

**CITY OF CLINTON
REGULAR MEETING OF THE MAYOR AND BOARD OF ALDERMEN
TUESDAY, APRIL 4, 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 Hisaw followed by the Pledge of Allegiance to the Flag led by Alderman DePriest

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
 Herb Touchton - Alderman Ward 5
 Sharbert Lott - Alderman Ward 6
 Ken Dreher - City Attorney
 Nelson Byrd - City Clerk

Absent: Phil Fisher - Alderman Ward 4

RECOGNITIONS: Amanda Jolly and Thomas Green, Clinton Jr. High students, were recognized for being selected by People to People International to serve as student ambassadors to New Zealand and Australia. Hailee Melton and Nathaniel Lee, Jr., ten year old students, were recognized for their acting careers as movie stars in various recent movies.

APPROVAL OF CONSENT AGENDA ITEMS A-U

MOTION made by Alderman Brantley and **SECONDED** by Alderman Lott to approve Consent Agenda Items A-U listed on page 787 of this Minute Book AA. Item C will serve to advertise favorably the opportunities, possibilities, and resources of the City of Clinton. Quotes listed in Item I can be found in the Office of the City Clerk. **MOTION CARRIED UNANIMOUSLY**

APPROVAL OF PLANING & ZONING ITEMS FOR OBIE'S CHEVRON ON HWY
80

Upon recommendations of the Planning & Zoning Board and Zoning Administrator Gary Ward, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Hisaw to adopt that Ordinance and Proof of Publication found on pages 904-909 and 788-793 of Ordinance Book II and this Minute Book AA, respectively, that rezones the property from C-1 to C-2. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Hisaw and **SECONDED** by Alderman Lott to adopt that Resolution found on pages 794-797 of this Minute Book AA approving a conditional use for said location. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Hisaw and **SECONDED** by Alderman Brabham to adopt that Resolution found on pages 798-801 approving a dimensional variance for said location. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Hisaw and **SECONDED** by Alderman DePriest to approve the preliminary site plan for said location. **MOTION CARRIED UNANIMOUSLY**

**APPROVAL OF PLANNING & ZONING ITEMS FOR PLEASANT GREEN
MISSIONARY BAPTIST CHURCH - 505 COLLEGE STREET**

Upon recommendation of the Planning & Zoning Board and Zoning Administrator Gary Ward, **MOTION** made by Alderman Touchton and **SECONDED** by Alderman Lott to approve that conditional use found on pages 802-805 for said location. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Brabham and **SECONDED** by Alderman Touchton to approve the preliminary site plan for said location. **MOTION CARRIED UNANIMOUSLY**

**APPROVAL OF PLANNING & ZONING ITEMS FOR MR. TIRE - 604
SPRINGRIDGE**

Upon recommendation of the Planing & Zoning Board and Zoning Administrator Gary Ward, **MOTION** made by Alderman Brabham and **SECONDED** by Alderman Touchton to approve that Resolution found on pages 806-809 of this Minute Book AA for a conditional use for said property. **MOTION CARRIED UNANIMOUSLY**

MOTION made by Alderman Touchton and **SECONDED** by Alderman Lott to approve the preliminary site plan for said location. **MOTION CARRIED UNANIMOUSLY**

**APPROVAL OF AGREEMENT WITH ALFORD ENGINEERS FOR YEAR 2000
WATER IMPROVEMENTS**

Upon recommendation of City Engineer Richard Broome, **MOTION** made by Alderman Brantley and **SECONDED** by Alderman Lott to approve that agreement with Alford Engineers for professional services for the project known as 2000 Water Improvements found on pages 810-819 of this Minute Book AA. **MOTION CARRIED UNANIMOUSLY**

ADJOURN 7:30 p.m.

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

Copy of Agenda can be found on page 787 of this Minute Book AA.

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

Date APRIL 6, 2000

ATTEST: Nelson Byrd
Nelson Byrd, City Clerk

Date APRIL 6, 2000



1-A

OFFICIAL FORM

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, HINDS COUNTY, MISSISSIPPI AMENDING THE OFFICIAL ZONING ORDINANCE AND ZONING MAP OF THE CITY OF CLINTON, MISSISSIPPI FOR THE PROPERTY LOCATED AT 600 HIGHWAY 80 WEST, CLINTON, MISSISSIPPI, AND DESCRIBED IN EXHIBIT "A" FROM C-1 TO C-2

WHEREAS, Mr. Marvin Oberhausen (the "Applicant") did file a petition to Rezone certain property from its present C-1 use district classification to a C-2 use district classification: and,

WHEREAS, a public hearing, pursuant to Section 2406.05 of the Zoning Ordinance of the City of Clinton, Mississippi, was set for the 28th day of March, 2000, at 7:00 o'clock P.M.; and,

WHEREAS, the City of Clinton did cause notice of said hearing to be published in the *Clarion Ledger*, a newspaper published in Hinds County, Mississippi, in the manner and for the time required by law, and did post notice upon the affected property in the manner and for the time required by law; and,

WHEREAS, at the time, date and place specified in the Notice, the Planning Commission of the City of Clinton, Mississippi, did conduct a full and complete hearing, and thereafter, did recommend the petition of the applicants be approved, pursuant to Section 2406 of the Zoning Ordinance; and,

WHEREAS, the matter was presented to the Mayor and Board of Aldermen of the City of Clinton, along with the recommendation of the Planning Commission, as shown in minutes of said minutes and exhibits attached thereto, and after discussion thereof, Alderman BRAGHAM offered the following ordinance and moved that it be adopted, to-wit;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Clinton, Hinds County, Mississippi as follows, to-wit:

Section 1. That the matters and facts stated in the preamble hereof are found to be true and correct.

Section 2. That this matter was presented as required by Section 2406 of the City of Clinton Zoning Ordinance and the Mayor and Board of Aldermen hereby find that this request meets the requirements of Section 2406.03(a) Criteria for Rezoning, the Mayor and Board of Aldermen specifically finding that there was a mistake in the original official zoning map. Mistake referring to an error in draftmanship. Alternatively, sufficient proof was presented to show this request meets the requirements of Section 2406.03(b) in that there was a change in the neighborhood and a public need for the rezoning.

Section 3. That pursuant to Article XV of the Zoning Ordinance, the proposed facility shall be "C-2, General Commercial District".

Section 4. That the following described tract of real property be, and the same is, hereby rezoned from its present C-1 use district classification to C-2 use district classification and that said rezoning is consistent with the current Comprehensive Plan of the City of Clinton, to-wit:

A tract of land situated in the City of Clinton, the First Judicial District of Hinds County, Mississippi and more completely described in Exhibit "A" attached hereto and made a part thereof.

Section 5. That the City of Clinton Zoning Ordinance be, and the Official Zoning Map be, and the same hereby are, amended to reflect the foregoing change in the zoning of the above-described real property.

Section 6. That this ordinance shall take effect thirty days from and after passage.

ORDAINED, ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, MISSISSIPPI, at a meeting thereof held on the 4th day of April, 2000.

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

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

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

The foregoing ordinance was approved this the 4th day of April, 2000.

CITY OF CLINTON

BY: Rosemary J. Aultman
ROSEMARY AULTMAN, Mayor

ATTEST:

Nelson Byrd
NELSON BYRD, City Clerk

(S E A L)

**LEGAL DESCRIPTION OF
OBIE'S CHEVRON**

Begin at a point on the present Northern right-of-way line for the existing Interstate 20 Highway that is located North 38 degrees 41 minutes 30 seconds East; a distance of 216.72 feet from the centerline of survey for the said Interstate 20 Highway at Station 75 + 40.05 as shown on the Federal Aid Project No. 99-0020-01-136-10 and being the Grantor's Southwestern property corner; from said point of beginning run thence North 35 degrees 32 minutes 49 seconds East along a Western property line a distance of 32.83 feet; thence leaving said property line, run South 65 degrees 15 minutes 35 seconds East, a distance of 271.88 feet to the said Northern right-of-way line; thence run North 71 degrees 52 minutes 30 seconds West along said right-of-way line, a distance of 279.90 feet to the point of beginning containing 0.10 acres of land, more or less and being situated in and a part of the Southwest 1/4 of the Northeast 1/4 of Section 30, Township 6 North, Range 1 West, Hinds County, Mississippi.

EXHIBIT "A"

POP
8-909
POP
2-793

OFFICIAL FORM

AN ORDINANCE BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, HINDS COUNTY, MISSISSIPPI AMENDING THE OFFICIAL ZONING ORDINANCE AND ZONING MAP OF THE CITY OF CLINTON, MISSISSIPPI FOR THE PROPERTY LOCATED AT 600 HIGHWAY 90 WEST, CLINTON, MISSISSIPPI, AND DESCRIBED IN EXHIBIT "A" FROM C-1 TO C-2

WHEREAS, Mr. Marvin Oberhausen (the "Applicant") did file a petition to Rezone certain property from its present G-1 use district classification to a C-2 use district classification; and,

WHEREAS, a public hearing, pursuant to Section 2406.05 of the Zoning Ordinance of the City of Clinton, Mississippi, was set for the 28th day of March, 2000, at 7:00 o'clock P.M.; and,

WHEREAS, the City of Clinton did cause notice of said hearing to be published in *The Clarion-Ledger*, a newspaper published in Hinds County, Mississippi, in the manner and for the time required by law, and did post notice upon the affected property in the manner and for the time required by law; and,

WHEREAS, at the time, date and place specified in the Notice, the Planning Commission of the City of Clinton, Mississippi, did conduct a full and complete hearing, and thereafter, did recommend the petition of the applicants be approved, pursuant to Section 2406 of the Zoning Ordinance; and,

WHEREAS, the matter was presented to the Mayor and Board of Aldermen of the City of Clinton, along with the recommendation of the Planning Commission, as shown in minutes of said minutes and exhibits attached thereto, and after discussion thereof, Alderman Brabham offered the following ordinance and moved that it be adopted, to-wit:

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Clinton, Hinds County, Mississippi as follows, to-wit:

Section 1. That the matters and facts stated in the preamble hereof are found to be true and correct.

ORDAINED, ADOPTED AND APPROVED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLINTON, MISSISSIPPI, at a meeting thereof held on the 4th day of April, 2000.

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

Alderman Brabham voted: AYE
Alderman Hisaw voted: AYE
Alderman DePriest voted: AYE
Alderman Brantley voted: AYE
Alderman Fisher voted: ABSENT
Alderman Touchton voted: AYE
Alderman Lott voted: AYE

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

The foregoing ordinance was approved this the 4th day of April, 2000.

CITY OF CLINTON

BY: /s/ Rosemary G. Aultman
ROSEMARY AULTMAN, Mayor

ATTEST:
/s/ Nelson Byrd
NELSON BYRD, City Clerk

(SEAL)

LEGAL DESCRIPTION OF
OBIE'S CHEVRON

Begin at a point on the present Northern right-of-way line for the existing Interstate 20 Highway that is located North 39 degrees 41 minutes 30 seconds East, a distance of 216.72 feet from the centerline of survey for the said Interstate 20 Highway at Station 75 + 40.05 as shown on the Federal Aid Project No. 99-0020-01-136-10 and being the Grantor's Southwestern property corner; from said point of beginning run thence North 35 degrees 32 minutes 49 seconds East along a Western property line a distance of 32.83 feet; thence leaving said property line, run South 65 degrees 16 minutes 35 seconds East, a distance of 271.88 feet to the said Northern right-of-way line; thence run North 71 degrees 52 minutes 30 seconds West along said right-of-way line, a distance of 279.90 feet to the point of beginning containing 0.10 acres of land, more or less and being situated in and a part of the Southwest 1/4 of the Northeast 1/4 of Section 30, Township 6 North, Range 1 West, Hinds County, Mississippi.

EXHIBIT "A"

APRIL 13, 2000

Proof of Publication

State of Mississippi

Hinds County

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

Shirley Mize

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

Dates of Publication:

Lines: 278
Words: 949
Issues: 1
Total: \$119.88

Thursday, April 13, 2000

Signed

Shirley Mize
Authorized Clerk
of The Clarion-Ledger

M. A. Mills

Notary Public

SWORN to and subscribed before me on
04/13/2000

Notary Public State of Mississippi At Large.

My Commission Expires: Nov. 8, 2000

Bonded thru Notary Public Underwriters

(SEAL)

**RESOLUTION APPROVING A CONDITIONAL USE FOR
MR. MARVIN OBERHAUSEN FOR PROPERTY LOCATED AT
600 HIGHWAY 80 WEST, CLINTON, MISSISSIPPI**

WHEREAS, Mr. Marvin Oberhausen, did file a request for a conditional use for the property located at 600 Highway 80 West 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 March 28, 2000, as required; and,

WHEREAS, the Planning and Zoning Commission upon conclusion of the public hearing on March 28, 2000, adopted a motion to approve the request for a 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. Marvin Oberhausen for a Conditional Use of the property located at 600 Highway 80 West 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 402 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 requested from compliance with any applicable law, court order, covenants or contracts.
8. The Conditional Use is granted subject to the following conditions:
 - A. All vehicles left overnight on premises shall be stored out of view of the public inside the building.

The foregoing Resolution, having been reduced to writing, Alderman HISAW moved that said Resolution be adopted. Alderman LOTT seconded. The vote was as follows:

Alderman Brabham voted: AYE
 Alderman Hisaw voted: AYE
 Alderman DePriest voted: AYE
 Alderman Brantley voted: AYE
 Alderman Fisher voted: ABSENT
 Alderman Touchton voted: AYE

Alderman Lott voted:

AYE

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

The foregoing ordinance was approved this the 4TH day of APRIL, 2000.

CITY OF CLINTON

BY: Rosemary J. Aultman
ROSEMARY AULTMAN, MAYOR

ATTEST:

Nelson Byrd
Nelson Byrd, City Clerk

(S E A L)

**LEGAL DESCRIPTION OF
OBIE'S CHEVRON**

Begin at a point on the present Northern right-of-way line for the existing Interstate 20 Highway that is located North 38 degrees 41 minutes 30 seconds East; a distance of 216.72 feet from the centerline of survey for the said Interstate 20 Highway at Station 75 + 40.05 as shown on the Federal Aid Project No. 99-0020-01-136-10 and being the Grantor's Southwestern property corner; from said point of beginning run thence North 35 degrees 32 minutes 49 seconds East along a Western property line a distance of 32.83 feet; thence leaving said property line, run South 65 degrees 15 minutes 35 seconds East, a distance of 271.88 feet to the said Northern right-of-way line; thence run North 71 degrees 52 minutes 30 seconds West along said right-of-way line, a distance of 279.90 feet to the point of beginning containing 0.10 acres of land, more or less and being situated in and a part of the Southwest 1/4 of the Northeast 1/4 of Section 30, Township 6 North, Range 1 West, Hinds County, Mississippi.

EXHIBIT "A"

70

**RESOLUTION APPROVING A DIMENSIONAL VARIANCE FOR
MR. MARVIN OBERHAUSEN, OBIE'S CHEVRON FOR
PROPERTY LOCATED AT 600 HIGHWAY 80 WEST,
CLINTON, MISSISSIPPI**

WHEREAS, Mr. Marvin Oberhausen, Obie's Chevron, has requested a dimensional variance on the setback requirements of the Zoning Ordinance of the City of Clinton, Mississippi; and,

WHEREAS, the Zoning Ordinance of the City of Clinton, Mississippi now require certain setback requirements as set forth therein; and,

WHEREAS, because of the unusual shape of the subject property a variance is needed for the rear setback; and,

WHEREAS, the Mayor and Board of Aldermen of the City of Clinton, Mississippi, find that the requested variance will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and,

WHEREAS, the Owner has complied with the requirements of the Zoning Regulations regarding dimensional variance; and,

WHEREAS, the Planning and Zoning Board has recommended granting the dimensional variances subject as set out in its minutes.

BE IT RESOLVED by the Mayor and Board of Aldermen of the City of Clinton, Mississippi that the requested dimensional variance should be granted as follows:

1. A dimensional variance shall be granted to permit a setback of two (2) feet on the south side of the property.
2. The legal description of the subject property is shown in Exhibit "A" attached hereto.
3. The setback variances shall be generally as shown in the proposed site plan attached hereto as Exhibit "B".

Except as modified hereby, this property shall be subject to all applicable ordinances and regulations;

The foregoing Resolution, having been reduced to writing, Alderman HISAW moved that said Resolution be adopted. Alderman BRABHAM seconded. The vote was as follows:

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

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

The foregoing ordinance was approved this the 4th day of April, 2000.

CITY OF CLINTON

BY: Rosemary G. Aultman
ROSEMARY AULTMAN, MAYOR

ATTEST:

Nelson Byrd

Nelson Byrd, City Clerk

(S E A L)

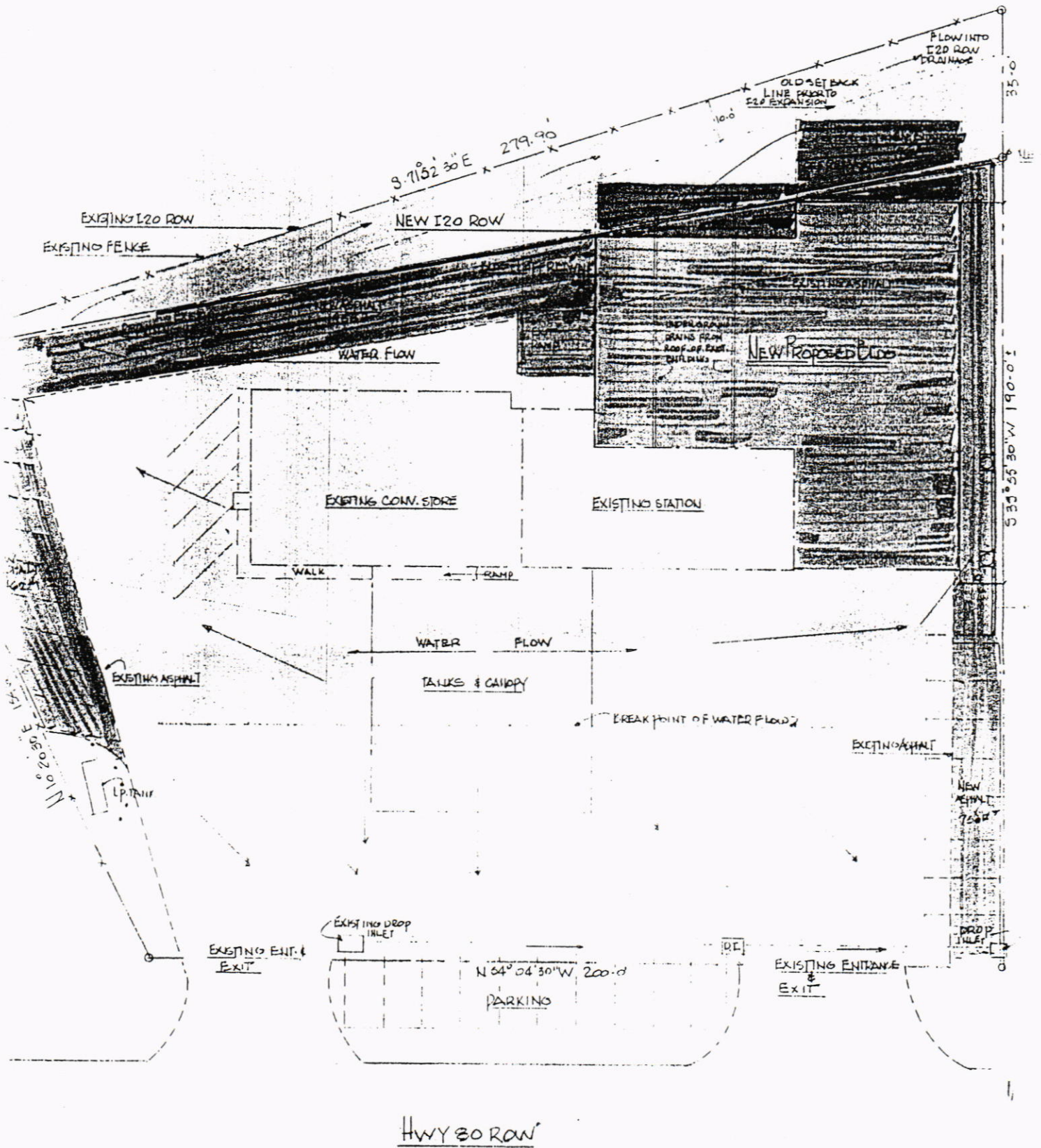
Obies- Resolution Dimen Variance.wps

**LEGAL DESCRIPTION OF
OBIE'S CHEVRON**

Begin at a point on the present Northern right-of-way line for the existing Interstate 20 Highway that is located North 38 degrees 41 minutes 30 seconds East; a distance of 216.72 feet from the centerline of survey for the said Interstate 20 Highway at Station 75 + 40.05 as shown on the Federal Aid Project No. 99-0020-01-136-10 and being the Grantor's Southwestern property corner; from said point of beginning run thence North 35 degrees 32 minutes 49 seconds East along a Western property line a distance of 32.83 feet; thence leaving said property line, run South 65 degrees 15 minutes 35 seconds East, a distance of 271.88 feet to the said Northern right-of-way line; thence run North 71 degrees 52 minutes 30 seconds West along said right-of-way line, a distance of 279.90 feet to the point of beginning containing 0.10 acres of land, more or less and being situated in and a part of the Southwest 1/4 of the Northeast 1/4 of Section 30, Township 6 North, Range 1 West, Hinds County, Mississippi.

EXHIBIT "A"

Obie's Chevron Exhibit "B"



**RESOLUTION APPROVING A CONDITIONAL USE FOR A
DESIGNATION OF PUBLIC/QUASI-PUBLIC FACILITY FOR PLEASANT
GREEN MISSIONARY BAPTIST CHURCH LOCATED AT
505 COLLEGE STREET, CLINTON, MISSISSIPPI**

WHEREAS, Pleasant Green Missionary Baptist Church did file a request for a designation of the property described in Exhibit "A" attached hereto as a public/quasi-public facility; and,

WHEREAS, all notice requirements of the Zoning Ordinance of the City of Clinton were accomplished and a public hearing was held on March 28, 2000, as required; and,

WHEREAS, the Planning and Zoning Commission upon conclusion of the public hearing on March 28, 2000, adopted a motion to approve the request for a conditional use for a public/quasi-public facility 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 Pleasant Green Missionary Baptist Church for designation of the property described in Exhibit "A" attached as a public/quasi-public facility 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 402 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 requested from compliance with any applicable law, court order, covenants or contracts.

The foregoing Resolution, having been reduced to writing, Alderman TOUCHTON moved that said Resolution be adopted. Alderman LOTT seconded. The vote was as follows:

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

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

The foregoing ordinance was approved this the 4th day of APRIL, 2000.

CITY OF CLINTON

BY: _____
ROSEMARY AULTMAN, MAYOR

ATTEST:

Nelson Byrd
Nelson Byrd, City Clerk

(S E A L)

**LEGAL DESCRIPTION OF
PLEASANT GROVE M.B. CHURCH**

A parcel of land located in the Southwest 1/4 of the
Northeast 1/4 of Section 29, Township 6 North, Range 1
West, City of Clinton, Hinds County, Mississippi, more
particular described as follows:

3.6 acres north of Highway 80 south of railroad and west of
Sharp Street.

Also known as 505 College Street.

EXHIBIT "A"

7-3

**RESOLUTION APPROVING A CONDITIONAL USE FOR
MR. JAMES MYERS MYERS, JR. FOR PROPERTY LOCATED AT
604 SPRINGRIDGE ROAD, CLINTON, MISSISSIPPI**

WHEREAS, Mr. James N. Myers, Jr., Mr. Tire Automative Services, did file a request for a conditional use for the property located at 604 Springridge 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 March 28, 2000, as required; and,

WHEREAS, the Planning and Zoning Commission upon conclusion of the public hearing on March 28, 2000, adopted a motion to approve the request for a 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. James N. Myers for a Conditional Use of the property located at 604 Springridge 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 402 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 requested from compliance with any applicable law, court order, covenants or contracts.
8. The Conditional Use is granted subject to the following conditions:
 - A. All vehicles left overnight shall be stored out of view of the public inside the building.
 - B. All discarded tires shall be stored within a fenced area. Fence shall consist of a solid material. Contents shall not be visible from residential area.

The foregoing Resolution, having been reduced to writing, Alderman BRABHAM moved that said Resolution be adopted. Alderman TOUCHTON seconded. The vote was as follows:

Alderman Brabham voted: AYE
Alderman Hisaw voted: AYE
Alderman DePriest voted: AYE

Alderman Brantley voted: AYE
Alderman Fisher voted: ABSENT
Alderman Touchton voted: AYE
Alderman Lott voted: AYE

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

The foregoing ordinance was approved this the 4th day of APRIL, 2000.

CITY OF CLINTON

BY: _____
ROSEMARY AULTMAN, MAYOR

ATTEST:

Nelson Byrd
Nelson Byrd, City Clerk

(SEAL)

**LEGAL DESCRIPTION FOR
MR. TIRE AUTOMOTIVE SERVICES**

A parcel of land located in the Southwest 1/4 of Section 32, Township 6 North, Range 1 West, City of Clinton, Hinds County, Mississippi, more particularly described as follows:

Lot C-6, Spanish Oaks of Trailwood - Part 1

Also known as 604 Springridge Road

Exhibit "A"

8.

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

PART I. PARTIES AND PROJECT

THIS AGREEMENT is made on the 5 day of April in the year 2000 between the Mayor and Aldermen of the City of Clinton, Mississippi (hereinafter referred to as the "OWNER"), and Alford Engineering (hereinafter referred to as the "ENGINEER") for the Project known as:

2000 Water Improvements more specifically described as:

1. Country Meadows Road Loop - Approximately 1,900' of 6" water main and appurtenances;
2. Oakhurst-Cotton Acres Loop - Approximately 600' of 8" water main and appurtenances;
3. Battery Drive Loop - Approximately 2,100' of 8" water main and appurtenances;
4. Linda Drive Loop - Approximately 800' of 8" water main and appurtenances;
5. Castlewood Drive - Approximately 2,600' of 8" water main and appurtenances; and
6. Reynolds and Leggett Drive - Approximately 3,000' of 6" water main and appurtenances.

The OWNER and the ENGINEER agree as follows:

PART II. ENGINEERING CHARGES

- A. In accordance with the Terms and conditions of this Agreement, the ENGINEER shall provide professional services for which the OWNER shall compensate the ENGINEER as follows:
- A.1 **Basic Services:** As defined in Paragraph 1.1 on the basis of a lump sum of **Nineteen Thousand Eight Hundred Dollars and No Cents (\$19,800.00)**.

Payments shall be made monthly in proportion to services performed so that compensation at the completion of each Phase shall equal the following percentages of total basic compensation:

Preliminary Design Phase	35%
Final Design Phase	35%
Construction Contract Document Phase	5%
Bidding Phase	5%
Construction Phase	20%

A.2 **Additional Services:** As defined in Paragraph 1.2, as follows:

The field surveys needed for design purposes to include planimetric mapping for the pipeline routes and metes and bounds plats and descriptions for easements across private property will be billed hourly not to exceed \$5,500.00.

Other additional services rendered under Part III, Paragraph 1.2 shall be charged at the respective rates for each classification listed:

A.2.1 Principals time and employees time rendered shall be charged at the respective hourly rates which are to be revised annually:

<u>Classification</u>	<u>Hourly Rate</u>
Professional Engineer	\$75.00
Engineering Technician	45.00
Resident Project Representative	45.00
Draftsman	45.00
Clerical	25.00
Survey Crew (3 Men)	85.00
Registered Land Surveyor	60.00

The hourly rates include all supplies, equipment and incidentals normally consumed by each individual in the performance of his work.

A.2.2 Mileage charges allowed under this contract shall not exceed the mileage charges allowed by IRS regulations at the time the charge is incurred or the rate allowed by the State of Mississippi, whichever is lower. No local mileage will be charged.

A.2.3 **Reimbursable Expenses:** As defined in Article 4, shall be paid for at the actual cost billed the ENGINEER plus ten percent (10%). The estimated total shall not exceed \$500.00 without prior approval by the OWNER.

PART III. TERMS AND CONDITIONS

Article 1. ENGINEER'S SERVICES

1.1 Basic Services

The ENGINEER agrees to perform professional services in connection with the Project, including normal civil and structural services related thereto, as set forth below and contained within this Agreement which services shall be provided in a timely manner and with reasonable diligence and without unreasonable delay.

1.1.1 Preliminary Design Phase

Upon the OWNER'S approval of this Agreement, the ENGINEER shall:

1.1.1.1 In consultation with OWNER, determine the extent of the Project.

1.1.1.2 Prepare preliminary design documents consisting of final design criteria, preliminary plan drawings.

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

1.1.1.4 Furnish the above preliminary design documents and present and review them in person with **OWNER**.

1.1.2 **Final Design Phase**

After acceptance of the Preliminary Design, **ENGINEER** shall:

1.1.2.1 On the basis of the accepted preliminary design documents and the revised opinion of probable **Project Cost**, prepare for incorporation in the Contract Documents final drawings to show the character and extent of the **Project** (hereinafter called "Drawings") and Specifications.

1.1.2.2 Furnish to **OWNER** such documents and design data as may be required for, and assist in the preparation of, the required documents so that **OWNER** may apply for approvals of such governmental authorities as have jurisdiction over design criteria applicable to the **Project**, and assist in obtaining such approvals by participating in submissions to and negotiations with appropriate authorities.

1.1.2.3 Advise **OWNER** of any adjustments to the latest opinion of probable **Project Cost** caused by changes in extent or design requirements of the **Project** or Construction Costs and furnish a revised opinion of probable **Project Cost** based on the Drawings and Specifications.

1.1.2.4 Prepare for review and approval by **OWNER**, his legal counsel and other advisors contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents.

1.1.2.5 Furnish the above documents and present and review them in person with **OWNER**.

1.1.3 **Construction Contract Documents Phase**

After acceptance of the Final Design, the **ENGINEER** shall:

1.1.3.1 Prepare the required Contract forms including proposal forms and notice to bidders, drawings, technical specifications and other documents which are required to complete the Construction Contract Documents.

1.1.3.2 Furnish to the **OWNER** engineering data and documents so that the **OWNER** may secure approval from governmental authorities having jurisdiction over the **Project**.

1.1.3.3 Advise the **OWNER** of any adjustments to previous **ENGINEER'S** Opinion of the Construction Cost when changes in requirements, general market conditions or other conditions so warrant.

1.1.3.4 At the **OWNER'S** request, assist the **OWNER'S** legal counsel in connection with his review of the Construction Contract Documents for their legally related aspects.

1.1.3.5 Furnish the Construction Contract Documents for the **OWNER'S** review and approval.

1.1.4 Bidding Phase

Upon receipt of the OWNER'S written approval of the Construction Contract Documents Phase and latest Opinion of the Construction Cost, and written authorization to proceed with the Bidding Phase, the ENGINEER shall:

1.1.4.1 Assist the OWNER in obtaining bids, in analyzing bids and in awarding the Construction Contract.

1.1.5 Construction Phase

Upon award of any Construction Contract based upon the Construction Contract Documents compiled by the ENGINEER, the Construction Phase of this Agreement shall commence and the ENGINEER shall:

1.1.5.1 Act as the OWNER'S representative with duties and responsibilities and limitations of authority as described in the General Conditions to the Construction Contract. The OWNER shall not modify the Construction Contract Documents without the Written consent of the ENGINEER.

1.1.5.2 Advise and consult with the OWNER during the Construction Phase and the ENGINEER shall issue the OWNER'S authorized instructions to the Contractor.

1.1.5.3 Make periodic visits to the site of the construction to observe the progress and quality of the construction work and to determine, in general, if the results of the construction work are in accordance with the Drawings and the Specifications. On the basis of his on-site observations as an ENGINEER, he shall endeavor to guard the OWNER against apparent defects and deficiencies in the permanent work constructed by the Contractor but does not guarantee the performance of the Contractor. The ENGINEER shall not be required to make exhaustive or continuous on site observations to check the quality or quantity of the construction work. The ENGINEER is not responsible for construction means, methods, techniques, sequences or procedures, time of performance, programs, or for any safety precautions in connection with the construction work. The ENGINEER is not responsible for the Contractor's failure to execute the work in accordance with the Construction Contract.

1.1.5.4 Review the Contractor's request for progressive payment, and based upon said on-site observation, advise the OWNER as to the ENGINEER's opinion of the extent of the work completed in accordance with the terms of the Construction Contract as of the date of the Contractor's payment request and issue, for processing by the OWNER, a Certificate for Payment in the amount owed the Contractor. The issuance of Certificates for Payment shall constitute a declaration by the ENGINEER to the OWNER, based upon said on-site observations, review and data accompanying the request for payment, that the Contractor's work has progressed to the point indicated; that to the best of the ENGINEER's knowledge, information and belief, the quality of the Contractor's work is in accordance with the Construction Contract Documents (subject to subsequent tests and review required by the Construction Contract Documents, to correction of minor deviations from the Construction Contract Documents and to qualifications stated in the Certificate for Payment); and that the Contractor is entitled to the amount stated. The issuing of the Certificate for Payment by the ENGINEER shall not represent that he has made any investigation to determine the uses made by the Contractor of sums paid to the Contractor.

1.1.5.5 Make recommendations to the OWNER on all claims relating to the execution and progress of the construction work. The ENGINEER's decisions in matters relating to the ENGINEER's designs shall be final.

1.1.5.6 Notify the OWNER of permanent work which does not conform to the result required in the Construction Contract, prepare a written report describing any apparent non-conforming permanent work and make recommendations to the OWNER for its correction and, at the request of the OWNER, have recommendations implemented by the Contractor.

1.1.5.7 Review shop drawings, samples, and other submittals of the Contractor only for general conformance to the design concept of the Project and for general compliance with the Construction Contract.

1.1.5.8 Prepare change orders for the OWNER'S approval.

1.1.5.9 Conduct a construction progress review related to the Contractor's date of completion; receive written guarantees and related data assembled by the Contractor; and issue to the OWNER a Certificate of Final Payment.

1.1.5.10 The ENGINEER shall not be responsible for the defects or omissions in the work result of the Contractors, or any Subcontractors, or any of the Contractor's or Subcontractor's employees, or that of any other persons or entities responsible for performing any of the work result as contained in the Construction Contract.

1.1.5.11 Prepare a set of reproducible record drawings conforming to construction records provided to the ENGINEER, made by the Contractor during the construction process.

1.1.5.12 ENGINEER shall secure approval of all local, state and federal regulatory agencies having jurisdiction over the activities in this Project.

1.2 Additional Services

If authorized in writing by the OWNER, the ENGINEER agrees to furnish or obtain from others, additional professional services in connection with the Project, as set forth below and contained within this Agreement:

1.2.1 Preparation of applications and supporting documents for government grants, loans or advances.

1.2.2 Services due to changes in the scope of the Project or its design, including but not limited to, changes in size, complexity schedule or character of construction.

1.2.3 Revising studies, reports, design documents, drawings or specifications which have previously been approved by the OWNER, or when such revisions are due to causes beyond the control of the ENGINEER.

1.2.4 Providing any type of field surveys for design purposes, "stake out" of the location of the work, easement surveys, plats, property surveys and any other special field surveys.

1.2.5 Making a review of the Project prior to expiration of the guarantee period and reporting observed discrepancies under guarantees provided by the Construction Contract.

1.2.6 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) defective or incomplete work of the Contractor, (3) prolongation of the initial Construction Contract time beyond the contract time. (4) acceleration of the work schedule involving services beyond established office working hours, and (5) the Contractor's default under Construction Contract due to delinquency or insolvency.

1.2.7 Providing services as an expert witness for the OWNER in connection with litigation or other proceedings involving the Project.

1.2.8 Providing other services not otherwise provided for in this Agreement, including services normally furnished by the OWNER as described in Article 2. "OWNER'S RESPONSIBILITIES".

1.2.9 Providing Resident Project Representative services to give the OWNER more extensive on-site representation during the Construction Phase.

1.2.10 Notwithstanding the above, the OWNER will not be required to pay for any additional service that is occasioned by some fault, negligent act or omission of the ENGINEER.

Article 2. OWNER'S RESPONSIBILITIES

The OWNER shall:

- 2.1 Provide to the ENGINEER all criteria, design and construction standards and full information as to the OWNER'S requirements for the Project.
- 2.2 Designate in writing a person authorized to act as the OWNER'S representative. The OWNER or his representative shall receive and examine documents submitted by the ENGINEER, interpret and define the OWNER'S policies and render decisions and authorizations in writing promptly to prevent unreasonable delay in the progress of the ENGINEER's services.
- 2.3 Provide legal, accounting, and insurance counseling services necessary for the Project, legal review of the Construction Contract Documents, and such auditing services as the OWNER may require to account for expenditures of sums paid to the Contractor.
- 2.4 Furnish above services at the OWNER'S expense and in such manner that the ENGINEER may rely upon them in the performance of his services under this Agreement.
- 2.5 Obtain bids or proposals from contractors for work relating to this Project and bear all costs relating thereto.
- 2.6 Protect and preserve all survey stakes and markers placed at the Project site prior to the assumption of this responsibility by the Contractor and bear all costs of replacing stakes or markers damaged or removed during said time interval.
- 2.7 Guarantee full and free access for the ENGINEER to enter upon all property required for the performance of the ENGINEER's services under this Agreement.
- 2.8 Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project or other event which may substantially affect the ENGINEER's performance of services under this Agreement.
- 2.9 Compensate the ENGINEER for services rendered under this Agreement.
- 2.10 The OWNER's obligation to furnish the above items are to be extent the City reasonably determines that item is necessary for the ENGINEER to perform its work.

Article 3. REIMBURSABLE EXPENSES

- 3.1 Reimbursable Expenses are in addition to compensation to the ENGINEER for Basic and Additional Services and include expenditures made by the ENGINEER, his employees or his consultants in the interest of the Project. Reimbursable Expenses include but are not limited to:
 - 3.1.1 Expense of transportation, subsistence and lodging when traveling in connection with the Project.

3.1.2 Expense of all reproduction, postage and handling of drawings, specifications, reports or other Project-related work product of the ENGINEER.

3.1.3 When authorized in advance by the OWNER, expense of overtime work requiring higher than normal rates, and expense of preparing perspectives, renderings or models.

Article 4. PAYMENTS TO THE ENGINEER

- 4.1 Progress payments shall be made in proportion to services rendered and as indicated within this Agreement and shall be due and owing within thirty days of the ENGINEER's submittal of his monthly statement. Past due amounts owed shall include a charge at the rate of interest allowed by state law from the forty-fifth (45th) day.
- 4.2 If the OWNER fails to make monthly payments due the ENGINEER, the ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.
- 4.3 No deductions shall be made from the ENGINEER's compensation on account of penalty, liquidated damages or other sums withheld from payments to Contractors.
- 4.4 If the Project is delayed or if the ENGINEER's services for the Project are delayed or suspended for more than three months for reasons beyond the ENGINEER's control, the ENGINEER may, after giving seven days written notice to the OWNER, terminate this Agreement and the OWNER shall compensate the ENGINEER in accordance with the termination provision contained hereafter in this Agreement.

Article 5. GENERAL PROVISIONS

5.1 Ownership of Documents

All Drawings, Specifications and other work product of the ENGINEER for this Project are instruments of service for this Project but becomes the property of the OWNER whether the Project is completed or not when OWNER pays for said work. Reuse of any of the instruments of service of the ENGINEER by the OWNER on extensions of this Project or on any other Project without the written permission of the ENGINEER shall be at the OWNER'S risk and the OWNER agrees to defend, indemnify and hold harmless the ENGINEER from all claims, damages, and expenses including attorney's fees arising out of such unauthorized reuse of the ENGINEER's instruments of service by the OWNER OR BY OTHERS ACTING THROUGH THE OWNER. Any reuse or adaptation of the ENGINEER's instruments of service occurring after the written agreement of the ENGINEER shall entitle the ENGINEER to further compensation in amounts to be agreed upon by the OWNER and the ENGINEER.

5.2 Delegation of Duties

Neither the OWNER nor the ENGINEER shall delegate his duties under this Agreement without the written consent of the other.

5.3 Miscellaneous

This Agreement may be terminated by either party by seven days written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party.

5.4 Extent of Agreement

This Agreement represents the entire and integrated agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and the ENGINEER.

5.5 Governing Law

Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the principal place of business of the ENGINEER.

5.6 General

5.6.1 Should litigation or arbitration occur between the two parties relating to the provisions of this Agreement, all litigation or arbitration expenses, collection expenses, witness fees, court costs and attorneys fees incurred by the prevailing party shall be paid by the non-prevailing party to the prevailing party.

5.6.2 Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

5.6.3 In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

5.6.4 The ENGINEER has not been retained or compensated to provide design or construction review services relating to the Contractor's safety precautions or to means, methods, techniques, sequences, or procedures required for the Contractor to perform his work but not relating to the final or completed structure. Omitted services include but are not limited to shoring, scaffolding, underpinning, temporary retainment of excavations and any erection methods and temporary bracing.

5.6.5 The ENGINEER intends to render his services under this Agreement in accordance with generally accepted professional practices for the intended use of the Project and makes no warranty either express or implied.

5.6.6 Any Opinion of the Construction Cost prepared by the ENGINEER represents his judgment as a design professional and is supplied for the general guidance of the OWNER. Since the ENGINEER has no control over the cost of labor and material, or over competitive bidding or market conditions, the ENGINEER does not guarantee the accuracy of such Opinions as compared to Contractor bids or actual cost to the OWNER.

Article 6. SPECIAL PROVISIONS

6.1 Insurance and Indemnity

6.1.1 The ENGINEER shall acquire and maintain statutory workmens' compensation insurance coverage employer's liability, comprehensive general liability insurance coverage and professional liability insurance coverage. The limits of the professional liability shall be \$250,000.00.

6.1.2 Contractor's Insurance

Prior to the commencement of the work, the OWNER shall require the Contractor and any subcontractors to submit evidence that he (they) have obtained for the period of the Construction Contract and the guarantee period comprehensive general liability insurance coverage (including completed operations coverage). This coverage shall provide for bodily injury and property damage arising directly or indirectly out of, or in connection with, the performance of the work under the Construction Contract, and have a combined single limit of not less than \$1,000,000.00 for all damages arising out of bodily injury, sickness or death or damages arising out of injury to or destruction of property of others arising directly or indirectly out of or in connection with the performance of the work under the Construction Contract and in any one occurrence including explosion, collapse and underground exposures. The OWNER reserves

the right to require increased insurance amounts as OWNER reasonably determines appropriate during the course of this contract.

Included in such coverage will be contractual coverage sufficiently broad to insure the provision of Paragraph 6.1.4, "Indemnity". The comprehensive general liability insurance will include as additional named insured; the OWNER; the ENGINEER and each of their officers, agents and employees.

6.1.3 Builders Risk "All Risk" Insurance

Before commencement of the work, the OWNER will require that the Contractor and any sub-contractors submit written evidence that he (they) have obtained for the period of the Construction Contract, Builders Risk "All Risk" Completed Value Insurance Coverage (including earthquake and flood) upon the entire Project which is the subject of the Construction Contract. Such insurance shall include as additional names insured; the OWNER; the ENGINEER; and each of their officers, agents, employees and any other persons with an insurable interest as maybe designated by the OWNER.

Such insurance may have a deductible clause but not to exceed \$5,000, except that the earthquake deductible may be in accordance with generally accepted insurance practices in the locale where the coverage is issued.

6.1.4 Indemnity

The OWNER will require that any Contractor of sub-contractors performing work in connection with Drawings and Specifications produced under this Agreement to hold harmless, indemnify and defend, the OWNER and the ENGINEER, their consultants, and each of their officers, agents, and employees from any and all liability claims, losses or damage arising out of or alleged to arise from the Contractor's (sub-contractor's) negligence in the performance of the work described in the construction Contract Documents, but not including liability that may be due to the sole negligence of the OWNER, the ENGINEER, their consultants or their officers, agents and employees.

6.2 Construction Cost

6.2.1 When a fixed limit of Construction Cost is established as a condition of this Agreement, it shall be in writing signed by both the OWNER and ENGINEER and shall include a ten percent bidding contingency unless another amount is agreed upon in writing. When such fixed limit is established the ENGINEER shall be permitted to determine what materials, equipment, component systems, types of construction and alternative bid items are to be included in the Construction Contract Documents, and to make reasonable adjustments in the scope of the Project to bring it within the fixed limit. Acceptance by the OWNER of a revised Opinion of Construction Cost in excess of the fixed limit shall constitute a corresponding increase in the fixed limit of Construction Cost.

6.2.2 After completion of the Construction Contract Documents Phase, if the bidding or negotiating phase does not commence within six months, any fixed limit of the Construction Cost shall be adjusted to reflect general construction industry price level increases occurring between the date of ENGINEER's submittal to the OWNER of the final Construction Contract Document and the date on which bids or proposals are sought.

6.2.3 If the lowest bona fide bid or the ENGINEER's Opinion of the Construction Cost exceeds such fixed limit of Construction Cost (including the bidding contingency) established as a condition of this Agreement, the OWNER shall (1) give written approval for an increase in such fixed limit, (2) authorize re-bidding within a reasonable time, or (3) cooperate in revising the Project scope and quality as required to reduce the Construction Cost. In the case of (3) the ENGINEER, without additional charge, shall modify the Construction Contract Documents, as the ENGINEER deems necessary, to bring the Construction Cost within the fixed limit. The providing of this service once shall be the limit of the ENGINEER's responsibility in this regard, and having so performed this service the ENGINEER shall be entitled to his compensation in accordance with this Agreement.

6.3 Resident Project Representative

6.3.1 If requested by the OWNER or recommended by the ENGINEER and approved in writing by the OWNER, the ENGINEER shall provide one or more full time resident Project representatives to assist the ENGINEER in order to render more extensive representation at the Project site during the construction phase. Such resident construction review services shall be paid for by the OWNER as additional services as defined within this Agreement. The limits of the authority, duties and responsibilities of a resident Project representative shall be described before such services begin by written instruments and made a part of this Agreement.

6.3.2 By means of the more extensive on-site observations of the work in progress, the ENGINEER will endeavor to provide further protection for the OWNER against defects and deficiencies in the contractor's work, but the furnishing of such services shall not include construction review of the Contractor's construction means, methods, techniques, sequences or procedures, or of any safety precautions and programs in connection with the work, and the ENGINEER shall not be responsible for the Contractor's failure to carry out the work in accordance with the Construction Contract.

6.4 Limitation of Liability

The OWNER agrees to limit the ENGINEER's liability to the OWNER and to all Construction Contractors and Subcontractors on the PROJECT, due to the ENGINEER's professional negligent acts, errors or omissions, such that the total aggregate liability of the ENGINEER to those named shall not exceed Two Hundred Fifty Thousand (\$250,000.00) dollars or the ENGINEER's total fee for services rendered on this PROJECT, whichever is greater.

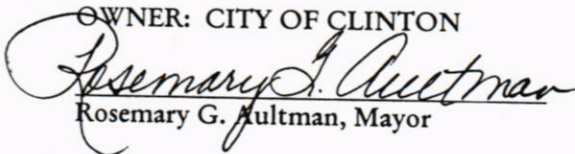
6.5 Responsible Professional Engineer

Primary responsibility for these services will be assigned to Jerry L. Tullos, P.E., Registration No. 6175.

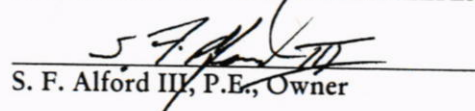
PART IV: ACCEPTANCE

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

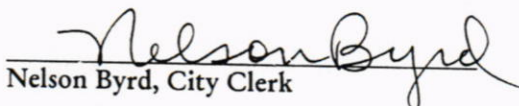
OWNER: CITY OF CLINTON


Rosemary G. Aultman, Mayor

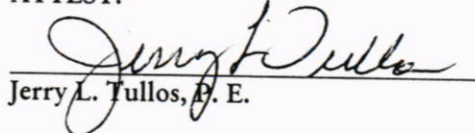
ENGINEER: ALFORD ENGINEERING


S. F. Alford III, P.E., Owner

ATTEST:


Nelson Byrd, City Clerk

ATTEST:


Jerry L. Tullos, P. E.