

B. Duties and Responsibilities of RPR

1. *Schedules:* Review the progress schedule, schedule of Shop Drawing submittals, and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.

2. *Conferences and Meetings:* Attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences, and other project-related meetings, and prepare and circulate copies of minutes thereof.

3. *Liaison:*
   a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent, and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operations affect OWNER's on-site operations.
   b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.

4. *Shop Drawings and Samples:*
   a. Record date of receipt of Shop Drawings and samples.

b. Receive samples which are furnished at the site by CONTRACTOR and notify ENGINEER of availability of samples for examination.
c. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by ENGINEER.

5. *Review of Work, Rejection of Defective Work, Inspections and Tests:*
   a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is, in general, proceeding in accordance with the Contract Documents.
   b. Report to ENGINEER whenever RPR believes that any Work is 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 ENGINEER of Work that RPR believes 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 CONTRACTOR maintains adequate records thereof and observe, record, and report to ENGINEER appropriate details relative to the test procedures and startups.
   d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to ENGINEER.

6. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.

7. *Modifications:* Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.

8. *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, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
   b. Keep a diary or log book, recording 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, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
   c. Record names, addresses, and telephone numbers of all CONTRACTORS, subcontractors, and major suppliers of materials and equipment.

9. *Reports:*
   a. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
   b. Consult with ENGINEER in advance of scheduled major tests, inspections, or start of important phases of the Work.
   c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR, and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
   d. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.

10. *Payment Requests:* Review applications for payment with CONTRACTOR for compliance with established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the site but not incorporated in the Work.

11. *Certificates, Maintenance and Operation Manuals:* During the course of the Work, verify that certificates, maintenance and operation manuals, and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. *Completion:*
    a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
    b. Conduct final inspection in the company of ENGINEER, OWNER, and CONTRACTOR and prepare a final list of items to be completed or corrected.
    c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

C. Limitations of Authority

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.

2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.

3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors, or CONTRACTOR's superintendent.

4. Shall not advise on, issue direction relative to, or assume control over any aspect of the means, methods, techniques, sequences, or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

5. Shall not advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the Work.

6. Shall not accept Shop Drawing or sample submittals from anyone other than CONTRACTOR.

7. Shall not authorize OWNER to occupy the Project in whole or in part.

8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

NEEL-SCHAFFER
Solutions you can build upon

engineers
planners
surveyors
environmental scientists
landscape architects

January 7, 2010

RECEIVED
JAN 0 7 2010
CITY OF CLINTON
ENGINEERING DEPARTMENT

Richard Broome, P.E.
City Engineer
P.O. Box 156
Clinton, MS 39060

REFERENCE: ENGINEERING ASSISTANCE PROGRAM
TRAFFIC SIGN MATERIAL BID, SIGN INSTALLATION
DIVISION OF PUBLIC SAFETY PLANNING – OFFICE OF HIGHWAY SAFETY

Dear Richard:

This is a Letter Agreement, hereafter referred to as the "Agreement," between the City of Clinton, hereafter referred to as the **OWNER,** and Neel-Schaffer, Inc., hereafter referred to as the **ENGINEER,** to furnish professional engineering services for signing materials purchasing and installation oversight by city forces.

Project Description

The project will consist of implementing the recommendations from the Sign Inventory Report for all identified regulatory and warning signs in the City of Clinton. The project will involve assisting the city in bidding and awarding a contract to supply signs and posts and to assist the city in directions for installation and in field reviews of the signs/posts installed according to the plans in the report.

Scope of Work

To insure that traffic control devices comply with the *Manual on Uniform Traffic Control Devices, Millennium Edition*:

Task A: Produces a database linked to a map of the city that includes an inventory of all regulatory and warning signs. (Completed)

Task B: Make recommendations to ensure that the signs comply with the *Manual on Uniform Traffic Control Devices, 2003 Edition*. A report will be prepared summarizing the inventory and contract documents/plans will be completed in order to bid the material in ***Task C***. Prepare an Office of Highway Safety application for sign and post materials funding. (Completed)

Task C: Implement the recommendations by installing/replacing signs and posts.

Subtask 1 Assist city in bidding the project, preparing the bid tab and in making recommendations for award of the bid. Submitting and reviewing the contract and bonds.
Subtask 2 Reviewing delivered material for compliance with bid items.
Subtask 3 Periodic field reviews and final inspection.
Subtask 4 Assisting the city in submittal of monthly and quarterly reports and reimbursement reports to the Office of Highway Safety.

The **ENGINEER** will also follow the guidelines of the Office of Highway Safety and assist the **OWNER** in completing and submitting paperwork as required by the subgrant to fund the project.

Project Schedule

Complete Tasks C by September 2010.

Payments to Engineer

Compensation for the design and construction phase services will be based on the attached fee estimate. Fees will be on a cost plus fixed fee basis (overhead rate of 156.21% and 10% profit), plus expenses, not to exceed $10,850.00

This Agreement including Exhibit 1, Fee Estimate, and Exhibit 2, General Terms and Conditions, is the full understanding of the services to be provided under this Agreement between the **OWNER** and the **ENGINEER**. If this Agreement is acceptable to the city, please execute both originals and return one copy to us for our records. Receipt of our copy of the Agreement will constitute our notice to proceed from the city.

Thank you for this opportunity to provide our services again to the City of Clinton.

Sincerely,

NEEL-SCHAFFER, INC.

Mark G. Bailey

Mark G. Bailey, P.E.
Vice President, Transportation Engineering

SSV

ACCEPTED: Rosemary A. Quetman **DATE:** 1-20-10

TITLE: Mayor

COST ESTIMATE FOR
BIDDING, VERIFYING SIGNS SHIPPED,
PROFESSIONAL SERVICES (ENGINEERING)

	Senior Manager	Project Engineer	Clerical
Bidding	5	16	4
Verifying materials	2	8	2
Field Inspections	8	32	2
Documentation	2	20	4
Total	17	76	12
Hourly Rate	$56	$34	$21
Labor	$ 952	$ 2,584	$ 252

Estimated Total Labor	$ 3,788
Overhead (156.21%)	$ 5,917
Subtotal	$ 9,705
Profit (10%)	$ 970
Expenses (350 miles @ $0.50/mile)	$ 175
Estimated Total Fee	$ 10,850