

AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF JONESBORO

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U. S. Department of Transportation Federal Highway Administration

RELATIVE TO

Implementation of **Job 100936, Jonesboro Rains St. Sidewalks (TAP-16) (S)** (hereinafter called the "Project") as an Arkansas Transportation Alternatives Program project.

WHEREAS, funding in the Fixing America's Surface Transportation (FAST) Act includes 80% Federal-aid funds to be matched with 20% non-federal funds for approved Transportation Alternatives Program projects; and

WHEREAS, the **City of Jonesboro** (hereinafter called "Sponsor") has expressed its desire to use Federal-aid funds for the eligible Project and to provide necessary matching for such funds; and

WHEREAS, the Sponsor has transmitted to the Arkansas State Highway and Transportation Department (hereinafter called the "Department") a signed and sealed Resolution from the Sponsor's governing body authorizing the Sponsor's CEO or their designated representative to execute agreements and contracts with the Department for the Project; and

WHEREAS, funding participation will be as follows, subject to a limit of **\$63,000** maximum Federal-aid approved for the Project:

	<u>Maximum</u> <u>Federal %</u>	<u>Minimum</u> <u>Sponsor %</u>	
Project Design:	0	100	
Right-of-Way/Utilities:	0	100	
Project Construction:	80	20	
Project Construction Inspection:	0	100	
Department Administrative Cost (1% of Const. Amt.)	0	100	; and

WHEREAS, the Sponsor knows of no legal impediments to the completion of the Project; and

WHEREAS, it is understood that the Sponsor and the Department will adhere to the General Requirements for Recipients and Sub-Recipients Concerning Disadvantaged Business Enterprises (DBEs) (Attachment A) and that, as part of these requirements, the Department may set goals for DBE participation in the Project ranging from 0% to 100% that are practical and related to the potential availability of DBEs in desired areas of expertise; and

WHEREAS, the parties agree, unless specifically stated otherwise, that the provisions of this agreement are not intended to created or confer a third party benefit or right in any person or entity, not a party to this agreement.

IT IS HEREBY AGREED that the Sponsor and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation of the Project and will accept the responsibilities and assigned duties as described hereinafter.

THE SPONSOR WILL:

1. Notify the Department in writing who the Sponsor designates as its full-time employee to be in responsible charge of the day to day oversight of the Project (Attachment B). The duties and functions of this person are:
 - Oversee project activities, including those dealing with cost, time, adherence to contract requirements, construction quality and scope of Federal-aid projects;
 - Maintains familiarity of day to day project operations, including project safety issues;
 - Makes or participates in decisions about changed conditions or scope changes that require change orders and/or supplemental agreements;
 - During construction, visits and reviews the project on a daily basis;
 - Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
 - Directs project staff, Sponsor or consultant, to carry out project administration and contract oversight, including proper documentation;
 - Be aware of the qualifications, assignments and on-the-job performance of the Sponsor and consultant staff at all stages of the project.
2. Sponsors that require a reduction in the scope of their project will submit the Revision of Project Scope and Budget (Attachment C) with the signed Agreement of Understanding.
3. Submit plans at 30%, 60%, and 90% completion stages for Department review.
4. Prepare plans, specifications, and a cost estimate for construction. A registered professional engineer or licensed architect must sign the plans and specifications for the project if the project includes design of structural components. Plans which include the design of only non-infrastructure components will not require a registered stamp.
5. Comply with provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, FHWA Transportation Alternatives Program Guidance, and any other Federal, State, and/or local laws, rules and/or regulations. (See Attachment D for items to be included in the bid proposal).
6. Before acquiring property or relocating utilities, contact the Department's Right of Way Division to obtain the procedures for acquiring right-of-way and adjusting utilities in conformance with federal regulations. **NOTE: Failure to notify the Department prior to initiating these phases of work may result in all project expenditures being declared non-participating in federal funds.**
7. Acquire property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act").
8. Provide a copy of the registered deed or other approved documentation and an appropriate certification stating the Sponsor's clear and unencumbered title to any right-of-way to be used for the Project and the land is accessible to the general public for recreational purposes

(See Attachment E1). If property has been acquired for the Project, use Attachment E2 for certification of the right-of-way.

9. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.
10. Submit a certification letter (Attachment F), including all items noted, to the Department when requesting authority to advertise the Project for construction bids.
11. Advertise for bids in accordance with federal procedures as shown in Attachment G.
NOTE: FHWA authorization and Department approval must be given prior to advertising for construction bids.
12. Forward a copy of all addenda to the Project during the advertisement to the Department.
13. After bids are opened and reviewed, submit a certification (Attachment H), including all items noted, to the Department and request concurrence in award of the contract.
14. Prior to issuing the notice to proceed to the Contractor, the Sponsor must hold a pre-construction meeting with the Contractor and **must invite the Department's Resident Engineer assigned to the Project.**
15. Prior to executing the work, submit change orders to the contract to the Department's Resident Engineer assigned to the Project for review and approval for program eligibility.
16. Construct the Project in accordance to plans and specifications that were developed by the Sponsor, or the Sponsor's representative, and were reviewed and approved by the Department prior to the issuance of the Notice to Proceed.
17. Perform construction inspection in accordance with Attachment I.
18. Make payments to the contractor for work accomplished in accordance with the plans and specifications and then request reimbursement from the Department on the Construction Certification and Reimbursement Request (CCRR) form (Attachment J). Requests for reimbursement must be made at least once every six months that construction projects are active in order to avoid being put on the FHWA inactive project list.
19. Attach Report of Daily Work Performed (Attachment K) for all days that correspond with each CCRR submittal.
20. Upon project completion hold a final acceptance meeting for the Project and submit the Final Acceptance Report form certifying that the Project was accomplished in accordance with the plans and specifications (Attachment L). This form must be signed by the engineer/architect performing construction inspection on the Project, the Department's Resident Engineer assigned to the project, the Sponsor's full-time employee in responsible charge, and the Sponsor's CEO.
21. Maintain accounting records to adequately support reimbursement with Federal-aid funds and be responsible for the inspection, measurement and documentation of pay items, and certification of all work in accordance with the plans and specifications for the Project and

for monitoring the Contractor and subcontractor(s) for compliance with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements.

22. Pay all unpaid claims for all materials, labor, and supplies entered into contingent or incidental to the construction of said work or used in the course of said work including but not limited to materials, labor, and supplies described in and provided for in Act Nos. 65 and 368 of 1929, Act No. 82 of 1935, and Acts amendatory thereof.
23. Agree that any and all claims for damages to property or injury to persons caused by any act or omission, negligence, or misconduct from the performance of work by the Sponsor's contractor on the Project shall be the sole responsibility of the Sponsor's contractor and in this regard the Sponsor shall require the contractor on the Project to procure and maintain a General Public Liability Insurance Policy during the duration of the Project which shall be endorsed to include broad form general liability and complete operations coverage on the Project. The contractor shall furnish the Sponsor with documentation of proof of liability insurance coverage with submission of the signed contract.
24. Agree that any claims, liability, costs, expenses, demands, settlements, or judgments arising from misconduct or the negligent acts or omissions of the Sponsor, its employees, agents or contractors in the performance of the Project and this Agreement must be presented to the Sponsor. Further, the Sponsor by acceptance of this grant, agrees that the Department and the Arkansas State Highway Commission, as the pass-through entity, have no duty or responsibility for the design, construction, maintenance or operation of the Project that is the subject of this grant, and, therefore shall have no liability related to the design, construction, maintenance or operation of the Project. The Sponsor also agrees to assume all risks associated with the work to be performed by its agents, employees, and contractors under this grant and Agreement and the Department and the Arkansas State Highway Commission, as the pass-through entity, shall not be responsible or liable for any damages whatsoever from the actions of the Sponsor, its employees, agents and contractors.
25. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.
26. Retain all records relating to inspection and certification, the Contractor's billing statements, and any other files necessary to document the performance and completion of the work in accordance with requirements of 49 CFR 18.42 - Retention and access requirements for records (Attachment M).
27. Grant the right of access to Sponsor's records pertinent to this Project and the right to audit by the Department and Federal Highway Administration officials.
28. Be responsible for its portion of the total project cost and 1% of the contract amount for Department administration.

29. Be responsible for 100% of all project costs incurred should the Project not be completed as specified.
30. Be responsible for 100% of any and all expenditures for which federal funds do not participate or that are not approved for federal funds.
31. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Attachment N), which is necessary for Project participation.
32. Repay to the Department the federal share of the cost of any portion of this Project if, for any reason, federal participation is removed due to actions or inactions of the Sponsor, its agents, its employees, or its assigns or the Sponsor's consultants or contractors or their agents. Such actions or inactions shall include, but are not limited to, federal non-participation arising from problems with design plans, specifications, construction, change orders, construction inspection, or contractor payment procedures. The Sponsor understands and agrees that the Department may cause necessary funds to be withheld from the Sponsor's Motor Fuel Tax allotment should the Sponsor fail to pay to the Department any required funds, fail to complete the Project as specified, or fail to adequately maintain or operate the Project.
33. Repay all federal funds if this is determined necessary for any reason.
34. Retain total, direct control over the Project throughout the life of the improvements and **not, without prior approval from the Department:**
 - sell, transfer, or otherwise abandon any portion of the Project;
 - change the intended use of the Project as approved;
 - make significant alterations to any improvements constructed with Federal-aid funds; or
 - cease maintenance or operation of a project due to the Project's obsolescence.
35. Be responsible for satisfactory maintenance and operation of all improvements and for adopting regulations and ordinances as necessary to ensure this. Failure to adequately maintain and operate the Project in accordance with Federal-aid requirements may result in the Sponsor's repayment of Federal funds and may result in the withholding of all future Federal-aid funds.
36. Submit to the Department a Single Audit in accordance with the Office of Management and Budget (OMB) Circular A-133 each fiscal year that the Sponsor expends more than \$500,000 of Federal-aid from any federal source including, but not limited to, the U.S. Department of Transportation. The fiscal year used for the reporting is based on the Sponsor's fiscal year. The \$500,000 threshold is subject to change after OMB periodic reviews.
37. Promptly notify the Department if the Project is rendered unfit for continued use by natural disaster or other cause.
38. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Attachment O).

THE DEPARTMENT WILL:

1. Maintain an administrative file for the Project and be responsible for administering Federal-aid funds.

2. Request review from the Arkansas Historic Preservation Program (AHPP).
3. Provide routine environmental documentation for the Project.
4. Notify the Sponsor when right-of-way and/or utility plans are approved and the Sponsor may proceed with right-of-way acquisition and/or utility adjustments.
5. Upon receipt of the Sponsor's certification of right-of-way (property) ownership, provide the appropriate documentation to the file.
6. Review plans and specifications for project/program eligibility.
7. Ensure substantial compliance with federal contracting requirements through review of the bidding proposal for inclusion of required federal forms, review of the administration of the DBE program provisions, and general compliance with 23 CFR 635.
8. Advise the Sponsor when to proceed with advertisement of the Project for construction bids.
9. Review bid tabulations and concur in award of the construction contract for the Project.
10. Participate in the Sponsor's preconstruction and final acceptance meetings.
11. Visually verify (insofar as is reasonably possible) that the work meets contract requirements before reimbursement is made to the Sponsor.
12. Review and approve any necessary change orders for project/program eligibility.
13. Reimburse the Sponsor 80% (Federal-aid share) for eligible costs up to the maximum Federal-aid amount as approved in the CCR form (Attachment J). This reimbursement will be limited to the maximum Federal-aid amount and to the federal amount available at the time payment is requested. If the payment requested exceeds the Federal-aid available at the time, the difference will be reimbursed as additional Federal-aid for the Project becomes available.
14. Subject to the availability of Federal-aid allocated for the Project, pay the Sponsor the remaining amount due upon completion of the Project and submittal of the certified Final Acceptance Report form (Attachment L).
15. Reserve the right to cancel the Project if there is an unreasonable delay in project development or completion of the project, there is a lack of progression toward project development or completion of the project, the Sponsor is unable to provide an audit-worthy reason for the substantial delay in the project development or completion process or the Sponsor is unresponsive to Department requests.

IT IS FURTHER AGREED that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure may disqualify the Sponsor from receiving all future Federal-aid funds administered by the Department.

IT IS FURTHER AGREED that should the Sponsor fail to pay to the Department any required funds due for implementation of the Project or fail to complete the Project as specified in this Agreement, or fail to adequately maintain or operate the Project, the Department may cause such funds as may be required to be withheld from the Sponsor's Motor Fuel Tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement on this _____ day of _____, _____.

ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT

CITY OF JONESBORO

Scott E. Bennett, P.E.
Director of Highways and Transportation

Harold Perrin
Mayor

Carol Duncan
Attorney

**ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT**

NOTICE OF NONDISCRIMINATION

The Arkansas State Highway and Transportation Department (Department) complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, the Department does not discriminate on the basis of race, sex, color, age, national origin, religion (not applicable as a protected group under the Federal Motor Carrier Safety Administration Title VI Program), disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in the Department's programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to Joanna P. McFadden Section Head - EEO/DBE (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: joanna.mcfadden@ahtd.ar.gov

Free language assistance for Limited English Proficient individuals is available upon request.

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

GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the U. S. Department of Transportation that disadvantaged business enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

The recipient or its contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a disadvantaged business enterprise affirmative action program, which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 26, Subpart F, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in 49 CFR Part 26, Subsections 26.101 and 26.107 shall substitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

Sponsor Letterhead

*(Designating Full-Time Employee
in Responsible Charge)*

DATE

Mr. Jared D. Wiley
Division Engineer – Program Management
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: **Job #**
Job Name
County

Dear Mr. Wiley:

The full-time employee in responsible charge of the day to day oversight for the referenced project will be _____. This letter certifies that the employee is aware of the duties and functions they are in charge of as outlined in the Agreement of Understanding. This employee may be reached by phone at **(INSERT PHONE NUMBER)** or by email at **(INSERT EMAIL ADDRESS)**.

Sincerely,

NAME & OFFICE
(Sponsor's CEO)

Sponsor Letterhead

Revision of Project Scope and Budget

DATE

Mr. Jared D. Wiley
Division Engineer – Program Management
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
Job Name
County

Dear Mr. Wiley:

The scope and/or budget for the project has/have been revised. I certify that:

- 1) The length of the project will be _____ feet and be _____ feet wide with a/an _____ surface.
- 2) Other project changes are as follows: _____.
- 3) Two maps are attached. One is the project location map, and the other is a close up map that shows the project termini.
- 4) The revised budget is \$_____ Federal-aid and \$_____ Sponsor funds for a total project budget of \$_____.

Any substantial changes to the above information will be submitted in writing to AHTD.

Sincerely,

NAME & OFFICE
(Sponsor's CEO)

Attachments

REQUIRED CONTENTS OF BIDDING PROPOSALS FEDERAL-AID PROJECTS

1) **FHWA-1273**

Each set of contract documents shall include FHWA-1273, "Required Contract Provisions, Federal-aid Construction Contracts," and such supplements that may modify the FHWA-1273. Copies of FHWA-1273 and supplements will be provided by the Department.

2) **Anti-Collusion and Debarment Certification**

The certification shall either be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the law of the United States. The required form for the Anti-Collusion and Debarment Certification will be provided by the Department. The certification includes:

- Anti-collusion - A statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or in-directly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid.
- Debarment - A statement regarding debarment, suspension, ineligibility and voluntary exclusion as required by Title 49 of the Code of Federal Regulations, Part 29 (49 CFR 29).

Failure to submit the executed Certification as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

3) **Lobbying Certification**

This certification is required by 49 CFR 20. The form for this certification will be provided by the Department.

4) **Davis-Bacon Pre-determined Minimum Wage Rates**

Davis-Bacon requirements apply to all projects greater than \$2,000 that are physically located within the existing right-of-way of a functionally classified city street. The Davis-Bacon wage rates will be provided by the Department.

CITY / COUNTY LETTERHEAD

JOB NUMBER
JOB NAME
COUNTY

Title to the right of way necessary for the construction of this project has been acquired, *or will be acquired*, in accordance with applicable Federal Highway Administration procedures.

↓ indicate total number in each category here. Delete any categories not used in this job.

- ___ Tract(s)
 - ___ Options(s)
 - ___ Paid
 - ___ Donation(s)
 - ___ Negotiation Pending* - include tract number(s) and statement: "It is anticipated that this/these tract(s) will be acquired by (date)."
 - ___ Condemnation(s) – (include Order of Possession date or date the Court Order was filed)
 - ___ Condemnation(s) Pending* - include tract number(s) and anticipated filing date
- * If applicable

↓delete the statement in each pair that does not apply

There are no displacees on this project.

-Or-

Relocation Assistance has been provided in accordance with applicable Federal Highway Administration procedures and all displacees have moved from this project. There was/were # displaced (residence(s)/business(es)/personal property/etc) on the project.

There are no structures located within the right of way area.

-Or-

All structures have been removed from this project, except for those to be included as demolition items in the highway contract.

No conflicting utilities are known to exist in the right of way area.

-Or-

Necessary utility relocation has been, or will be, completed as shown in the attached Utility Status Report.

There are no railroads involved on this project

-OR-

Tract(s) # ___ shown above include(s) # ___ (Permanent/Temporary Construction Easements) for ___ Railroad.

No right of way in excess of that needed for construction or future maintenance of this project was acquired.

Certified by: _____
(Type name)
(Type title)

Date: _____

CITY / COUNTY LETTERHEAD

JOB NUMBER
JOB NAME
COUNTY

Title to the right of way necessary for the construction of this project was in public ownership prior to project development. No additional right of way was acquired.

There are no displaces on this project.

There are no structures located within the right of way area.

There are no railroads involved on this project.

No known conflicting utilities exist within the right of way area.

Certified by: _____ Date: _____
(Type name)
(Type title)

CERTIFICATION LETTER
REQUESTING AUTHORITY TO ADVERTISE

DATE

Mr. Emanuel Banks
Deputy Director and Chief Engineer
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
Job Name
County

Dear Mr. Banks:

The following documents are submitted concerning the referenced project:

1. One set of plans and specifications.
2. A copy of the preliminary estimate of cost.
3. An unexecuted copy of the bid proposal form.

I certify that the plans, specifications and estimate were prepared by or under the direct supervision of a Professional Engineer/Architect licensed to practice in the State of Arkansas and that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.

I understand that if any project items are declared non-participating in federal funds due to failure to comply with any State or federal requirements, the *Sponsor* will promptly repay such funds to the Arkansas State Highway and Transportation Department (AHTD). Further, I hereby authorize the Director of the Arkansas State Department of Finance and Administration to transfer such funds from the *Sponsor's* Motor Fuel Tax allotment to the AHTD's RRA Fund upon notification by the Director of Highways and Transportation that such funds are due AHTD and have not been paid by the *Sponsor*.

Approval to proceed with advertisement of the project for bids is requested.

Sincerely,

NAME & OFFICE
(*Sponsor's CEO*)

Enclosures

GUIDELINES FOR ADVERTISING AND OPENING BIDS FEDERAL-AID PROJECTS

Upon receipt of written authorization from the Arkansas State Highway and Transportation Department, the project may be advertised for bids. The following minimum guidelines for advertising must be met:

- The minimum advertising period is three weeks (21 days).
- In addition to meeting the State requirements for advertising for construction projects, the project must be advertised a minimum of two times in a statewide newspaper.
- The notice must contain: (1) the time, date, and place that sealed bids are to be accepted, opened, and publicly read; (2) a brief description of the kind or type of work contemplated; and (3) the place at which prospective bidders may obtain plans and specifications.
- The Sponsor will forward a copy of the approved advertisement to the Department once advertisement starts. Any addenda will also be sent to the Department during the advertisement period.
- The Sponsor will include the following language in the solicitation for bids:

“The Sponsor hereby notifies all bidders that this contract is subject to applicable labor laws, non-discrimination provisions, wage rate laws and other federal laws including the Fair Labor Standards Acts of 1938. The Work Hours Act of 1962 and Title VI of the Civil Rights Act of 1964 also apply.”
- All bids received in accordance with the terms of the advertisement shall be publicly opened and at a minimum, the total amount bid must be read aloud (the sponsor may choose to read the bids item by item).
- If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting.
- **Negotiation with contractors during the period following the opening of bids and before the award of the contract is strictly prohibited.**

CERTIFICATION LETTER
REQUESTING CONCURRENCE IN AWARD OF THE CONTRACT

DATE

Mr. Emanuel Banks
Deputy Director and Chief Engineer
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
Job Name
County

Dear Mr. Banks:

The following documents are submitted concerning the referenced project:

1. One set of bid tabulations.
2. A check in the amount of 1% of the low bid as the AHTD administration fee.
3. Justification of award (if low bid amount is greater than 10% over the estimate).

I certify that the referenced project was advertised and bids were received in accordance with the regulations governing Federal-aid projects and all other applicable state and federal regulations, and that this process has been reviewed and approved by the *Sponsor's* Attorney. Additionally, I certify that the bid is being awarded to the lowest responsive and qualified bidder and that there has not been, nor will there be, any negotiations with the contractor or other bidders regarding the amount bid.

Your concurrence in the award of this contract to (INSERT CONTRACTOR NAME) is requested.

Sincerely,

Sponsor's CEO

Sponsor's Attorney

Enclosures

**GUIDELINE FOR INSPECTION OF LOCALLY ADMINISTERED
CONSTRUCTION CONTRACTS FOR
TRANSPORTATION ALTERNATES PROGRAM (TAP) PROJECTS AND
RECREATIONAL TRAILS PROGRAM (RTP) PROJECTS**

Upon receipt of written concurrence from the Arkansas State Highway and Transportation Department in the award of the construction contract, the construction contract may be executed. The following minimum guidelines for inspection must be met:

- 1) Project must be inspected by a Professional Engineer, Architect, or Landscape Architect registered to practice in the State of Arkansas.
- 2) Project must be inspected using best practices for the type of work and the Sponsor is not required to use Department inspection procedures.
- 3) Prior to beginning construction activities, the Sponsor must hold a pre-construction meeting and must invite the Department's Resident Engineer (RE) assigned to the project. At the meeting:
 - a) The Sponsor will provide the RE two sets of plans and two copies of the construction contract. (One for RE's records and one to be sent to Program Management Division)
 - b) The RE will provide a packet of posters and notices required by the FHWA-1273 supplemental specifications.
- 4) Submit the Construction Certification and Reimbursement Request (CCRR) form to the RE for review and handling. RE to check:
 - a) Maximum federal funding available.
 - b) Signed by Sponsor's Chief Elected Official (CEO).
 - c) RE to review for math errors and compare to previously submitted CCRRs.
 - d) Page 2 must be submitted.
 - e) Copy of check(s) from the Sponsor to the Sponsor's Contractor and LPA Report(s) of Daily Worked Performed.
- 5) Prior to implementing change orders, the Sponsor must submit fully executed change orders to the Department's RE for Department review and approval. The change order form must include:
 - a) The Sponsor's CEO (or designated representative), Engineer/Architect's, and Contractor's signature.
 - b) Description of the change and why the change was necessary.
 - c) For unit price contracts, any changes in quantities.
 - d) For new pay items, the pay item name, quantities, units, and unit price.
 - e) Time extensions.
 - f) All change orders must be reviewed and approved before beginning work except for reconciliation change orders at the end of the project.
 - g) Reconciliation changes are required for project underruns greater than 20% and for all projects greater than 10% over.
- 6) Upon completion of the Project:
 - a) Submit a CCRR form showing the work completed as the final contract amount.
 - i) This form must be submitted even if the Sponsor has been reimbursed 100% of the Federal-aid available for the Project.
 - b) Hold a final acceptance meeting in which the Sponsor's engineer/architect, the designated full-time employee and the Department's RE must attend.
 - c) Submit the LPA Final Acceptance Report form to the RE at the final acceptance meeting.

CONSTRUCTION CERTIFICATION AND REIMBURSEMENT REQUEST

Job No.: _____
 FAP: _____
 County: _____
 Job Name: _____
 Payee/Sponsor: _____
 address _____
 Federal Tax ID No.: _____
 DATE: _____
 PAY REQUEST # _____
 FROM: _____ TO: _____

SPONSOR'S REQUEST FOR PAYMENT

- 1 Maximum Approved Federal-aid Amount _____
- 2 Original Contract Amount _____
- 3 Net Changes by Change Orders _____
- 4 Present Contract Total _____
- 5 Present Federal-aid Amount (80% of Line 4 or Amount on Line 1, whichever is less) _____
- 6 Work Completed to Date _____
- 7 Federal Match (80% of Line 6 or amount on Line 5, whichever is less) _____
- 8 Previous Reimbursements (Federal) _____
- 9 Amount Due this Estimate _____
 (subtract Line 8 from Line 7)

CHANGE ORDER SUMMARY

	ADDITIONS	DEDUCTIONS
Total changes previously approved		
Total approved this Request Period		
TOTALS		
NET CHANGES by Change Order (Line 3 above)		

Designated Full Time Employee In Responsible Charge

The information provided in this document is true and correct and I recommend that payment be made to the Contractor for this work.

By: _____ Date: _____
 Title: _____

Sponsor's CEO

Payment is requested from the Arkansas State Highway and Transportation Department for the Amount Due. I certify that the Contractor and/or subcontractor(s) are complying with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the work has been completed by the Contractor in accordance with the plans and specifications; and that the Contractor has been paid for this work.

By: _____ Date: _____
 Title: _____

DEPARTMENT USE ONLY

Recommended for Payment in Accordance with Project Agreement _____
 Resident Engineer

Approved for Payment _____
 State Construction Engineer

PAID Voucher No. _____
 Date: _____

CONSTRUCTION CERTIFICATION AND REIMBURSEMENT REQUEST

Revised: 12/19/13

JOB NUMBER: _____ REQUEST NO: _____ DATE: _____
 FAP: _____ FROM: _____ TO: _____
 JOB NAME: _____ CONTRACTOR: _____
 SPONSOR: _____

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		E COMPLETED THIS PERIOD	F MATERIALS PRESENTLY STOCKPILED (NOT IN D or E)	G TOTAL COMPLETED & STOCKPILED TO DATE (D+E+F)	H % COMPLETED (G + C)	I BALANCE TO FINISH (C - G)
			PREVIOUS REQUESTS	THIS PERIOD					
	GRAND TOTALS								

Attachment J

COPY OF SPONSOR'S PAYMENT CHECK FOR THIS ESTIMATE MUST BE ATTACHED TO THIS FORM

Sponsor
LPA Report of Daily Work Performed

Job Name: _____	Job No.: _____
FAP No.: _____	Contractor: _____
Date: _____	Hours Worked: _____ - _____
Report No.: _____	

Project Conditions		
<u>Site Conditions</u> <input type="checkbox"/> Useable <input type="checkbox"/> Partly Useable <input type="checkbox"/> Not Useable <hr/> Min Temp. (F) _____ Max Temp. (F) _____	<u>Weather</u> <input type="checkbox"/> Sunny <input type="checkbox"/> Partly Cloudy <input type="checkbox"/> Rain <hr/> Rainfall Amt. (in.) _____	<u>Number of Contractor's Personnel</u> <input type="checkbox"/> Laborers <input type="checkbox"/> Carpenters <input type="checkbox"/> Concrete Laborers <input type="checkbox"/> Equip. Operators <input type="checkbox"/> Electricians <input type="checkbox"/> Plumbers <input type="checkbox"/> Foreman <input type="checkbox"/> Other _____ <input type="checkbox"/> Other _____
<u>Comments</u> 		

Location and Description of Work Performed

Special Instructions and/or Conversations

Signed: _____ Designated Full-time Employee
--

SPONSOR
LPA Final Acceptance Report

Job Name:		Date:
Job No:	FAP No:	
County:	Route:	
Contractor:		
Date Work Began:	Date Work Completed:	
Attendees:		
Remarks:		
Project Completed in Substantial Compliance with Plans and Specifications and Recommended for Final Acceptance by Sponsor	Recommended for Acceptance in Accordance with Project Agreement	
_____	_____	
Engineer/Architect	AHTD Resident Engineer	

<u>Project Recommended for Acceptance</u>
Designated Full-time Employee: _____

<p>I certify that the Contractor and/or subcontractor(s) have complied with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the project has been completed by the Contractor in accordance with the plans and specifications; that the Contractor has been paid for this work, and the project is hereby accepted.</p> <p style="text-align: center; margin-top: 20px;">_____</p> <p style="text-align: center;"><u>SPONSOR's</u> CEO</p>
--

49 CFR 18.42

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Post-Award Requirements
Retention and access requirements for records.

(a) *Applicability.* (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

- (i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or
- (ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see Sec. 18.36(i)(10).

(b) *Length of retention period.* (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) *Starting date of retention period--*(1) *General.* When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) *Real property and equipment records.* The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) *Records for income transactions after grant or subgrant support.* In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the

end of the grantee's fiscal year in which the income is earned.

(4) *Indirect cost rate proposals, cost allocations plans, etc.* This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) *Substitution of microfilm.* Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) *Access to records--*(1) *Records of grantees and subgrantees.* The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) *Expiration of right of access.* The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) *Restrictions on public access.* The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

CERTIFICATION FOR GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies to the best of his knowledge and belief that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, and contracts and subcontracts under grants, sub grants, loans and cooperative agreements) which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Sponsor:

Signature:

Name:

(Sponsor's CEO)

Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements

(For more information go to <https://www.fsr.gov/>)

FFATA was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

A Prime Grant Recipient (hereinafter called AHTD (the Arkansas State Highway and Transportation Department)) awarded a new Federal grant greater than or equal to \$25,000 as of October 1, 2010 is subject to FFATA sub-award reporting requirements as outlined in the Office of Management and Budget guidance issued August 27, 2010. **AHTD is required to file a FFATA sub-award report for any sub-grant awarded to a sub-awardee greater than or equal to \$25,000.** As a sub-awardee, _____ shall provide the following information to AHTD in order to fulfill FFATA reporting requirements:

- ✓ A unique identifier (Dun & Bradstreet DUNS Number) of the sub-awardee receiving the award and the parent entity of the recipient, should the sub-awardee be owned by another entity;
- ✓ The names and total compensation of the five most highly compensated officers of the sub-awardee if the sub-awardee in the preceding Federal fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to information about the compensation of the senior executives of the sub-awardee through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1).

Required Sub-Awardee Information

(A) Sub-Awardee – DUNS Number: _____

Parent (if applicable) – DUNS Number: _____

(B) In the preceding completed Federal fiscal year, did your business or organization (the legal entity to which the DUNS number entered above belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

Yes / No (Circle one)

If "Yes" is selected, answer (C).

(C) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number entered above belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

Yes / No (Circle one)

If "Yes" is selected, visit <http://www.sec.gov/edgar.shtml> for reference.

If "No" is selected, answer (D).

(D) **If "No" was selected in Question "C"**, complete the following information for the five (5) most highly compensated executives in your business or organization (the legal entity to which the DUNS number entered above belongs). Amount should reflect the Total Compensation Amount in the preceding completed Federal fiscal year in U.S. whole dollars.

Sub-Awardee Names and Compensation of Most Highly Compensated Officers

1. Name: _____ Amount: \$ _____

2. Name: _____ Amount: \$ _____

3. Name: _____ Amount: \$ _____

4. Name: _____ Amount: \$ _____

5. Name: _____ Amount: \$ _____