

**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

Extension of Parker Road to the Washington Avenue/Highway 63 Interchange (hereinafter called the "Project") as a Federal-aid project.

WHEREAS, Federal earmarked funding was dedicated to Highway 63 Construction and Improvements in Jonesboro (Demo I-D AR002) and to Highway 63 Interchange Improvements in Arkansas (Demo I-D AR144); and

WHEREAS, **the City of Jonesboro** (hereinafter called "Sponsor") has expressed its desire to use these funds for an eligible Project; and

WHEREAS, the Federal Highway Administration has approved the use of these funds for the Project; and

WHEREAS, the Sponsor will transmit to the Arkansas State Highway and Transportation Department (hereinafter called the "Department") a signed and sealed Resolution from the City Council authorizing the Mayor to execute agreements and contracts with the Department for the Project; and

WHEREAS, funding participation will be as follows, subject to the amount of Federal-aid funds and obligation limitation approved and available for the Project:

<u>Funding Source</u>	<u>Maximum Federal %</u>	<u>Minimum Sponsor %</u>
Hwy. 63 Construction and Improvements in Jonesboro	100	0
Hwy. 63 Interchange Improvements in Arkansas	100	0

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

WHEREAS, the Sponsor understands that 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.

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

THE SPONSOR WILL:

1. Coordinate with the Department's Consultant Contracts Administrator to hire a Department on-call consultant engineering firm(s) to provide engineering services, which include environmental documentation, surveys, design, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities for the Project. **NOTE: FHWA authorization and Department approval must be given prior to issuing a work order to the consultant for federal funds to be allowed in this phase.**
2. Understand that **expenditures for preliminary or construction engineering performed by the Sponsor's forces are not eligible for reimbursement with federal funds.**
3. Prepare the necessary environmental documentation as required by FHWA and conduct any required public involvement meetings and public hearings.
4. Ensure that the plans and specifications are developed using the Department's standard drawings and Standard Specifications for Highway Construction (latest edition). A registered professional engineer must sign the plans and specifications for the Project. (See Attachment B for items to be included in the bid proposal.)
5. Ensure 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.
6. Make periodic payments to the consultant for preliminary engineering for the Project and request reimbursement from the Department.
7. If Federal funds are completely expended, be responsible for 100% of any cost remaining for preliminary engineering, construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities.
8. 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 compliance 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.**
9. 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").

10. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.
11. Provide a copy of the registered deed or other approved documentation and an appropriate certification stating clear and unencumbered title to any right-of-way to be used for the Project (See Attachment C). **NOTE: Any property that is to become Department right-of-way must be acquired in the Department's name.**
12. Submit plans at 30%, 60%, and 90% completion stages for Department review.
13. Submit a certification letter (Attachment D), including all items noted, to the Department when requesting that the Department advertise the project for construction bids.
14. Prior to awarding the contract for construction, submit to the Department the Sponsor's share of funds for construction and construction engineering (if greater than the Federal funds available.) The Sponsor's final cost will be determined by actual Department charges.
15. Be responsible for 100% of all preliminary engineering, right-of-way, and other costs incurred should the Sponsor not enter into the construction phase of the Project.
16. Maintain accounting records to adequately support reimbursement with Federal-aid funds.
17. Indemnify and hold harmless the Arkansas State Highway Commission, the Department, its officers and employees from any and all claims, lawsuits, judgments, damages, costs, expenses, and losses, including those arising from claims before the Arkansas Claims Commission or lawsuits brought in any other legal forum, sustained on account of the operations or actions of the Sponsor, including any act of omission, neglect or misconduct of said Sponsor. Further, the Sponsor shall take no action to compromise the immunity from civil suits afforded the State of Arkansas, the State Highway Commission, Arkansas Code 19-10-305, or the 11th Amendment of the United States Constitution. This obligation of indemnification shall survive the termination or expiration of this Agreement.
18. 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.
19. Grant the right of access to the Sponsor's records pertinent to the Project and the right to audit by the Department and Federal Highway Administration officials.
20. Be responsible for 100% of any and all expenditures which may be declared non-participating in federal funds, including any such award by the State Claims Commission.
21. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Attachment E), which is necessary for Project participation.

22. Repay to the Department the federal share of the cost of any portion of the 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.
23. Be responsible for all costs not provided by the Federal Highway Administration.
24. Repay to the Department the federal share of the cost of this project if for any reason the Federal Highway Administration removes federal participation.
25. 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.
26. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Attachment F).

THE DEPARTMENT WILL:

1. Maintain an administration file for the project and be responsible for administering Federal-aid funds.
2. Review environmental documentation as prepared by the Sponsor.
3. Review plans and specifications submitted by the Sponsor.
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. 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.
6. Be responsible for preparing bid proposals, advertising the Project, receiving bids and assembling contract documents.
7. Be responsible for construction supervision.
8. Be reimbursed for costs involved in performing all the services listed above.

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 future Federal-aid highway funds.

IT IS FURTHER AGREED, that should the Sponsor fail to pay to the Department any required funds due for project implementation or fail to complete the Project as specified in this Agreement, 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 this _____ day of _____, 2013.

ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT

CITY OF JONESBORO

Scott E. Bennett
Director of Highways and Transportation

Harold Perrin
Mayor

Phillip Crego
City 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 prohibited 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 or disability, in the admission, access to and treatment in 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 EEO/DBE Section Head (ADA/504/Title VI Coordinator), P O Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: EEO/DBE_Section_Head@ahtd.ar.gov

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".)

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 road. The Davis-Bacon wage rates will be provided by the Department.

SPONSOR LETTERHEAD
RIGHT-OF-WAY CERTIFICATION LETTER

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

Re: Job Number
Job Name
County

Dear Mr. Vozel:

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

	Tract(s)
	Option(s)
	Negotiation Pending* - <i>include tract number(s), and statement: It is anticipated that these tracts will be acquired by (date).</i>
	Condemnation(s) – (Order of Possession date)
	Condemnation(s) Pending* – <i>include tract number(s) and anticipated filing date</i>

* If applicable

There are no displacees on this project.

-Or-

Relocation Assistance has been provided and all displacees have been moved from this project in accordance with applicable Federal Highway Administration procedures.

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 right of way in excess of that needed for construction or future maintenance of this project was acquired.

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.

Certified by: _____
(Sponsor's CEO)
(Title)

Date: _____

CERTIFICATION LETTER
REQUESTING AUTHORITY TO ADVERTISE

DATE

Mr. Frank Vozel
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. Vozel:

The following documents are submitted concerning the referenced project:

1. One set of final plans and specifications.
2. A copy of the engineer's estimate of cost.
3. Copies of any technical specifications or special provisions.

I certify that the plans, specifications and estimate were prepared by or under the direct supervision of a Professional Engineer licensed to practice in the State of Arkansas and that the plans and specifications were developed using with the Arkansas State Highway and Transportation Department's "Standard Specifications for Highway Construction (latest edition)" and standard drawings, and 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. Additionally, I certify that all necessary right of way has been acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and arrangement for adjustment of existing conflicting utilities has been accomplished.

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 City 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 City's State Turnback Funds 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 City.

Please proceed with advertisement of the project for bids.

Sincerely,

NAME
OFFICE

Enclosures

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.

CITY OF
JONESBORO

Harold Perrin
Mayor

Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements

(For more information go to <https://www.fsrs.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

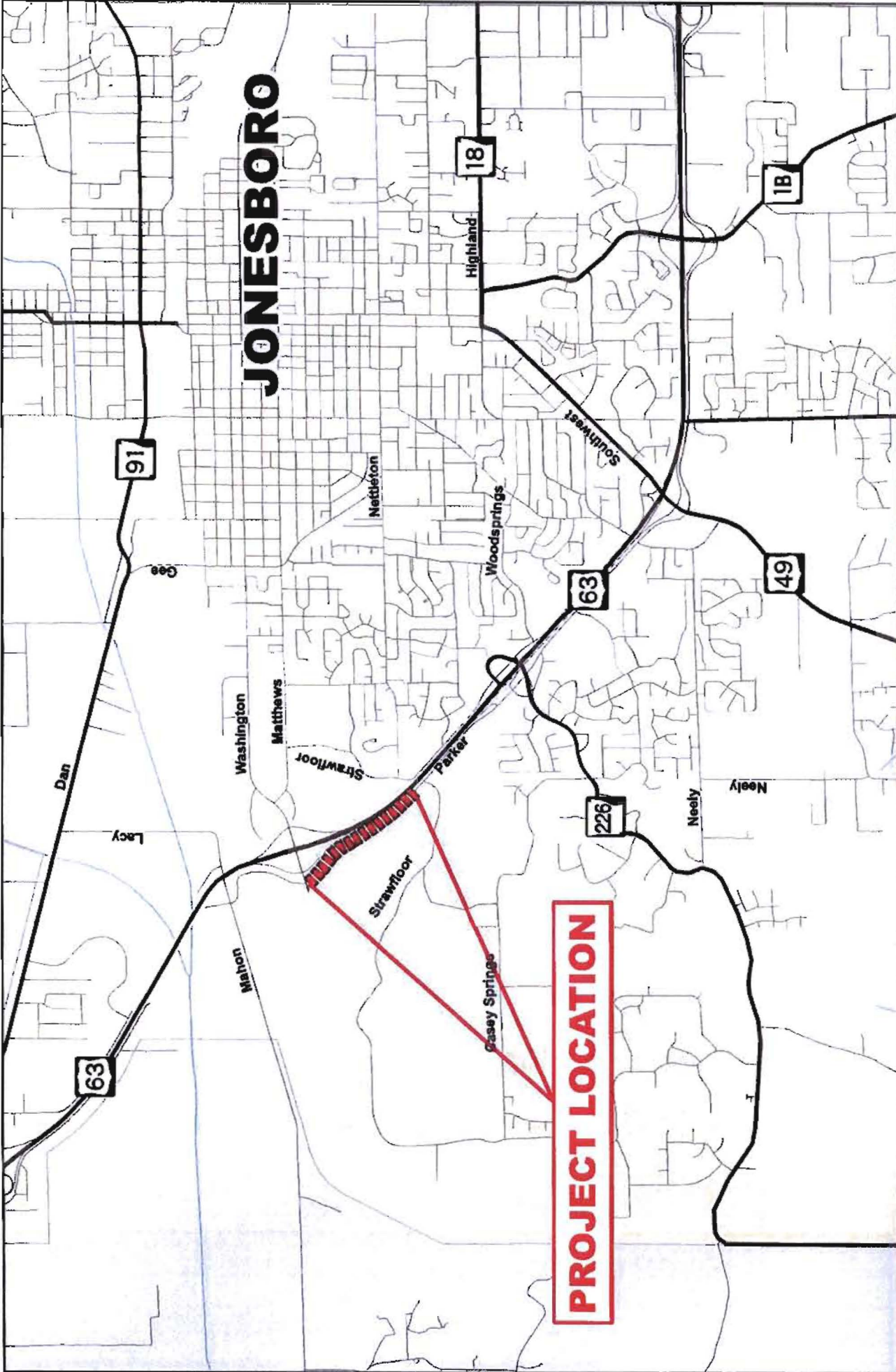
1. Name: _____ Amount: \$ _____

2. Name: _____ Amount: \$ _____

3. Name: _____ Amount: \$ _____

4. Name: _____ Amount: \$ _____

5. Name: _____ Amount: \$ _____



Job 10
Parker Road Extension
 Jonesboro
 Craighead County

PAC/PA/CLD: 10-17-2013