



9  
**355-TIPS**

February 12, 1993

Chief Don Byington  
Clinton Police Department  
P. O. Box 156  
Clinton, MS 39060

Dear Chief Byington:

It has been nine months since we held an orientation program on Crime Stoppers for Police Chiefs, Mayors, and Sheriffs in the Jackson Metro Area. We are pleased to provide you with the enclosed **Crime Stoppers Report Letter** on expansion efforts and to extend an **invitation** to the City of Clinton to join Crime Stoppers.

Metro Crime Stoppers can soon be a reality should your community accept this invitation to join the successful Crime Stoppers program already in place. Information concerning this proposal has been previously distributed. However, we are again providing this information.

A one-time financial contribution of **\$14,000** funding will be necessary. If this would create a hardship, we would allow payment of this initial fee in installments over a period of one year. The continuing financial requirement would be satisfied by remitting \$1.00 of each moving traffic violation fine collected. An ordinance will need to be enacted to increase the fine schedule and permit the transfer of funds.

Representatives of Crime Stoppers are available to meet with the appropriate officials to further explain the program and answer any questions.

We appreciate the interest you have expressed and look forward to hearing from you in the near future. Please let us hear from you by **April 1**.

Sincerely,

Ralph Day  
Chairman

/cb

Enclosure  
cc: Mayor Billy Ray Smith



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**355-TIPS**

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CRIME STOPPERS REPORT LETTER

February 12, 1993

Crime Stoppers is pleased to report on the status of our efforts to expand the program to service the Jackson Metropolitan Area.

The municipalities of Clinton, Madison, Ridgeland, and Canton have expressed positive interest in participating in this effort. In fact, the City of Canton has approved financing and passed the necessary ordinance to help fund the program by increasing the fine for moving traffic violations.

The City of Brandon is interested but not able to participate at this time. The City of Pearl is not interested at this time.

Madison County is interested in joining, but it may not be possible until the next fiscal year.

As of this report, we have not had communications with Rankin County but will be following through with our efforts.

It is our belief that Metro Crime Stoppers can become a reality although all governmental units may not be able to join at the same time. However, in the event the initial capital financial contribution poses a problem, Crime Stoppers will work with a community provided the contribution is guaranteed within one (1) year.

Should Clinton, Ridgeland, Madison and Canton join Hinds County and Jackson (which presently support Crime Stoppers), we should be able to activate the Metro program. We would continue to work with Madison and Rankin Counties, Brandon, and Pearl.

Accordingly, we are issuing formal invitations to Clinton, Madison and Ridgeland to join Hinds County, Jackson, and Canton in forming Metro Crime Stoppers. Representatives of Crime Stoppers are available to meet with all interested agencies for further discussion and to answer any questions about the program.

Crime Stoppers is a proven program which puts criminals in jail. Major murder cases have been solved with information received on the Crime Stoppers tip line. Let's try to get together and get the program working throughout the entire Metro Area!



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**355-TIPS****PROPOSAL****METRO CRIME STOPPERS**

Crime Stoppers of Jackson, operating under the auspices of the Metro Jackson Chamber of Commerce, has been authorized to offer participation in the Crime Stoppers program to law enforcement jurisdictions in the immediate Jackson area.

The present program, inaugurated in 1985, includes the City of Jackson and Hinds County. The Crime Stoppers Coordinator is Detective David Horton of the Jackson Police Department.

In expanding the program to the surrounding jurisdictions, those municipalities and counties could participate fully in the Crime Stoppers program with a much lesser investment than by starting a single program to service an individual community.

The following information is presented to briefly explain the proposed program.

**Organization**

Crime Stoppers of Jackson would become Metro Jackson Crime Stoppers. The program would be governed by the Board of Directors comprised of individuals residing in the three counties. The present Board has members from all three counties and represents several of the jurisdictions.

Each jurisdiction would have its own Crime Stoppers Coordinator, who would be a member of the police or sheriff's department. Crime Stoppers and Detective David Horton (Jackson Police Department) would spend whatever time is necessary to train the new Crime Stoppers Coordinator in each jurisdiction.

Crime Stoppers Coordinators for each jurisdiction would submit requests for cash awards to the Board of Directors at its regular monthly meeting. Requests would be acted on at that time so awards may be paid promptly.

**Communications**

The present Crime Stoppers telephone number, 355-TIPS, would be utilized for all jurisdictions. This would enable participants to use the same advertising material, and callers would not be confused by different telephone numbers. Crime Stoppers would acquire automated telephone equipment to receive all calls and automatically forward the call to the proper jurisdiction.

Each jurisdiction would need to dedicate an incoming telephone line at their headquarters for the purpose.

**Publicity/Re-enactments**

Crime Stoppers would furnish pamphlets, posters, bumper stickers and other material to advertise the program. Television re-enactments of crimes would be shown on WLBT-TV Channel 3 as they are at present. It is hoped we could double production of these re-enactments.

P. O. Box 22548 • Jackson, Mississippi 39225-2548

### Funding

Crime Stoppers of Jackson receives its funding from two sources. In 1985 major donors were asked for substantial one-time contributions. The response was highly satisfactory. The money was invested and provides Crime Stoppers with interest income.

Each jurisdiction would be asked to raise money from public and/or private donors to provide the additional funding for the expanded Crime Stoppers program.

The Crime Stoppers program was started in 1985 at a per capita cost of approximately \$1.00 per person based on population.

It is estimated that, to properly fund Metro Crime Stoppers, an investment of \$75,500 will be required.

Using 1990 population figures, we utilized a figure of .65¢ per person in the municipalities, rounded off the total, and arrived at the following amounts. The two-county governmental jurisdictions would split the balance required to reach the goal.

|                |               |
|----------------|---------------|
| Clinton        | \$14,000      |
| Madison        | 5,000         |
| Brandon        | 8,000         |
| Ridgeland      | 8,000         |
| Flowood        | 2,000         |
| Pearl          | 12,500        |
| Richland       | 3,000         |
| Madison County | 11,500        |
| Rankin County  | <u>11,500</u> |
| TOTAL          | \$75,500      |

The other source of continuing income is derived from a \$1.00 levy on moving traffic violations issued and collected by the Jackson Police Department and the Hinds County Sheriff's Department. A copy of the enabling ordinances is attached.

Each jurisdiction would enact a similar ordinance, increase the fine for a moving traffic violation \$1.00, and remit the proceeds monthly.

Crime Stoppers would appreciate responses by June 1, 1992, from each jurisdiction as to whether they are interested in joining this program.

**JOB DESCRIPTION****POLICE OR SHERIFF'S DEPARTMENT COORDINATOR**

1. Coordinator receives and processes caller information.
2. Keeps confidential files apart from other police records. Only coordinator to have access to Crime Stoppers caller information.
3. When a crime is solved, coordinator submits written recommendation on caller number with suggested award amount.
4. Advises caller of board's decision.
5. Reasonable acknowledgement when Crime Stoppers information helps solve a crime. Willingness to promote.
6. Assistance with re-enactments, including props and facilities.
7. Liaison to other law enforcement agencies.

/o

**GENERAL SERVICES AGREEMENT**  
by and between  
**CITY OF CLINTON**  
and  
**ABMB ENGINEERS, INCORPORATED**

This is an Agreement made this the 16<sup>th</sup> day of March, 1993, by and between the City of Clinton, Post Office Box 156, Clinton, Mississippi 39060 (Owner) and ABMB Engineers, Incorporated, 401 East Capitol Street, Suite 400, Jackson, Mississippi 39201 (Engineer).

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

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

**SECTION 1 - ENGINEER'S RESPONSIBILITIES**

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

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**GENERAL SERVICES AGREEMENT  
CITY OF CLINTON - ABMB  
PAGE 2**

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

**SECTION 2 - OWNER'S RESPONSIBILITIES**

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

**SECTION 3 - PERIOD OF SERVICE**

- 3.1 The general services authorized by this Agreement shall be performed in accordance with this Agreement during calendar years 1993, and 1994;

**GENERAL SERVICES AGREEMENT  
CITY OF CLINTON - ABMB  
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- 3.2 The general services performed after calendar year 1994, shall be provided in accordance with an amendment to this Agreement setting forth such new conditions, responsibilities, duties and hourly rates as may be mutually agreed upon between the Owner and Engineer; and
- 3.3 The general services for the work authorized by this Agreement shall be considered complete upon the acceptance of the work product by Owner or upon the passage of thirty days after the date the deliverable is submitted to the Owner, whichever date is earlier.

**SECTION 4 - COMPENSATION TO THE ENGINEER**

- 4.1 The Engineer shall provide the general services authorized herein on an hourly basis in accordance with the standard hourly billing rates of the Engineer, a copy of which is attached hereto for calendar years 1993, and 1994;
- 4.2 The Engineer shall notify the Owner of the standard hourly billing rates that shall apply to the services rendered under this Agreement no less than annually after calendar year 1994;
- 4.3 The Owner shall compensate the Engineer for the general services authorized by this Agreement in accordance with the hourly rates, plus direct reimbursable expenses including printing, postage, travel, subsistence and the like;
- 4.4 The Engineer shall submit monthly invoices for the general services rendered in accordance with the hourly rates, and shall invoice for the direct expenses incurred at cost;
- 4.5 The Owner shall make prompt monthly payments to the Engineer for the services rendered;
- 4.6 The Engineer's general services and hourly rates are provided on the basis of prompt payment by the Owner of invoices rendered and continuous progress on the work by the Engineer until submission of the work product;
- 4.7 If the Owner fails to make any payment due the Engineer for services and expenses within thirty days after receipt of Engineer's statement therefor, the amounts due Engineer will be increased at the rate of 1% per month from said thirtieth day, and in addition, Engineer may, after giving seven day's written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses and charges.

**SECTION 5 - COST CONTROL**

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

**SECTION 6 - GENERAL CONSIDERATIONS**

- 6.1 All documents prepared or furnished by Engineer, and Engineer's independent professional associates and consultants, pursuant to this Agreement are instruments of service and Engineer shall retain an ownership and property interest therein. Owner may make and retain copies for information and reference; however, such documents are not intended or represented to be suitable for reuse by Owner or others. Any reuse without written verification of adaptation by Engineer for the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to Engineer, or to Engineer's independent professional associates and consultants, from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification of adaptation will entitle Engineer to further compensation at rates to be agreed upon by Owner and Engineer;
- 6.2 The obligation to provide further services under this Agreement may be terminated by either party upon thirty days written notice in the event of substantial failure by the other party to perform in accordance with the terms thereof through no fault of the terminating party. In the event of any termination, Engineer will be paid for all professional services rendered and for all reimbursable expenses incurred to the date of termination and , in addition, all

**GENERAL SERVICES AGREEMENT  
CITY OF CLINTON - ABMB  
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professional and reimbursable expenses directly attributable to termination;

- 6.3 Owner and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer, and to the extent permitted by paragraph 6.4, the assigns of Owner and Engineer, are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives, and said assigns, of such other party, in respect of all covenants, agreements and obligations of the Agreement;
- 6.4 Neither Owner nor Engineer shall assign, sublet or transfer any rights under or interest in, including, but without limitation, moneys that are due, this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to any assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Engineer from employing such independent professional associates and consultants as Engineer may deem appropriate to assist in the performance of services hereunder;
- 6.5 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Owner and Engineer, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer, and not for the benefit of any other party;
- 6.6 This Agreement together with such amendments which shall be added from time to time constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument; and
- 6.7 Owner hereby agrees that to the fullest extent permitted by law, that the Engineer's total liability to Owner on any Project performed under this contract, due to the Engineer's negligence acts, errors, omissions, strict liability, breach of contract or breach of warranty, shall not exceed \$250,000 or the total construction cost of the project for the specific work effort authorized under this Agreement from which a liability claim arises, whichever is less. Any construction contract for a project as a result of the Engineer's design shall contain the following provision:

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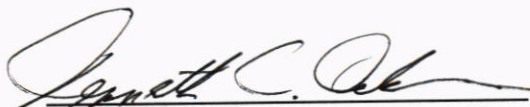
The Bidder is skilled and experienced in the use and interpretation of plans and specifications. He has carefully reviewed the plans and specifications for this project and has found them to be free of ambiguities and sufficient for bid purposes. Further, he has carefully examined the site of the work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

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

CITY OF CLINTON, MISSISSIPPI

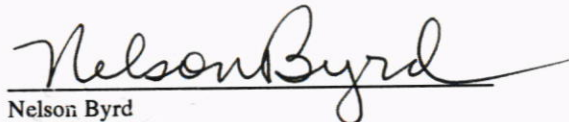
ABMB ENGINEERS, INCORPORATED

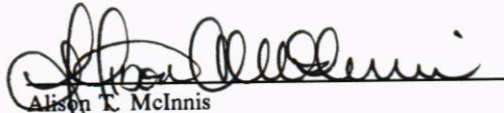
  
Billy Ray Smith, Mayor  
City of Clinton

  
Kenneth W. Adkins  
President

ATTEST:

ATTEST:

  
Nelson Byrd  
City Clerk

  
Alison T. McInnis  
Office Manager

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CITY OF CLINTON - ABMB  
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**STANDARD HOURLY BILLING RATES  
1993 - 1994**

| <b><u>Classification</u></b> | <b><u>Hourly<br/>Rate</u></b> |
|------------------------------|-------------------------------|
| Principal                    | \$70.00                       |
| Supervisor / Project Manager | \$65.00                       |
| Engineer                     | \$64.00                       |
| Preprofessional              | \$37.00                       |
| Technician                   | \$38.00                       |
| Drafter                      | \$25.00                       |
| Clerical                     | \$24.00                       |
| Inspector                    | \$30.00                       |
| Three Man Survey Crew        | \$70.00                       |



AIA Document B141

# Standard Form of Agreement Between Owner and Architect

1987 EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

## AGREEMENT

made as of the Twenty-fourth day of February in the year of Nineteen Hundred and Ninety-three.

**BETWEEN** the Owner: The City of Clinton, Mississippi  
(Name and address) P. O. Box 156  
Clinton, Mississippi 39060

and the Architect: Weatherford/McDade, Ltd.  
(Name and address) Planning Consultants \* Landscape Architects  
1662 Lelia Drive  
Jackson, Mississippi 39216

For the following Project:

(Include detailed description of Project, location, address and scope)

Landscape Architectural design, development of construction drawings, administration of bidding, and construction administration for the following parks to be located within the City Limits of Clinton, Mississippi:

1. ~~Brighton Park~~ Southwest Park
2. Lovett Park
3. Springridge Softball Complex

The Owner and Architect agree as set forth below.

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B141-1987 1

# TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

## ARTICLE 1

### ARCHITECT'S RESPONSIBILITIES

#### 1.1 ARCHITECT'S SERVICES

1.1.1 The Architect's services consist of those services performed by the Architect, Architect's employees and Architect's consultants as enumerated in Articles 2 and 3 of this Agreement and any other services included in Article 12.

1.1.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. Upon request of the Owner, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Architect or Owner.

1.1.3 The services covered by this Agreement are subject to the time limitations contained in Subparagraph 11.5.1.

## ARTICLE 2

### SCOPE OF ARCHITECT'S BASIC SERVICES

#### 2.1 DEFINITION

2.1.1 The Architect's Basic Services consist of those described in Paragraphs 2.2 through 2.6 and any other services identified in Article 12 as part of Basic Services, and include normal structural, mechanical and electrical engineering services.

#### 2.2 SCHEMATIC DESIGN PHASE

2.2.1 The Architect shall review the program furnished by the Owner to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the Owner.

2.2.2 The Architect shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Subparagraph 5.2.1.

2.2.3 The Architect shall review with the Owner alternative approaches to design and construction of the Project.

2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Architect shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components.

2.2.5 The Architect shall submit to the Owner a preliminary estimate of Construction Cost based on current area, volume or other unit costs.

2.2.5.1 Refer to Paragraph 12.1

#### 2.3 DESIGN DEVELOPMENT PHASE

2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program,

schedule or construction budget, the Architect shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

2.3.2 The Architect shall advise the Owner of any adjustments to the preliminary estimate of Construction Cost.

#### 2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

2.4.2 The Architect shall assist the Owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.

2.4.3 The Architect shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

2.4.4 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

#### 2.5 BIDDING OR NEGOTIATION PHASE

2.5.1 The Architect, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, shall assist the Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.

#### 2.6 CONSTRUCTION PHASE—ADMINISTRATION OF THE CONSTRUCTION CONTRACT

2.6.1 The Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates at the earlier of the issuance to the Owner of the final Certificate for Payment or 60 days after the date of Substantial Completion of the Work, unless extended under the terms of Subparagraph 10.3.3.

2.6.2 The Architect shall provide administration of the Contract for Construction as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement, unless otherwise provided in this Agreement.

2.6.3 Duties, responsibilities and limitations of authority of the Architect shall not be restricted, modified or extended without written agreement of the Owner and Architect with consent of the Contractor, which consent shall not be unreasonably withheld.

**2.6.4** The Architect shall be a representative of and shall advise and consult with the Owner (1) during construction until final payment to the Contractor is due, and (2) as an Additional Service at the Owner's direction from time to time during the correction period described in the Contract for Construction. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written instrument.

**2.6.5** The Architect shall visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the Owner and Architect in writing to become generally familiar with the progress and quality of the Work completed and to determine in general if the Work is being performed in a manner indicating that the Work when completed will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, the Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work. *(More extensive site representation may be agreed to as an Additional Service, as described in Paragraph 3.2.)*

**2.6.5.1** Refer to Paragraph 12.2

**2.6.6** The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

**2.6.7** The Architect shall at all times have access to the Work wherever it is in preparation or progress.

**2.6.8** Except as may otherwise be provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect.

**2.6.9** Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect shall review and certify the amounts due the Contractor.

**2.6.10** The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's observations at the site as provided in Subparagraph 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or

quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**2.6.11** The Architect shall have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect will have authority to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the Work.

**2.6.12** The Architect shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

**2.6.13** The Architect shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Architect as provided in Subparagraphs 3.1.1 and 3.3.3, for the Owner's approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

**2.6.14** The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

**2.6.15** The Architect shall interpret and decide matters concerning performance of the Owner and Contractor under the requirements of the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

**2.6.16** Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

**2.6.17** The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**2.6.18** The Architect shall render written decisions within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.

**2.6.19** The Architect's decisions on claims, disputes or other matters, including those in question between the Owner and Contractor, except for those relating to aesthetic effect as provided in Subparagraph 2.6.17, shall be subject to arbitration as provided in this Agreement and in the Contract Documents.

### ARTICLE 3

#### ADDITIONAL SERVICES

##### 3.1 GENERAL

**3.1.1** The services described in this Article 3 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Paragraph 3.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the Owner prior to commencing such services. If the Owner deems that such services described under Paragraph 3.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Architect shall have no obligation to provide those services.

##### 3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

**3.2.1** If more extensive representation at the site than is described in Subparagraph 2.6.5 is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

**3.2.2** Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the Owner and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 current as of the date of this Agreement, unless otherwise agreed.

**3.2.3** Through the observations by such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect as described elsewhere in this Agreement.

##### 3.3 CONTINGENT ADDITIONAL SERVICES

**3.3.1** Making revisions in Drawings, Specifications or other documents when such revisions are:

- 1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project budget;
- 2 required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; or
- 3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

**3.3.2** Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, or the method of bidding or negotiating and contracting for construction, except for services required under Subparagraph 5.2.5.

**3.3.3** Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives.

**3.3.4** Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

**3.3.5** Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

**3.3.6** Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

**3.3.7** Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

**3.3.8** Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the Architect is party thereto.

**3.3.9** Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase.

##### 3.4 OPTIONAL ADDITIONAL SERVICES

**3.4.1** Providing analyses of the Owner's needs and programming the requirements of the Project.

**3.4.2** Providing financial feasibility or other special studies.

**3.4.3** Providing planning surveys, site evaluations or comparative studies of prospective sites.

**3.4.4** Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

**3.4.5** Providing services relative to future facilities, systems and equipment.

**3.4.6** Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

**3.4.7** Providing services to verify the accuracy of drawings or other information furnished by the Owner.

**3.4.8** Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.

**3.4.9** Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

**3.4.10** Providing detailed estimates of Construction Cost.

**3.4.11** Providing detailed quantity surveys or inventories of material, equipment and labor.

**3.4.12** Providing analyses of owning and operating costs.

**3.4.13** Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

**3.4.14** Providing services for planning tenant or rental spaces.

**3.4.15** Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

**3.4.16** Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

**3.4.17** Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

**3.4.18** Providing services after issuance to the Owner of the final Certificate for Payment, or in the absence of a final Certificate for Payment, more than 60 days after the date of Substantial Completion of the Work.

**3.4.19** Providing services of consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of Basic Services.

**3.4.20** Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

**4.2** The Owner shall establish and update an overall budget for the Project, including the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

**4.3** If requested by the Architect, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations under this Agreement.

**4.4** The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

**4.5** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a project benchmark.

**4.6** The Owner shall furnish the services of geotechnical engineers when such services are requested by the Architect. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsurface conditions, with reports and appropriate professional recommendations.

**4.6.1** The Owner shall furnish the services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Architect.

**4.7** The Owner shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

**4.8** The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.

**4.9** The services, information, surveys and reports required by Paragraphs 4.5 through 4.8 shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

**4.10** Prompt written notice shall be given by the Owner to the Architect if the Owner becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

**4.11** The proposed language of certificates or certifications requested of the Architect or Architect's consultants shall be submitted to the Architect for review and approval at least 14 days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement.

## ARTICLE 4

### OWNER'S RESPONSIBILITIES

**4.1** The Owner shall provide full information regarding requirements for the Project, including a program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

## ARTICLE 5 CONSTRUCTION COST

### 5.1 DEFINITION

5.1.1 The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect.

5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction.

5.1.2.1 Refer to Paragraph 12.3

5.1.3 Construction Cost does not include the compensation of the Architect and Architect's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in Article 4.

### 5.2 RESPONSIBILITY FOR CONSTRUCTION COST

5.2.1 Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Architect.

5.2.2 No fixed limit of Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties hereto. If such a fixed limit has been established, the Architect shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of an increase in the Contract Sum occurring after execution of the Contract for Construction.

5.2.3 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

5.2.4 If a fixed limit of Construction Cost (adjusted as provided in Subparagraph 5.2.3) is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

- 1 give written approval of an increase in such fixed limit;
- 2 authorize rebidding or renegotiating of the Project within a reasonable time;

- 3 if the Project is abandoned, terminate in accordance with Paragraph 8.3; or
- 4 cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

5.2.5 If the Owner chooses to proceed under Clause 5.2.4.4, the Architect, without additional charge, shall modify the Contract Documents as necessary to comply with the fixed limit, if established as a condition of this Agreement. The modification of Contract Documents shall be the limit of the Architect's responsibility arising out of the establishment of a fixed limit. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

## ARTICLE 6 USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

6.1 The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project. The Architect's Drawings, Specifications or other documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.

6.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Architect's reserved rights.

## ARTICLE 7 ARBITRATION

7.1 Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.

7.2 Demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

7.3 No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement.

except by written consent containing a specific reference to this Agreement signed by the Owner, Architect, and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

7.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

## ARTICLE 8

### TERMINATION, SUSPENSION OR ABANDONMENT

8.1 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

8.2 If the Project is suspended by the Owner for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Architect's services.

8.3 This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Architect in the event that the Project is permanently abandoned. If the Project is abandoned by the Owner for more than 90 consecutive days, the Architect may terminate this Agreement by giving written notice.

8.4 Failure of the Owner to make payments to the Architect in accordance with this Agreement shall be considered substantial nonperformance and cause for termination.

8.5 If the Owner fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 8.7.

8.7 Termination Expenses are in addition to compensation for Basic and Additional Services, and include expenses which are directly attributable to termination. Termination Expenses shall be computed as a percentage of the total compensation for Basic Services and Additional Services earned to the time of termination, as follows:

- .1 Twenty percent of the total compensation for Basic and Additional Services earned to date if termination occurs before or during the pre-design, site analysis, or Schematic Design Phases, or

- .2 Ten percent of the total compensation for Basic and Additional Services earned to date if termination occurs during the Design Development Phase; or
- .3 Five percent of the total compensation for Basic and Additional Services earned to date if termination occurs during any subsequent phase.

## ARTICLE 9

### MISCELLANEOUS PROVISIONS

9.1 Unless otherwise provided, this Agreement shall be governed by the law of the principal place of business of the Architect.

9.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

9.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion.

9.4 The Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent covered by property insurance during construction, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The Owner and Architect each shall require similar waivers from their contractors, consultants and agents.

9.5 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.

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

9.7 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

9.8 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

9.9 The Architect shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of

the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect on the construction sign and in the promotional materials for the Project.

## ARTICLE 10

### PAYMENTS TO THE ARCHITECT

#### 10.1 DIRECT PERSONNEL EXPENSE

10.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

#### 10.2 REIMBURSABLE EXPENSES

10.2.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project, as identified in the following Clauses.

10.2.1.1 ~~Expense of transportation in connection with the Project.~~ Expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project.

10.2.1.2 Expense of reproductions, postage and handling of Drawings, Specifications and other documents.

10.2.1.3 ~~If authorized in advance by the Owner, expense of~~ ~~per diem or other expenses requiring higher than regular rates.~~

10.2.1.4 Expense of renderings, models and mock-ups requested by the Owner.

10.2.1.5 Expense of additional insurance coverage or limits, including professional liability insurance, requested by the Owner in excess of that normally carried by the Architect and Architect's consultants.

10.2.1.6 Expense of computer-aided design and drafting equipment time when used in connection with the Project.

#### 10.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES

10.3.1 ~~Architect's payments on account of basic services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Subparagraph 11.2.2.~~

10.3.2 Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Subparagraph 11.2.2.

10.3.3 If and to the extent that the time initially established in Subparagraph 11.5.1 of this Agreement is exceeded or extended through no fault of the Architect, compensation for any services rendered during the additional period of time shall be computed in the manner set forth in Subparagraph 11.3.2.

10.3.4 When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Subparagraph 11.2.2, based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project.

#### 10.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

10.4.1 Payments on account of the Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or expenses incurred.

#### 10.5 PAYMENTS WITHHELD

10.5.1 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been found to be liable.

#### 10.6 ARCHITECT'S ACCOUNTING RECORDS

10.6.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

## ARTICLE 11

### BASIS OF COMPENSATION

The Owner shall compensate the Architect as follows:

#### 11.1 AN INITIAL PAYMENT of N/A

Dollars (\$ -0- )  
shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

#### 11.2 BASIC COMPENSATION

11.2.1 FOR BASIC SERVICES, as described in Article 2, and any other services included in Article 12 as part of Basic Services, Basic Compensation shall be computed as follows: For each park, a separate percentage fee will be

(Insert basis of compensation, including stipulated sums, multiples or percentages, and identify phases to which particular methods of compensation apply, if necessary.)

established, based upon the standard State of Mississippi Office of Building, Grounds, and Real Property Management rate schedule for a type "B" project.  $\frac{40}{\text{Log } P/100} = \% \text{ fee where "P" equals construction (or estimate) amount.}$

**11.2.2** Where compensation is based on a stipulated sum or percentage of Construction Cost, progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

Schematic Design shall be performed at regular hourly rates as listed in 11.3.2. Construction Phase fees shall be amended as noted in Paragraph 12.2.

|                                                           |             |                                               |
|-----------------------------------------------------------|-------------|-----------------------------------------------|
| Schematic Design Phase:                                   |             | <del>one hundred percent</del> hourly basis   |
| Design Development Phase:                                 | Twenty      | percent (20 %)                                |
| Construction Documents Phase:                             | Thirty-five | percent (35 %)                                |
| Bidding or Negotiation Phase:                             | Five        | percent (5 %)                                 |
| Construction Phase:                                       | Twenty-five | percent (25 %) plus hrly charges if necessary |
| Total Basic Compensation: EIGHTY-FIVE PERCENT PLUS HOURLY |             | <del>one hundred percent (100%)</del>         |

**11.3.1** FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Paragraph 3.2, compensation shall be computed as follows:

Refer to 11.3.2

**11.3.2 FOR ADDITIONAL SERVICES OF THE ARCHITECT**, as described in Articles 3 and 12, other than (1) Additional Project Representation, as described in Paragraph 3.2, and (2) services included in Article 12 as part of Additional Services, but excluding services of consultants, compensation shall be computed as follows:

*(Insert basis of compensation, including rates and/or multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply, if necessary.)*

|                               |             |
|-------------------------------|-------------|
| Principle Designer            | \$75.00/hr. |
| Senior Contract Administrator | \$75.00/hr. |
| Senior Landscape Architect    | \$55.00/hr. |
| Junior Landscape Architect    | \$45.00/hr. |
| Landscape Technician          | \$35.00/hr. |
| Clerical                      | \$30.00/hr. |

Professionals other than those listed above — hourly rate plus 15%

**11.3.3 FOR ADDITIONAL SERVICES OF CONSULTANTS**, including additional structural, mechanical and electrical engineering services and those provided under Subparagraph 3.4.19 or identified in Article 12 as part of Additional Services, a multiple of one and fifteen ( 1.15 ) times the amounts billed to the Architect for such services.

(Identify specific types of consultants in Article 12, if required.)

#### 11.4 REIMBURSABLE EXPENSES

**11.4 REIMBURSABLE EXPENSES**

**11.4.1** FOR REIMBURSABLE EXPENSES, as described in Paragraph 10.2, and any other items included in Article 12 as Reimbursable Expenses, a multiple of one and fifteen hundredths ( 1.15 ) times the expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project.

## 11.5 ADDITIONAL PROVISIONS

11.5.1 IF THE BASIC SERVICES covered by this Agreement have not been completed within NINE (09) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Subparagraphs 10.3.3 and 11.3.2.

[illegible]

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

11.5.3 The rates and multiples set forth for Additional Services shall be annually adjusted in accordance with normal salary review practices of the Architect.

## ARTICLE 12 OTHER CONDITIONS OR SERVICES

*(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Agreement.)*

12.1 Paragraph 2.2 - Schematic Design Phase: Add to subparagraph 2.2.5 the following:

2.2.5.1 Based upon the preliminary Estimate of Construction, the Owner will advise the Architect of (1) the portion(s) of work, and (2) budget amount for each park prior to his initiating work in the Design Development Phase.

12.2 Paragraph 2.6 - Construction Phase - Administration of the Construction Contract: Add to subparagraph 2.6.5 the following:

2.6.5.1 The Architect will be responsible for participation in the Pre-Construction Conference, review of submittals/shop drawings, other documentation as required in Division 1 of the Project Manual, Final Inspection, and review of closeout documents.

2.6.5.2 Should the time required to be on-site for visits as described in Paragraph 2.6.5 or for travel to and from the site, based upon the hourly rates listed in 11.3.2, exceed 90 percent of the fees scheduled for Contract Administration, the Architect shall be entitled to claim and be compensated for his time above the 90 percent figure, based upon hourly rates, provided that the basis of need of the exceeded visit time is not the fault of the Architect.

12.3 Paragraph 5.1 - Definition, Construction Cost: Add to subparagraph 5.1.2 the following:

5.1.2.1 The value of work performed by the Owner's in-house forces, or other "in-kind" agencies for the purpose of determining fees shall be determined utilizing current commercial construction industry prices.

This Agreement entered into as of the day and year first written above.

OWNER

Billy R Smith  
(Signature)

Billy Ray Smith, Mayor

(Printed name and title)

ARCHITECT

Phillip L. McDade  
(Signature)

Phillip L. McDade, Vice President

(Printed name and title)

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B141-1987 10

ATTEST: Nelson Byrd, City Clerk



## CLINTON CHAMBER OF COMMERCE

### POLICY STATEMENT FOR PARKS AND RECREATION DEVELOPMENT

The Clinton Chamber of Commerce understands that the City of Clinton is presently considering the purchase of a parcel of property commonly called Price Park, located between Dunton Road and Northside Drive, just east of Old Livingston Road. The Chamber is also aware that this parcel of property is one of three proposals received by the City of Clinton in early 1993.

The Clinton Chamber of Commerce believes that capital improvements to parks and recreation facilities and programs are of vital importance in City planning and enhancement of Clinton's quality of life. Planning should take into account the broadest possibilities for types of use so that both present and future needs of the average Clintonian are served by all improvements. New property which may be acquired should be evaluated carefully especially taking into consideration geographical location, potential for all possible future uses, and its value for creating community cohesion. One part of the evaluation should include an assessment of consistency with the comprehensive Land Use & Thoroughfares Plan (1988, amended 1989).

In December, 1992, the City of Clinton adopted a comprehensive parks plan, which provides for the orderly improvement of Clinton's parks and recreation needs, and such plan insures that the bond funds, approved by voters in November, 1990, are not in jeopardy of being lost. The City of Clinton has requested and received proposals on parcels of property in excess of 20 acres. Additionally, the City has instructed its engineer to compose comprehensive criteria for evaluation of the proposals. It is the understanding of the Chamber of Commerce that as of March 1, 1993, the criteria are yet to be fully developed, and the evaluation has not yet begun.

Therefore, the Chamber of Commerce urges the City of Clinton to develop criteria for evaluation of potential park properties which will examine each site from a comprehensive and long-range point of view. The Chamber of Commerce further urges the City of Clinton to perform its evaluation of all potential park properties in a timely fashion and to provide the criteria and the results of the evaluation to the public. Both the evaluation criteria and the results as applied to each parcel should be openly discussed before any property is purchased. To that extent, the present proposal to purchase Price Park before such an evaluation is performed and discussed is premature.

POLICY STATEMENT FOR PARKS AND RECREATION DEVELOPMENT, Page 2

The Chamber of Commerce also urges the City of Clinton to proceed with minimal delay on all segments of its parks development plans currently scheduled, including Traceway Park, Lovett Park, Springridge (County Barn) Park, and Brighton (Southwest Lagoon) Park. Development should be advanced consistent with efficient use of the November, 1990, bond funds, cost-saving use of County assistance, and long-term planning goals.

Johnnie Ruth Hudson  
Johnnie Ruth Hudson, President

Bruce Harris  
Bruce Harris, President-Elect

Waymond Mosley  
Waymond Mosley, Treasurer

David Stevens  
David Stevens, Past President

John Murphy, Jr.  
J. Paul Brown

John H. Beach

John W. Bralton

Roger W. McDaniel

Waymond Mosley

James A. K. Man

Approved, March 11, 1993

**RECESSED MEETING OF THE MAYOR AND BOARD OF ALDERMEN  
TUESDAY, MARCH 16, 1993 - 5 P.M.  
MUNICIPAL COURTROOM - 305 MONROE STREET**

The Mayor and Board of Aldermen of the City of Clinton met in Recessed Meeting at 5 P.M., at the Municipal Courtroom, 305 Monroe Street, pursuant to a Recess Order adopted by said Mayor and Board of Aldermen at their Regular Meeting of March 2, 1993, as found on Page 924 of this Minute Book V.

**WELCOME AND CALL TO ORDER** - Mayor Billy Ray Smith

**INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG**

The Invocation was led by Alderman Sharbert Lott followed by the Pledge of Allegiance to the Flag led by Alderman Jean Johnson.

**ROLL CALL** - City Clerk Nelson Byrd

Present - Willard Ryan - Alderman-at-Large  
O. C. George Ferrell - Alderman Ward 1  
Edward Valente - Alderman Ward 2  
Ben Todd - Alderman Ward 3  
Phil Fisher - Alderman Ward 4  
Jean Johnson - Alderman Ward 5  
Sharbert Lott - Alderman Ward 6  
Mayor Billy Ray Smith - Presiding

City Attorney William E. Spell  
City Clerk Nelson Byrd

**CITY PROCLAIMS "DRUG-FREE WEEK"**

Mayor Smith presented a proclamation to Margaret Schweers, Clinton School District Drug-Free School Counselor, and Clinton students declaring "Clinton On Target To Be Drug Free Week" in Clinton, Mississippi, as March 29 - April 3, 1993.

**1993 SPRING CLEAN UP CAMPAIGN DECLARED**

**MOTION** made by Alderman Valente and **SECONDED** by Alderman Fisher to adopt that Resolution found on page 979 of this Minute Book V designating the period of March 27 - April 15, 1993, as the Community Spring Clean-Up Campaign, encouraging Clintonians to clean-up, take pride in our community, and make our community the most beautiful community in Mississippi. **MOTION CARRIED UNANIMOUSLY.**

**APPROVAL OF CONSENT AGENDA ITEMS A-M:**

**MOTION** made by Alderman Johnson and **SECONDED** by Alderman Todd to approve Consent Agenda Items A-M as listed on page 980 of this Minute Book V, noting that Consent Agenda Items H, J, and L, will serve to advertise favorably the opportunities, possibilities, and resources of the City of Clinton. Quotes listed in item G are on file in the Office of the City Clerk.

**PRESENTATION OF NEW CLINTON VIDEO**

Economic Development Director Jim Powell showed the newly developed "Clinton Video" which is to be used to market the Clinton area to attract new industry and residents to Clinton, and stated that copies are available by request at the Chamber of Commerce/Economic Development Office.

**LIBRARY ADVISORY BOARD UPDATE PASSED OVER**

Agenda item #8, an update from the Library Board was passed

over upon request of the Library Board representatives. NO BOARD ACTION taken.

APPROVAL TO JOIN CRIME STOPPERS

Acting upon the request of Police Chief Byington to join Metro Crime Stoppers at a one time \$14,000.00 enrollment fee plus levying a \$1.00 fee on every moving violation ticket, MOTION made by Alderman Valente and SECONDED by Alderman Ferrell authorizing Police Chief Byington to indicate to Crime Stoppers the City of Clinton's willingness to join Metro Crime Stoppers; authorizing Chief Byington to make the initial installment payments for the one-time fee out of his current budget; further to modify the budget in the present fiscal year at time of budget revision in the amount of \$14,000.00 to support said initiation (City Clerk to include said amount in Budget revision); and authorization for City Attorney Spell to draft an ordinance for the required dedication of \$1.00 on each moving violation ticket paid for continuing support of Crime Stoppers. MOTION CARRIED UNANIMOUSLY. Copies of Metro Crime Stoppers correspondence and proposal regarding details/requirements of said matter may be found on pages 983-987 of this Minute Book V.

GENERAL SERVICES AGREEMENT APPROVED WITH ABMB ENGINEERS, INC.

Acting upon the request of City Engineer Broome to approve a General Services Agreement for smaller projects wherein the scope of work is not well-defined where the Public Works Director and City Engineer may direct the firm by letter to proceed without having to draw up a separate contract for each small project, MOTION made by Alderman Ferrell and SECONDED by Alderman Todd to approve that General Services Agreement as found on pages 988-994 of this Minute Book V between the City of Clinton and ABMB Engineers, Inc. MOTION CARRIED UNANIMOUSLY. It was noted by Engineer Broome that all large projects will be handled as normal with a specific contract being brought to the Board for approval.

APPROVAL OF CONTRACT WITH WEATHERFORD/MCDADE, LTD.

Upon recommendation of City Engineer Broome to enter into contract for professional services with Weatherford/McDade, Ltd., for landscape architectural design, development of construction drawings, administration of bidding, and construction administration for Southwest Park (Brighton Subdivision), Lovett Park, and Springridge Softball Complex (District 4 Supervisors Barn area) with the understanding that Article VII found on page 6 of said contract be struck in its entirety and that construction value for work done by Hinds County shall be determined by market value and not actual cost to the City of Clinton, MOTION made by Alderman Todd and SECONDED by Alderman Fisher to approve that contract as found on pages 995-1004 of this Minute Book V with the omission of Article VII as discussed and with the understanding that the value of the earthwork is not an in-house or in-kind item. MOTION CARRIED UNANIMOUSLY.

UPDATE ON TRACEWAY PARK IMPROVEMENTS

Messrs. Jim Flannagan and Paul Mucho again encouraged the Board of Aldermen to proceed as expediently as possible on the planned Traceway Park Improvements. The request having arisen on several occasions to proceed with advertising for bids now while waiting on site work to be completed at Traceway, it was stated that bids are ready to be advertised but will not be published until such time the Parks & Recreation Director and City Engineer notify the Board that site work is completed to the degree necessary to advertise for other contracting work without the possibility of creating construction claims. NO BOARD ACTION necessary.

## PURCHASE OF PRICE PROPERTY TABLED

Following a presentation by Mickey Milligan, Chamber of Commerce Board of Directors representative, who presented that policy statement found on pages 1005-1006 of this Minute Book V as adopted by the Chamber of Commerce regarding parks & recreation development in the City of Clinton, MOTION made by Alderman Ryan and SECONDED by Alderman Fisher to TABLE the purchase of the Price property as proposed and go back with a plan to look at all of the parks properties that have been made available to the City with emphasis on olde town preservation.

Prior to a vote being taken, MOTION made by Alderman Fisher and SECONDED by Alderman Valente to amend said motion to state that the consideration and purchase of said property for parks and recreation use will be with the main emphasis on parks & recreation use for the City and not the preservation of olde town. AMENDMENT TO THE MOTION CARRIED UNANIMOUSLY. MOTION-AS-AMENDED CARRIED UNANIMOUSLY.

City Engineer Broome was directed to evaluate said parcels according to the criteria he has established for evaluating parks and recreational properties and report his findings at the next Board Meeting.

## OTHER BUSINESS

### SAFETY "SIGN" PROJECT GRANT APPROVED

MOTION made by Alderman Valente and SECONDED by Alderman Todd to approve Phase I of the Highway Safety Project Grant to study traffic signs throughout the City. MOTION CARRIED UNANIMOUSLY. Said grant is a \$25,000.00 grant with \$6,250.00 in-kind work.

In conjunction with above, MOTION made by Alderman Valente and SECONDED by Alderman Ryan authorizing the Public Works Director through the City Clerk to make a request for proposals for engineering services to conduct said study. MOTION CARRIED UNANIMOUSLY.

### CRISLER RESIGNS FROM ELECTION COMMISSION; SPIRO APPOINTED TO FILL UNEXPIRED TERM

MOTION made by Alderman Johnson and SECONDED by Alderman Lott to regretfully accept the resignation of Mr. Cris Crisler from the City Election Commission. MOTION CARRIED UNANIMOUSLY.

Upon recommendation of Mayor Smith, MOTION made by Alderman Lott and SECONDED by Alderman Johnson to appoint Sid Spiro to the City of Clinton Election Commission effective immediately to fill the unexpired term of Cris Crisler which expires June 30, 1993. MOTION CARRIED UNANIMOUSLY.

### UNMARKED VEHICLES APPROVED

MOTION made by Alderman Valente and SECONDED by Alderman Lott approving and certifying to the State Department of Audit that the following four vehicles are used by the City of Clinton Police Department as "unmarked vehicles" in accordance with Mississippi code Section 25-1-87:

|                             |                                   |
|-----------------------------|-----------------------------------|
| 1988 Blue Chevrolet Caprice | - 1G1BL516XJR167228 (Blankenship) |
| 1989 Blue Chevrolet Caprice | - 1G1BL5175KR210223 (Reeves)      |
| 1992 Blue Ford Taurus       | - 1FACP5047NA200325 (Byington)    |
| 1992 Blue Ford Taurus       | - 1FACP5044NA198002 (Lilley)      |

MOTION CARRIED UNANIMOUSLY.

### BOARD MEMBERS TO APPOINT PARKS & RECREATION ADVISORY BOARD AT NEXT MEETING

Mayor Smith requested Board Members to be ready at the next meeting to make their recommendations for their Ward representative on the Parks & Recreation Advisory Board. NO BOARD ACTION required.

ADJOURNMENT - 6:30 P.M.

There being no further business to discuss, MOTION made by Alderman Ryan and SECONDED by Alderman Johnson to adjourn. MOTION CARRIED UNANIMOUSLY.

Copy of Agenda may be found on Pages 980-982 of this Minute Book V.

|           |                                                |                        |
|-----------|------------------------------------------------|------------------------|
| APPROVED: | <u>Billy R Smith</u><br>Billy/Ray Smith, Mayor | <u>3-26-93</u><br>Date |
| ATTEST:   | <u>Nelson Byrd</u><br>Nelson Byrd, City Clerk  | <u>3-26-93</u><br>Date |

SEAL