

AGREEMENT
FOR
ENGINEERING SERVICES

JOB NO. 100821
FEDERAL AID PROJECT ("FAP") NO. SB-ARSB (903)
CROWLEY'S RIDGE PARKWAY: CRAIGHEAD FOREST PARK TRAIL

PREAMBLE

THIS AGREEMENT, entered into this ____ day of _____, _____, by and between City of Jonesboro ("Owner"), and Civil Engineering Associates, LLC ("Consultant"), a corporation existing under the laws of the State of Arkansas with principal offices at 2114 East Matthews Avenue, Jonesboro, Arkansas 72401.

WITNESSETH:

WHEREAS, the Owner is planning to construct a Multi-Use Recreational Trail inside the Craighead Forest Park; and,

WHEREAS, the Owner's forces are fully employed on other urgent work that prevents their early assignment to the aforementioned work; and,

WHEREAS, the Consultant's staff is adequate and well qualified, and it has been determined that its current workload will permit completion of the project on schedule.

NOW THEREFORE, it is considered to be in the best public interest for the Owner to obtain the assistance of the Consultant's organization in connection with engineering services. In consideration of the faithful performance of each party of the mutual covenants and agreements set forth hereinafter, it is mutually agreed as follows:

1. PRELIMINARY MATTERS

- 1.1. "Consultant's Representative" shall be Jason A. Macdonald, P.E., until written notice is provided to the Owner designating a new representative.
- 1.2. "Contract Ceiling Price." The Contract Ceiling Price for this Agreement is \$230,827.72. The Contract Ceiling Price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement. In no event, unless modified in writing, shall total payments by the Owner under this Agreement exceed the Contract Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost, exceeding the Contract Ceiling Price.
- 1.3. "Contract Price" is aggregate amount of allowable costs and fees to be paid by the Owner under this Agreement.
- 1.4. "Default" means the failure of the Consultant to perform any of the provisions of this Agreement. *Default includes, but is not limited to, failure to complete phases of the work according to schedule or failure to make progress in the work so as to endanger timely performance of this Agreement, failure to pay subcontractors in a timely manner, failure to comply with federal and state laws, and failure to comply with certifications made in or pursuant to this Agreement.*

- 1.5. "Department" or "AHTD" means the Arkansas State Highway and Transportation Department.
- 1.6. "DOT" means the United States Department of Transportation.
- 1.7. "FAR" means the Federal Acquisition Regulations, codified in 48 C.F.R.
- 1.8. "Fee" whether fixed or otherwise is a dollar amount that includes the Consultant's profit on the job.
- 1.9. "FHWA" means the Federal Highway Administration.
- 1.10. "Indirect Cost Rate." The Indirect Cost Rate is defined in the provisions of 48 C.F.R. Part 31, and is also subject to any limitations contained herein. The Indirect Cost Rate for the Consultant under this Agreement shall be provisionally 125.0 percent. If applicable, the Indirect Cost Rate for each subcontractor shall be listed in Appendix B.
- 1.11. "Title I Services" are those services provided by the Consultant before the award of the contract for the construction of the Project, consisting primarily of engineering services for the planning or design of the Project.
- 1.12. "Title I Services Ceiling Price." The Title I Services Ceiling Price for this Agreement is \$ 167,969.99. The Title I Services Ceiling price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement for fees and costs related to Title I Services. In no event, unless modified in writing, shall total payments by the Owner related to Title I Services exceed the Title I Services Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost related to, Title I Services exceeding the Title I Services Ceiling Price.
- 1.13. "Title II Multiplier" (if applicable) is the mark-up by which the fee and indirect costs associated with Title II services are calculated. The Title II Multiplier, which accounts for the fee and indirect costs, is multiplied by the salary rate, as shown on the Schedule of Salary Ranges, of the particular individual(s) performing the Title II services. The Title II Multiplier for the term of this Agreement is provisionally 2.25.
- 1.14. "Title II Services" are those services provided by the Consultant after the award of the contract for the construction of the Project, consisting primarily of engineering services during the construction of the Project.
- 1.15. "Title II Services Ceiling Price". The Title II Services Ceiling Price for this Agreement is \$ 62,857.73. The Title II Services Ceiling price is the maximum aggregate amount of all payments that the Owner may become obligated to make under this Agreement for fees and costs related to Title II Services. In no event, unless modified in writing, shall total payments by the Owner related to Title II Services exceed the Title II Services Ceiling Price. The Consultant shall not be entitled to receive adjustment, reimbursement, or payment for, nor shall the Owner, its officers, agents, employees, or representatives, incur any liability for, any fee or cost related to, Title II Services exceeding the Title II Services Ceiling Price.

2. TYPE OF AGREEMENT

- 2.1. This Agreement is a cost-plus-fixed-fee contract. The Consultant is being hired to perform professional engineering services in connection with the Project as set forth

herein. In consideration for Title I services performed, the Owner will reimburse the Consultant for allowable direct and indirect costs, as defined herein, and pay the Consultant a fixed fee. If Title II services are to be performed, the Owner will reimburse the Consultant for allowable direct costs and also pay the Consultant an amount determined by multiplying the salary rate of the individual(s) performing the Title II services, as shown on the Schedule of Salary Ranges, by the Title II Multiplier.

2.2. The Project to be performed under this Agreement is a federally-assisted project and federal funds will be used, in part, to pay the Consultant. Therefore, notwithstanding any provision of this Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of 48 C.F.R. Part 31, and the Consultant shall certify the accuracy of all invoices and requests for payment, along with supporting documentation and any information provided in determining the Indirect Cost Rates.

3. COSTS, FEES, AND PAYMENT

3.1. Allowable costs.

3.1.1. Allowable costs are subject to the limitations, regulations, and cost principles and procedures in 48 C.F.R. Part 31, which are expressly incorporated into this Agreement by reference. For the purpose of reimbursing allowable costs (except as provided in subparagraph 2 below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term *costs* includes only—

3.1.1.1. Those recorded costs that, at the time of the request for reimbursement, the Consultant has paid by cash, check, or other form of actual payment for items or services purchased directly for the Agreement;

3.1.1.2. When the Consultant is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

- Materials issued from the Consultant's inventory and placed in the production process for use in its performance under this Agreement;
- Direct labor;
- Direct travel;
- Other direct in-house costs; and
- Properly allocable and allowable indirect costs, as shown in the records maintained by the Consultant for purposes of obtaining reimbursement under government contracts; and
- The amount of progress payments that have been paid to the Consultant's subcontractors under similar cost standards.

3.1.2. Consultant's contributions to any pension or other post-retirement benefit, profit-sharing or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; *provided*, that the Consultant pays the contribution to the fund within 30 days after the close of the period covered. Payments made 30 days or more after the close of a period shall not be included until the Consultant actually makes the payment. Accrued costs for

such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the Consultant actually makes the payment.

- 3.1.3. Notwithstanding the audit and adjustment of invoices or vouchers, allowable indirect costs under this Agreement shall be obtained by applying Indirect Cost Rates established in accordance with Subsection 3.3 below.
 - 3.1.4. Any statements in specifications or other documents incorporated in this Agreement by reference designating performance of services or furnishing of materials at the Consultant's expense or at no cost to the Owner shall be disregarded for purposes of cost-reimbursement.
- 3.2. *Salaries.* The following schedule covers the classification of personnel and the salary ranges for all personnel anticipated to be assigned to this project by the Consultant:

3.2.1.1. SCHEDULE OF SALARY RANGES

	Rate (Salary Only)
Partner/Member	<u>\$50.00-\$55.00</u>
Professional Engineer	<u>\$30.00-\$40.00</u>
Project Manager	<u>\$35.00-\$45.00</u>
Engineer Technician	<u>\$10.00-\$24.00</u>
Construction Inspector	<u>\$15.00-\$30.00</u>

3.2.1.2. The Owner shall reimburse the Consultant for overtime costs only when the overtime has been authorized in writing by the Owner. When authorized, overtime shall be reimbursed at the rate of time and one-half for all nonexempt employees. Notwithstanding this provision, the Consultant must comply with all federal and state wage and hour laws and regulations, regardless whether the overtime is considered reimbursable under this Agreement.

3.3. *Indirect Cost Rates.*

3.3.1. Allowable indirect costs incurred by the Consultant shall also be reimbursed by the Owner at the Indirect Cost Rate. The Indirect Cost Rate of the Consultant for this Agreement shall be the rate as set forth in subsection **1.10**. If applicable, the Indirect Cost Rate for subcontractors shall be determined in the same manner and subject to the same limitations as the Consultant, and shall be listed for each subcontractor identified in Appendix **B**. The Indirect Cost Rate, or any adjustment thereto, shall not change any monetary ceiling, contract obligation, or specific cost allowance, or disallowance provided for in this Agreement except as provided for in sections 3.3.4. and 3.3.5. The Indirect Cost Rate must reflect the allowable indirect costs pursuant to 48 C.F.R. Part 31 ("FAR").

3.3.2. In establishing the Indirect Cost Rate or proposing any adjustment thereto, the Consultant shall, upon request, submit to the Owner, FHWA, or their representatives an audited indirect cost rate and supporting cost data in accordance with the requirements set forth in the current *Arkansas Highway & Transportation Department Indirect Cost Rate Audit Requirements*.

- 3.3.3. During the term of this Agreement, if an audit of a subsequent accounting period of the Consultant demonstrates that the Consultant has incurred allowable indirect costs at a different rate than the Indirect Cost Rate, the Indirect Cost Rate shall be adjusted. Any adjustment is subject to the audit and documentation requirements of the FAR and the current *Arkansas Highway & Transportation Department Indirect Cost Rate Audit Requirements*. Except in the case of a provisional Indirect Cost Rate, as provided in the following subparagraphs, or the disallowance of cost following a subsequent audit, any adjustment to the Indirect Cost Rate shall be effective only prospectively from the date that the adjustment is accepted.
- 3.3.4. In order to expedite some projects, when an audited indirect cost rate has not yet been submitted and approved, the Owner may extend a temporary waiver and accept a provisional indirect cost rate. This provisional rate must be reviewed by, and receive a positive recommendation from the Arkansas Highway and Transportation Department's Chief Auditor. The provisional cost proposal must be accompanied by written assurance from an independent CPA that he/she has been engaged to audit the costs in accordance with the above requirements. The anticipated audit must be based on costs incurred in the most recently completed fiscal year for which the cost data is available, with the audit scheduled to begin within a reasonable time frame. If the date of the initial cost proposal is within the last quarter of the current fiscal year, the audit may be delayed until the current fiscal year is closed and the final cost data is available. The written assurance from the CPA that he or she has been engaged to perform the audit at an appropriate time is still required.
- 3.3.5. Once an audited indirect cost rate is approved, the ceiling prices provided for in the initial agreement using the provisional indirect cost rate will be adjusted with a supplemental agreement to implement the resulting increase or decrease from revising the indirect cost rate, and all amounts paid the consultant prior to receipt and acceptance of an audited indirect cost rate will be retroactively adjusted for changes in the indirect cost rate. However, no changes in hours, fixed fees, or other costs will be allowed as a result of applying the audited indirect cost rate.
- 3.4. *Fees.* The justification for the fees and costs is contained in Appendix A. In addition to reimbursement of the allowable costs as set forth above, the Owner shall pay to the Consultant a fixed fee of **\$9,565.80** for Title I Services. For Title II Services, if applicable, the Owner shall reimburse the Consultant for allowable direct costs and also pay to the Consultant an amount determined by multiplying the salary rate of the individual(s) performing the Title II Services, as shown on the Schedule of Salary Ranges, by the Title II Multiplier. The Title II Multiplier shall account for all fees and indirect costs associated with Title II services.
- 3.5. *Invoices, Reimbursement, and Partial Payments.* Submission of invoices and payment of the fees shall be made as follows, unless modified by the written agreement of both parties:
- 3.5.1. Not more often than once per month, the Consultant shall submit to the Owner, in such form and detail as the Owner may require, an invoice or voucher supported by a statement of the claimed allowable costs for performing this Agreement, and estimates of the amount and value of the work accomplished under this Agreement. The invoices for costs and estimates for fees shall be supported by any data requested by the Owner.
- 3.5.2. In making estimates for fee purposes, such estimates shall include only the amount and value of the work accomplished and performed by the Consultant under this Agreement which meets the standards of quality established under this

Agreement. The Consultant shall submit with the estimates any supporting data required by the Owner. At a minimum, the supporting data shall include a progress report in the form and number required by the Owner.

3.5.3. Upon approval of the estimate by the Owner, payment upon properly executed vouchers shall be made to the Consultant, as soon as practicable, of 100 percent of the allowed costs, and of 100 percent of the approved amount of the estimated fee, less all previous payments. Notwithstanding any other provision of this Agreement, only costs and fees determined to be allowable by the Owner in accordance with subpart 31.2 of the Federal Acquisition Regulations (FAR) in effect on the date of this Agreement and under the terms of this Agreement shall be reimbursed or paid.

3.5.4. Before final payment under the Agreement, and as a condition precedent thereto, the Consultant shall execute and deliver to the Owner a release of all claims which are known or reasonably could have been known to exist against the Owner arising under or by virtue of this Agreement, other than any claims that are specifically excepted by the Consultant from the operation of the release in amounts stated in the release.

3.6. *Title I Services, Title II Services, and Contract Ceiling Prices.* The parties agree that aggregate payments under this Agreement, including all costs and fees, shall not exceed the Contract Ceiling Price. The parties further agree that aggregate payments for Title I services under this Agreement, including all costs and fees, shall not exceed the Title I Services Ceiling Price; and that aggregate payments for Title II services under this Agreement, including all costs and fees, shall not exceed the Title II Services Ceiling Price. No adjustment of the Indirect Cost Rate or the Title II Multiplier, claim, or dispute shall affect the limits imposed by these ceiling prices. No payment of costs or fees shall be made above these ceiling prices unless the Agreement is modified in writing.

3.7. *Final payment.*

3.7.1. The Consultant shall submit a completion invoice or voucher, designated as such, promptly upon completion of the work, but no later than forty-five (45) days (or longer, as the Owner may approve in writing) after the completion date. Upon approval of the completion invoice or voucher, and upon the Consultant's compliance with all terms of this Agreement, the Owner shall promptly pay any balance of allowable costs and any retainage owed to the Consultant. After the release of said retainage Consultant agrees that it will continue to provide consultation services to the Owner as needed through supplemental agreement(s) with respect to the contracted services under this Agreement until all work is completed under both Title I and Title II.

3.7.2. The Consultant shall pay to the Owner any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Consultant or any assignee under this Agreement, to the extent that those amounts are properly allocable to costs for which the Consultant has been reimbursed by the Owner. Reasonable expenses incurred by the Consultant for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Owner. Before final payment under this Agreement, the Consultant and each assignee whose assignment is in effect at the time of final payment shall execute and deliver—

- An assignment to the Owner, in form and substance satisfactory to the Owner, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Consultant has been reimbursed by the Owner under this Agreement; and,

- A release discharging the Owner, its officers, agents, and employees from all liabilities, obligations, and claims which were known or could reasonably have been known to exist arising out of or under this Agreement.

3.8. *Owner's Right to Withhold Payment.* The Owner may withhold payment to such extent as it deems necessary as a result of: (1) third party claims arising out of the services of the Consultant and made against the Owner; (2) evidence of fraud, over-billing, or overpayment; (3) inclusion of non-allowable costs; (4) failure to make prompt payments to subcontractors in the time provided by this Agreement; (5) payment requests received including fees for unapproved subcontractors; and/or (6) the Consultant's default or unsatisfactory performance of services. The withholding of payment under this provision shall in no way relieve the Consultant of its obligation to continue to perform its services under this Agreement.

4. DISALLOWANCE OF COSTS

4.1. Notwithstanding any other clause of this Agreement, the Owner may at any time issue to the Consultant a written notice of intent to disallow specified costs incurred or planned for incurrence under this Agreement that have been determined not to be allowable under the contract terms.

4.2. Failure to issue a notice under this Section shall not affect the Owner's rights to take exception to incurred costs.

4.3. If a subsequent audit reveals that: (1) items not properly reimbursable have, in fact, been reimbursed as direct costs; or (2) that the Indirect Cost Rate contains items not properly reimbursable under the FAR; then, in the case of indirect costs, the Indirect Cost Rate shall be amended retroactively to reflect the actual allowable indirect costs incurred, and, in the case of both direct and indirect costs, the Owner may offset, or the Consultant shall repay to Owner, any overpayment.

5. RECORDS & AUDITS

5.1. *Records* includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

5.2. *Examination.* The Consultant shall maintain, and the Owner, AHTD, FHWA, and their authorized representatives shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs (direct and indirect) claimed to have been incurred or anticipated to be incurred in performance of this Agreement. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination of the Indirect Cost Rate or any certification thereof, including any CPA audit relied upon to establish the rate. This right of examination shall also include inspection at all reasonable times of the Consultant's offices and facilities, or parts of them, engaged in performing the Agreement.

5.3. *Supporting Data.* If the Consultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of or pre-negotiation audit of the Indirect Cost Rate, the negotiation of the Fee, request for cost reimbursement, request for payment, request for an adjustment, or assertion of a claim, the Owner, AHTD, FHWA, or their authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Consultant's records, including computations and projections, related to—

- The determination or certification of the Indirect Cost Rate, including any independent CPA audit or certification thereof;
 - Any proposal for the Agreement, subcontract, or modification;
 - Discussions conducted on the proposal(s), including those related to negotiating;
 - Fees or allowable costs under the Agreement, subcontract, or modification;
 - Performance of the Agreement, subcontract or modification; or,
 - The amount and basis of any claim or dispute.
- 5.4. *Audit.* The Owner, AHTD, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Consultant's records involving transactions related to this Agreement or a subcontract hereunder.
- 5.5. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, AHTD, FHWA, or their authorized representatives shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Consultant's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.
- 5.6. *Availability.* The Consultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this Section and Section 28, Disputes and Claims, for examination, audit, or reproduction, until five years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition—
- 5.6.1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five years after the termination; and,
- 5.6.2. Records relating to any claim or dispute, or to litigation or the settlement of claims arising under or relating to this Agreement shall be retained and made available until after any such claims or litigation, including appeals, are finally resolved.
- 5.7. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

6. DESCRIPTION OF THE PROJECT

The City of Jonesboro is proposing to construct the Crowley's Ridge Parkway: Craighead Forest Park Trail (Jonesboro) in Jonesboro, Arkansas.

The work will generally consist of providing environmental documentation, surveying, design, construction plans and specifications, right-of-way plans, utility adjustments and construction engineering and inspection for a Multi-Use Trail and associated roadway improvements around Craighead Forest Park. A map of the proposed improvements can be found in Appendix E

This project includes federal funds along with review and approval of the work by the Arkansas State Highway and Transportation Department. All work and contract requirements shall conform

to requirements of the Federal Highway Administration and Arkansas State Highway and Transportation Department.

7. INFORMATION AND TITLE I SERVICES TO BE PROVIDED BY CONSULTANT

- 1) Prepare preliminary trail layout, grading plan, traffic control and signage plan, and cost estimate for approval;
- 2) Coordinate with AHTD on Environmental Documentation.
- 3) PUBLIC INVOLVEMENT
 - a. Public Involvement
 1. Prepare Public involvement displays and handouts for AHTD review.
 2. Assist AHTD at the Public Involvement meeting by being prepared to answer and explain all concepts of the proposed alternatives.
 - b. Location and Design Public Hearing (If required)
 1. Prepare displays and handout for public hearing(s)
 2. Assist AHTD at meeting by being prepared to answer and explain all concepts of the proposed alternatives.
 3. Review and respond to public hearing transcripts; prepare disposition of public hearing(s) comments.
- 4) Provide right-of-way, utility, and topographic surveys to finalize trail alignment and prepare easement/right-of-way acquisition documents, as necessary.
- 5) Attend meetings with the City and other Stakeholders as needed during the course of the project;
- 6) Design and prepare detailed construction drawings, bid documents, and updated construction cost estimate for project;
 - a. ROADWAY DESIGN AND PLANS
 - i. PRELIMINARY DESIGN
 1. Submit design criteria to be used in the design of the project for approval by City and AHTD prior to beginning preliminary design work
 2. Conduct traffic studies necessary for pavement design.
 3. Coordinate with City provided geotechnical engineer to collect and analyze soil samples and make recommendations regarding pavement and structural design, as needed.
 4. Provide pavement design alternatives according to the requirements of the Roadway Design Plan Development Guidelines using AASHTO design procedures, and submit recommendation to City and AHTD for approval.
 5. Provide the roadway plan sheets. Preliminary plans shall be submitted at the 50% level for AHTD approval of the geometric design, title sheet, and typical sections.
 6. The preliminary roadway plans shall show, as a minimum:
 - a) Title sheet
 - b) Typical sections of improvement shall conform to City and AHTD standard sections
 - c) Special details as needed
 - d) Control detail sheets of the survey baseline and design centerline with control point data in accordance with the standard used by the Roadway Design Division of AHTD (required only if survey is necessary).
 - e) Roadway plan sheets showing:
 - Survey information including existing utilities
 - Roadway grades for main lanes, crossing roads and other roads as needed.

- Alignment data for main lanes, crossing roads and other roads as needed.
 - Tentative construction limits
 - Existing and Proposed Right of Way, permanent and temporary construction easements, and control of access (existing and proposed)
 - All roadway/roadside features within the right of way
 - Proposed roadside safety items such as guardrail, impact attenuation barriers, etc.
 - Preliminary size of drainage structures (provide hydrologic and hydraulic calculations)
- f) Maintenance of traffic signing and striping conceptual plans
 - g) Permanent Pavement Marking Details
 - h) Erosion control plans
7. Provide two (2) papers copies, one electronic pdf, and Microstation files of plans for preliminary field inspection, right of way review, and 50% plan review.
 8. Attend preliminary and final field inspection. Field inspection for the project may be performed at the 50% and 90% review level.
 9. Make revisions necessary to respond to comments made at the 50% review as well as comments made at the preliminary field inspection.
- b. FINAL DESIGN
1. Provide final roadway plans showing all information requested in Item 6 of Section 5(a)(i).
 2. Perform design calculations and develop details for drainage structures.
 3. Provide quantities.
 4. Provide an index of sheets, a list of specifications, and general notes
 5. Provide special provisions.
 6. Provide transportation management plan.
 7. Provide construction cost estimate.
 8. Provide control detail sheets of the survey baseline and design centerline with control point data in accordance with the standard used by the Roadway Design Division of AHTD.
 9. Provide two (2) papers copies and one electronic pdf of plans for final field inspection and 90% review.
 10. Attend final field inspections.
 11. Make plan changes resulting from the 90% review, subsequent reviews, and final field inspection.
 12. Perform all other work required to advertise and receive bids.
 13. Provide hydraulic certification (if necessary).
 14. Provide copies of half size signed and sealed plans.
- 7) Prepare and submit plans and applications as necessary to the various regulatory agencies having jurisdiction over this work;
 - 8) Assist the City in securing bids and administering the construction contract;
 - 9) Assisting City with Project Close-out.

8. TITLE II SERVICES TO BE PROVIDED BY CONSULTANT

- 1) DESIGN
 - a. Upon request by City and or the AHTD, provide design related solutions to construction problems and issues that may arise.

2) PROJECT INSPECTION

- a. The Consultant shall be responsible for monitoring the Contractor's on-site construction operations and inspecting materials entering into the work as required. The Consultant shall keep detailed, accurate records of the Contractor's daily operations in accordance with City's procedures, rules, standards and policies.
- b. The frequency and scope of inspections will vary with the work activity being performed; however, the Consultant shall perform inspection services in accordance with industry-accepted standards. The inspector's hours shall parallel the Contractor's work hours.
- c. The Consultant is responsible for performing any required off-site batch plant or factory inspections of fabricated or manufactured items to be incorporated into the project.

3) TESTING

- a. Consultant shall coordinate with contractor during construction and witness and keep records of all material testing that is specified in contract documents and specifications.

4) ENGINEERING MANAGEMENT SERVICES

The Consultant shall be responsible for engineering management services necessary to verify that the Project is completed and ready for acceptance by the City. This will require interpretation of the plans and contract documents, coordination of changes to the project, assistance in processing of change and contract documents, coordination of changes to the project, assistance in processing of Change Orders and supplemental agreements, resolving disputes, claims analysis, and all other engineering management tasks normally handled by a Resident Engineer. These tasks include, but are not limited to the following:

- a. Schedule and conduct a pre-construction conference for the Project. Document the conference in accordance with City procedures.
- b. Identify known existing utility facilities on the Project prior to the start of construction and coordinate any relocation or conflicts with the utility companies and the Construction Contractor. Document any Project delay or potential delay caused by conflicts with utilities.
- c. Review and monitor the Construction Contractor's work schedule and make recommendations to the City regarding any changes, or needed changes, to the schedule. Review credentials and qualifications of the Construction Contractor's personnel to ascertain compliance with construction contract requirements regarding said personnel.
- d. Maintain a complete set Project records on each Project to include daily diaries, quantities for pay items, progress estimates, material deliveries, submittals, as-built, and correspondence.
- e. The Consultant shall conduct periodic construction meetings on the Project with the Construction Contractor and their subcontractors, the City's project Representative and other interested parties to review the work schedule, plan changes, construction problems or other matters.
- f. Track and maintain a log on all Construction Contractor submittals including requests for information, shop drawings, catalog cuts, and/or samples. An up to date status of each submittal must be maintained at all times through the approval stage. The Consultant shall review and approve or reject the shop drawings. Reviewed submittals are to be returned to the Construction Contractor for follow-on action. The Consultant shall complete their review in a timely manner so they do not slow the progress on the Construction Contractor. Deficiencies will be immediately reported to the City's Project Representatives.
- g. Identify and monitor Project permit requirements and notify the Construction Contractor and the City immediately when violations or potential violations occur.

- h. Upon notice by the Construction Contractor of pending claims for extra work or work beyond the original scope, maintain records indicating the approximate cost of such work performed by the Construction Contractor.
- i. Analyze and make recommendations to the City's Project Representative on all requests received from the Construction Contractor for time extensions, contract changes, requests for information, extra work and proposals.
- j. Coordinate all contract changes with the Construction Contractor, the City and others as required.
- k. Process Supplemental Agreements pursuant to the construction contracts for necessary changes and recommended solutions to the City.
- l. Monitor the Construction Contractor's compliance with construction contract provisions in regard to payment of predetermined wage rates in accordance with City procedures. This will include subcontractor compliance.
- m. Monitor each Construction Contractor's compliance with contract provisions in regard to Equal Employment Opportunity and Affirmative Action. Coordinate corrective actions with the City's Project Representative.
- n. The Construction Contractor is fully responsible for the means and methods of jobsite safety for his construction personnel. The Consultant will monitor the Construction Contractor's compliance to jobsite safety; however, it is the Construction Contractor's obligation to enforce adherence to the Federal, State and local laws, rules and regulations concerning construction and jobsite safety.
- o. Assist the City in preparing for any litigation or other action that may arise as a result of the Project.
- p. Prepare the necessary Project close-out documents to include the final estimate and all supporting records, plus one set of red lined, as-built contract documents.
- q. Perform all inspections and reporting required for the National Pollutant Discharge Elimination System (NPDES) permits issued by the Arkansas Department of Environmental Quality in accordance with the City's procedures.
- r. Perform all required inspections, testing and any other required services necessary to insure the City of Jonesboro is eligible to receive 80% federal reimbursement for the cost of construction.
- s. Consultant does not make any representation as to the legal sufficiency of contracts it helps to coordinate and the City is solely responsible for determining that all contracts meet its legal requirements.

9. COORDINATION WITH OWNER

- 9.1. Throughout the Project, the Consultant shall hold **monthly** conferences in Jonesboro, Arkansas, or such other location as designated by the Owner, with representatives of the Owner, the AHTD, and the FHWA so that as the Project progresses, the Consultant shall have full benefit of the Owner's knowledge of existing needs and facilities and be consistent with the Owner's current policies and practices. The extent and character of the work to be done by the Consultant shall be subject to the general oversight and approval of the Owner.

10. OFFICE LOCATION FOR REVIEW OF WORK

- 10.1. Review of the work as it progresses and all files and documents produced under this Agreement may be made by representatives of the Owner, the AHTD, and the FHWA at the project office of the Consultant located in 2114 East Matthews Avenue, Jonesboro AR 72401.

11. ACCESS TO PROPERTY

11.1. The Consultant's services to the Owner may require entry upon private property. The Owner will present or mail to private landowners a letter of introduction and explanation, describing the work, which shall be drafted by the Consultant. The Consultant will make reasonable attempts to notify resident landowners who are obvious and present when the Consultant is in the field. The Consultant is not expected to provide detailed contact with individual landowners. The Consultant is not expected to obtain entry by means other than the consent of the landowner. If the Consultant is denied entry to private property by the landowner, the Consultant will not enter the property. If denied entry to the property, the Consultant shall notify the Owner and advise the Owner of an alternate evaluation method if one is feasible. The Owner shall decide on the course of action to obtain access to the property.

12. DELIVERABLES

1. Detailed construction drawings, bid documents.
2. Detailed cost estimates for the finalized route.
3. Approval letters from all appropriate agencies.
4. Construction Inspection Reports.

13. INFORMATION TO BE PROVIDED BY THE OWNER

1. Obtain additional right-of-ways or easements, if necessary;
2. Negotiate with Utility Providers regarding conflicts as identified by the Consultant;
3. Advertise, bid and award construction contract.

14. SUBCONTRACTING

14.1. Unless expressly disclosed in Appendix B, the Consultant may not subcontract any of the services to be provided herein without the express written approval of the Owner. All subcontractors, including those listed in Appendix B, shall be bound by the terms of this Agreement. All subcontractors shall be subject to all contractual and legal restrictions concerning payment and determination of allowable costs, and subject to all disclosure and audit provisions contained herein and in any applicable federal or state law.

14.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Consultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Consultant of any responsibility, obligation, or duty under this Agreement.

14.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations of the FAR.

14.4. Furthermore, notwithstanding any other provision within this Agreement, no reimbursement or payment for any markup of the cost of any subcontract shall be considered by the Owner without the express written agreement of the Owner.

- 14.5. *Prompt Payment.* The Consultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Owner to the Consultant. Any retainage payments held by the Consultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Consultant. If the Consultant fails to comply with this provision, in addition to any other rights or remedies provided under this Agreement, the Owner, at its sole option and discretion, may:
- a. make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Owner, against reimbursements or payments otherwise due the Consultant;
 - b. notify any sureties; and/or,
 - c. Withhold any or all reimbursements or payments otherwise due to the Consultant until the Consultant ensures that the subcontractors have been and will be promptly paid for work performed.
- 14.6. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

15. RESPONSIBILITY OF THE CONSULTANT

- 15.1. Notwithstanding any review, approval, acceptance, or payment by the Owner, the Consultant shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Consultant under this Agreement. The Consultant shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services.
- 15.2. The Consultant shall demonstrate to the Owner the presence and implementation of quality assurance in the performance of the Consultant's work. The Consultant shall identify individual(s) responsible, as well as methods used to determine the completeness and accuracy of drawings, specifications, and cost estimates.
- 15.3. The Consultant further agrees that in its performance of work under this Agreement, it shall adhere to the requirements in the Design Standards of the AHTD and FHWA, which shall be incorporated herein by reference.
- 15.4. The Owner shall have the right at any time and in its sole discretion to submit for review all or any portion of the Consultant's work to consulting engineers engaged by the Owner for that purpose. The Consultant shall fully cooperate with any such review.
- 15.5. The Consultant and any subcontractor shall employ qualified and competent personnel to perform the work under this Agreement.
- 15.6. Neither the Owner's review, approval, or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, or of any cause of action arising out of the performance of this Agreement. The Consultant shall be and remain liable to the Owner for all damages to the Owner caused by the Consultant's negligent performance of any of the services furnished under this Agreement.

- 15.7. The rights and remedies of the Owner provided under this Agreement are in addition to any other rights and remedies provided by law.
- 15.8. If the Consultant is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

16. WARRANTY OF SERVICES

- 16.1. *Definitions. Acceptance*, as used in this Agreement, means the act of an authorized representative of the Owner by which the Owner approves specific services, as partial or complete performance of the Agreement. *Correction*, as used in this Agreement, means the elimination of a defect.
- 16.2. Notwithstanding inspection and acceptance by the Owner or any provision concerning the conclusiveness thereof, the Consultant warrants that all services performed and work product under this Agreement will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this Agreement.
- 16.3. If the Consultant is required to correct or re-perform, it shall be at no cost to the Owner, and any services corrected or re-performed by the Consultant shall be subject to this Section to the same extent as work initially performed. If the Consultant fails or refuses to correct or re-perform, the Owner may, by contract or otherwise, correct or replace with similar services and charge to the Consultant the cost occasioned to the Owner thereby, or make an equitable adjustment in the Contract Price.
- 16.4. If the Owner does not require correction or re-performance, the Owner shall make an equitable adjustment in the Contract Price.
- 16.5. Nothing within this Section shall constitute a waiver or exclusion of any other right or remedy that the Owner may possess at law or under this Agreement.

17. TERM, COMMENCEMENT, AND COMPLETION

- 17.1. This Agreement shall commence on the effective date set forth above and remain in effect until the completion of the Consultant's Scope of Services, as defined herein, to be completed ***within a period of 57 weeks***, unless extended or terminated by the Owner in accordance with this Agreement.
- 17.2. The Consultant shall begin work under the terms of this Agreement within ten (10) days of receiving written notice to proceed. [If services are to be performed in subsequent phases, then each phase shall be commenced upon the Owner's approval of the previous phase. The Consultant shall not be entitled to any compensation or reimbursement for services performed in a phase unless and until it has received approval from the Owner to proceed with such services.]
- 17.3. It is further agreed that time is of the essence in performance of this Agreement. The Consultant shall complete the work, or each phase, as scheduled, and the Owner shall provide any required approval of the work or phase meeting the requirements contained herein in a reasonable and timely manner. The Project shall be completed as follows:

The Gantt Chart included in Appendix D shows the project schedule and milestones.

18. TERMINATION

- 18.1. The Owner may terminate this Agreement in whole or, from time to time, in part, for the Owner's convenience or because of the Default of the Consultant.
- 18.2. The Owner shall terminate this Agreement by delivering to the Consultant written notice of the termination.
- 18.3. Upon receipt of the notice, the Consultant shall:
- Immediately discontinue all services affected (unless the notice directs otherwise).
 - Deliver to the Owner all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process.
 - Terminate all subcontracts to the extent they relate to the work terminated.
 - In the sole discretion and option of the Owner, and if and only if requested to do so, assign to the Owner all right, title, and interest of the Consultant under the subcontracts terminated, in which case the Owner shall have the right to settle any claim or dispute arising out of those subcontracts without waiver of any right or claim the Owner may possess against the Consultant.
 - With approval or ratification by the Owner, settle all outstanding liabilities arising from the termination of subcontracts, the cost of which would be allowable in whole or in part, under this Agreement.
 - Complete performance of any work not terminated.
 - Take any action that may be necessary, or that the Owner may direct, for the protection and preservation of the property related to this Agreement which is in the possession of the Consultant and in which the Owner has or may acquire an interest.
- 18.4. If the termination is for the convenience of the Owner, the Owner shall make an equitable adjustment in the Contract Price, subject to the Ceiling Prices and Funding Limitations provisions, *but shall allow no anticipated fee or profit on unperformed services.*
- 18.5. If the termination is for the Consultant's Default, the Owner may complete the work by contract or otherwise and the Consultant shall be liable for any reasonable and necessary additional cost incurred by the Owner to the extent caused by Consultant's default.
- 18.6. Disputes and claims arising from termination of this Agreement shall be governed by Section 28, Disputes and Claims.
- 18.7. The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy.

19. DISPUTES AND CLAIMS

19.1. The Owner may, at any time, by written order to the Consultant, require the Consultant to stop all, or any part, of the work called for by this Agreement for a period of up to 90 days after the order is delivered to the Consultant, and for any further period to which the parties may agree. Upon receipt of the order, the Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Consultant, or within any extension of that period to which the parties shall have agreed, the Owner shall either—

19.1.1. Cancel the stop work order; or

19.1.2. Terminate the work pursuant to Section 18, Termination.

19.2. If a stop work order issued under this Section is canceled or the period of the order or any extension thereof expires, the Consultant shall resume work. The Owner shall make an equitable adjustment in the delivery schedule or Contract Price, or both, and the Agreement shall be modified in writing accordingly, if—

- The stop work order was not issued because of Consultant's Default in its performance of its obligations under any part of this Agreement; and,
- The stop work order results in an increase in the time required for, or in the Consultant's cost properly allocable to, the performance of any part of this Agreement; and,
- The Consultant provides Notice of Potential Claim pursuant to Section 28, Disputes and Claims.

20. CHANGES

20.1. The Owner may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Agreement, including but not limited to: (1) drawings, designs, or specifications; (2) time of performance (i.e., hours of the day, days of the week, etc.); and (3) places of inspection, delivery, or acceptance.

20.2. If any such change causes an increase *or decrease* in the cost of, or the time required for, performance of any part of the work under this Agreement, whether or not changed by the order, the Owner shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fee; and (3) other affected terms.

20.3. All Disputes and Claims shall be governed by the Section 28, Disputes and Claims. As provided in Section 28, the Consultant must provide written notice of its intention to make a claim for additional compensation before beginning the work on which the claim is based. If such notice is not given, the Consultant hereby agrees to waive any claim for such additional compensation.

20.4. Failure to agree to any adjustment shall be a dispute under Section 28, Disputes and Claims. *However, nothing in this Section or any other provision of this Agreement shall excuse the Consultant from proceeding with the Agreement as changed.*

21. OWNERSHIP OF DOCUMENTS & DATA

21.1. All project documents and data, regardless of form and including but not limited to original drawings, disks of CADD drawings, cross-sections, estimates, files, field notes, and data, shall be the property of the Owner. The Consultant shall further provide all documents and data to the Owner upon the Owner's request. The Consultant may retain reproduced copies of drawings and other documents. In the event that any patent rights or copyrights are created in any of the documents, data compilations, or any other work product, the Owner shall have an irrevocable license to use such documents, or data compilations, or work product.

22. PATENT AND COPYRIGHT INFRINGEMENT

22.1. The Consultant shall report to the Owner, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Agreement of which the Consultant has knowledge.

22.2. In the event of any claim or suit against the Owner on account of any alleged patent or copyright infringement arising out of the performance of this Agreement or out of the use of any supplies furnished or work or services performed under this Agreement, the Consultant shall furnish to the Owner, when requested by the Owner, all evidence and information in possession of the Consultant pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Consultant.

22.3. The Consultant agrees to include, and require inclusion of, the provisions of this Section in all subcontracts at any tier for supplies or services.

22.4. The Consultant shall indemnify the Owner and its officers, agents, and employees against liability, including costs and attorneys' fees, for infringement of any United States patent or copyright arising from the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this Agreement, or out of the use or disposal by or for the account of the Owner of such supplies or construction work.

22.5. This indemnity shall not apply unless the Consultant shall have been informed within ten (10) business days following the Owner's receipt of legal notice of any suit alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to (1) an infringement resulting from compliance with specific written instructions of the Owner directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the Agreement not normally used by the Consultant, (2) an infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance, or (3) a claimed infringement that is unreasonably settled without the consent of the Consultant, unless required by final decree of a court of competent jurisdiction.

23. BANKRUPTCY

23.1. In the event the Consultant enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Consultant agrees to furnish, by certified mail, written notice of the bankruptcy to the Owner. This notice shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notice shall include the date on which the bankruptcy petition was filed, the identity of the court in which the

bankruptcy petition was filed, and a listing of AHTD job numbers and FAP numbers for all contracts with Owner against which final payment has not been made. This obligation remains in effect until final payment under this Agreement.

24. FUNDING LIMITATIONS

24.1. The Owner's obligations under this Agreement are contingent upon the availability of appropriated funds from which payments under the terms of this Agreement can be made in this and each subsequent fiscal year for the duration of the Agreement. No legal liability on the part of the Owner of any kind whatsoever under this Agreement shall arise until funds are made available to the Owner for performance of this Agreement, including those to be appropriated and provided by the State of Arkansas and those to be provided by the United States.

25. SUCCESSORS AND ASSIGNS

25.1. This Agreement shall be binding upon the parties and their successors and assigns, and except as expressly set forth herein, neither the Owner nor the Consultant may assign, delegate, or transfer any benefit or obligation under this Agreement without the express written consent of the other party. Nothing herein shall be construed as a waiver of any immunity or as creating any personal liability on the part of any officer or agent of the Owner or any other governmental entity either made a party to, or having any interest in, this Agreement.

26. INDEMNITY AND RESPONSIBILITY FOR CLAIMS AND LIABILITY

26.1. *Indemnity.* The Consultant shall hold harmless and indemnify the Owner and the AHTD, their officers, employees, and agents, from and for all claims and liabilities stemming from any wrongful (whether negligent, reckless, or intentional) acts or omissions on the part of the Consultant and its subcontractors, and their agents and employees.

26.2. *No Personal Liability.* No director, officer, manager, employee, agent, assign, or representative of the Owner or the AHTD shall be liable to the Consultant in a personal or individual capacity under any term of this Agreement, because of any breach thereof, or for any act or omission in its execution or performance.

26.3. *Independent Contractor Relationship.* The parties intend that the Consultant shall be an independent contractor of the Owner and that the Consultant shall be liable for any act or omission of the Consultant or its agents, employees, or subcontractors arising under or occurring during the performance of this Agreement. No act or direction of the Owner shall be deemed to be an exercise of supervision or control of the Consultant's performance.

27. INSURANCE

27.1. *Professional Liability Insurance Coverage.* The Consultant shall maintain at all times during the performance of services under this Agreement professional liability insurance coverage for errors, omissions, and negligent acts arising out of the performance of this Agreement in an amount per claim of not less than five (5) times the original Contract Ceiling Price or \$1,000,000, whichever is less. Such insurance shall extend to the Consultant and to its legal representatives in the event of death, dissolution, or

bankruptcy, and shall cover the errors, omissions, or negligent acts of the Consultant's subcontractors, agents, and employees. Such insurance shall extend to any errors, omissions, and negligent acts in the performance of services under this Agreement committed by the Consultant or alleged to have been committed by the Consultant or any person for whom the Consultant is legally responsible.

- 27.2. *Deductible.* The Consultant may maintain a professional liability insurance policy with a deductible clause in an amount approved by the Owner if, in the judgment and opinion of the Owner, the Consultant's financial resources are sufficient to adequately cover possible liability in the amount of the deductible. The Consultant shall submit promptly to the Owner, upon request as often as quarterly, detailed financial statements and any other information requested by the Owner to reasonably determine whether or not the Consultant's financial resources are sufficient to adequately cover possible liability in the amount of the deductible.
- 27.3. *Worker's Compensation Insurance.* The Consultant shall at all times during the Term of this Agreement maintain Worker's Compensation and Employers Liability Insurance as required under Arkansas law.
- 27.4. *General Liability Insurance.* The Consultant shall at all times during the term of this Agreement maintain comprehensive general liability insurance coverage for bodily injury and property damage in the combined single limit of \$1,000,000, and comprehensive automobile liability insurance coverage for bodily injury and property damage in the combined single limit of \$1,000,000, which shall cover all owned, hired, and non-owned vehicles. The Consultant's insurance coverage shall also cover restoration of plans, drawings, field notes, and other documents in the event of their loss or destruction while in the custody of the Consultant.
- 27.5. *Insurance Policies and Certificates.* The Consultant shall provide the Owner upon request copies of its insurance policies and evidence satisfactory to the Owner concerning the effectiveness and the specific terms of the insurance. Prior to the execution of this Agreement, the Consultant shall furnish to the Owner certificates of insurance reflecting policies in force, and it shall also provide certificates evidencing all renewals of any expiring insurance policy required hereunder within thirty (30) days of the expiration thereof. The Consultant's failure to provide and continue in force and effect any insurance required under this Article shall be deemed a Default for which Owner, in its sole discretion, may terminate this Agreement immediately or on such other terms as it sees fit.
- 27.6. *Additional Insurance Requirements.* All insurance maintained by the Consultant pursuant to this Section shall be written by insurance companies licensed to do business in Arkansas, in form and substance satisfactory to the Owner, and shall provide that the insurance will not be subject to cancellation, termination, or change during its term except upon thirty (30) days prior written notice to the Owner.
- 27.7. *Duration of Insurance Obligations.* The Consultant shall maintain its professional insurance coverage required under this Agreement in force and effect for a period not less than five years after the final acceptance of the project or the completion of the Consultant's services under this Agreement, whichever comes later. Comprehensive General Liability Insurance Coverage required under this Agreement shall be in full force and effect until the final acceptance or the completion of the Consultant's services, whichever comes later. All other insurance shall be maintained in full force and effect until final acceptance of the project or completion of the Consultant's services, whichever comes first.
- 27.8. *Consultant's Insurance Primary.* All insurance policies maintained by the Consultant

pursuant to this Agreement shall provide that the consultant's insurance shall be primary and the Owner's own insurance shall be non-contributing.

27.9. *Additional Insured.* All liability insurance policies, except the professional liability policy, maintained by the Consultant pursuant to this Agreement shall be endorsed to include the Owner, its officers, directors, managers, employees, agents, assigns and representatives, individually and collectively, as additional insured, and all property damage insurance shall be endorsed with a waiver of subrogation by the insurer as to the Owner.

28. DISPUTES AND CLAIMS

28.1. *Notice of Potential Claim.* Whenever a Consultant deems that any additional compensation is due, the Consultant shall notify the Owner in writing of its intention to make a claim for additional compensation ("Notice of Potential Claim") **before beginning the work that gives rise to the claim.**

28.2. *Time & Manner for Submitting Claim.* All disputes and claims shall first be submitted in writing to the Owner within 45 calendar days after the completion or termination date. **The Consultant hereby agrees that the failure to submit the dispute or claim to the Owner prior to 45 calendar days after the completion or termination date shall constitute a waiver of the dispute or claim.**

28.3. *Form.* All disputes and claims must be submitted in writing and in sufficient detail to permit the Owner to determine the basis for entitlement and the actual allowable costs incurred. Each claim must contain:

- A detailed factual statement of the claim providing all necessary dates, locations, and items of work affected by the claim;
- The date the actions resulting in the claim occurred or conditions resulting in the claim became evident;
- A copy of the "Notice of Potential Claim";
- The name, title, and activity of each Owner's employee knowledgeable about facts that gave rise to such claim;
- The name, title, and activity of each Consultant, Subcontractor, or employee knowledgeable about the facts that gave rise to the claim;
- The specific provisions of the Agreement that support the claim and a statement why such provisions support the claim;
- The identification and substance of any relevant documents, things, or oral communications related to the claim;
- A statement whether the claim is based on provisions of the Agreement or an alleged breach of the Agreement;
- If an extension of time is sought, the specific number of days sought and the basis for the extension;

- The amount of additional compensation sought and a specific cost breakdown of the amount claimed; and,
- Any other information or documents that are relevant to the claim.

28.4. *Decision and Appeal.* The decision of the Owner shall be final and conclusive.

28.5. *Continued Performance.* Pending final resolution of a dispute or claim, unless the Owner has terminated this Agreement pursuant to Section 18 or issued a stop work order pursuant to Section 19, the Consultant shall proceed diligently with the performance of this Agreement in accordance with the Owner's decisions.

28.6. The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement, and shall not constitute a waiver of any other such right or remedy. If the Owner decides the facts justify the action, the Owner may, at its sole option and discretion, receive and act upon a proposal, dispute, or claim submitted at any time before final payment under this Agreement.

29. COVENANT AGAINST CONTINGENCY FEES

29.1. The Consultant warrants that no person or agency has been employed or retained to solicit or obtain this Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Owner shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.

29.2. *Bona fide agency*, as used in this Section, means an established commercial or selling agency, maintained by the Consultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.

29.3. *Bona fide employee*, as used in this Section, means a person, employed by the Consultant and subject to the Consultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.

29.4. *Contingent fee*, as used in this Section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.

29.5. *Improper influence*, as used in this Section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

30. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Agreement, the Consultant, for itself, successors, and assigns, certifies and agrees as follows:

- 30.1. *Compliance with Regulations.* The Consultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49, Code of Federal Regulations, Part 21 and 23 Code of Federal Regulations, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination in which no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.
- 30.2. *Nondiscrimination.* The Consultant, with regard to the work performed by it during the term of this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by Section 21.5 of the Regulations, including employment practices.
- 30.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment.* In all solicitations, either by competitive bidding or negotiation, made by the Consultant for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
- 30.4. *Information and Reports.* The Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, and accounts, other sources of information, and its facilities by the Owner, the AHTD, or the FHWA to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Owner, the AHTD or the FHWA, as appropriate, and shall set forth the efforts made by the Consultant to obtain the records or information.
- 30.5. *Sanctions for Noncompliance.* In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Owner shall impose such contract sanctions as it, the AHTD, or the Federal Highway Administration may determine to be appropriate, including but not limited to, withholding of payments to the Consultant under the Agreement until the Consultant complies with the provisions and cancellation, termination, or suspension of the Agreement, in whole or in part.
- 30.6. *Incorporation of Provisions.* The Consultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the Owner, the AHTD, or FHWA may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; *provided*, however that, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Consultant may request the Owner, the AHTD, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

31. DBE CLAUSE

- 31.1. The Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, sex, age, religion, or disability in the performance of this Agreement. The Consultant shall comply with the applicable requirements of 49 C.F.R. Part 26 and perform any actions necessary to maintain compliance in the award and administration of DOT-assisted contracts. Failure by the Consultant to comply with or perform these requirements is a material breach of this Agreement, which may result in the cancellation, termination, or suspension of this Agreement in whole or in part, or such other remedy that the Owner may determine appropriate.
- 31.2. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

32. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (NONDISCRIMINATION)

- 32.1 The Consultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.
- 32.2 The Consultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion or disability, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.
- 32.3 In accordance with Section 504 regulations 49 C.F.R. Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

33. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

- 33.1. The Consultant certifies, to the best of its knowledge and belief, that—
- 33.1.1. The Consultant and any of its Principals—
- 33.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;
- 33.1.1.2. Have not, within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 33.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in Subsection 33.1.1.2; and,

- 33.1.1.4. The Consultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.
- 33.2. *Principals*, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, United States Code, as well as any other applicable federal and state laws.
- 33.3. The Consultant shall provide immediate written notice to the Owner if, at any time prior to contract award, the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 33.4. The certification in Subsection 33.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Consultant knowingly rendered an erroneous certification, the Owner may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the Owner.

34. MISCELLANEOUS

- 34.1. *General Compliance with Laws*. The Consultant shall comply with all Federal, State, and local laws, regulations, and ordinances applicable to the work, including but not limited to, the Americans with Disabilities Act and Occupational Safety and Health Act as amended.
- 34.2. *Registered Professional Engineer's Endorsement*. All plans, specifications, estimates, and engineering data provided by the Consultant shall be endorsed and recommended by an authorized representative of the Consultant, who shall be a registered Professional Engineer licensed in the State of Arkansas.
- 34.3. *Choice of Law*. This Agreement shall be governed by the laws of the State of Arkansas without consideration of its choice of law provisions.
- 34.4. *Choice of Forum*. The Consultant agrees that any cause of action stemming from or related to this Agreement, including but not limited to disputes or claims arising under this Agreement, for acts or omissions in the performance, suspension, or termination of this Agreement, whether sounding in contract or tort, equity or law, may only be brought in the appropriate forum within State of Arkansas.
- 34.5. *No Waiver of Immunity*. The Owner expressly does not waive any defense of immunity that it may possess under either federal or state law, and no provision in this Agreement shall be construed to constitute such a waiver in whole or in part.
- 34.6. *Conflicts Between Laws, Regulations, and Provisions*. In the event of conflicting provisions of law, the interpretation shall be governed by the following in this order, from most controlling to least: Federal law and regulations, State law and regulations, Department and FHWA Design Standards, and this Agreement.
- 34.7. *Severability*. If any term or condition of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, all remaining terms of this

Agreement shall remain valid and enforceable unless one or both of the parties would be materially prejudiced.

34.8. *No-Waiver.* The failure of the Owner to strictly enforce any term of this Agreement shall not be construed as a waiver of the Owner's right to require the Consultant's subsequent performance of the same or similar obligation or duty.

34.9. *Modification and Merger.* This written Agreement and any provisions incorporated by reference reflect the entire agreement of the parties and may be modified only by the express written agreement of both parties.

35. CERTIFICATION OF AUTHORIZED REPRESENTATIVES

35.1. This Agreement and the certifications contained herein or attached hereto constitute the whole Agreement of the parties, and each party certifies that this Agreement and any attached certification have been executed by their duly authorized representatives.

36. NOTICE

36.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be addressed to either the Owner's Representative or the Consultant's Representative, and mailed or hand-delivered to:

36.1.1. To the Owner's Representative:

Wixson Huffstetler, Parks Director
City of Jonesboro
1212 South Church
Jonesboro, AR 72401

36.1.2. To the Consultant:

Jason MacDonald P.E.
Civil Engineering Associates, LLC
2114 East Matthews Avenue
Jonesboro, Arkansas 72401

IN WITNESS WHEREOF, the parties execute this Agreement, to be effective upon the date set out above.

Civil Engineering Associates, LLC

City of Jonesboro

BY: _____
Jason MacDonald P.E.

BY: _____
Harold Perrin

Member

Mayor

BY: _____
Donna Jackson

City Clerk

APPENDICES

APPENDIX A	JUSTIFICATION OF FEES AND COSTS
APPENDIX B	SUBCONTRACTS
APPENDIX C	STANDARD CERTIFICATIONS
APPENDIX D	PROJECT SCHEDULE
APPENDIX E	PROJECT MAP

APPENDIX A
JUSTIFICATION OF FEES AND COSTS

Crowley's Ridge Scenic Byway: Craighead Forest Park Trail Justification of Cost

TITLE I DESIGN PHASE SERVICES

1. DIRECT LABOR

<u>Task</u>	<u>Project Manager</u>	<u>Principal</u>	<u>Project Engineer</u>	<u>Technician</u>
Kickoff Meeting	4		4	
Establish Design Criteria	4		4	
Data Acquisition (obtaining available information from City of Jonesboro and City Water & Light)			4	
Conceptual Plan Design and Alignment	10		25	4
Stakeholder Meetings	8		8	4
Meetings/Site Visit (As Needed)	10		15	
Preliminary Alignment	10		30	15
Public Involvement Meeting	12		12	
Prepare Roadway Plans (6 sheets)	10		50	5
Prepare Typical Cross Sections and Pavement Design (2 sheets)	5		10	15
Prepare Miscellaneous Details	5		5	20
Prepare Proposed Trail Sheets (18 sheets)	15		80	35
Prepare Erosion Control Sheets (13 Sheets)	10		30	25
Prepare Traffic Control and Signage (12 Sheets)	10		30	20
Prepare Survey Control Sheets (9 Sheets)	2		30	
Preliminary Cost Estimates	1	1	10	
Submit 50% Plans to City and AHTD for Comment and incorporate Comments	10	8	30	20
Submit 90% Plans to City and AHTD for Comment and incorporate Comments	10	8	30	20
Finalize Trail Alignment	10	5		
Complete Proposed Trail Sheets	10		30	
Complete Typical Sections	5	5	10	5
Prepare Quantity and Summary of Quantity Sheets (4 Sheets)	8	8	25	10
Finalize Erosion Control sheets and prepare SWPPP	2	2	10	10
Prepare Index and Cover Sheet (3 Sheets)	1		2	2
Prepare Special Provisions	10	10	20	15
Prepare Construction Documents	10	10	20	15
Finalize Traffic Control and Signage	5	2	10	
Finalize Survey control sheets	5	1	10	5
Provide Drainage Calculations	10	2	40	
Submit Plans to City and AHTD for Authorization to Bid	5		10	
Total Hours	217	62	594	245
Average Hourly Rate	\$40.81	\$53.76	\$35.00	\$10.00
Salary Cost	\$8,855.77	\$3,333.12	\$20,790.00	\$2,450.00

Sub-Total (Salary Cost): **\$35,428.89**
125.00% **\$44,286.11**

2. PAYROLL BURDEN, GENERAL OVERHEAD, AND ADMINISTRATION COST

3. OTHER DIRECT COSTS

	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Amount</u>
Printing				
BW 11"x17"	500	Each	\$0.20	\$100.00
BW 8.5" X11"	500	Each	\$0.10	\$50.00
Mileage (10 trips @ 12 miles per trip)	120	Miles	\$0.56	\$67.20
Lodging		Days	\$83.00	\$0.00
Subsistence		Days	\$46.00	\$0.00
Sub-Total (Direct Cost):				\$217.20

4. SUB-TOTAL: LABOR AND DIRECT COST

\$79,932.20

5. FIXED FEE

Sub-Total (Fixed Fee): **\$9,565.80**

6. SUBCONSULTANTS

	<u>Function</u>	<u>Amount</u>	
DeClerk and Throesch	Surveying	\$25,896.56	
Ecological Design Group	Landscaper Architect	\$27,549.20	
Geotechnology Inc	Geotechnical	\$25,026.23	
			Sub-Total (Sub Consultant):
			\$78,471.99

7. ESTIMATED TOTAL COST FOR TITLE I DESIGN PHASE SERVICES

\$167,969.99

TITLE II CONSTRUCTION PHASE SERVICE

1. DIRECT LABOR

<u>Task</u>	<u>Project Manager</u>	<u>Principal</u>	<u>Project Engineer</u>	<u>Technician</u>	<u>Inspector</u>
Advertise Bids	10		10	10	
Review Bids	10				
Construction Administration	120		40		
Day to Day Inspector					1250
Project Closeout	8				8
	Total Hours	148	0	50	10
	Average Hourly Rate	\$40.81	\$53.76	\$35.00	\$10.00
	Salary Cost	\$6,039.88	\$0.00	\$1,750.00	\$18,870.00

Sub-Total (Salary Cost): \$26,759.88

2. TITLE II MULTIPLIER (1+overhead) X (1+Fixed Fee Rate)

2.25 Sub-Total (Salary Cost): \$60,209.73

3. OTHER DIRECT COSTS

	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Amount</u>
Mileage (157 trips @ 12 miles per trip)	1875	Miles	\$0.56	\$1,050.00
Lodging		Days	\$83.00	\$0.00
Subsistence		Days	\$46.00	\$0.00

Sub-Total (Direct Cost): \$1,050.00

4. SUBCONSULTANTS

	<u>Function</u>	<u>Amount</u>
Ecological Design Group	Landscaper Architect	\$1,598.00

Sub-Total (Sub Consultant): \$1,598.00

5. ESTIMATED TOTAL COST FOR TITLE II DESIGN PHASE SERVICES

\$62,857.73

APPENDIX B
SUBCONTRACTS

APPENDIX B-1

SUBCONSULTANT AGREEMENT
JOB NO. 100821
FEDERAL AID PROJECT ("FAP") NO. SB-ARSB (903)

1. SUBCONSULTANT AGREEMENT

- 1.1. The services to be performed under this Subconsultant Agreement will be performed in connection with the Agreement for Engineering Services ("Prime Agreement") between the Consultant and the City of Jonesboro ("Owner") for Job No. 100821, dated _____, _____. Civil Engineering Associates, LLC ("Consultant") and DeClerk-Throesch Engineering & Land Surveying ("Subconsultant") hereby agree that the Subconsultant shall perform the professional and related services as described herein. In consideration for the performance of the professional services the Consultant agrees to compensate (and reimburse, if applicable) the Subconsultant in the manner and at the rate(s) provided herein.
- 1.2. The definitions of the Prime Agreement, and its provisions relating to the obligations, duties, and rights of subcontractors, *or which are otherwise required to be inserted into any subcontracting agreements*, are deemed to be part of, and are hereby incorporated by reference into, this Subconsultant Agreement and made binding upon the Subconsultant.

2. DESCRIPTION OF PROJECT AND SERVICES TO BE PROVIDED

See Attachment 1

3. COSTS, FEES, PAYMENTS AND RATE SCHEDULES

See Attachment 2

4. COMPENSATION SUBJECT TO LIMITATIONS OF FEDERAL AND STATE LAW

- 4.1. The Project (as defined in the Prime Agreement), part of which is to be performed under this Subconsultant Agreement, is a federally-assisted project and federal funds will be used, in part, to pay the Consultant and Subconsultant. Therefore, notwithstanding any provision of this Subconsultant Agreement or the Prime Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of 48 C.F.R. Part 31, including those relating to determination of indirect cost rates, if applicable. The Subconsultant shall certify the accuracy of all invoices, requests for payment, and cost rates (if applicable), along with supporting documentation and any supporting information or records provided prior to, during, or after the term of this Subconsultant Agreement.

5. COMMISSION, AHTD, AND FHWA AS THIRD PARTY BENEFICIARIES

- 5.1. This Subconsultant Agreement is between and binding upon only the Consultant and Subconsultant. The Commission, AHTD, and FHWA are not parties to this Subconsultant Agreement, but are expressly made third-party beneficiaries of this Subconsultant Agreement and shall be entitled to enforce any obligation of the Subconsultant owed to the Consultant. No provision of this Subconsultant Agreement or

the Prime Agreement, nor the exercise of any right thereunder, shall be construed as creating any obligation or any liability on the part of, or operating as a waiver of any immunity of, the Commission, the AHTD, the FHWA, or any of their employees, officers, or agents.

- 5.2. The Subconsultant's sole recourse, if any, for any injury arising under or related to this Subconsultant Agreement, the performance of services hereunder, or compensation or claims hereunder, shall be against the Consultant.
- 5.3. The Disputes and Claims provisions of the Prime Agreement shall not apply to this Subconsultant Agreement.

6. COVENANT AGAINST CONTINGENCY FEES

- 6.1. The Subconsultant warrants that no person or agency has been employed or retained to solicit or obtain this Subconsultant Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the AHTD and Consultant shall have the right to annul this Subconsultant Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.
- 6.2. *Bona fide agency*, as used in this section, means an established commercial or selling agency, maintained by the Subconsultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.
- 6.3. *Bona fide employee*, as used in this section, means a person, employed by the Subconsultant and subject to the Subconsultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
- 6.4. *Contingent fee*, as used in this section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.
- 6.5. *Improper influence*, as used in this section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

7. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Subconsultant Agreement, the Subconsultant, for itself, successors, and assigns, certifies and agrees as follows:

- 7.1. *Compliance with Regulations*. The Subconsultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49, Code of Federal Regulations, Part 21 and 23 Code of Federal Regulations, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Subconsultant Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination

in which no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.

- 7.2. *Nondiscrimination.* The Subconsultant, with regard to the work performed by it during the term of this Subconsultant Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Subconsultant shall not participate either directly or indirectly in any discrimination prohibited by Section 21.5 of the Regulations, including employment practices.
- 7.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment.* In all solicitations, either by competitive bidding or negotiation, made by the Subconsultant for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subconsultant of the Subconsultant's obligations under this Subconsultant Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
- 7.4. *Information and Reports.* The Subconsultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, and accounts, other sources of information, and its facilities by the Owner, the AHTD or the FHWA to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Subconsultant shall so certify to the Owner, the AHTD, or the FHWA, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.
- 7.5. *Sanctions for Noncompliance.* In the event of the Subconsultant's noncompliance with the nondiscrimination provisions of this Subconsultant Agreement, the Owner shall impose such contract sanctions as it, the AHTD, or the Federal Highway Administration may determine to be appropriate, including but not limited to, withholding of payments to the Consultant or Subconsultant under the Agreement until the Subconsultant complies with the provisions and cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.
- 7.6. *Incorporation of Provisions.* The Subconsultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Subconsultant shall take such action with respect to any subcontract or procurement as the Owner, the AHTD, or FHWA may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; *provided*, however that, in the event the Subconsultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Subconsultant may request the Owner, the AHTD, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

8. DBE CLAUSE

- 8.1. The Subconsultant shall not discriminate on the basis of race, color, national origin, sex, age, religion, or disability in the performance of this Subconsultant Agreement. The Subconsultant shall comply with the applicable requirements of 49 C.F.R. Part 26 and perform any actions necessary to maintain compliance in the award and administration

of DOT-assisted contracts. Failure by the Subconsultant to comply with or perform these requirements is a material breach of this Subconsultant Agreement, which may result in the cancellation, termination, or suspension of this Subconsultant Agreement in whole or in part, or such other remedy that the AHTD may determine appropriate.

9. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (NONDISCRIMINATION)

- 9.1 The Subconsultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.
- 9.2 The Subconsultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion or disability, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.
- 9.3 In accordance with Section 504 regulations 49 C.F.R. Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

- 10.1. The Subconsultant certifies, to the best of its knowledge and belief, that—
 - 10.1.1. The Subconsultant and any of its Principals—
 - 10.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;
 - 10.1.1.2. Have not, within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 10.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subsection 10.1.1.2; and,
 - 10.1.1.4. The Subconsultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.
 - 10.2. *Principals*, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or

fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code, as well as any other applicable federal and state laws.

10.3. The Subconsultant shall provide immediate written notice to the AHTD if, at any time prior to contract award, the Subconsultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

10.4. The certification in subsection 10.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Subconsultant knowingly rendered an erroneous certification, the AHTD may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the AHTD.

11. RECORDS & AUDITS

11.1. *Records* includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

11.2. *Examination.* The Consultant shall maintain, and the Owner, AHTD, FHWA, and their authorized representatives shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs (direct and indirect) claimed to have been incurred or anticipated to be incurred in performance of this Agreement. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination of the Indirect Cost Rate or any certification thereof, including any CPA audit relied upon to establish the rate. This right of examination shall also include inspection at all reasonable times of the Consultant's offices and facilities, or parts of them, engaged in performing the Agreement.

11.3. *Supporting Data.* If the Consultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of or pre-negotiation audit of the Indirect Cost Rate, the negotiation of the Fee, request for cost reimbursement, request for payment, request for an adjustment, or assertion of a claim, the Owner, AHTD, FHWA, or their authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Consultant's records, including computations and projections, related to—

- The determination or certification of the Indirect Cost Rate, including any independent CPA audit or certification thereof;
- Any proposal for the Agreement, subcontract, or modification;
- Discussions conducted on the proposal(s), including those related to negotiating;
- Fees or allowable costs under the Agreement, subcontract, or modification;
- Performance of the Agreement, subcontract or modification; or,
- The amount and basis of any claim or dispute.

11.4. *Audit.* The Owner, AHTD, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Consultant's records involving transactions related to this Agreement or a subcontract hereunder.

11.5. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, AHTD, FHWA, or their authorized representatives shall have the

right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Consultant's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

11.6. *Availability.* The Consultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this Section and Section 28, Disputes and Claims, for examination, audit, or reproduction, until five years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition—

11.6.1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five years after the termination; and,

11.6.2. Records relating to any claim or dispute, or to litigation or the settlement of claims arising under or relating to this Agreement shall be retained and made available until after any such claims or litigation, including appeals, are finally resolved.

11.7. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

12. SUBCONTRACTING

12.1. Unless expressly disclosed in Appendix B, the Consultant may not subcontract any of the services to be provided herein without the express written approval of the Owner. All subcontractors, including those listed in Appendix B, shall be bound by the terms of this Agreement. All subcontractors shall be subject to all contractual and legal restrictions concerning payment and determination of allowable costs, and subject to all disclosure and audit provisions contained herein and in any applicable federal or state law.

12.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Consultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Consultant of any responsibility, obligation, or duty under this Agreement.

12.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations of the FAR.

12.4. Furthermore, notwithstanding any other provision within this Agreement, no reimbursement or payment for any markup of the cost of any subcontract shall be considered by the Owner without the express written agreement of the Owner.

12.5. *Prompt Payment.* The Consultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Owner to the Consultant. Any retainage payments held by the Consultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Consultant. If the Consultant fails to comply with this provision, in addition to any other rights or remedies provided under this Agreement, the Owner, at its sole option and discretion, may:

- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Owner, against reimbursements or payments otherwise due the Consultant;
- notify any sureties; and/or,
- withhold any or all reimbursements or payments otherwise due to the Consultant until the Consultant ensures that the subcontractors have been and will be promptly paid for work performed.

12.6. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

13. NOTICE

13.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be mailed or hand-delivered to:

13.1.1. To the Subconsultant:

Ben DeClerk, P.E
DeClerk-Throesch Engineering and Land Surveying
P.O. Box 804
Pocahontas, Arkansas 72455

13.1.2. To the Consultant:

Jason MacDonald P.E
Civil Engineering Associates, LLC
2114 East Matthews Avenue
Jonesboro, Arkansas 72401

IN WITNESS WHEREOF, the parties execute this Subconsultant Agreement, to be effective _____.

Civil Engineering Associates, LLC

DeClerk and Throesch

BY: _____
 Name

BY: _____
 Name

 Title

 Title

ATTACHMENT 1

SCOPE OF SERVICES

FOR

Civil Engineering Associates-Jonesboro, AR

Design Survey Work
Crowley's Ridge Parkway – Craighead Forrest Park Trail

DeClerk-Throesch Engineering & Land Surveying, LLC proposes the following Scope of Services for design surveying work associated with the proposed Crowley's Ridge Parkway – Craighead Forrest Park Trail:

1. Preliminary Work
 - A. Establish Control based on City of Jonesboro CORS.
 - B. Develop base map from available sources.

2. Design Survey
 - A. Stake preliminary alignment provided by engineer.
 - B. Adjust alignment as necessary.
 - C. Perform topographic survey based on revised alignment
 1. Locate existing inside edge of pavement of Forrest Park Loop.
 2. Locate edge of existing maintained area.
 3. Locate individual trees within 20 feet of alignment.
 4. Locate all structures within 50 feet of alignment
 5. Obtain sufficient field data to develop a TIN model a minimum of 20 feet either side of alignment (additional width in specific areas as required).

3. Map Development
 - A. Prepare a detailed map of the field information.
 - B. Overlay detailed information on base map.
 - C. Develop TIN model.

4. Right-Of-Way
 - A. Identify areas where additional right-of-way is needed from base map and preliminary alignment.
 - B. Survey existing and proposed boundaries in areas where additional right-of-way is required.
 - C. Prepare right-of-way maps and legal descriptions.

5. Services Not Included:
 - A. Title research; records shall be furnished by the owner.
 - B. Construction Staking.

Attachment 2
Crowley's Ridge Parkway – Craighead Forrest Park Trail
Jonesboro, Arkansas

1. Direct Labor	Principal	Engineer	Project Surveyor	Party Chief	Rodman	Draftsman	Clerical
Task							
Establish Control	2		4	8	8		
Develop Base Map	2	6	2			12	
Stake & Adjust Preliminary Alignment		2	4	24	24	4	
Topographic Survey	2	8		120	120		
Prepare Map	2	8				40	2
Develop Surface Model	2	8	10				
Boundaries for Right of Way	2	6	8	10	10	4	
Prepare Right of Way Map	2	4				8	
Prepare Right of Way Descriptions	2	4	8				8
	<hr/>						
Total Hours	16	46	36	162	162	68	10
Hourly Cost	\$31.16	\$31.16	\$19.90	\$19.90	\$17.40	\$14.72	\$14.72
Salary Cost	\$498.56	\$1,433.36	\$716.40	\$3,223.80	\$2,818.80	\$1,000.96	\$147.20
Sub-Total: Direct Labor	\$9,839.08						
2. Payroll Burden, General Overhead, and Administrative Cost At 25%	\$12,298.85						
3. Other Direct Costs	Quantity	Unit	Unit Cost		Amount		
Mileage	1,968	Miles	0.56	\$1,102.08			
4. Sub-Total: Labor & Direct Costs	<u>\$23,240.01</u>						
5. Fixed Fee	\$2,656.55						
6. Estimated Total Cost	<u>\$25,896.56</u>						

APPENDIX B-2

SUBCONSULTANT AGREEMENT
JOB NO. 100821
FEDERAL AID PROJECT ("FAP") NO. SB-ARSB (903)

1. SUBCONSULTANT AGREEMENT

- 1.1. The services to be performed under this Subconsultant Agreement will be performed in connection with the Agreement for Engineering Services ("Prime Agreement") between the Consultant and the City of Jonesboro ("Owner") for Job No. 100821, dated _____, _____. Civil Engineering Associates, LLC ("Consultant") and Ecological Design Group ("Subconsultant") hereby agree that the Subconsultant shall perform the professional and related services as described herein. In consideration for the performance of the professional services the Consultant agrees to compensate (and reimburse, if applicable) the Subconsultant in the manner and at the rate(s) provided herein.
- 1.2. The definitions of the Prime Agreement, and its provisions relating to the obligations, duties, and rights of subcontractors, *or which are otherwise required to be inserted into any subcontracting agreements*, are deemed to be part of, and are hereby incorporated by reference into, this Subconsultant Agreement and made binding upon the Subconsultant.

2. DESCRIPTION OF PROJECT AND SERVICES TO BE PROVIDED

See Attachment 1

3. COSTS, FEES, PAYMENTS AND RATE SCHEDULES

See Attachment 2

4. COMPENSATION SUBJECT TO LIMITATIONS OF FEDERAL AND STATE LAW

- 4.1. The Project (as defined in the Prime Agreement), part of which is to be performed under this Subconsultant Agreement, is a federally-assisted project and federal funds will be used, in part, to pay the Consultant and Subconsultant. Therefore, notwithstanding any provision of this Subconsultant Agreement or the Prime Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of 48 C.F.R. Part 31, including those relating to determination of indirect cost rates, if applicable. The Subconsultant shall certify the accuracy of all invoices, requests for payment, and cost rates (if applicable), along with supporting documentation and any supporting information or records provided prior to, during, or after the term of this Subconsultant Agreement.

5. COMMISSION, AHTD, AND FHWA AS THIRD PARTY BENEFICIARIES

- 5.1. This Subconsultant Agreement is between and binding upon only the Consultant and Subconsultant. The Commission, AHTD, and FHWA are not parties to this Subconsultant Agreement, but are expressly made third-party beneficiaries of this Subconsultant Agreement and shall be entitled to enforce any obligation of the Subconsultant owed to the Consultant. No provision of this Subconsultant Agreement or

the Prime Agreement, nor the exercise of any right thereunder, shall be construed as creating any obligation or any liability on the part of, or operating as a waiver of any immunity of, the Commission, the AHTD, the FHWA, or any of their employees, officers, or agents.

- 5.2. The Subconsultant's sole recourse, if any, for any injury arising under or related to this Subconsultant Agreement, the performance of services hereunder, or compensation or claims hereunder, shall be against the Consultant.
- 5.3. The Disputes and Claims provisions of the Prime Agreement shall not apply to this Subconsultant Agreement.

6. COVENANT AGAINST CONTINGENCY FEES

- 6.1. The Subconsultant warrants that no person or agency has been employed or retained to solicit or obtain this Subconsultant Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the AHTD and Consultant shall have the right to annul this Subconsultant Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.
- 6.2. *Bona fide agency*, as used in this section, means an established commercial or selling agency, maintained by the Subconsultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.
- 6.3. *Bona fide employee*, as used in this section, means a person, employed by the Subconsultant and subject to the Subconsultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
- 6.4. *Contingent fee*, as used in this section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.
- 6.5. *Improper influence*, as used in this section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

7. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Subconsultant Agreement, the Subconsultant, for itself, successors, and assigns, certifies and agrees as follows:

- 7.1. *Compliance with Regulations*. The Subconsultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49, Code of Federal Regulations, Part 21 and 23 Code of Federal Regulations, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Subconsultant Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination

in which no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.

- 7.2. *Nondiscrimination.* The Subconsultant, with regard to the work performed by it during the term of this Subconsultant Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Subconsultant shall not participate either directly or indirectly in any discrimination prohibited by Section 21.5 of the Regulations, including employment practices.
- 7.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment.* In all solicitations, either by competitive bidding or negotiation, made by the Subconsultant for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subconsultant of the Subconsultant's obligations under this Subconsultant Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
- 7.4. *Information and Reports.* The Subconsultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, and accounts, other sources of information, and its facilities by the Owner, the AHTD or the FHWA to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Subconsultant shall so certify to the Owner, the AHTD, or the FHWA, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.
- 7.5. *Sanctions for Noncompliance.* In the event of the Subconsultant's noncompliance with the nondiscrimination provisions of this Subconsultant Agreement, the Owner shall impose such contract sanctions as it, the AHTD, or the Federal Highway Administration may determine to be appropriate, including but not limited to, withholding of payments to the Consultant or Subconsultant under the Agreement until the Subconsultant complies with the provisions and cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.
- 7.6. *Incorporation of Provisions.* The Subconsultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Subconsultant shall take such action with respect to any subcontract or procurement as the Owner, the AHTD, or FHWA may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; *provided*, however that, in the event the Subconsultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Subconsultant may request the Owner, the AHTD, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

8. DBE CLAUSE

- 8.1. The Subconsultant shall not discriminate on the basis of race, color, national origin, sex, age, religion, or disability in the performance of this Subconsultant Agreement. The Subconsultant shall comply with the applicable requirements of 49 C.F.R. Part 26 and perform any actions necessary to maintain compliance in the award and administration

of DOT-assisted contracts. Failure by the Subconsultant to comply with or perform these requirements is a material breach of this Subconsultant Agreement, which may result in the cancellation, termination, or suspension of this Subconsultant Agreement in whole or in part, or such other remedy that the AHTD may determine appropriate.

9. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (NONDISCRIMINATION)

- 9.1 The Subconsultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.
- 9.2 The Subconsultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion or disability, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.
- 9.3 In accordance with Section 504 regulations 49 C.F.R. Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

- 10.1. The Subconsultant certifies, to the best of its knowledge and belief, that—
 - 10.1.1. The Subconsultant and any of its Principals—
 - 10.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;
 - 10.1.1.2. Have not, within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 10.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subsection 10.1.1.2; and,
 - 10.1.1.4. The Subconsultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.
 - 10.2. *Principals*, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or

fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code, as well as any other applicable federal and state laws.

10.3. The Subconsultant shall provide immediate written notice to the AHTD if, at any time prior to contract award, the Subconsultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

10.4. The certification in subsection 10.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Subconsultant knowingly rendered an erroneous certification, the AHTD may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the AHTD.

11. RECORDS & AUDITS

11.1. *Records* includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

11.2. *Examination.* The Consultant shall maintain, and the Owner, AHTD, FHWA, and their authorized representatives shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs (direct and indirect) claimed to have been incurred or anticipated to be incurred in performance of this Agreement. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination of the Indirect Cost Rate or any certification thereof, including any CPA audit relied upon to establish the rate. This right of examination shall also include inspection at all reasonable times of the Consultant's offices and facilities, or parts of them, engaged in performing the Agreement.

11.3. *Supporting Data.* If the Consultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of or pre-negotiation audit of the Indirect Cost Rate, the negotiation of the Fee, request for cost reimbursement, request for payment, request for an adjustment, or assertion of a claim, the Owner, AHTD, FHWA, or their authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Consultant's records, including computations and projections, related to—

- The determination or certification of the Indirect Cost Rate, including any independent CPA audit or certification thereof;
- Any proposal for the Agreement, subcontract, or modification;
- Discussions conducted on the proposal(s), including those related to negotiating;
- Fees or allowable costs under the Agreement, subcontract, or modification;
- Performance of the Agreement, subcontract or modification; or,
- The amount and basis of any claim or dispute.

11.4. *Audit.* The Owner, AHTD, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Consultant's records involving transactions related to this Agreement or a subcontract hereunder.

11.5. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, AHTD, FHWA, or their authorized representatives shall have the

right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Consultant's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

11.6. *Availability.* The Consultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this Section and Section 28, Disputes and Claims, for examination, audit, or reproduction, until five years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition—

11.6.1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five years after the termination; and,

11.6.2. Records relating to any claim or dispute, or to litigation or the settlement of claims arising under or relating to this Agreement shall be retained and made available until after any such claims or litigation, including appeals, are finally resolved.

11.7. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

12. SUBCONTRACTING

12.1. Unless expressly disclosed in Appendix B, the Consultant may not subcontract any of the services to be provided herein without the express written approval of the Owner. All subcontractors, including those listed in Appendix B, shall be bound by the terms of this Agreement. All subcontractors shall be subject to all contractual and legal restrictions concerning payment and determination of allowable costs, and subject to all disclosure and audit provisions contained herein and in any applicable federal or state law.

12.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Consultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Consultant of any responsibility, obligation, or duty under this Agreement.

12.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations of the FAR.

12.4. Furthermore, notwithstanding any other provision within this Agreement, no reimbursement or payment for any markup of the cost of any subcontract shall be considered by the Owner without the express written agreement of the Owner.

12.5. *Prompt Payment.* The Consultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Owner to the Consultant. Any retainage payments held by the Consultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Consultant. If the Consultant fails to comply with this provision, in addition to any other rights or remedies provided under this Agreement, the Owner, at its sole option and discretion, may:

- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Owner, against reimbursements or payments otherwise due the Consultant;
- notify any sureties; and/or,
- withhold any or all reimbursements or payments otherwise due to the Consultant until the Consultant ensures that the subcontractors have been and will be promptly paid for work performed.

12.6. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

13. NOTICE

13.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be mailed or hand-delivered to:

13.1.1. To the Subconsultant:

Martin L. Smith, PLA
Ecological Design Group, Inc
210 E. Merriman Ave.
Wynne, Arkansas 72396

13.1.2. To the Consultant:

Jason MacDonald P.E
Civil Engineering Associates, LLC
2114 East Matthews Avenue
Jonesboro, Arkansas 72401

IN WITNESS WHEREOF, the parties execute this Subconsultant Agreement, to be effective _____.

Civil Engineering Associates, LLC

Ecological Design Group

BY: _____
 Name

BY: _____
 Name

 Title

 Title

ECOLOGICAL DESIGN GROUP, INC.

120 South IZard Street 210 East Merriman Ave.
Little Rock, AR 72201 Wynne, Arkansas 72396



Landscape Architecture
Environmental Planning

September 11, 2014

SCOPE OF WORK

The purpose of the services proposed herein is to provide professional landscape architectural services for the proposed amenities as discussed for the Craighead Forest Park Trail located in Jonesboro, Arkansas. The Scope of Work for Basic Services will consist of site landscape architecture as discussed during the site visit, including but not limited to: Inventory and Analysis of existing Park, Master Planning of Trail and Connectivity to existing Park Features, Construction Document and Construction Administration Assistance.

BASIC SERVICES

Given the above scope of work, we will provide the following basic services:

Using the survey, aerial and observations made on site, we shall prepare the above including the following information:

- A. Site Analysis and Inventory: Programing and Data Collection
 - 1. Site Visit, Meetings and Coordination;
 - 2. Existing Park Inventory, Programming and Analysis – Plan Graphic

- B. Conceptual Design Development – Master Planning:
 - 1. Master Plan Graphic indicating the proposed Road and Trail alignment along with its interaction with the existing program elements of the park. Existing program elements will be reviewed with illustrated improvements including, but not limited to the following:
 - a. Programming and Space Analysis;
 - b. Vehicular and Pedestrian Circulation, including parking and access;
 - c. Ecological Restoration Practices including innovative stormwater design.

- C. Construction Document and Administration Assistance:
 - 1. Preparation of certain construction document elements and assistance with construction administration for aspects of the project developed by EDG.
 - a. Boardwalk design and detailing;
 - b. Innovative stormwater practices grading and restoration documents;
 - c. Ecological Restoration and/or general landscape documents;
 - d. Interpretative Signage, Site Furnishings, and Site Lighting layout documents.
 - e. Review construction of elements with direct association to the above.

ecological design
group, inc.

120 south izard st.
little rock, AR
72201

t: 501.378.0200
f: 501.378.0201

little rock

wynne

Crowley's Ridge Scenic Byway: Craighead Forest Park Trail Justification of Cost

TITLE I DESIGN PHASE SERVICES

1. DIRECT LABOR

Task	Principal	Landscape Arch	Landscape Des	Technician
Kickoff Meeting	10			
Establish Design Criteria	12		10	
Data Acquisition (obtaining available information from City of Jonesboro and City Water & Light)				
Conceptual Plan Design and Master Planning	30	20	80	
Stakeholder Meetings				
Meetings/Site Visit (As Needed)	10			
Preliminary Alignment				
Public Involvement Meeting	4			
Prepare Roadway Plans (6 sheets)				
Prepare Typical Cross Sections and Pavement Design (2 sheets)				
Prepare Miscellaneous Details				
Prepare Proposed Trail Sheets (18 sheets)				
Prepare Erosion Control Sheets (13 Sheets)				
Prepare Traffic Control and Signage (12 Sheets)				
Prepare Survey Control Sheets (9 Sheets)				
Preliminary Cost Estimates				
Submit 50% Plans to City and AHTD for Comment and incorporate Comments	35	35		
Submit 90% Plans to City and AHTD for Comment and incorporate Comments	35	35		
Finalize Trail Alignment				
Complete Proposed Trail Sheets				
Complete Typical Sections				
Prepare Quantity and Summary of Quantity Sheets (4 Sheets)				
Finalize Erosion Control sheets and prepare SWPPP				
Prepare Index and Cover Sheet (3 Sheets)				
Prepare Special Provisions				
Prepare Construction Documents	35	20		
Finalize Traffic Control and Signage				
Finalize Survey control sheets				
Provide Drainage Calculations				
Submit Plans to City and AHTD for Authorization to Bid				
Total Hours	171	110	90	0
Average Hourly Rate	\$32.50	\$32.50	\$22.00	\$16.00
Salary Cost	\$5,557.50	\$3,575.00	\$1,980.00	\$0.00

Sub-Total (Salary Cost): \$11,112.50

2. PAYROLL BURDEN, GENERAL OVERHEAD, AND ADMINISTRATION COST

120.00% \$13,335.00

3. OTHER DIRECT COSTS

	Quantity	Unit	Unit Cost	Amount
Printing		Each	\$0.50	\$0.00
Mileage (3 trips @ 100 Miles per trip)	300	Miles	\$0.56	\$168.00
Lodging		Days	\$83.00	\$0.00
Subsistence		Days	\$46.00	\$0.00

Sub-Total (Direct Cost): \$168.00

4. SUB-TOTAL: LABOR AND DIRECT COST

5. FIXED FEE

Sub-Total (Fixed Fee): \$2,933.70

6. ESTIMATED TOTAL COST FOR TITLE I DESIGN PHASE SERVICES

Sub-Total (Sub Consultant): \$24,615.50
\$27,549.20

TITLE II CONSTRUCTION PHASE SERVICE

1. DIRECT LABOR

Task	Principal	Landscape Arch	Landscape Des	Technician	Inspector
Advertise Bids					
Review Bids					
Construction Administration	20				
Day to Day Inspector					
Project Closeout					
Total Hours	20	0	0	0	0
Average Hourly Rate	\$32.50	\$32.50	\$22.00	\$16.00	
Salary Cost	\$650.00	\$0.00	\$0.00	\$0.00	\$0.00

Sub-Total (Salary Cost): \$650.00

2. TITLE II MULTIPLIER (1+overhead) X (1+Fixed Fee Rate)

2.2 Sub-Total (Salary Cost): \$1,430.00

3. OTHER DIRECT COSTS

	Quantity	Unit	Unit Cost	Amount
Printing	0	Each	\$0.50	\$0.00
Mileage (3 trips @ 100 Miles per trip)	300	Miles	\$0.56	\$168.00
Lodging		Days	\$96.00	\$0.00
Subsistence		Days	\$46.00	\$0.00

Sub-Total (Direct Cost): \$168.00

4. ESTIMATED TOTAL COST FOR TITLE II CONSTRUCTION PHASE SERVICES

\$1,598.00

APPENDIX B-4

SUBCONSULTANT AGREEMENT
JOB NO. 100821
FEDERAL AID PROJECT ("FAP") NO. SB-ARSB (903)

1. SUBCONSULTANT AGREEMENT

- 1.1. The services to be performed under this Subconsultant Agreement will be performed in connection with the Agreement for Engineering Services ("Prime Agreement") between the Consultant and the City of Jonesboro ("Owner") for Job No. 100821, dated _____, _____. Civil Engineering Associates, LLC ("Consultant") and Geotechnology Inc ("Subconsultant") hereby agree that the Subconsultant shall perform the professional and related services as described herein. In consideration for the performance of the professional services the Consultant agrees to compensate (and reimburse, if applicable) the Subconsultant in the manner and at the rate(s) provided herein.
- 1.2. The definitions of the Prime Agreement, and its provisions relating to the obligations, duties, and rights of subcontractors, *or which are otherwise required to be inserted into any subcontracting agreements*, are deemed to be part of, and are hereby incorporated by reference into, this Subconsultant Agreement and made binding upon the Subconsultant.

2. DESCRIPTION OF PROJECT AND SERVICES TO BE PROVIDED

See Attachment 1

3. COSTS, FEES, PAYMENTS AND RATE SCHEDULES

See Attachment 2

4. COMPENSATION SUBJECT TO LIMITATIONS OF FEDERAL AND STATE LAW

- 4.1. The Project (as defined in the Prime Agreement), part of which is to be performed under this Subconsultant Agreement, is a federally-assisted project and federal funds will be used, in part, to pay the Consultant and Subconsultant. Therefore, notwithstanding any provision of this Subconsultant Agreement or the Prime Agreement, all payments, costs, and expenditures are subject to the requirements and limitations of 48 C.F.R. Part 31, including those relating to determination of indirect cost rates, if applicable. The Subconsultant shall certify the accuracy of all invoices, requests for payment, and cost rates (if applicable), along with supporting documentation and any supporting information or records provided prior to, during, or after the term of this Subconsultant Agreement.

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- 5.1. This Subconsultant Agreement is between and binding upon only the Consultant and Subconsultant. The Commission, AHTD, and FHWA are not parties to this Subconsultant Agreement, but are expressly made third-party beneficiaries of this Subconsultant Agreement and shall be entitled to enforce any obligation of the Subconsultant owed to the Consultant. No provision of this Subconsultant Agreement or

the Prime Agreement, nor the exercise of any right thereunder, shall be construed as creating any obligation or any liability on the part of, or operating as a waiver of any immunity of, the Commission, the AHTD, the FHWA, or any of their employees, officers, or agents.

- 5.2. The Subconsultant's sole recourse, if any, for any injury arising under or related to this Subconsultant Agreement, the performance of services hereunder, or compensation or claims hereunder, shall be against the Consultant.
- 5.3. The Disputes and Claims provisions of the Prime Agreement shall not apply to this Subconsultant Agreement.

6. COVENANT AGAINST CONTINGENCY FEES

- 6.1. The Subconsultant warrants that no person or agency has been employed or retained to solicit or obtain this Subconsultant Agreement upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the AHTD and Consultant shall have the right to annul this Subconsultant Agreement without liability or, in its discretion, to deduct from the Contract Price or consideration, or otherwise recover, the full amount of the contingent fee.
- 6.2. *Bona fide agency*, as used in this section, means an established commercial or selling agency, maintained by the Subconsultant for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds itself out as being able to obtain any government contract or contracts through improper influence.
- 6.3. *Bona fide employee*, as used in this section, means a person, employed by the Subconsultant and subject to the Subconsultant's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain government contracts nor holds out as being able to obtain any government contract or contracts through improper influence.
- 6.4. *Contingent fee*, as used in this section, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a government contract.
- 6.5. *Improper influence*, as used in this section, means any influence that induces or tends to induce a government employee or officer to give consideration or to act regarding a government contract on any basis other than the merits of the matter.

7. TITLE VI ASSURANCES (NONDISCRIMINATION)

During the performance of this Subconsultant Agreement, the Subconsultant, for itself, successors, and assigns, certifies and agrees as follows:

- 7.1. *Compliance with Regulations*. The Subconsultant shall comply with the Regulations relative to Title VI (Nondiscrimination in Federally-assisted programs of the Department of Transportation and its operating elements, especially Title 49, Code of Federal Regulations, Part 21 and 23 Code of Federal Regulations, as amended, and hereinafter referred to as the Regulations). These regulations are herein incorporated by reference and made a part of this Subconsultant Agreement. Title VI provides that the recipients of Federal financial assistance will maintain and implement a policy of nondiscrimination

in which no person shall, on the basis of race, color, national origin, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by recipients of Federal financial assistance or their assignees and successors in interest.

- 7.2. *Nondiscrimination.* The Subconsultant, with regard to the work performed by it during the term of this Subconsultant Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Subconsultant shall not participate either directly or indirectly in any discrimination prohibited by Section 21.5 of the Regulations, including employment practices.
- 7.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment.* In all solicitations, either by competitive bidding or negotiation, made by the Subconsultant for work to be performed under a subcontract, including procurement of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Subconsultant of the Subconsultant's obligations under this Subconsultant Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
- 7.4. *Information and Reports.* The Subconsultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, and accounts, other sources of information, and its facilities by the Owner, the AHTD or the FHWA to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Subconsultant shall so certify to the Owner, the AHTD, or the FHWA, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.
- 7.5. *Sanctions for Noncompliance.* In the event of the Subconsultant's noncompliance with the nondiscrimination provisions of this Subconsultant Agreement, the Owner shall impose such contract sanctions as it, the AHTD, or the Federal Highway Administration may determine to be appropriate, including but not limited to, withholding of payments to the Consultant or Subconsultant under the Agreement until the Subconsultant complies with the provisions and cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.
- 7.6. *Incorporation of Provisions.* The Subconsultant shall include the terms and conditions of this section in every subcontract including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Subconsultant shall take such action with respect to any subcontract or procurement as the Owner, the AHTD, or FHWA may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; *provided*, however that, in the event the Subconsultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Subconsultant may request the Owner, the AHTD, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

8. DBE CLAUSE

- 8.1. The Subconsultant shall not discriminate on the basis of race, color, national origin, sex, age, religion, or disability in the performance of this Subconsultant Agreement. The Subconsultant shall comply with the applicable requirements of 49 C.F.R. Part 26 and perform any actions necessary to maintain compliance in the award and administration

of DOT-assisted contracts. Failure by the Subconsultant to comply with or perform these requirements is a material breach of this Subconsultant Agreement, which may result in the cancellation, termination, or suspension of this Subconsultant Agreement in whole or in part, or such other remedy that the AHTD may determine appropriate.

9. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (NONDISCRIMINATION)

- 9.1 The Subconsultant will comply with the provisions of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Federal Aid Project Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.
- 9.2 The Subconsultant, during the term of this Agreement, shall not discriminate on the basis of race, color, sex, national origin, age, religion or disability, in admission or access to and treatment in programs and activities associated with this Agreement, or in the selection and retention of subcontractors, including procurement of material and leases of equipment. The Consultant shall not participate either directly or indirectly in any discrimination prohibited by the Regulations, including employment practices.
- 9.3 In accordance with Section 504 regulations 49 C.F.R. Part 27.15, the Owner's Notice of Nondiscrimination is required in any bulletins, announcements, handbooks, pamphlets, brochures, and any other publications associated with this Agreement that are made available to the public, program participants, applicants or employees.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

- 10.1. The Subconsultant certifies, to the best of its knowledge and belief, that—
 - 10.1.1. The Subconsultant and any of its Principals—
 - 10.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;
 - 10.1.1.2. Have not, within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 10.1.1.3. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subsection 10.1.1.2; and,
 - 10.1.1.4. The Subconsultant has not within a 3-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency.
 - 10.2. *Principals*, for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or

fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code, as well as any other applicable federal and state laws.

10.3. The Subconsultant shall provide immediate written notice to the AHTD if, at any time prior to contract award, the Subconsultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

10.4. The certification in subsection 10.1 is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Subconsultant knowingly rendered an erroneous certification, the AHTD may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the AHTD.

11. RECORDS & AUDITS

11.1. *Records* includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

11.2. *Examination.* The Consultant shall maintain, and the Owner, AHTD, FHWA, and their authorized representatives shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs (direct and indirect) claimed to have been incurred or anticipated to be incurred in performance of this Agreement. This right of examination shall also include examination and audit of any records considered, relied upon, or relating to the determination of the Indirect Cost Rate or any certification thereof, including any CPA audit relied upon to establish the rate. This right of examination shall also include inspection at all reasonable times of the Consultant's offices and facilities, or parts of them, engaged in performing the Agreement.

11.3. *Supporting Data.* If the Consultant has been required to submit data in connection with any action relating to this Agreement, including the negotiation of or pre-negotiation audit of the Indirect Cost Rate, the negotiation of the Fee, request for cost reimbursement, request for payment, request for an adjustment, or assertion of a claim, the Owner, AHTD, FHWA, or their authorized representatives, in order to evaluate the accuracy, completeness, and accuracy of the data, shall have the right to examine and audit all of the Consultant's records, including computations and projections, related to—

- The determination or certification of the Indirect Cost Rate, including any independent CPA audit or certification thereof;
- Any proposal for the Agreement, subcontract, or modification;
- Discussions conducted on the proposal(s), including those related to negotiating;
- Fees or allowable costs under the Agreement, subcontract, or modification;
- Performance of the Agreement, subcontract or modification; or,
- The amount and basis of any claim or dispute.

11.4. *Audit.* The Owner, AHTD, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Consultant's records involving transactions related to this Agreement or a subcontract hereunder.

11.5. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, AHTD, FHWA, or their authorized representatives shall have the

right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Consultant's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

11.6. *Availability.* The Consultant shall retain and make available at its office at all reasonable times the records, materials, and other evidence described in this Section and Section 28, Disputes and Claims, for examination, audit, or reproduction, until five years after final payment under this Agreement, or for any longer period required by statute or by other clauses of this Agreement. In addition—

11.6.1. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be retained and made available for five years after the termination; and,

11.6.2. Records relating to any claim or dispute, or to litigation or the settlement of claims arising under or relating to this Agreement shall be retained and made available until after any such claims or litigation, including appeals, are finally resolved.

11.7. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

12. SUBCONTRACTING

12.1. Unless expressly disclosed in Appendix B, the Consultant may not subcontract any of the services to be provided herein without the express written approval of the Owner. All subcontractors, including those listed in Appendix B, shall be bound by the terms of this Agreement. All subcontractors shall be subject to all contractual and legal restrictions concerning payment and determination of allowable costs, and subject to all disclosure and audit provisions contained herein and in any applicable federal or state law.

12.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Consultant's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Consultant of any responsibility, obligation, or duty under this Agreement.

12.3. No subcontract placed under this Agreement shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations of the FAR.

12.4. Furthermore, notwithstanding any other provision within this Agreement, no reimbursement or payment for any markup of the cost of any subcontract shall be considered by the Owner without the express written agreement of the Owner.

12.5. *Prompt Payment.* The Consultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Owner to the Consultant. Any retainage payments held by the Consultant must be returned to the subcontractor within 30 days after the subcontractor's work is completed. Failure to comply with this provision shall be considered a Default by the Consultant. If the Consultant fails to comply with this provision, in addition to any other rights or remedies provided under this Agreement, the Owner, at its sole option and discretion, may:

- make payments directly to the subcontractor and offset such payments, along with any administrative costs incurred by the Owner, against reimbursements or payments otherwise due the Consultant;
- notify any sureties; and/or,
- withhold any or all reimbursements or payments otherwise due to the Consultant until the Consultant ensures that the subcontractors have been and will be promptly paid for work performed.

12.6. The Consultant shall insert a clause containing all the terms of this Section in all subcontracts under this Agreement.

13. NOTICE

13.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be mailed or hand-delivered to:

13.1.1. To the Subconsultant:

Ashraf Elsayed, PHD, P.E.
Geotechnology Inc
3312 Winbrook Dr.
Memphis TN 38116

13.1.2. To the Consultant:

Jason MacDonald P.E
Civil Engineering Associates, LLC
2114 East Matthews Avenue
Jonesboro, Arkansas 72401

IN WITNESS WHEREOF, the parties execute this Subconsultant Agreement, to be effective _____.

Civil Engineering Associates, LLC

Geotechnology Inc.

BY: _____
 Name

BY: _____
 Name

 Title

 Title



Via Email: jmacdonald@ce-associates.biz

October 1, 2014

P023680.01

Jason MacDonald, P.E.
Civil Engineering Associates
2114 East Matthews Ave.
Jonesboro, AR 72401

Re: Revised Proposal for Subsurface Exploration
Craighead Forest Park Trail
Jonesboro, Arkansas

Dear Mr. MacDonald:

Per your request, Geotechnology, Inc. is pleased to submit this revised proposal to perform a subsurface exploration for the referenced project. This proposal is prepared in accordance with our understanding of the scope of work and our discussion of September 25, 2014. The revised scope of work was per the owner's direction.

PROJECT INFORMATION

The project site is located in Craighead Forrest Park in Jonesboro, Arkansas. Based on our review of a 2013 Google Earth™ aerial images and the provided site plan, it appears the site grades vary approximately from El 360 to 400¹. Information regarding the proposed site grading was not provided. Most of the construction areas are moderately wooded. However, based on our visual observations, it appears that specific areas of the planned roadway are relatively steep and heavily wooded. Therefore, dozer clearing and leveling work will be required.

It is our understanding the City of Jonesboro will construct a new trail and roadway upgrade around the Craighead Forrest Lake. Based on the provided plan, approximately 11,500 feet of new bike/pad trail and approximately 4,500 feet of new road alignment are planned. The planned widths of the trail and road are 12 feet and 24 feet, respectively. The roadway and trail profiles have not been completed, however, it is our understanding that the maximum height of cut or fill for the roadway will not exceed 15 feet. Also, it is assumed that the trail elevations will approximately match the existing ground and less than 5 feet of cut or fill will be required. It is our understanding that concrete footings will be required at some locations to supported elevated sections of the trail.

¹ Elevations are in feet and they reference MSL
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SCOPE OF WORK

Based on our experience in the vicinity of the site, and our understanding of the project, the subsurface exploration will address the following key issues:

- Depth and conditions of any fill associated with past site activities
- Groundwater depth
- Bearing capacity of shallow foundations
- The presence of compressible or expansive soil

The revised scope of work will include the following:

- Drilling of 6 borings to an approximate depth of 10 feet along the proposed trail at approximately 2,300 feet spacing.
- Drilling of 6 borings along the proposed roadway to depths in the range of 15 to 30 feet (approximate spacing of 900 feet).
- Performing laboratory testing.
- Submitting a report that will include the results of the field and laboratory testing along with analysis and recommendations.

Drilling will be performed using augers and/or wet rotary methods as needed. Soil samples will be obtained by split- spoon (ASTM D 1586) and Shelby tube sampling methods (ASTM D 1587) at regular intervals. Upon completion of the drilling activities, borings deeper than 15 feet will be backfilled with grout, the remainder of the borings will be backfilled with auger cuttings. A maximum of 225 lineal feet of auger and wet rotary wash drilling is budgeted. The fieldwork does not include drilling in hard material (such as concrete) or removal of debris. Geotechnology' fee does not include retaining a private utility locator. It is assumed that the centerlines of the trail and roadway will be staked.

Geotechnology will provide a geologist or engineer to oversee and manage the sample collection and soil classification process, provide technical direction during exploration, prepare descriptive boring logs of the material encountered, and transport samples to our laboratory for further testing.

Based on our visual observation, dozer clearing will be required at some locations. We have assumed that the client will obtain the required clearing permits to allow for rig accessibility and drilling operation to proceed. Our estimate does not include fees for obtaining such permits.

Laboratory testing will include grain size analysis, Atterberg limits, moisture content, unconfined compression, Standard Proctor and California Bearing Ratio (CBR). Geotechnology will summarize the results of borings and laboratory tests in a report in which recommendations will be given. The recommendations will include the following:



- Shallow foundation recommendations as needed, including allowable bearing capacity and settlement evaluations, based on loading conditions to be provided at a later stage
- Site excavation and fill placement
- Pavement recommendations in accordance with the AASHTO 1993 design procedure for flexible pavement. The pavement design will be based on assumed number of equivalent single axle loads (EASL's) over the design life of the roadway. No traffic count will be performed. Soil resilient modulus will be correlated with CBR test results.

Please note that our services do not include creating soil sheets or foundation drawings. If such is required, please notify Geotechnology.

SCHEDULE AND FEE

Coordination of boring locations and utility notification as required by law will take seven days to complete after receiving the Notice to Proceed (NTP). Geotechnology will contact Arkansas One Call for locating public utilities. No fee for locating private utilities is included in our estimate. Drilling for the requested scope will take approximately 4 to 6 work-days, weather permitting. Our report will be submitted within three weeks following completion of the fieldwork. Our findings can be provided throughout the course of the project as test results and analyses are completed. Please refer to the attached tables for our unit rates that are currently included in our on-call contracts with the State of Tennessee Department of Transportation (TDOT). These unit rates will be used to prepare our monthly invoices.

Geotechnology will conduct the scope of services described herein for a cost plus fixed fee per AHTD guidelines. The total fees are not expected to exceed Twenty five Thousand Twenty Six Dollars and Twenty Three Cents (\$25,026.23).

AUTHORIZATION

Our services will be conducted in accordance with the Terms set forth by AHTD. This proposal and fee estimate have been prepared using Geotechnology's standard fee schedule. Geotechnology reserves the right to revise this proposal and fee estimate, at any time, if any flow down and/or contract provisions are required by Client or Owner to conform with any local, state or federal wage act requirements, including but not limited to the Davis-Bacon Act, as Amended, the McNamara-O'Hara Service Contract Act, etc., the required use of union labor, or for any required safety, security, vehicle, drug and alcohol testing, or any third party payment fees, or other requirements not specified in the Client's request for proposal or not defined in Geotechnology's scope of services.



Civil Engineering Associates
October 1, 2014
Page 4

P023680.01

Please call the undersigned if you have any questions or comments. We appreciate the opportunity to submit this proposal and look forward to hearing from you soon.

Very truly yours,

GEOTECHNOLOGY, INC.

Ashraf Elsayed

Ashraf S. Elsayed, Ph.D., P.E., D.GE
Chief Engineer – Memphis Branch

ASE/JKH/JPD: ase

Attachments: Important Information Regarding this Geotechnical Proposal
Estimate for Subsurface Exploration Services

*DIVISION OF MATERIALS AND TESTS
GEOTECHNICAL ENGINEERING SECTION*

GEOTECHNICAL SERVICES

MANHOUR REQUIREMENTS AND COST ESTIMATE

CRAIGHEAD

CRAIGHEAD FOREST PARK TRAIL

GEOTECHNOLOGY, INC.

Prepared By: ASHRAF ELSAYED, PH.D., P.E.

Date prepared: 10/1/2014

Federal Project No. N/A

State Project No. N/A

Geotechnical Office No. N/A

Pin No. N/A

Contract No, Work Order No. N/A

[<Invoice Number>](#)

ASHRAF ELSAYED, PH.D., P.E.

3312 Winbrook

MEMPHIS, TN 38116

<CONTACT ADDRESS>

901-353-1981

a_elsayed@geotechnology.com

Section III
Standard Cost Estimate For Soil And Geological Survey Report
1.00 Drilling Services

County: CRAIGHEAD
Route: CRAIGHEAD FOREST PARK TRAIL
Description: N/A
Project No.: N/A
Geotechnical Office No.: N/A
Consultant: GEOTECHNOLOGY, INC.
Prepared By: ASHRAF ELSAYED, PH.D., P.E.
Date Prepared: 10/1/2014
Contract Number: N/A

For further explanation of Item No. and Description refer to attached "Pay Item Numbers and Methods of Measurement for Cost Estimates".

Item No.	Description	Estimated Quantities	Basis of Payment		Price	Amount
1.01	Mobilization	1	each	@	\$795.00	\$795.00
1.02	Project Mileage		mile	@	\$3.34	\$0.00
1.03	Drill Rig Moving \ Standby Time	4	hour	@	\$160.00	\$640.00
1.04	Soil Auger Drilling		vertical foot	@	\$11.66	\$0.00
1.05	Wash Boring		vertical foot	@	\$12.67	\$0.00
1.06	Soil Drilling and Split Barrel Type Sampling on Land	225	vertical foot	@	\$15.00	\$3,375.00
1.07	Tube Type Sampling on Land	6	vertical foot	@	\$50.00	\$300.00
1.08	Rock Coring		vertical foot	@	\$47.74	\$0.00
1.09	Borehole Grouting	150	vertical foot	@	\$4.00	\$600.00
1.10	Water Hauling	2	working day	@	\$265.22	\$530.44
1.11	Bulldozer	15	operating hour	@	\$148.52	\$2,227.80
1.12	Traffic Control ^a		direct cost	@	\$1,700.00	\$0.00
1.13	Site Restoration		per each	@	\$50.00	\$0.00
1.14	Site Specific Seismic Req.	0	vertical foot	@	\$0.00	\$0.00
1.15	Erosion and Sed. Control	1	direct cost	@	\$2,500.00	\$2,500.00
1.16	Coring of Asphalt	8	each	@	\$300.00	\$2,400.00
Total Estimated Drilling Costs						\$13,368.24

Section III
Standard Cost Estimate for Soil and Geological Survey Report
2.00 Laboratory Services

County: CRAIGHEAD
Route: CRAIGHEAD FOREST PARK TRAIL
Description: N/A
Project No.: N/A
Geotechnical Office No.: N/A
Consultant: GEOTECHNOLOGY, INC.
Prepared By: ASHRAF ELSAYED, PH.D., P.E.
Date Prepared: 10/1/2014
Contract Number: N/A

For further explanation of Item No. and Description refer to attached "Pay Item Numbers and Methods of Measurement for Cost Estimates".

Item No.	Description	Estimated Quantities	Basis of Payment		Rate	Amount
2.01	Atterberg Limits	10	each	@	\$55.00	\$550.00
2.02	Natural Moisture Content	69	each	@	\$4.77	\$329.13
2.03	Particle Size Analysis	10	each	@	\$75.00	\$750.00
2.04	AASHTO Classification	10	each	@	\$5.00	\$50.00
2.05	Proctor Density Test	2	each	@	\$175.00	\$350.00
2.06	California Bearing Ratio (per point)	4	each	@	\$125.00	\$500.00
2.07	pH		each	@	\$18.03	\$0.00
2.08	Soil Resistivity		each	@	\$44.55	\$0.00
2.31	Acid-Base		each	@	\$89.11	\$0.00
2.40	Sulfate Soundness		each	@	\$397.83	\$0.00
2.09	Consolidation Properties		consolidation properties	@	\$424.36	\$0.00
2.10	Triaxial Compression UU		strength properties	@	\$369.19	\$0.00
2.11	Triaxial Compression CU		strength properties	@	\$868.87	\$0.00
2.12	Unconfined Compression	6	per test	@	\$75.00	\$450.00
2.63	CD Direct Shear		strength properties	@	\$493.31	\$0.00
2.64	Specific Gravity - Soil		each	@	\$58.34	\$0.00
Total Estimated Laboratory Services Cost:						\$2,979.13

Section III
Standard Cost Estimate for Soil and Geological Survey Report

3.00 Manpower Requirements

County: CRAIGHEAD
Route: CRAIGHEAD FOREST PARK TRAIL
Description: N/A
Project No.: N/A
Geotechnical Office No. N/A
Consultant: GEOTECHNOLOGY, INC.
Prepared By ASHRAF ELSAYED, PH.D., P.E.
Date Prepared 10/1/2014
Contract Number: N/A

See "Pay Item Numbers and Methods of Measurement for Cost Estimates" for further description of services required by state.

Item No.	ACTIVITY	PRINCIPAL	SENIOR ENGINEER	STAFF ENGINEER	SENIOR GEOLOGIST	STAFF ENGINEER	SUPERVISING DRILLER	STAFF CADD TECHNICIAN	GEOLOGIST
		MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR
3.10	Project Planning and Coordination		2.0		2.0		2.0		
3.20	Field Activities				6.0				30.0
3.30	Data Assimilation			8.0					
3.40	Engineering Analyses		4.0	4.0					
3.50	Report Preparation	4.0	6.0	6.0					
3.60	Drawing Preparation								
3.70	Post-Report Conference and Review	6.0	4.0						
Total Estimated Hours		10.0	16.0	18.0	8.0		2.0		30.0
Hourly Rate		\$158.48	\$109.15	\$71.50	\$83.41	\$71.50	\$112.04	\$63.39	\$67.81
Subtotal of Estimated Man-hour Costs		\$1,584.80	\$1,746.40	\$1,287.00	\$667.28	\$0.00	\$224.08	\$0.00	\$2,034.30

Total Estimate of Man-hour Requirements:	\$7,543.86
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Section III
 Standard Cost Estimate for Soil and Geological Survey Report
3.00 Manpower Requirements, Hourly Rate Breakdown

County: CRAIGHEAD
 Route: CRAIGHEAD FOREST PARK TRAIL
 Description: N/A
 Project No.: N/A
 Geotechnical Office No. N/A
 Consultant: GEOTECHNOLOGY, INC.
 Prepared By: ASHRAF ELSAYED, PH.D., P.E.
 Date Prepared 10/1/2014
 Contract Number: N/A

Hourly Rate Breakdown		PRINCIPAL	SENIOR ENGINEER	STAFF ENGINEER	SENIOR GEOLOGIST	STAFF ENGINEER	SUPERVISING DRILLER	STAFF CADD TECHNICIAN	GEOLOGIST
		MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR	MAN-HOUR
Direct Pay Rate		\$53.75	\$37.02	\$24.25	\$28.29	\$24.25	\$38.00	\$21.50	\$23.00
Maximum Overhead Rate		1.6664	1.6664	1.6664	1.6664	1.6664	1.6664	1.6664	1.6664
Profit Rate * (supplied in decimals)		0.12	0.12	0.12	0.12	0.12	0.12	0.12	0.12
	* use the same rate as with the design contract for the project.								
Hourly Rate		\$158.48	\$109.15	\$71.50	\$83.410	\$71.50	\$112.04	\$63.39	67.8132

Section III
Standard Cost Estimate for Soil and Geological Survey Report
4.0 Other Expenses

County: CRAIGHEAD

Project No.: N/A

Route: CRAIGHEAD FOREST PARK TRAIL

Geotechnical Office No.: N/A

Description: N/A

Contract No: N/A

Prepared By: ASHRAF ELSAYED, PH.D., P.E.

Consultant: GEOTECHNOLOGY, INC.

Date Prepared: 10/1/2014

Distance to Jobsite:

Company Headquarters: <CITY,STATE>	Job Site: <CITY,STATE>
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Travel Expenses				
Item No.	Description	Days	Rate*	Total
4.10	Travel Day Per Diem	6	\$34.50	\$207.00
4.12	Lodging	6	\$83.00	\$498.00

*Must be in accordance with applicable AHTD Travel Regulations

Milage\Transportation Expenses				
Item No.	Description	Miles	Milage Rate*	Total
4.20	Passenger Truck	600	\$0.56	\$336.00
4.21	Tractor Trailer Truck		\$2.86	\$0.00
4.22	Water Truck		\$1.56	\$0.00
4.23	Truck Mounted Drill		\$2.08	\$0.00
4.24	Other Mileage			\$0.00

*Must be in accordance with applicable AHTD Travel Regulations

Equipment Rental				
Item No.	Description	Days	Daily Rate	Total
4.30*	Equipment Rental		\$350.00	\$0.00
4.31**	Equipment Rental		\$295.00	\$0.00

Plans Reproduction Costs				
Item No.	Description	Units	Unit Price	Total
4.40	Full Size Bond		\$5.25	\$0.00
4.41	Half-Size Bond		\$3.28	\$0.00
4.42	Full Size Mylar		\$12.84	\$0.00
4.43	Photocopies	200	\$0.47	\$94.00

Other Expenses				
Item No.	Description	Units	Unit Rate	Total
4.50	Other Expenses		\$0.00	\$0.00

Total Estimate of Other Expenses:	\$1,135.00
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APPENDIX C
STANDARD CERTIFICATIONS

CERTIFICATION OF CONSULTANT

I hereby certify that I, Jason MacDonald, P.E., am a member and duly authorized representative of the firm of Civil Engineering Associates, LLC whose headquarters address is 2114 East Matthews Avenue, Jonesboro, Arkansas 72401, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,

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

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;

(d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas State Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 31 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

Civil Engineering Associates, ("Consultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Jason MacDonald PE. (ADA/504/Title VI Coordinator), 2114 East Matthews Avenue, Jonesboro Arkansas, 72401, (870) 972-5316 (Voice/TTY 711), or , the following email address: **jmacdonald@ce-associates.biz**.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

Authorized Firm Representative

Date

CERTIFICATION OF SUB CONSULTANT

I hereby certify that I, Ben DeClerk, P.E., am a Owner and duly authorized representative of the firm of DeClerk-Throesch Engineering & Land Surveying whose headquarters address is 114 Pyburn Street, Pocahontas, Arkansas 72455, and that neither I nor the above firm I here represent has:

- (a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;
- (d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas State Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 31 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

DeClerk-Throesch Engineering and Land Surveying. ("Consultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Ben DeClerk P.E. (ADA/504/Title VI Coordinator), 114 Pyburn Street, Pocahontas, Arkansas 72455 (870) 892-9412 (Voice/TTY 711), or , the following email address: declerk@dtengr.com.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

Authorized Firm Representative

Date

CERTIFICATION OF SUB CONSULTANT

I hereby certify that I, Martin L. Smith, PLA., am a Principal and duly authorized representative of the firm of Ecological Design Group whose headquarters address is 210 E. Merriman Ave, Wynne AR 72396, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,

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

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;

(d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas State Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 31 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

Ecological Design Group ("Consultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Martin L. Smith PLA. (ADA/504/Title VI Coordinator), 2001 Airport Road, Suite 201, Flowood MS 39232 (601) 956-3663 (Voice/TTY 711), or , the following email address: msmith@ecologicaldg.com.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

Authorized Firm Representative

Date

CERTIFICATION OF SUB CONSULTANT

I hereby certify that I, Ashraf Elsayed, PHD, PE., am a Principal and duly authorized representative of the firm Geotechnology Inc. whose headquarters address is 3312 Winbrook Dr., Memphis, TN 38116, and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, brokerage, contingent fee, or other considerations, any firm or person (other than a bona fide employee working solely for me) to solicit or secure this contract,

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

(c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me) any fee contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract;

(d) included any costs which are not expressly allowable under the cost principles of the FAR of 48 CFR 31, whether direct or indirect. All known material transactions or events that have occurred affecting the firm's ownership, organization and indirect cost rates have been disclosed.

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas State Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Furthermore, as a recipient of Federal Aid Highway Funds, I certify and hereby agree to the conditions of Title VI Assurances as outlined in Section 31 of this Agreement and shall insert the Notice of Nondiscrimination Statement as shown below in all solicitation of work or procurement of materials or equipment.

NOTICE OF NONDISCRIMINATION STATEMENT

Geotechnology Inc. ("Consultant"), complies with all civil rights provisions of federal statutes and related authorities that prohibited discrimination in programs and activities receiving federal financial assistance. Therefore, the Consultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Consultant's programs and activities, as well as the Consultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Consultant's nondiscrimination policies may be directed to Ashraf Elsayed, PHD, PE (ADA/504/Title VI Coordinator), 3312 Winbrook Dr., Memphis, TN 38116 (901) 353-1981 (Voice/TTY 711), or, the following email address: a_elsayed@geotechnology.com.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

Authorized Firm Representative

Date

CERTIFICATION OF CITY OF JONESBORO, ARKANSAS

I hereby certify that I am the Mayor of the City of Jonesboro, Arkansas and that the aforementioned consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee contributions donation, or consideration of any kind:

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas Highway and Transportation Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal-Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Mayor, City of Jonesboro, Arkansas

APPENDIX D
PROJECT SCHEDULE

APPENDIX E
PROJECT MAP

Pine Hill Cem

#1

#2






#3

CRAICHEAD FOREST COUNTY PARK

SPILLWAY

PICNIC AREA

Legend

-  Existing Road Loop
-  New Loop Road Alignment
-  Existing Loop Road Converted to Bike/Ped Trail (12')
-  New Bike/Ped Trail (12')
-  Existing Chat Walking Path (6-8')

