

CITY OF CLINTON
REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, FEBRUARY 1, 2000 - 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 Fisher followed by the Pledge of Allegiance to the Flag led by Alderman Touchton.

ROLL CALL - City Clerk Nelson Byrd

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

APPROVAL OF CONSENT AGENDA ITEMS A-P

MOTION made by Alderman Touchton and **SECONDED** by Alderman Lott to approve Consent Agenda Items A-P listed on page 569 of this Minute Book AA. Items F & H will serve to advertise favorably the opportunities, possibilities, and resources of the City of Clinton. Quotes listed in Items E & L can be found in the Office of the City Clerk.
MOTION CARRIED UNANIMOUSLY

APPROVAL OF PRELIMINARY SITE PLAN FOR PIZZA HUT

Upon recommendation of the Planning & Zoning Board, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Touchton to approve the preliminary site plan for Pizza Hut at 251 Clinton Center Drive. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF CONDITIONAL USE AT 2229 OLD VICKSBURG RD.

Upon recommendation of the Planning & Zoning Board, **MOTION** made by Alderman Brantley and **SECONDED** by Alderman Brabham to adopt the Resolution found on pages 583-585 of this Minute Book AA approving a conditional use for Mr. Charlie Cheney for property located at 2229 Old Vicksburg Rd. **MOTION CARRIED UNANIMOUSLY**

PLANNING AND ZONING BOARD APPOINTMENTS

MOTION made by Alderman Hisaw and **SECONDED** by Alderman Brantley to re-appoint Mr. Edward Taylor to be Representative, Ward 1 for a three year term to expire January, 2003. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Lott and **SECONDED** by Alderman Touchton to re-appoint Mr. Gayle Albritton to be Representative, Ward 6 for a three year term to expire January, 2003. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF AGREEMENT FOR NATCHEZ TRACE VISITOR CENTER

Upon recommendation of City Engineer Richard Broome, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Brantley to execute the general agreement between MDOT and the City of Clinton found on pages 571-582 of this Minute Book AA for the construction of the Natchez Trace Visitor Center on Pinehaven Drive. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF BID FOR 95 FOOT AERIAL FIRE PLATFORM APPARATUS

Upon the recommendation of Fire Chief Bryan Presson, **MOTION** made by Alderman Lott and **SECONDED** by Alderman Brabham to approve the lowest and best bid of Sunbelt Fire Apparatus for an E-1 95 foot aerial platform apparatus and chassis in the total amount of \$649,936.00 with lease-purchase option. Copy of the bid tabulation and proof of publication can be found on pages 586-587 of this Minute Book AA. **MOTION CARRIED 5-2 with Aldermen DePriest and Fisher voting "no".**

ADOPTION OF ORDINANCE PROHIBITING ELUDING, FLEEING, OR DISOBEYING A LAW ENFORCEMENT OFFICER

Upon recommendation of Police Chief Don Byington, **MOTION** made by Alderman Brantley and **SECONDED** by Alderman Hisaw to adopt that Ordinance prohibiting eluding, fleeing or disobeying a law enforcement officer and proof of publication found on pages 588-590 and 901-903 of this Minute Book AA and Ordinance Book II, respectively. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF FINAL PLAT - GRAND OAK BLVD.

Upon recommendation of City Engineer Richard Broome, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Fisher to approve the final plat for Grand Oak Blvd. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF FINAL PLAT - VILLAS OF OAKHURST

Upon recommendation of City Engineer Richard Broome, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Fisher to approve the final plat for Villas of Oakhurst. **MOTION CARRIED UNANIMOUSLY**

ADJOURN 7:34 p.m.

MOTION made by Alderman Brabham and **SECONDED** by Alderman Lott to adjourn. **MOTION CARRIED UNANIMOUSLY**

Copy of Agenda can be found on pages 569-570 of this Minute Book AA.

APPROVED: Rosemary G. Aultman
Rosemary G. Aultman, Mayor

Date February 9, 2000

ATTEST: Nelson Byrd
Nelson Byrd, City Clerk

Date February 9, 2000

SEAL:

**RESOLUTION APPROVING A CONDITIONAL USE FOR
MR. CHARLIE CHENEY FOR PROPERTY LOCATED AT
2229 OLD VICKSBURG ROAD, CLINTON, MISSISSIPPI**

WHEREAS, Mr. Charlie Cheney did file a request for a conditional use for the property located at 2229 Old Vicksburg Road to operate a vehicle repair shop; and,

WHEREAS, all notice requirements of the Zoning Ordinance of the City of Clinton were accomplished and a public hearing was held on November 23, 1999, as required; and,

WHEREAS, the Planning and Zoning Commission upon conclusion of the public hearing on November 23, 1999, adopted a motion to approve the request for the conditional use and that the motion be forwarded to the next meeting of the Mayor and Board of Aldermen for their consideration.

WHEREAS, the Mayor and Board of Aldermen of the City of Clinton, Mississippi, have the final authority with regard to all matters involving the Zoning Ordinances; and,

WHEREAS, the Mayor and Board of Aldermen are fully familiar with the request and the area involved in the request; and

BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Clinton, Mississippi that the request of Mr. Charlie Cheney for a Conditional use of the property located at 2229 Old Vicksburg Road as a vehicle repair shop and hereby granted and such action is taken pursuant to the findings of fact set out as follows:

1. The Mayor and Board of Aldermen of the City of Clinton, Mississippi, have the final authority with regard to all matters involving the Zoning Ordinance.

2. The recommendation of the Planning and Zoning Commission is advisory in nature.

3. The Mayor and Board of Aldermen have knowledge of the area involved and are aware of the need for the conditional use.

4. The requested designation meets the definitions of a Conditional Use of the Zoning Ordinance.

5. The Conditional Use will promote the general welfare of the City of Clinton and will not adversely affect adjacent property. Future projects within the designation area will remain subject to the Zoning Ordinance and approval of site plans or other matter will allow the City to continue to monitor the area.

6. The Mayor and Board of Aldermen find that Section 1502 (a) of the Zoning Ordinances has been complied with and that the requirements of Section 2405.01 of the Zoning Ordinances are satisfied based upon the presentation of the applicants and the site plan presented to the Planning Commission and to the Mayor and Board of Aldermen.

7. The granting of this conditional use does not relieve the owner from compliance with any applicable law, court order, covenants or contracts.

8. The Conditional Use is granted subject to the following conditions:

- a. Cheney will install and maintain a privacy fence to screen any vehicles stored on the premises from view.
- b. All vehicles will be stored out of view of the public, either inside the building or within the privacy fence.
- c. Prior to opening the facility for operation, the owner will secure an inspection and approval from the Clinton Fire Department and the Building Inspector. If such inspections result in any deficiencies, owner will remove the deficiencies before operating the facility.

BID OPENING FOR AERIAL LADDER TRUCK
JANUARY 6, 2000
10:00

1. Shade M. McLondon
2. Nelson Byrd
3. Bryan Press
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

- (1) 649,936.00 E-1 FIRE TRUCK
+ 2624.00 Medical Cabinet
Leasing Co. - Fed. Signal
- (2) Tupelo Fire EP. - NO BID

240 days 1st Pmt NOV 2001

Nelson Byrd, City Clerk

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Proof of Publication

The State of Mississippi

Hinds County

PASTE PROOF HERE

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

Shirley Mize

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

Dates of Publication:

Monday, December 13, 1999
Monday, December 20, 1999

Lines: 104
Words: 315
Issues: 2
Total: \$75.30

Invitation to Submit Sealed Bids
City of Clinton, Mississippi

Date of Bid: Thursday Jan. 6, 2000
Time of Bid: 10:00 AM

At the above date and time, sealed bids will be accepted for:

One (1) Custom Aerial Platform Apparatus in strict accordance with the attached specifications.

Complete apparatus must be built in accordance with the recommendations of the National Fire Protection Association 1901 in its latest edition.

The officials of the buyer reserve the right to accept the bid they deem is in the best interest of the department. The buyer will be the final authority in determining compliance with the specifications. Questions concerning the technical specifications may be directed to:

Contact: Bryan Presson Phone: (601) 925-1011

Bids shall be sealed shall be marked "Sealed Bid: 95' Aerial Platform Apparatus," along with the date and time of the bid opening. The award will be made to the lowest responsible bidder meeting the requirements of the specifications. The buyer will not be responsible for bids opened in error which are incorrectly or inadequately marked.

No bid may be withdrawn for a period of thirty (30) days. All documents and bid forms required by the specifications shall be submitted in the original bid. No additions or modifications will be allowed after bids are opened.

The buyer reserves the right to reject any or all bids with or without cause.

Specifications are on file in the office of the Purchasing Agent.

Mail or Return Bids to:

Buyer: Chief Bryan Presson
City of Clinton Fire Dept.
1234 Clinton-Raymond Road
Clinton, Mississippi 39056

Street Address:
City, State, Zip Code:

Phone: Signed Bryan E. Presson
Title Fire Chief
/s/ Nelson Byrd
City Clerk

December 13, 20, 1999

Signed

Authorized Clerk
of The Clarion-Ledger

Notary Public

SWORN to and subscribed before me on 12/20/99

Notary Public State of Mississippi At Large.
My Commission Expires: Nov. 8, 2000.
Bonded thru Notary Public Underwriters.

(SEAL)

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COPY

GENERAL AGREEMENT BETWEEN
THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION
UNDER AUTHORITY OF THE MISSISSIPPI TRANSPORTATION COMMISSION
AND
THE CITY OF CLINTON

This AGREEMENT made by and between the MISSISSIPPI TRANSPORTATION COMMISSION, by and through the duly authorized Executive Director of the Mississippi Department of Transportation (MDOT) and the City of Clinton, Hinds County, Mississippi, (hereinafter, the APPLICANT) for the purpose of establishing the agreed conditions under which the APPLICANT may utilize special Federal Surface Transportation Program-Transportation Enhancement Funds (STP-TE) provided by the Transportation Efficiency Act for the Twenty-first Century (TEA-21) to complete the proposed project as described below:

PROJECT DESCRIPTION Construction of Clinton/Natchez Trace Visitor Center adjacent to the Natchez Trace Parkway including landscaping and establishment of parking areas, (hereinafter referred to as the PROJECT).

WHEREAS, the STP-TE PROJECT was approved by the Transportation Commission and allocated a maximum of \$1,197,748 in Federal Funds; and

WHEREAS, upon approval of the final PROJECT package (as described in Section 10 of the APPLICANT's part of this agreement) by all required State agencies, the MDOT will request the Federal Highway Administration (hereinafter, the FHWA) approval which will be the final authorization for contract award; and

WHEREAS, the STP-TE Funds must be composed of a maximum 80% Federal share and a minimum 20 % State share; and

WHEREAS, the MDOT requires the APPLICANT to provide the 20% State share; and

WHEREAS, the APPLICANT proposes to complete the PROJECT utilizing STP-TE Funds provided by the TEA-21 and subsequent acts, as allocated by MDOT; and

WHEREAS, it is understood that conditions presented herein are general in nature with details and specific requirements contained in MDOT Standard Operating Procedures and the FHWA Federal Aid Policy Guide.

NOW THEREFORE, it is mutually agreed that:

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I. GENERAL.

SECTION 1. PROHIBITED INTEREST No member, officer or employee of the APPLICANT or MDOT or any local public body during his tenure or one (1) year thereafter shall have any interest, direct or indirect, in this AGREEMENT or the proceeds therefrom other than those interests set forth herein.

SECTION 2. TERMINATION The MDOT shall have the right to terminate this AGREEMENT with fifteen (15) days written notice if the APPLICANT fails to comply with their obligations as provided herein. The APPLICANT shall have the right to terminate this AGREEMENT with fifteen (15) days written notice if circumstances beyond the control of the APPLICANT prohibit the APPLICANT from complying with their obligations as provided herein. The AGREEMENT may be terminated at any time by mutual written consent of the APPLICANT and MDOT. In accordance with the Federal guidance for Transportation Enhancement projects, the APPLICANT shall bear sole responsibility for any costs incurred prior to the termination.

II. The APPLICANT shall:

SECTION 1. Prepare or compile information necessary for the initiation of the PROJECT and submit to the MDOT District Engineer. Advise the MDOT in the submittal if additional right-of-way will be required for the PROJECT. In the event work is to be accomplished by force account using APPLICANT forces and equipment, the APPLICANT will also furnish justification for accomplishing the work in that manner. Force account work may be applied against the APPLICANT match, if it is properly documented in accordance with MDOT and FHWA requirements.

SECTION 2. Submit PROJECT preliminary conceptual plans and current project information to MDOT for review and authorization to proceed.

SECTION 3. Make necessary field surveys and prepare preliminary plans for initial review by the MDOT. After corrections, if necessary, furnish three (3) sets of corrected preliminary plans for a joint field inspection of the PROJECT with representatives of the MDOT, FHWA, APPLICANT, Department of Archives and History (if applicable) and the Consultant (if one has been retained by the APPLICANT for the preparation of the plans, see Section 8). The cost of field surveys and preparation of plans may be initially borne by the APPLICANT; however, these expenditures may be applied against the APPLICANT match if made in accordance with MDOT and FHWA procedures.

SECTION 4. Prepare draft environmental document in accordance with the U.S. Department of Transportation, FHWA Technical Advisory T 6640.8A, Guidance for Preparing and Processing Environments and Section 4 (F) Documents; Federal-Aid Policy Guide 23 CFR 770, 771, 772, and 777; and MDOT Project Development/Environmental Documentation, S.O.P. Number ENV-02-01-00-000 and other related Federal and State procedures, conceptual relocation plan, preliminary plans, displays as appropriate and submit to MDOT for review and approval. After

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MDOT's review, the APPLICANT shall offer opportunity for, and conduct public hearings when required; coordinate with plans of other agencies; and all related preliminary requirements. APPLICANT outlays for the environmental process may be applied to APPLICANT match if the expenditures are made in accordance with MDOT and FHWA requirements.

SECTION 5. Submit final environmental document to the MDOT with request for Categorical Exclusion determination, Finding of No Significant Impact (FONSI), or Record of Decision (ROD), by the MDOT and FHWA.

SECTION 6. After approval of the environmental document the APPLICANT may proceed using APPLICANT forces or consultants, to prepare right-of-way plans, maps and deeds; abstract titles; make right-of-way appraisals; make appraisal review; acquire all right-of-way as required for construction of each PROJECT; relocate or adjust utilities; enter into agreements for any railroad work required; prepare right-of-way stage relocation plan; provide relocation assistance to all families, farms or business enterprises, etc. that are required to relocate as a result of the PROJECT.

SECTION 7. If right-of-way is required for the construction of a PROJECT, the APPLICANT shall acquire the necessary right-of-way in accordance with 49 CFR, Part 25 and the MDOT's standard operating procedures for right-of-way.

SECTION 8. Should the APPLICANT desire Federal-aid participation in construction engineering, methods and rates of compensation for construction engineering services performed will be established in the form of an agreement between the APPLICANT and MDOT with the approval of FHWA. If a consultant is required, the APPLICANT must comply with the MDOT S.O.P. Number ADM 24-01-00-000, Consultant Selection and Administration of Consultant Contracts. Individual hourly time charges to the PROJECT for construction engineering work performed by each APPLICANT employee must be properly documented, and monthly statements of the charges must be furnished to the MDOT. Total construction engineering charges by both the APPLICANT and MDOT exceeding fifteen percent (15%) of the total construction costs may not be eligible for Federal participation. All non-participating charges will be borne by the APPLICANT.

SECTION 9. No changes in the PROJECT will be allowed without prior approval of MDOT and FHWA.

SECTION 10. PROJECT Package. Furnish three (3) sets of review plans and three (3) draft copies of the specifications and proposal documents to the MDOT for office review by employees or designated representative of the APPLICANT, MDOT, FHWA, Department of Archives and History (if applicable) and Consultant (if one has been retained by the APPLICANT). After corrections, if necessary, furnish to the MDOT three (3) copies of each of the following:

1. Agreement between the APPLICANT and MDOT;
2. Agreement between the APPLICANT and the Railroad Company (if a railroad is involved);

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3. Agreement between the APPLICANT and the owners of the property where the PROJECT is located;
 4. Agreement between the APPLICANT and the Consultant for construction engineering, if employed;
 5. Utility Agreement, if required;
 6. Construction Cost Estimate;
 7. Right-of-Way and Utility Certification;
 8. Construction Plans;
 9. Specifications and Contract Documents;

If the APPLICANT intends to use Federal funds for the PROJECT, certifications required herein for application of prior expenditures against APPLICANT match must accompany the PROJECT Package submission.

SECTION 11. Upon notification of authorization from the MDOT to advertise for receipt of bids, proceed with the advertisement, receipt of bids, and opening of bids in accordance with the MDOT and FHWA requirements.

SECTION 12. After opening of bids, if the APPLICANT recommends award of the contract, submit APPLICANT match, for construction and construction engineering to the MDOT for deposit along with the following:

1. The original and four (4) copies of the letter requesting concurrence in the award;
2. Three (3) certified copies of bid tabulations of all bids received;
3. Three (3) certified copies of the engineer's estimate;
4. One (1) certified original of the non-collusion affidavit for the low bidder;
5. One (1) certified copy of the Certificate on Minority Firms for the low bidder;
6. Recommendations of award with documentation of the basis for the recommendation should the bid vary more than ten percent (10%) above the contract estimate.

The APPLICANT match may consist of funds, certificates in accordance with this agreement that meet match requirements, or a combination of the two.

The APPLICANT may choose to deposit the full amount or deposit one third (1/3) of the APPLICANT's share of the cost at this time. If the APPLICANT elects to make the partial deposit, an additional one third (1/3) of the APPLICANT's share of the cost must be submitted before or with the first estimate before the first estimate will be paid by the MDOT. The remaining balance will then be required with the next Contractor's estimate. No estimate will be paid when the APPLICANT's share of the cost exceeds the amount deposited by the APPLICANT.

If the APPLICANT intends to reject bids received, the APPLICANT must submit the original and four (4) copies of the letter requesting concurrence from the MDOT and FHWA. If the APPLICANT intends to readvertise then the APPLICANT must obtain approval by the MDOT and FHWA prior to readvertising. If cost overruns increase the cost of the PROJECT beyond the amount of the existing PROJECT fund, the APPLICANT will deposit the required matching funds

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with the MDOT prior to the submittal of an invoice which would exceed the amount. Any APPLICANT matching funds remaining in the PROJECT fund upon completion of the project will be returned to the APPLICANT.

SECTION 13. After the concurrence by the MDOT and FHWA in the award of the contract, the APPLICANT will execute the contract with the Contractor and issue a notice to proceed with the work; and furnish one (1) certified and six (6) other copies of the contract to the MDOT for distribution.

SECTION 14. Employ or retain a Registered Professional Engineer (registered in the State of Mississippi) or other professional with expertise in the construction of this PROJECT to act for and on behalf of the APPLICANT to be responsible for all construction engineering activities. Other competent technical assistance will be employed by the APPLICANT as deemed necessary to assist the APPLICANT's representative. The Deputy Executive Director, Chief Engineer of the MDOT will assign a publicly employed engineer as the Project Engineer to be in responsible charge and direct control of the STP-TE PROJECT. If the APPLICANT retains a qualified consultant, he will be responsible for all construction engineering activities, but such activities will be under the direct control of the Project Engineer assigned by the Chief Engineer. If the APPLICANT employs a full-time publicly employed Professional Engineer, the APPLICANT agrees that the Chief Engineer may assign the Engineer as the Project Engineer to be in responsible charge and direct control of the STP-TE PROJECT.

SECTION 15. Provide for the sampling and testing of all material to be used in the construction prior to the incorporation in the work and certify to the MDOT that all materials used meet the requirements of the plans and specifications. The certification will be based upon test reports and manufacturer's certificates as set forth in the MDOT Standard Operating Procedure TMD-20-04-00-000. These reports will be maintained on file by the APPLICANT in the Engineer's records and may be audited by representatives of the MDOT at any time during the contract period. MDOT costs for such audits will be charged to the PROJECT.

SECTION 16. Prepare and certify monthly estimates of the work completed to authorize monthly payments to the Contractor based on the value of the work completed, less retainage. Allowable costs, other than costs incurred by competitive bidders, shall be determined in accordance with provisions of Subpart 1-15, Federal Procurement Regulations dated December 1970, with revisions, and established local policies not in conflict with these regulations.

SECTION 17. Upon completion of the work by the Contractor, request a final inspection through the MDOT District Engineer who will coordinate the date of the inspection with the MDOT Construction Engineer who will further coordinate the date of the inspection with the FHWA.

SECTION 18. In order to obtain final acceptance of a PROJECT the following documents must be submitted:

To the MDOT Contract Administration Division:

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1. Final estimate with supporting computations
 2. Overrun/underrun statement
 3. Project engineer's affidavit
 4. Project diary
 5. Final plans
 6. Statement of liquidated damages (if any)
 7. Surety release

To the MDOT Construction Division:

1. Contractor's release from maintenance
2. Labor certificate
3. Statement of materials and labor used by the contractors
4. Acceptance letter by the APPLICANT to contractor

To the MDOT Materials Division:

1. Testing certificate

SECTION 19. Advise the Contractor that he is released from maintenance responsibility following final inspection by representatives of the APPLICANT, the MDOT, and the FHWA which found all work to have been satisfactorily completed. The APPLICANT will further advise the Contractor that final acceptance will follow completion of other responsibilities.

SECTION 20. Prepare and submit all computations and final data on the completed work, based on final quantities, for submittal to the MDOT Final Plans Engineer for checking and verification of quantities. The final estimate prepared and submitted by the APPLICANT must reflect quantities checked by the Final Plans Engineer. MDOT costs for work by the Final Plans Engineer will be charged to the PROJECT.

SECTION 21. Furnish certified copies of all estimates of completed work to the MDOT for payment and upon completion of the contract furnish:

1. Statement of Materials and Supplies (Form PR-47) for projects totaling \$1,000,000 or more;
2. Labor Certificate;
3. A copy of the release by the bonding company to pay all monies to the Contractor.

SECTION 22. Upon notification by the MDOT that the Statement of Materials and Supplies (if required), the Labor Certificate, the release by the bonding company for final payment to the Contractor, and the satisfactory statement of materials and tests have been received and accepted, notify the Contractor by letter of the final acceptance of PROJECT and termination of his responsibility.

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SECTION 23. Maintain proper accounting records, payrolls, documents, papers and other necessary data to support the cost incurred for services provided, and make such records available at all reasonable times during the contract period and for three (3) years from the date of payment of the final estimate. These records, documents, and data will be available for inspection by the MDOT, FHWA, and any other authorized representative of the Federal Government or the State of Mississippi, and copies thereof will be furnished if requested.

SECTION 24. Maintain and operate or provide for the maintenance and operation of the completed PROJECT. Do not permit any changes to be made to the completed PROJECT which would alter the approved definition of the facility as a Transportation Enhancement Project without the prior approval of the MDOT. Acceptable changes must be in conformance with current standards and with provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways and Informational Guide for Preparing Private Driveway Regulations for Major Highways, American Association of State Highway and Transportation Officials (AASHTO), 1960. The APPLICANT understands that failure to fulfill this responsibility in regard to maintenance of the PROJECT, its operation or regulation will disqualify the APPLICANT from receiving any STP-TE Funds until such time as the deficiencies are corrected to the satisfaction of the MDOT and FHWA, and if the deficiencies are not corrected the APPLICANT may be required to reimburse the MDOT for all PROJECT costs.

SECTION 25. CIVIL RIGHTS. During the performance of this AGREEMENT, the APPLICANT and the MDOT agree as follows:

- (a) **Compliance with Regulations:** The APPLICANT and the MDOT shall comply with Title VI of the Civil Rights Act of 1964, as amended, and nondiscrimination in programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, 23 CFR 710.405(b) hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this AGREEMENT.
- (b) **Nondiscrimination:** The APPLICANT with regard to the work performed by them afterward and prior to completion of the AGREEMENT, shall not discriminate on the grounds of race, color, national origin, sex, age, or handicap/disability, in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The APPLICANT shall 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 for in Appendix B of the REGULATIONS.
- (c) **Solicitations for Subcontract, Including Procurement of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the APPLICANT for procurement of materials and equipment, each potential subcontractor or supplier shall be notified by the APPLICANT of the Applicant's obligations under this AGREEMENT and the REGULATIONS relative to

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nondiscrimination on the grounds of race, color, national origin, sex, age, or handicap/disability.

- (d) Information and Reports: The APPLICANT shall provide all information and reports required by the REGULATIONS, or orders and instructions issued pursuant thereto, and shall permit access to its books, records, accounts, and other sources of information, and its facilities as may be determined by the MDOT or FHWA to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of the APPLICANT is in the exclusive possession of another who fails or refuses to furnish this information, the APPLICANT shall so certify to the MDOT, or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (e) Sanctions for Noncompliance: In the event of the APPLICANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, the MDOT shall impose such AGREEMENT sanctions as it or FHWA may determine to be appropriate, including but not limited to:
 - (1) withholding the payment to the APPLICANT under the AGREEMENT until the APPLICANT complies; and/or
 - (2) cancellation, termination or suspension of the AGREEMENT, in whole or in part.
- (f) Incorporation of Provisions: The APPLICANT shall include the provisions of paragraph (a) through (e) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, orders, or instructions issued pursuant thereto. The APPLICANT shall take such action with respect to any subcontractor or procurement as the MDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event litigation with a subcontractor or supplier as a result of such direction, the APPLICANT may request the MDOT to enter into such litigation to protect the interests of the MDOT and, in addition, the APPLICANT may request the FHWA to enter into such litigation to protect the interest of FHWA.

SECTION 26. To the extent allowed by State law, assume all responsibility for and save the MDOT harmless from any suits, actions or claims of any character, brought for or on account of any injuries or damages received or sustained by any person, persons or property, growing out of any action or omission to act in the conduct of this work.

SECTION 27. Pursuant to Section 23.43 of 49 CFR, Part 23, the following statements regarding disadvantaged business enterprises (DBE) are included in and made a part of this contract and agreement.

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"(a) (1) Policy. It is the policy of the United States Department of Transportation (U.S. DOT) that DBE as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with the Federal Funds under this agreement. Consequently, the DBE requirements of 49 CFR, Part 23 apply to this agreement.

(2) DBE Obligation. The MDOT and the APPLICANT agree to ensure DBE as defined in 49 CFR, Part 23, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal Funds provided under this agreement. In this regard the MDOT and the APPLICANT shall take all necessary and reasonable steps in accordance with 49 CFR, Part 23, to ensure that DBE have the maximum opportunity to compete for and perform contracts. The MDOT and the APPLICANT shall not discriminate on the basis of race, color, national origin, or sex in the award of performance of U.S. DOT assisted contracts.

(3) The MDOT hereby advises the APPLICANT that failure to carry out the requirements set forth in Section 23.43 (a) shall constitute a breach of contract and, after the notification of the U.S. DOT, may result in termination of the contract by the MDOT or such remedy as the MDOT deems appropriate."

The APPLICANT approves and adopts the MDOT Disadvantaged Business Enterprise (DBE) Program currently in effect, which is incorporated into this agreement as if written herein. It is fully understood that the current program has been approved by the FHWA and modifications to the program may be required from time to time by Federal Authority. In, such case, subgrants of Federal Funds to the APPLICANT through the MDOT shall be contingent upon the APPLICANT approving and adopting all modifications required by Federal Authority upon notification and receipt of the modifications from the MDOT.

The APPLICANT will approve and incorporate the MDOT's current specifications on the subject disadvantaged business enterprise which is a part of the DBE Program.

The APPLICANT will designate and adequately fund a liaison officer as well as such support staff as may be necessary and proper to administer the program and furnish the MDOT a description of the authority responsibilities and duties of the liaison officer and support staff.

The APPLICANT will allow access by representatives of the MDOT and the FHWA to all parts of the work records documentation as related to the implementation and monitoring of provisions of the Disadvantaged Business Enterprise Program and specifications.

Any contract between the APPLICANT and a CONTRACTOR or CONSULTANT shall contain the language of this section, and shall require the same to be included in any and all subcontracts. In addition, the agreement between the APPLICANT and a CONTRACTOR or CONSULTANT shall require prompt payment to all subcontractors or material suppliers for all monies due, within fifteen (15) calendar days after receiving payment from the MDOT.

SECTION 28. The APPLICANT understands that the MDOT is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color,

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creed, sex, age, national origin, physical handicap, disability, or any other discrimination made unlawful by Federal, state, or local laws. All such discrimination is unlawful and the APPLICANT agrees during the term of the agreement that the APPLICANT will strictly adhere to this policy in employment practices and provision of services.

SECTION 29. The APPLICANT agrees to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S.C. 1368), and Environmental Protection Agency regulations (40 CFR, Part 15). All violations shall be reported to the MDOT and to the U.S.E.P.A. Assistant Administrator for Enforcement.

SECTION 30. The APPLICANT agrees to recognize 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 (P.L. 94-165).

SECTION 31. The APPLICANT agrees to adopt as a minimum policy the criteria set forth in the "Utility Permit Regulations" published by the MDOT.

SECTION 32. The APPLICANT will have an approved audit system of their operations in accordance with the Single Audit Act of 1984, 49 CFR, Part 90, and will ensure that the findings of such audits are properly resolved. The APPLICANT agrees to submit to the MDOT the following documents that cover the periods that the STP-TE PROJECT is underway:

1. The annual audit report of its operation for the years construction is underway.
2. Any management letters that are issued in connection with the audit, and
3. The plan for correction of reported findings.

III. The MDOT will for the PROJECT:

SECTION 1. The MDOT District Engineer will instruct the APPLICANT on the proper procedures for initiation of the PROJECT.

SECTION 2. Assign a publicly employed Registered Professional Engineer as the Project Engineer to be in responsible charge and direct control of the STP-TE PROJECT. The Project Engineer will be assigned by the Chief Engineer of the MDOT. MDOT costs for work by the Project Engineer will be charged to the PROJECT.

SECTION 3. On request from the APPLICANT furnish guidance in accomplishing all requirements of the design and right-of-way phase, including all public hearing requirements and environmental requirements.

SECTION 4. Assist in scheduling and participate in the field inspection of the proposed PROJECT with preliminary plans for adaptation to field requirements.

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SECTION 5. Review and assemble the Plans, Specifications, Cost Estimate, Right-of-Way and Utility Certification and, on approval, forward this assembly to the FHWA for approval and authorization.

SECTION 6. Notify the APPLICANT when the PROJECT has been authorized by the FHWA and advise the APPLICANT of the MDOT and Federal requirements for advertising and receiving bids.

SECTION 7. Review the recommendations and tabulation of bids furnished by the APPLICANT and make recommendations to the FHWA concerning the award of a contract. Required match submitted by the APPLICANT will be credited to the PROJECT fund by the MDOT.

SECTION 8. Advise the APPLICANT of the concurrence (or disapproval) in the award of the contract and, with concurrence, enter into a project agreement with the FHWA based on contract prices and authorize the APPLICANT to proceed with work.

SECTION 9. Review and make payment to the Contractor for the completed work on monthly estimates that have been checked and certified by the APPLICANT and final estimates prepared and submitted by the APPLICANT and checked by the MDOT Final Plans Engineer. Total payments shall not exceed the total amount allocated to the PROJECT.

SECTION 10. Review and authorize payment to the APPLICANT for monthly statements of hourly time charges to the PROJECT by APPLICANT employees who perform construction engineering work. Construction engineering by MDOT employees will also be charged to the PROJECT with the total construction engineering charges by both APPLICANT and MDOT not to exceed fifteen percent (15%) of the total construction cost. All nonparticipating costs will be borne by the APPLICANT.

SECTION 11. Make inspections of the work and engineering supervision during the life of the contract and advise the APPLICANT of results. All work is also subject to inspection by the FHWA.

SECTION 12. Assist the APPLICANT in the preparation of Change Orders and Supplemental Agreements to the contract found to be necessary during the life of the contract.

SECTION 13. Participate in a final inspection of the project upon request of the APPLICANT with representatives of the APPLICANT and the FHWA. If work is determined to be satisfactory, the MDOT will advise the APPLICANT so that the APPLICANT may notify the Contractor that he is released from maintenance responsibility.

SECTION 14. Notify the APPLICANT following receipt of the Statement of Materials and Supplies (Form PR-47) when required; the Labor Certificate; the release by the bonding company for final payment to the Contractor; and the satisfactory statement of materials and tests so that the APPLICANT may notify the Contractor of final acceptance and termination of his responsibility.

9.

IN WITNESS WHEREOF, the parties have affixed their signatures.

APPLICATION OF _____,
(Agency Name, or City, or County)

LOCATED IN THE COUNTY OF _____,

_____, TITLE: _____,
(Agency Head, or Mayor, or
President Board of Supervisors)

DATE: _____

Authorized on the _____ day of _____, 2000, Minute Book _____, and Page No. _____.

ATTEST: _____

**MISSISSIPPI TRANSPORTATION COMMISSION ACTING BY AND THROUGH THE
DULY AUTHORIZED EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT
OF TRANSPORTATION**

Executive Director

DATE: _____

Authorized on the _____ day of _____, 2000, Minute Book _____, and Page No. _____.

ATTEST: _____
Secretary, Transportation Commission

original being completed

**AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN
OF THE CITY OF CLINTON, HINDS COUNTY, MISSISSIPPI,
PROHIBITING ELUDING, FLEEING OR DISOBEYING A LAW
ENFORCEMENT OFFICER ACTING WITHIN THE COURSE AND
SCOPE OF HIS OFFICE AND DUTY WITHIN THE CITY OF
CLINTON, MISSISSIPPI**

**BE IT ORDAINED, BY THE MAYOR AND BOARD OF ALDERMEN
OF THE CITY OF CLINTON, MISSISSIPPI THAT:**

Section 1. It shall be unlawful for any person to avoid, run or walk away from, or ride or drive away from, or in any other manner elude, flee from or disobey any law enforcement officer, acting within the course and scope of his office and duty, when ordered or requested by such law enforcement officer to stop and identify himself or herself or act or do or refrain from acting or doing as ordered or requested whether such order or request be verbal or by hand signal or gesture, or by activation of a law enforcement vehicle's flashing lights or siren or in any other manner in which a person can reasonably infer, construe or believe that such law enforcement officer is ordering or requesting such person to stop or act or do or refrain from acting or doing and any such person so ordered or requested shall promptly comply and immediately provide their true identity to a law enforcement officer and shall remain so stopped or continue to act or do or refrain from acting or doing as ordered or requested until otherwise directed by a law enforcement officer.

Section 2. It shall be unlawful for any person to in any manner cause or procure or encourage another person to so elude, flee from or disobey the order or request of any law enforcement officer as aforementioned.

Section 3. Any person convicted of violating any provision of this ordinance may be fined in any amount not to exceed one thousand dollars (\$1,000.00) or be imprisoned for any length of time not to exceed ninety (90) days, or punished by both such fine and imprisonment in the discretion of the court.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its enactment.

901

588

ORDAINED, ADOPTED AND APPROVED BY THE MAYOR
AND BOARD OF ALDERMEN OF THE CITY OF CLINTON,
MISSISSIPPI, at a meeting thereof held on the 1st day of February, 2000.

Upon motion of Alderman BRANTLEY, and a second from

Alderman HISAW, this ordinance was heard and as a matter laid upon the regular agenda of the Mayor and Board of Aldermen, reduced to writing and submitted for consideration by the Mayor and Board of Aldermen of the City of Clinton at a regular meeting of the same; and after full and sufficient discussion of the ordinance, and considering each section of the ordinance, the Mayor polled the Aldermen with the Clerk recording their votes, which are as follows:

Alderman-at-Large:	Brabham	<u>AYE</u>
Alderman Ward 1:	Hisaw	<u>AYE</u>
Alderman Ward 2:	Depriest	<u>AYE</u>
Alderman Ward 3:	Brantley	<u>AYE</u>
Alderman Ward 4:	Fisher	<u>AYE</u>
Alderman Ward 5:	Touchton	<u>AYE</u>
Alderman Ward 6:	Lott	<u>AYE</u>

This action was taken in the City of Clinton at the regular meeting of the Mayor and Board of Aldermen this the 1st day of FEBRUARY, 2000.

Rosemary G. Aultman
Rosemary Aultman, Mayor

Nelson Byrd
Nelson Byrd, City Clerk

FEBRUARY 1, 2000
Date

I, Nelson Byrd, the undersigned City Clerk of the City of Clinton, Hinds County, Mississippi, hereby certify that the above and foregoing is a true copy of an ordinance adopted by the Mayor and Board of Aldermen of the City of Clinton at its meeting duly held on the:

_____ day of _____, 2000 as the same appears in Minute Book _____ at
pages _____ of the minutes of said Board and recorded in Ordinance Book _____
of the City of Clinton at pages _____ thereof.

Given under my hand and official seal of office this the:
_____ day of _____, 2000.

Nelson Byrd, City Clerk

Proof of Pub

Proof of Publication

The State of Mississippi

Hinds County

PASTE PROOF HERE

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

Shirley Mize

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

Dates of Publication:

Lines: 138
Words: 587
Issues: 1
Total: \$76.44

Monday, February 14, 2000

Signed

Authorized Clerk
of The Clarion-Ledger

Notary Public

SWORN to and subscribed before me on
02/14/2000

Notary Public State of Mississippi At Large.
My Commission Expires: Nov. 8, 2000
Bonded thru Notary Public Underwriters

(SEAL)

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, HINDS COUNTY, MISSISSIPPI, PROHIBITING ELUDING, FLEEING OR DISOBEYING A LAW ENFORCEMENT OFFICER ACTING WITHIN THE COURSE AND SCOPE OF HIS OFFICE AND DUTY WITHIN THE CITY OF CLINTON, MISSISSIPPI

BE IT ORDAINED, BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, MISSISSIPPI THAT:

Section 1. It shall be unlawful for any person to avoid, run or walk away from, or ride or drive away from, or in any other manner elude, flee from or disobey any law enforcement officer, acting within the course and scope of his office and duty, when ordered or requested by such law enforcement officer to stop and identify himself or herself or act or do or refrain from acting or doing as ordered or requested whether such order or request be verbal or by hand signal or gesture, or by activation of a law enforcement vehicle's flashing lights or siren or in any other manner in which a person can reasonably infer, construe or believe that such law enforcement officer is ordering or requesting such person to stop or act or do or refrain from acting or doing and any such person so ordered or requested shall promptly comply and immediately provide their true identity to a law enforcement officer and shall remain so stopped or continue to act or do or refrain from acting or doing as ordered or requested until otherwise directed by a law enforcement officer.

Section 2. It shall be unlawful for any person to in any manner cause or procure or encourage another person to so elude, flee from or disobey the order or request of any law enforcement officer as aforementioned.

Section 3. Any person convicted of violating any provision of this ordinance may be fined in any amount not to exceed one thousand dollars (\$1,000.00) or be imprisoned for any length of time not to exceed ninety (90) days, or punished by both such fine and imprisonment in the discretion of the court.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its enactment.

ORDAINED, ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, MISSISSIPPI, at a meeting thereof held on the 1st day of February, 2000.

Upon motion of Alderman Brantley and a second from Alderman Hisaw this ordinance was heard and as a matter laid upon the regular agenda of the Mayor and Board of Aldermen, reduced to writing and submitted for consideration by the Mayor and Board of Aldermen of the City of Clinton at a regular meeting of the same; and after full and sufficient discussion of the ordinance, and considering each section of the ordinance, the Mayor polled the Aldermen with the Clerk recording their votes, which are as follows:

Alderman-at-Large:	Brabham	Aye
Alderman Ward 1:	Hisaw	Aye
Alderman Ward 2:	Depriest	Aye
Alderman Ward 3:	Brantley	Aye
Alderman Ward 4:	Fisher	Aye
Alderman Ward 5:	Touchton	Aye
Alderman Ward 6:	Lott	Aye

This action was taken in the City of Clinton at the regular meeting of the Mayor and Board of Aldermen this the 1st day of February, 2000.

Rosemary Aultman, Mayor /s/ Nelson Byrd
Nelson Byrd, City Clerk

February 1, 2000
Date
February 14, 2000