



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Agenda Public Works Council Committee

Tuesday, February 2, 2021

5:00 PM

Municipal Center, 300 S. Church

Election of a Chair

1. Call To Order

2. Roll Call by City Clerk April Leggett

3. Approval of minutes

[MIN-20:125](#) MINUTES FOR THE PUBLIC WORKS MEETING ON DECEMBER 1, 2020

Attachments: [Public Works Minutes 12012020](#)

4. New Business

RESOLUTIONS TO BE INTRODUCED

[RES-21:016](#) A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO APPROVE SUPPLEMENTAL AGREEMENT NO. 2 WITH FISHER ARNOLD TO PROVIDE ENGINEERING AND SURVEYING SERVICES FOR THE JONESBORO DOWNTOWN TO ASU CONNECTION PROJECT (JOB 100971)

Sponsors: Engineering

Attachments: [Supplemental Agreement No. 2](#)

[RES-21:017](#) A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ACCEPT THE LOW BID AND ENTER INTO AN AGREEMENT WITH TATE GENERAL CONTRACTORS, INC. FOR THE ANIMAL CONTROL RENOVATIONS PROJECT (2021:02)

Sponsors: Engineering, Animal Control and Finance

Attachments: [Agreement](#)
[Bid Tab Certified](#)

[RES-21:019](#) A RESOLUTION TO THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO AN AGREEMENT WITH PICKERING FIRM, INC. TO PERFORM PROFESSIONAL ENGINEERING SERVICES RELATED TO SOUTH CARAWAY WIDENING

Sponsors: Engineering

Attachments: [Agreement - South Caraway Widening](#)
[Ranking - RFP](#)

RES-21:020 A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO AN AGREEMENT WITH W. WILLIAM GRAHAM JR., INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE JONESBORO INDUSTRIAL LEAD RAIL SPUR (NESTLE ROAD RAIL YARD CAR STORAGE EXPANSION) PROJECT

Sponsors: Engineering

Attachments: [Agreement 2020 97 Railspur](#)

5. Pending Items

ORD-20:030 AN ORDINANCE AMENDING THE JONESBORO CODE OF ORDINANCES, SECTION 117.330(c), KNOWN AS THE SIDEWALK ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS, PROVIDING FOR AN EXEMPTION FOR PROPERTY IN PLANNED INDUSTRIAL PARKS

Sponsors: Mayor's Office

Attachments: [Letter to Council 9.8.20](#)
[Casteel email 09142020](#)
[Carlson email 11132020](#)
[Allen email 11142020](#)
[Vellozo email 11142020](#)
[McAvoy email 11152020](#)
[RWilliams email 11162020](#)
[Vellozo email 11162020](#)
[Only email 11162020](#)
[JWilliams email 11162020](#)
[Vance email 11172020](#)
[Nadzam email 11172020](#)
[Joshi email 11172020](#)
[Hardy email 11172020](#)
[Cormier email 11172020](#)
[Burns email 11172020](#)

Legislative History

8/4/20	Public Works Council Committee	Recommended to Council
8/18/20	City Council	Held at one reading
9/1/20	City Council	Held at second reading
9/15/20	City Council	Postponed Temporarily
11/17/20	City Council	Postponed Temporarily

6. Other Business

7. Public Comments

8. Adjournment



City of Jonesboro

300 S. Church Street
Jonesboro, AR 72401

Legislation Details (With Text)

File #: MIN-20:125 **Version:** 1 **Name:** MINUTES FOR THE PUBLIC WORKS MEETING ON DECEMBER 1, 2020

Type: Minutes **Status:** To Be Introduced

File created: 1/5/2021 **In control:** Public Works Council Committee

On agenda: **Final action:**

Title: MINUTES FOR THE PUBLIC WORKS MEETING ON DECEMBER 1, 2020

Sponsors:

Indexes:

Code sections:

Attachments: [Public Works Minutes 12012020](#)

Date	Ver.	Action By	Action	Result
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MINUTES FOR THE PUBLIC WORKS MEETING ON DECEMBER 1, 2020



City of Jonesboro

Municipal Center
300 S. Church Street
Jonesboro, AR 72401

Meeting Minutes Public Works Council Committee

Tuesday, December 1, 2020

5:00 PM

Municipal Center, 300 S. Church

1. Call To Order

2. Roll Call by City Clerk Donna Jackson

Present 7 - Gene Vance; Mitch Johnson; John Street; Chris Moore; Charles Coleman; LJ Bryant and Ann Williams

3. Approval of minutes

[MIN-20:108](#)

Minutes for the Public Works Committee meeting on November 5, 2020.

Attachments: [Minutes](#)

A motion was made by Councilperson Mitch Johnson, seconded by Councilperson Ann Williams, that this matter be Passed . The motion PASSED with the following vote.

Aye: 6 - Gene Vance; Mitch Johnson; Chris Moore; Charles Coleman; LJ Bryant and Ann Williams

4. New Business

RESOLUTIONS TO BE INTRODUCED

[RES-20:231](#)

A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO CONTINUE A JOINT FUNDING AGREEMENT WITH THE U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR FOR THE OPERATION AND MAINTENANCE OF TWO STREAMGAGES IN JONESBORO

Attachments: [USGA Agreement 2021](#)

A motion was made by Councilperson Mitch Johnson, seconded by Councilperson Gene Vance, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - Gene Vance; Mitch Johnson; Chris Moore; Charles Coleman; LJ Bryant and Ann Williams

[RES-20:232](#)

RESOLUTION AUTHORIZING THE CITY OF JONESBORO TO ENTER INTO AGREEMENT WITH SAFE HAVEN BABY BOXES, INC. FOR THE PLACEMENT OF A NEWBORN SAFETY DEVICE ON A CITY FACILITY

Attachments: [Agreement, Safe Haven Baby Boxes](#)
[RWilliams email 12142020](#)
[PVellozo email 12142020](#)

A motion was made by Councilperson Chris Moore, seconded by Councilperson Gene Vance, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - Gene Vance;Mitch Johnson;Chris Moore;Charles Coleman;LJ Bryant and Ann Williams

[RES-20:233](#)

A RESOLUTION REQUESTING FREE UTILITY SERVICES FROM CITY WATER AND LIGHT FOR A TRAFFIC SIGNAL AT 2301 E. HIGHLAND DRIVE

A motion was made by Councilperson Mitch Johnson, seconded by Councilperson Charles Coleman, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - Gene Vance;Mitch Johnson;Chris Moore;Charles Coleman;LJ Bryant and Ann Williams

[RES-20:234](#)

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS ACCEPTING A DONATION OF LAND AND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH FARMER ENTERPRISES, INC.

Attachments: [Farmer Enterprises Donation - Parker Road 2.08 acres](#)

A motion was made by Councilperson Mitch Johnson, seconded by Councilperson Gene Vance, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - Gene Vance;John Street;Chris Moore;Charles Coleman;LJ Bryant and Ann Williams

[RES-20:235](#)

A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO A CHANGE ORDER NO. 4 WITH RAMSONS, INC.FOR THE JONESBORO SHOOTING SPORTS COMPLEX PHASE 1C (2020:07)

Attachments: [Change Order #4, Shooting Sports Complex ArchDWGs](#)
[Lack email 12012020](#)
[Response from CLight to PLack 12152020 CC](#)

A motion was made by Councilperson Gene Vance, seconded by Councilperson Charles Coleman, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - Gene Vance;Mitch Johnson;Chris Moore;Charles Coleman;LJ Bryant and Ann Williams

[RES-20:236](#)

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS TO ACCEPT THE DONATION OF PROPERTY LOCATED AT LOT 7 OF SYLVAN HILLS ESTATES 2ND ADDITION FROM THE FRIERSON CORPORATION

Attachments: [Frierson Land Donation Map](#)
[Frierson Land Donation Documents](#)

A motion was made by Councilperson Mitch Johnson, seconded by

Councilperson Gene Vance, that this matter be Recommended to Council . The motion PASSED with the following vote.

Aye: 6 - Gene Vance; Mitch Johnson; Chris Moore; Charles Coleman; LJ Bryant and Ann Williams

5. Pending Items

6. Other Business

7. Public Comments

8. Adjournment

A motion was made by Councilperson Mitch Johnson, seconded by Councilperson LJ Bryant, that this meeting be Adjourned . The motion PASSED with the following vote.

Aye: 6 - Gene Vance; Mitch Johnson; Chris Moore; Charles Coleman; LJ Bryant and Ann Williams



Legislation Details (With Text)

File #:	RES-21:016	Version:	1	Name:	APPROVE SUPPLEMENTAL AGREEMENT NO. 2 WITH FISHER ARNOLD TO PROVIDE ENGINEERING AND SURVEYING SERVICES FOR THE JONESBORO DOWNTOWN TO ASU CONNECTION PROJECT (JOB 100971)
Type:	Resolution	Status:		Status:	To Be Introduced
File created:	1/21/2021	In control:		In control:	Public Works Council Committee
On agenda:		Final action:		Final action:	
Title:	A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO APPROVE SUPPLEMENTAL AGREEMENT NO. 2 WITH FISHER ARNOLD TO PROVIDE ENGINEERING AND SURVEYING SERVICES FOR THE JONESBORO DOWNTOWN TO ASU CONNECTION PROJECT (JOB 100971)				
Sponsors:	Engineering				
Indexes:	Contract				
Code sections:					
Attachments:	Supplemental Agreement No. 2				

Date	Ver.	Action By	Action	Result
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A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO APPROVE SUPPLEMENTAL AGREEMENT NO. 2 WITH FISHER ARNOLD TO PROVIDE ENGINEERING AND SURVEYING SERVICES FOR THE JONESBORO DOWNTOWN TO ASU CONNECTION PROJECT (JOB 100971) WHEREAS, the City of Jonesboro entered into an agreement for the Jonesboro Downtown to ASU Connection project with Fisher & Arnold, Inc.; and

WHEREAS, the City of Jonesboro desires to increase the amount of that contract, not to exceed the amount in the attached, to include the design of the multi-use trail or pedestrian and bicycle infrastructure improvements along Hope Avenue to Washington. The improvements would continue from that intersection east along Washington Avenue to the Marion Berry Pkwy; and,

WHEREAS, the funding for the execution of the contract shall come from the Transportation Alternative Program (TAP) from the Arkansas Department of Transportation and compensation shall be paid in accordance with the contract documents.

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS;

Section 1. That the City of Jonesboro hereby accepts Supplemental Agreement No. 2, as attached, from Fisher & Arnold, Inc.

Section 2. The funding for the execution of the contract shall come from the Transportation Alternative Program (TAP) from the Arkansas Department of Transportation and compensation shall be paid in accordance with the contract documents.

Section 3. The Mayor and the City Clerk are hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate this supplemental agreement.



FISHER ARNOLD

ENGINEERS | ARCHITECTS | CONSULTANTS | PLANNERS

January 14, 2021

Danny Kapales, Parks Director
City of Jonesboro
300 S. Church Street
Jonesboro, AR 72401

**RE: PROPOSAL FOR JONESBORO DOWNTOWN TO ASU CONNECTION (TAP-17)(S)
SUPPLEMENTAL AGREEMENT No. 2**

Dear Mr. Kapales:

Thank you for the opportunity to submit our Engineering and Surveying Services proposal to be performed for a lump sum fee. The scope of our services includes providing surveying, design, and final construction documents for the above referenced project. The proposed improvements include a multi-use trail or pedestrian and bicycle infrastructure improvements along Hope Avenue to Washington. The improvements would continue from that intersection east along Washington Avenue to the Marion Berry Pkwy. The approximate length of trail design ins 2,640 LF. We understand the City desires to have the same corridor section as proposed in the Creath Avenue design.

The fee for the following services is \$58,840 this includes:

1. Project Administration
2. Title Sheet
3. Typical Sections
4. Create Plan & Profile Sheets
5. Horizontal Alignment
6. Vertical Alignment
7. Cut Existing and Final Cross Sections
8. Legal Descriptions
9. Drainage Design
10. Maintenance of Traffic Plan
11. Signing and Pavement Marking Plan
12. Erosion Control Plans
13. Plan Submittals (30%, 60%, 90%)
14. Revise Plans Per Reviews
15. Item Nos./Quantity Calculations
16. Prepare Cost Estimate (60% & 90%)
17. QA/QC of Plans
18. Public Meeting and Exhibits (One Total)
19. Meetings, Correspondence, etc. (Four Total)

1801 Latourette Drive
Jonesboro, AR 72404

870.932.2019
Fax: 870.932.1076
Toll Free: 1.888.583.9724

www.fisherarnold.com

Kapales- PROPOSAL FOR JONESBORO DOWNTOWN TO ASU CONNECTION (TAP-17)(S)
SUPPLEMENTAL AGREEMENT No. 2

Page 2

20. Prepare Construction Documents
21. Assist the City During the Bid Process.

This proposal does not include construction administration, construction inspection services, lighting and electrical plans, easement preparation and geotechnical services. However, Fisher Arnold can provide these services at your request if needed.

We will bill you monthly or upon completion of the project. Payment is due by the 15th of the month. Interest in the amount of 1.5% per month on the outstanding balances (18% per annum) will be assessed the contracting party after the payment due date.

Reimbursables will be billed at cost plus 15% and include, but not limited to the following: Courthouse & Research Fees, Filing, Copies, Prints, Utility Location by Others, Postage and Shipping, etc.

In the event of breach or non-payment, the contracting party agrees to pay reasonable expenses of enforcement including attorney fees and costs. Exclusive venue for enforcement of this Agreement shall be in Craighead County, Arkansas.

The obligation to provide further services under the Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

In the event of termination, Fisher & Arnold, Inc. will be paid for all services rendered to the date of termination and all reimbursable expenses.

The fees shown in this proposal are based on the Owner agreeing to limit the Professional's liability for all planning, engineering and surveying services to the Owner, all construction contractors, and subcontractors on the project, due to the Professional's negligent acts, errors or omissions, such that the total aggregate liability of the Professional to all those named shall not exceed the Professional's total fee for services rendered on the project.

This proposal represents the entire understanding between you and us in respect to the "Project" and may only be modified in writing signed by both of us. If this satisfactorily sets forth your understanding of the arrangement between us, please sign the enclosed copy of the Letter Agreement in the space provided and return it to us.

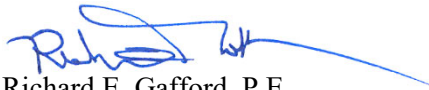
Kapales- PROPOSAL FOR JONESBORO DOWNTOWN TO ASU CONNECTION (TAP-17)(S)
SUPPLEMENTAL AGREEMENT No. 2

Page 3

We are looking forward to working with you on this project. If you have any questions regarding this proposal, please do not hesitate to call.

Sincerely,

FISHER & ARNOLD, INC.



Richard E. Gafford, P.E.
Senior Vice President



Jason MacDonald P.E.
Jonesboro-Office Manager

Your signature on this copy will authorize us upon its receipt to commence work. Please sign, date and return one copy for our files.

BY: _____
Harold Copenhaver

Date

Mayor _____



Legislation Details (With Text)

File #:	RES-21:017	Version:	1	Name:	ACCEPT THE LOW BID AND ENTER INTO AN AGREEMENT WITH TATE GENERAL CONTRACTORS, INC. FOR THE ANIMAL CONTROL RENOVATIONS PROJECT (2021:02)
Type:	Resolution	Status:			To Be Introduced
File created:	1/22/2021	In control:			Public Works Council Committee
On agenda:		Final action:			
Title:	A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ACCEPT THE LOW BID AND ENTER INTO AN AGREEMENT WITH TATE GENERAL CONTRACTORS, INC. FOR THE ANIMAL CONTROL RENOVATIONS PROJECT (2021:02)				
Sponsors:	Engineering, Animal Control, Finance				
Indexes:	Contract				
Code sections:					
Attachments:	Agreement Bid Tab Certified				

Date	Ver.	Action By	Action	Result
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A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ACCEPT THE LOW BID AND ENTER INTO AN AGREEMENT WITH TATE GENERAL CONTRACTORS, INC. FOR THE ANIMAL CONTROL RENOVATIONS PROJECT (2021:02)

WHEREAS, the City of Jonesboro has desires to accept the low bid and enter into an agreement for the Animal Control Renovations project; and

WHEREAS, the low bidder and the firm selected for the project is Tate General Contractors, Inc.; and

WHEREAS, funding for the execution of the agreement shall come from Capital Improvement budget and compensation shall be paid in accordance with the agreement.

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS;

Section 1: That the City of Jonesboro shall accept the low bid and enter into an agreement with Tate General Contractors, Inc. for the Animal Control Renovations project.

Section 2. That funding for the execution of the agreement shall come from Capital Improvement budget and compensation shall be paid in accordance with the agreement.

Section 3. The Mayor and the City Clerk are hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate this agreement.

 **AIA® Document A101® – 2017****Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum**

AGREEMENT made as of the Twentieth day of January in the year Two Thousand Twenty One
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Jonesboro
300 South Church Street
Jonesboro, Arkansas 72401

and the Contractor:
(Name, legal status, address and other information)

Tate General Contractors
P.O. Box 1766
Jonesboro, Arkansas 72403

for the following Project:
(Name, location and detailed description)

Renovations to:
Animal Control
City of Jonesboro

The Architect:
(Name, legal status, address and other information)

Brackett-Krennerich and Associates, P.A.
100 E Huntington Ave, Suite D
Jonesboro, AR 72401
Telephone Number: (870) 932-0571

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.
Date of commencement to be the date of the "notice to Proceed"

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

Init.

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User Notes:

(944001608)

(Check one of the following boxes and complete the necessary information.)

Not later than **One Hundred Fifty Days** (**150**) calendar days from the date of commencement of the Work.

By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	N/A

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be **One Hundred Eighty Seven Thousand Nine Hundred Forty Dollars and Zero Cents** (\$ **187,940.00**), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
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§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
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§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
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§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
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§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

If the contractor shall fail to complete the work within the contract time, of extension of time granted by the owner, then the contractor will pay to the owner the amount of Two Hundred Dollars (\$200.00) for liquidated damages for each calendar day that the contractor shall be in default after the time stipulated in the contract documents for each phase of the work.

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

Init.

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the **Twenty-fifth** day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the **Tenth** day of the **following** month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than **Thirty (30)** days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

Init.

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

(5%)

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

Insurance, Building Permit, and Fees

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

Retainage will be withheld in the amount equal to work left to complete at substantial completion; as determined by the Architect

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

Provided final certificate of payment is accompanied with all the closeout and final documents as required by the specifications.

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

N/A %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

Init.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

N/A

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

Craig Light
Engineering Director - City of Jonesboro
300 South Church Street
Jonesboro, AR 72401

§ 8.3 The Contractor’s representative:

(Name, address, email address, and other information)

Keith Chunn
Tate General Contractors, Inc
P.O. Box 1766
Jonesboro, AR 72403

Init.

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User Notes:

(944001608)

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A201™–2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

- .3 Drawings
Entitled "Renovation To: Animal Control", Jonesboro, Arkansas" and bearing the architects commission number 1919. See attached Exhibit "A"

Number	Title	Date
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- .4 Specifications
Entitled "Renovation To: Animal Control", Jonesboro, Arkansas" and bearing the architects commission number 1919. See attached Exhibit "B"

Section	Title	Date	Pages
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- .5 Addenda, if any:
Entitled "Renovation To: Animal Control", Jonesboro, Arkansas" and bearing the architects commission number 1919. See attached Exhibit "C"

Number	Date	Pages
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Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.6 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
-------	------	-------

Supplementary and other Conditions of the Contract:

Document (See Below)	Title	Date	Pages
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.7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

- 1. Exhibit "A" – Enumeration of the Contract Documents – Drawings**
- 2. Exhibit "B" – Enumeration of the Contract Documents – Specifications**
- 3. Exhibit "C" - Addenda Number 1 and Number 2**
- 4. Advertisement for Bids**
- 5. Contractor's Bid and Bid Bond**
- 6. Certified Bid Tabulation**
- 7. Certificate(s) of Insurance**
- 8. Payment and Performance Bonds (filed/recorded in Craighead County)**
- 9. Contractor's Affidavit of Payment of Debts and Claims (required at close-out)**
- 10. Contractor's Release of Liens (required at close-out)**
- 11. Consent of Surety to Final Payment (required at close-out)**

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

OWNER *(Signature)*

Harold Copenhagen, Mayor
(Printed name and title)

CONTRACTOR *(Signature)*

Gaylon Tate, President
(Printed name and title)

Init.



BRACKETT KRENNERICH & ASSOCIATES
 100 E. Huntington Ave, Ste D, Jonesboro, Arkansas 72401
 Phone: 870-932-0571 | Fax: 870-932-0975

BID TAB

Date: Wednesday, January 20, 2021 @ 2:00 pm
Project: Renovation To: Animal Control
 City of Jonesboro
 Jonesboro, AR

Contractor Name	Bid Security	Add Rc'vd	Base Bid	Deductive Alternate	Completion Time	Subcontractors
Bailey Contractors Inc 2307 Congress Cove Jonesboro, AR Lic: 0180240421	5%	1. Yes	\$203,948.00	\$4,100.00	150	Mechanical: RGB Sheet Metal Lic: 0009621221
		2. Yes				Plumbing: Adams and Cooper Plumbing Co, Inc Lic: 0016620321
						Electrical: East Arkansas Electric Contractors, Inc. Lic: 0242280421
						Roofing & Sheet Metal: Bailey Contractors, Inc. Lic: 0180240421
Mary Owens Construction 181 Harris Loop Maynard AR Lic: _____						NO BID SUBMITTED
Olympus Construction 2506 W Washington Jonesboro, AR Lic: 0013400124	5%	1. Yes	\$206,000.00	\$4,100.00	150	Mechanical: RGB Sheet Metal Lic: 009621221
		2. Yes				Plumbing: N/A Lic:
						Electrical: Cook Electric Lic: 0167730421
						Roofing & Sheet Metal: Olympus Lic: 0013400121
Tate General Contractors P.O. Box 1766 Jonesboro, AR Lic: 0027550421	5%	1. Yes	\$187,940.00	\$5,500.00	150	Mechanical: Nightingale Mechanical Lic: 0180790321
		2. Yes				Plumbing: Adams and Cooper Plumbing Co, Inc Lic: 0016620321
						Electrical: East Arkansas Eletrical Contractors Lic: 0242280421
						Roofing & Sheet Metal: Tate General Conctractors, Inc Lic: 0027550421




 Kyle Cook, AIA

20 JANUARY 2021



Legislation Details (With Text)

File #:	RES-21:019	Version:	1	Name:	ENTER INTO AN AGREEMENT WITH PICKERING FIRM, INC. TO PERFORM PROFESSIONAL ENGINEERING SERVICES RELATED TO SOUTH CARAWAY WIDENING
Type:	Resolution	Status:			To Be Introduced
File created:	1/25/2021	In control:			Public Works Council Committee
On agenda:		Final action:			
Title:	A RESOLUTION TO THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO AN AGREEMENT WITH PICKERING FIRM, INC. TO PERFORM PROFESSIONAL ENGINEERING SERVICES RELATED TO SOUTH CARAWAY WIDENING				
Sponsors:	Engineering				
Indexes:	Contract				
Code sections:					
Attachments:	Agreement - South Caraway Widening Ranking - RFP				

Date	Ver.	Action By	Action	Result
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A RESOLUTION TO THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO AN AGREEMENT WITH PICKERING FIRM, INC. TO PERFORM PROFESSIONAL ENGINEERING SERVICES RELATED TO SOUTH CARAWAY WIDENING

WHEREAS, the City of Jonesboro desires to enter into an agreement for professional engineering services for the South Caraway Widening from Parker Road to Fox Meadow Lane in Jonesboro, Arkansas; and,

WHEREAS, the Selection Committee has determined that Pickering Firm, Inc. is the most qualified for the project; and,

WHEREAS, the firm selected for the South Caraway Widening project is Pickering Firm, Inc.; and,

WHEREAS, Pickering Firm, Inc. has agreed to provide the services detailed in the attached proposal; and,

WHEREAS, funding for the execution of the agreement shall come from the Capital Improvement budget and compensation shall be paid in accordance with the agreement.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF JONESBORO, ARKANSAS THAT:

Section 1: That the City of Jonesboro shall enter into an agreement with Pickering Firm, Inc. to perform professional engineering services for the South Caraway Widening from Parker Road to Fox Meadow Lane in Jonesboro, Arkansas.

Section 2: Funding for the execution of the agreement shall come from the Capital Improvement budget and compensation shall be paid in accordance with the agreement.

Section 3: The Mayor is hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate this agreement.

January 18, 2021

Mr. Craig Light, PE
Chief Engineer
City of Jonesboro
300 South Church
Jonesboro, AR 72401

**Re: Professional Engineering Services
S. Caraway Widening (Parker Road to Fox Meadow Lane)
Jonesboro, Arkansas**

Mr. Light:

Pickering Firm, Inc., herein known as Pickering (the “Consultant”), is pleased to submit this Scope of Work and Fee Proposal to the City of Jonesboro, herein known as the City (the “Client”), for providing Professional Engineering services for the development of the referenced project. The project is more specifically defined as the survey and design of construction documents for the widening of South Caraway Road from south of East Parker Road at the end of the existing five (5) lane section to Fox Meadow Lane. Improvements will consist typically of a five lane (5) roadway with sidewalks on both sides from south of East Parker Road to Links Circle. From Links Circle, the roadway will transition to a three (3) lane roadway with sidewalks on both sides to the end of the project at Fox Meadow Lane. Our detailed scope of services, schedule, and fee are shown below.

SCOPE OF SERVICES

Topo & Boundary Surveys

1. All topography and cross-sections will be obtained using ground, not aerial, mapping methods. Locations, topography, and cross-sections will be performed along project corridor and all adjoining roadways within the project limits. Surveys along the mainline will be a width of approximately 75 feet on each side of the existing centerline, for a total width of 150 feet minimum. Distances from centerline might vary depending on the existing right-of-way.
2. In addition to the topographic survey, sufficient boundary ties will be established to determine the existing right-of-way, boundary lines, and easements along South Caraway Road and all side roads within the project limits.
3. A property strip map will be created to identify all property owners, parcel information, existing right-of-ways, and easements within the limits of the project. Any proposed takes will be reflected on the property strip map as well.
4. Legal descriptions for required takes will be provided to the City of Jonesboro for acquisition purposes on up to ten (10) properties. Providing acquisition documents for properties exceeding ten (10) will be considered additional services.
5. One Call will be contacted for field locations of underground utilities. These locations will be field located and shown on our plans. Arkansas One Call fees are included in the fees shown.

Geotechnical Investigation

1. Geotechnology will perform a site reconnaissance in order to determine the boring locations and will call Arkansas One Call to locate public utilities prior to boring
2. Due to traffic volumes, field work will be performed when school is not in session and will be limited to the hours of 8:30 am to 4:00 pm. All work involving lane closures will be coordinated with City staff. Traffic control will be provided in accordance with the Manual for Uniform Traffic Control (MUTCD).
3. Field testing will include 13 borings to an approximate depth of 10 foot deep. In each boring, soil samples will be obtained by split-spoon sampling methods at regular intervals. Occasionally, Shelby tube samples will be recovered to obtain a relatively undisturbed soil sample for laboratory testing. In addition to the borings, existing pavement cores will be taken at 10 locations along the pavement route. All boreholes will be backfilled with auger cuttings and plastic plugs. In paved areas, the boreholes will be patched with asphalt.
4. Laboratory testing will be performed on select soil samples to evaluate index and strength properties. Testing will include various combinations of the following tests: moisture content, Atterberg limits, gradation analyses, unconsolidated-undrained triaxial compression, standard Proctor and California Bearing Ratio (CBR). CBR values will be correlated to resilient modulus or R-values as needed.
5. Perform a pavement design based on vehicle configurations and projected traffic loadings. The pavement design will be performed using the 1993 AASHTO flexible pavement design method. Three pavement section alternatives will be presented along with the standard City pavement section for comparison purposes.
6. Preparation of a geotechnical exploration report that will include the results of the field exploration and laboratory testing, analysis, pavement design and recommendations. Recommendations will include general guidelines for site preparation, depth and extent of undercutting and backfilling as required.
7. Participation in conference calls and project meetings as required.

Roadway Designs

1. Pickering will prepare construction plans in accordance with AASHTO's *A Policy on Geometric Design of Highways and Streets and Roadway Design Guide*, the *Americans with Disabilities Act Accessibility Guidelines*, ArDOT's *Standard Specifications for Highway Construction*, and City of Jonesboro Standards.
2. Improvements will consist typically of a five lane (5) roadway with sidewalks on both sides from East Parker Road to Links Circle. From Links Circle, the roadway will transition to a three (3) lane roadway with sidewalks on both sides to the end of the project at Fox Meadow Lane. Specific intersection improvements will be as outlined in the final, approved traffic study. The typical section used for development of the plans shall be verified with staff prior to beginning design. Based on the traffic study, signal warrants were met for both AM and PM Peak Hour traffic volumes at the S. Caraway/Sunny Meadow Drive intersection. Design of the signal is specifically excluded from this scope of work and will not be part of the plan documents. Fees for design documents can be added at a later time if required by the

Client. The total distance of the section is approximately 1.11 miles.

3. Roadway plans will be standard roadway plan and profile (22"x34"), one inch equals 50 feet (horizontal) and 5 feet (vertical) scale, or larger, and will conform to all City drafting and construction standards. The roadway plans will contain sufficient and required notes, details and designs required for the bidding process and to be in conformance with standard City practice. Roadway plans will include some or all of the following sheets: title, index, standard drawings, estimated roadway quantities, typical sections, general notes, special notes, details, standard plan and profile sheets, private drive profiles, culvert sections, EPSC, traffic control, signing and pavement marking, and roadway cross sections.
4. Pickering will prepare designs for all affected drainage within the project limits in accordance with current City design criteria. This includes the design of curb inlets, required storm drainage systems, and required cross drains to adequately drain the project.
5. Pickering will submit plans for review at the following milestones: horizontal and vertical alignment review and concurrence, 30% plan submittal, 60% plan submittal, 90% plan submittal, and final construction plans. A revised and updated cost will be provided at each milestone.
6. The existing structure located at the Higginbottom Creek crossing is eighty (80) feet in length. It is anticipated that the structure will accommodate the Caraway Road widening. There are no alterations or adjustments anticipated to be made to the structure. If changes are required, those adjustments will be considered additional services.
7. Pickering will provide the City with the information to apply for and receive the construction permits as required - Storm Water Pollution Prevention Plan (SWPPP) and the Short Term Activity Authorization (STAA) permit if required.
8. All designs, plans, details and specifications for relocations of any utility or the addition of new utilities (other than street lighting) will be prepared by the utility owner or negotiated as additional services.
9. No environmental services, wetland delineations, or studies are included in this scope of work.

Traffic Designs

1. Pickering will prepare traffic control plans including construction sequencing, temporary markings and signage, lane closures, and all applicable notes and details.
2. Pickering will prepare permanent roadside public signage plans.
3. Pickering will prepare permanent pavement marking plans.

Bid Phase

1. Printing of plans and specification for bidding purposes is not included and will be considered a reimbursable expense if required. Documents will be supplied to the Client or plan room in a digital format for the purposes of bidding the project.
2. Bid phase services are not included other than customary RFI and clarification requests.

Construction Phase

1. Construction phase services are not included, but can be negotiated at a later date if required by the Client.

OPTIONAL SERVICES

If the City requires services beyond what is provided in the scope of services listed above, said services can be performed based upon a negotiated fee agreed to by both parties. Additional services will only be performed after written authorization is received.

PROPOSED PROJECT SCHEDULE

Based on the attached work schedule, Pickering anticipates approximately 46 weeks to complete the project inclusive of review times by the City. As discussed with staff, every reasonable effort will be made to expedite the schedule and complete the design and final invoicing before December 31, 2021.

FAILURE TO COMPLETE WORK ON TIME

Time is an essential element of the Agreement and it is important that the work be pressed vigorously to completion in accordance with the proposed project schedule. The cost to the Owner (City of Jonesboro) of the administration of this Agreement will be increased as the time occupied in the work is lengthened. Loss will accrue to the public due to delayed completion of the design and construction documents.

This being the case the Owner reserves the right to withhold payment from the Consultant for failure to perform services in a timely manner as per the mutually agreed upon schedule for factors within the Consultant's control. Payment will be withheld from the Consultant until the Owner is satisfied that the Consultant is progressing towards meeting the agreed upon schedule or upon completion of the project.

The Owner and consultant are aware that many factors outside the Consultant's control may affect the Consultant's ability to complete the services to be provided under this Agreement. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices.

If the Consultant becomes aware of delays due to time allowances for review and approval being exceeded, delay by the Owner, the Owner's consultants, reviews by governing agencies, or any other cause beyond the control of the Consultant, which will result in the schedule for performance of the Consultant's not being met, the Consultant shall promptly notify the Owner. If the Owner becomes aware of delays or other caused that will affect the Consultant's schedule, the Owner shall promptly notify the Consultant. In either event, the Consultant's schedule for performance of its services shall be equitably adjusted.

SUMMARY OF PROJECT FEES (TITLE I)

Design (Labor, Overhead, and Fee)	\$192,989.86
Direct Expenses	
Ridge Surveying	\$ 29,980.00
Geotechnology, Inc.	\$ 21,800.00
Subtotal Direct Costs	<u>\$ 51,780.00</u>
Total Title I (Not to Exceed)	\$244,769.86

See Appendix A for a detailed man-hour estimates for each of the required tasks.

TERMS AND CONDITIONS

The obligation to provide further services under this Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of termination, Pickering Firm, Inc. will be paid for services rendered to the date of termination. The fees shown in this proposal are based on the Owner agreeing to limit the Professional's liability for all planning, engineering and analytical services to the Owner due to the Professional's negligent acts, errors, or omissions, such that the total aggregate liability of the Professional to all those named shall not exceed the Professional's total fee for services rendered on this project.

This proposal represents the entire understanding between you and us in respect to the "Project" and may only be modified in writing signed by both of us. If it satisfactorily sets for your understanding of the arrangement between us, please sign the acceptance of this proposed Letter Agreement in the space provided below and return it to us.

Please advise if further information is desired.

Sincerely,

PICKERING FIRM INCORPORATED



Michael L. Foster, P.E.
Project Manager

Accepted by: _____ Date: _____



**Justification of Fees and Costs
and
Scope of Work
FOR
South Caraway Road Widening
City of Jonesboro, Arkansas**

18-Jan-21

Appendix A

Northside Park Access Road
City of Jonesboro, Arkansas

TITLE I

Plans Total Labor, Overhead, and Fee	\$ 192,989.86
Direct Expenses	\$ 51,780.00
Grand Total TITLE I	\$ 244,769.86

TITLE II

Plans Total Labor, Overhead, and Fee	Not Included
Direct Expenses	Not Included
Grand Total TITLE II	Not Included

Appendix A
Justification of Fees and Costs
South Caraway Road Widening
City of Jonesboro, Arkansas
TITLE I

	Estimated Hours						Total Hours
	Project Manager	Senior Engineer	Engineer	Engineer Intern	Clerical		
Plan Preparation							
Roadway Design							
1. Project Administration	40	16					56
2. Perform Site Visit to Verify Survey	4	8	16	16			44
3. Title Sheet			2	4			6
4. Typical Sections	4	8	8	16			36
5. Index, General Notes, Standard Drawings		4	4	8			16
6. Horizontal Alignment	4	8	16	16			44
7. Vertical Alignment	4	8	16	16			44
8. Summary of Quantities		8	16	24			48
9. Mainline Plan & Profile Sheets (6 Sheets)	4	16	40	60			120
10. Side Road Plan & Profile Sheets (3 Sheets)		8	20	30			58
11. Property Acquisitions Strip Maps (6 Sheets)		16	16	24			56
12. Drainage Design	8	24	80	40			152
13. Driveway Profiles (5 Sheets)		4	16	24			44
14. Culvert Sections (2 Sheets)		4	8	16			28
15. Utility Coordination	8	24	24	24			80
16. Maintenance of Traffic Plans	8	24	40	40			112
17. Permanent Pavement Markings and Signs	4	8	16	16			44
18. EPSC Plans		4	16	24			44
19. Cross Sections	4	8	24	40			76
20. Permits (SWPPP, STAA, etc.)		4	16	24			44
21. QA/QC	40	40	40				120
22. Plan Review Meetings (5 Meetings)	16	16	16				48
23. Address Comments from Review Meetings	8	16	40	40			104
Totals	156	276	490	502	0	0	1424

Labor Rates

\$ 53.00 \$ 53.00 \$ 42.00 \$ 25.00 \$ 17.00

Labor Cost \$ 8,268.00 \$ 14,628.00 \$ 20,580.00 \$ 12,550.00 \$ - \$ - \$ - \$ 56,026.00

Overhead % 207.29% \$ 116,136.30

Total Labor and Overhead \$ 172,162.30

Fixed Fee % 12.00% \$ 20,659.48

FCCM Overhead 0.300% \$ 168.08

Total Labor, Overhead, and Fee: \$ 192,989.86

Direct Costs:

	Qty.	Unit Price	
Mileage	0	\$ 0.535	\$0.00
Meals	0	\$ 41.00	\$0.00
Lodging	0	\$ 96.00	\$0.00
Postage	0	\$ 100.00	\$0.00
Reproductions: 8 1/2" x 11"	0	\$ 0.10	\$0.00
Reproductions: 11" x 17"	0	\$ 0.15	\$0.00
Reproductions: Full Size	0	\$ 2.00	\$0.00
Ridge Surveying	1	\$ 29,980.00	\$29,980.00
Geotechnology, Inc.	1	\$ 21,800.00	\$21,800.00

Total Direct Costs: \$51,780.00

Project Total \$ 244,769.86

Summary
Evaluation of RFPs
S Caraway Road Widening

No.	Evaluation Factors for RFPs	Maximum Points Possible
1	Quality and thoroughness of response to the project scope of work	20
2	Comprehensive, coherent, and detailed work plan	20
3	Realistic work schedule when applicable	10
4	Proposed working office location, need for a local office, and any other representative*	5
5	Identification of sub-consultants and responsiveness to DBE goals and opportunities	5
6	Total Points Possible for LOIs	40
	Total points for Proposals	100

*Locality preference may be used on a project basis where it is not based on political boundaries.

Rank each factor

Company Name	Reviewer 1	Reviewer 2	Reviewer 3	Reviewer 4	Total for RFP
Associated Engineering	87	72	69	72	300
Fisher Arnold	75	83	81	86	325
Pickering Firm	66	93	91	99	349



Legislation Details (With Text)

File #: RES-21:020 **Version:** 1 **Name:** ENTER INTO AN AGREEMENT WITH W. WILLIAM GRAHAM JR., INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE JONESBORO INDUSTRIAL LEAD RAIL SPUR (NESTLE ROAD RAIL YARD CAR STORAGE EXPANSION) PROJECT

Type: Resolution **Status:** To Be Introduced

File created: 1/27/2021 **In control:** Public Works Council Committee

On agenda: **Final action:**

Title: A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO AN AGREEMENT WITH W. WILLIAM GRAHAM JR., INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE JONESBORO INDUSTRIAL LEAD RAIL SPUR (NESTLE ROAD RAIL YARD CAR STORAGE EXPANSION) PROJECT

Sponsors: Engineering

Indexes: Contract

Code sections:

Attachments: [Agreement 2020 97 Railspur](#)

Date	Ver.	Action By	Action	Result
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A RESOLUTION OF THE CITY OF JONESBORO, ARKANSAS TO ENTER INTO AN AGREEMENT WITH W. WILLIAM GRAHAM JR., INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE JONESBORO INDUSTRIAL LEAD RAIL SPUR (NESTLE ROAD RAIL YARD CAR STORAGE EXPANSION) PROJECT

WHEREAS, the City of Jonesboro has desires to enter into an agreement to provide professional services for the Jonesboro Industrial Lead Rail Spur (Nestle Road Rail Yard Car Storage Expansion) project; and,

WHEREAS, the Selection Committee has determined that W. William Graham Jr., Inc. is the most qualified firm for the project; and,

WHEREAS, the firm selected for the Jonesboro Industrial Lead Rail Spur (Nestle Road Rail Yard Car Storage Expansion) project is W. William Graham Jr., Inc.; and,

WHEREAS, W. William Graham Jr., Inc. has agreed to provide professional services for the Jonesboro Industrial Lead Rail Spur (Nestle Road Rail Yard Car Storage Expansion) project as described in the attached agreement; and,

WHEREAS, the funding for the execution of the contract shall come from the FY18 Consolidated Rail Infrastructure and Safety Improvements Grant Program funded through the Department of Transportation's Federal Railroad Administration and compensation shall be paid in accordance with the agreement.

NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS;

Section 1. That the City of Jonesboro shall accept the agreement and enter into an agreement with W. William Graham Jr., Inc. to provide professional services for the Jonesboro Industrial Lead Rail Spur(Nestle Road Rail Yard Car Storage Expansion) project.

Section 2. The funding for the execution of the contract shall come from the FY18 Consolidated Rail Infrastructure and Safety Improvements Grant Program funded through the Department of Transportation's Federal Railroad Administration and compensation shall be paid in accordance with the agreement.

Section 3. The Mayor and the City Clerk are hereby authorized by the City Council for the City of Jonesboro to execute all documents necessary to effectuate the agreement.

AGREEMENT FOR ENGINEERING SERVICES
(LOCAL VERSION – COST PLUS FEE)

JOB NO. 2020:97
FEDERAL AID PROJECT (“FAP”) NO. _____

PREAMBLE

THIS AGREEMENT, entered into this ____ day of _____, _____, by and between the **CITY OF JONESBORO, AR** (“Owner”), and **W. WILLIAM GRAHAM JR., INC.** (“Consultant”), a corporation existing under the laws of the State of ARKANSAS, with principal offices at **100 N Rodney Parham Rd (Ste 2B), Little Rock, AR.**

WITNESSETH:

WHEREAS, the Owner is planning to construct **IMPROVEMENTS TO THE CITY OF JONESBORO INDUSTRIAL LEAD RAIL SPUR at NESTLE ROAD RAIL YARD CAR STORAGE EXPANSION**; 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 **ROBERT B. GRAHAM**, 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 **\$215,000.00**. 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 "ArDOT" means the Arkansas Department of Transportation.
- 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. "EDA" means Economic Development Administration.
- 1.11. "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 **133.0** percent. If applicable, the Indirect Cost Rate for each subcontractor shall be listed in Appendix B.
- 1.12. "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.
- 1.13. "Title I Services Ceiling Price." The Title I Services Ceiling Price for this Agreement is **\$ 115,000.00**. 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.
- 1.14. "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 **1.00**.
- 1.15. "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.
- 1.16. "Title II Services Ceiling Price". The Title II Services Ceiling Price for this Agreement is **\$ 100,000.00**. 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

PRINCIPAL ENGINEER/PROJECT MANAGER	65.43
DESIGN ENGINEER	61.26

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 Department of Transportation'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 **\$ 11,180.20** 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 90 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, ArDOT, 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, ArDOT, 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 Project consists of two proposed areas of rail improvements. The first area of work is the expansion of the Nestle Road Rail Car Storage Yard. In Phase I of the Rail Yard, there will be two double-ended tracks constructed along with the subgrade for four additional storage tracks. The proposed improvements in this Project will be to construct the additional four rail car storage tracks on the prepared subgrade and construct a gravel drive to provide access to the rail yard expansion. The second area of work is to install an electronic train watch system on the CTP Industrial Lead. This part of the Project will be considered a deductive alternate in the bidding documentation. The train watch system will provide the City staff with real time information on rail car movements within the Industrial Park. The City will be able to track the number of cars, time of delivery, and location of the inbound and outbound rail car traffic.

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

The Design Team will prepare Geotechnical Reports that will provide recommendations to properly design the rail section based on the soil types and conditions in the areas of improvement. The Design Team will prepare topographic and boundary surveys of the improvement areas. This will ensure that the correct property ownership is maintained, and will also provide the required site data to be used for the rail design and construction bidding documents. The Consultant will provide the Proposal, Measurement & Payment, Technical Specifications, and Geotechnical Report for the Bid Packages. The Consultant will also assist in the advertising, pre-bid meetings, and the bid letting process. After the bidding

process is complete, the Consultant will provide recommendations to the City of Jonesboro for awarding contracts.

8. INFORMATION TO BE PROVIDED BY THE OWNER

The City of Jonesboro, AR shall furnish to the Consultant the Agreement, Insurance Requirements, General Conditions, and any other contractual information needed to complete the bid package and specifications that will meet the City's needs for the Project.

9. TITLE II SERVICES TO BE PROVIDED BY CONSULTANT

The Consultant will prepare the Contracts to include Insurance Certificates. The Consultant will schedule and attend the pre-construction conference with Contractors that are awarded the Project. The Consultant will review the Pay Estimates provided by the Contractors and provide all Construction Administrative duties as required by the design. The Consultant and sub-consultant will make visits to the site during construction to inspect the subgrade work for materials and workmanship, and to take soil densities as required to ensure specifications are being met for the construction. Once the subgrade work is complete, the Consultant and sub-consultant will finalize the subgrade and initiate the rail work to proceed. The Consultant will make visits to the site to inspect the rail materials and construction to ensure that all specifications and construction requirements are being met. The Contractors performing the work will be responsible for their own Construction Staking. The Consultant will inspect the work to ensure the rail is being constructed according to the plans and specifications. The Consultant will not provide any as-built drawings of the construction. Once the rail work is complete, the Consultant will attend the Final Inspection with the City staff, BNSF staff, and the Contractors to close out the Project.

10. COORDINATION WITH OWNER

10.1. 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 ArDOT, 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.

11. OFFICE LOCATION FOR REVIEW OF WORK

11.1. 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 **100 North Rodney Parham Rd Ste 2B, Little Rock, AR 72205** between the hours of 8 am and 5 pm, Monday thru Friday.

12. ACCESS TO PROPERTY

12.1. 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.

13. DELIVERABLES

The Consultant and/or Design Team shall provide the Environmental Reports, Land Surveying documents and drawings, Geotechnical Report, Field Density Reports, Industrial Rail Spur Design Drawings & Specifications, and related Bidding Documents.

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:

- 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.

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 ArDOT, FHWA, and BNSF, 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 **by JULY 2022**, 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:
- Upon Execution of the Contract, the Consultant shall meet with the City and the Sub-consultants for a kick-off meeting for the Project to discuss items of work and timelines. The Sub-consultants services for this Project will include land surveying and geotechnical services. The Consultant will prepare New Business Review (NBR) drawings for submittal to the BNSF for review. The rail design for this Project will use the Final Design from the Phase I for the Rail Yard. The land surveyor will provide an as-built survey of the Phase I improvements to ensure the subgrade for the rail expansion is at the proper grades. The progress of the Project will be planned to bid as the construction of Phase I is being completed. If the weather conditions remain favorable and there are no unforeseen difficulties, the Rail Yard Expansion Project could be completed by the end of 2021.

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. STOP WORK ORDERS

- 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 claims and disputes 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 ArDOT 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 ArDOT, 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 ArDOT 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, its successors, and its 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 ArDOT, 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 ArDOT 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 ArDOT, or the FHWA 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 ArDOT, 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 ArDOT, 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:

HAROLD COPENHAVEN, MAYOR
City of Jonesboro
300 S. Church Street
Jonesboro, AR 72401

36.1.2. To the Consultant:

W. WILLIAM GRAHAM JR., INC.
Attn: MR. ROBERT B. GRAHAM
100 N. Rodney Parham Rd (Ste 2B)
Little Rock, AR 72205
Ph: (501)227-0078

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

(CONSULTANT NAME)

(OWNER'S NAME)

BY: _____
ROBERT B GRAHAM
President

BY: _____
HAROLD COPENHAVEN
Mayor

ATTEST: _____
APRIL LEGGETT
City Clerk

APPENDICES

APPENDIX A	JUSTIFICATION OF FEES AND COSTS
APPENDIX B	SUBCONTRACTS
APPENDIX C	STANDARD CERTIFICATIONS C-1 [CONSULTANT] C-2 [SUBCONSULTANT] C-3 Arkansas Highway Commission
APPENDIX D	PROJECT SCHEDULE
APPENDIX E	GENERAL AND DETAILED SCOPE OF WORK FOR CONTROL SURVEYS, DESIGN SURVEYS, AND LAND SURVEYS

APPENDIX A
- TITLE 1 SERVICES 2020:97 -

<u>ITEM</u>	<u>PRINCIPAL ENG/MANAGER</u>	<u>DESIGN ENGINEER</u>	<u>MILEAGE</u>
1) Preparing Contract	8	3	300
2) Contract Review, Execution	2	2	
3) Agreements w/ Sub-Consultants	8	2	
4) Kick-off meeting w/ City of Jonesboro, EDA	8	2	300
5) Kick-off meeting w/ Sub-Consultants	12	4	300
6) On-site meeting with Sub-Consultants	16	0	600
7) Survey & Topographic Data Review	8	8	
8) Geotech Report review & discussion	8	4	
9) Meetings w/ City of Jonesboro	24	4	900
10) Meetings w/ BNSF RR, and EDA	16	0	900
11) NBR Print (BNSF)	16	24	300
12) Rail Design/Plans (30%, 60%, 90%)	32	80	600
13) Utility adjustments	4	2	300
14) Plan Review (BNSF, EDA, City of Jonesboro)	32	16	
15) Prepare Bid Package	40	40	
16) Review Bid Package w/ City of Jonesboro	8	0	300
17) Pre-bid meeting	8	0	300
18) Contractor Bid Questions & Clarifications	24	8	
19) Bid Letting Process	8	0	300
20) Check Bids, Recommendation Letter	8	4	
	254	203	5,400

APPENDIX A
- TITLE 1 SERVICES 2020:97 -

Cont.

Principal Engineer	254 hr * 65.43	\$ 16,619.22
Design Engineer	203 hr * 61.26	\$ 12,435.78
	<i>SUBTOTAL</i>	\$ 29,055.00
Payroll Expenses	(33% of subtotal)	\$ 9,588.15
	<i>SUBTOTAL</i>	\$ 38,643.15
Overhead	(100% of subtotal)	\$ 38,643.15
	<i>TOTAL A</i>	\$ 77,286.30
Supplies		\$ 250.00
Printing		\$ 500.00
Mileage	5,400 * 0.58	\$ 3,132.00
Geotech Report/Study		\$ 2,500.00
Land surveying		\$ 9,500.00
	<i>TOTAL B</i>	\$ 15,882.00
	<i>SUBTOTAL (A+B)</i>	\$ 93,168.30
Fixed Fee Profit	(12% of subtotal)	\$ 11,180.20
	<i>TOTAL</i>	\$ 104,348.50
	<i>NOT TO EXCEED</i>	\$ 115,000.00

APPENDIX A
- TITLE II SERVICES 2020:97 -

ITEM	PRINCIPAL ENG/MANAGER	DESIGN ENGINEER	MILEAGE
1) Award of Bid	4	0	
2) Contract Preparation	8	8	
3) Pre-Construction Meeting	8	0	300
4) Onsite meeting w/ sub-consultants	8	4	300
5) Site visits during Subgrade construction	80	0	3,000
6) Contract Administration	24	24	
7) Subgrade Final Inspection/docs	8	0	300
8) Site visits during Rail construction	80	0	3,000
9) Contract Administration	16	16	
10) Final inspection w/ BNSF, EDA, & City	8	0	300
11) Final inspection w/ City	8	0	300
12) As-built inspection	8	40	
	260	92	7,500

- Construction-

Principal Engineer	260 hr * 65.43	\$ 17,011.80
Design Engineer	92hr * 61.26	\$ 5,635.92
	<i>SUBTOTAL</i>	\$ 22,647.72
Payroll Expenses	(33% of subtotal)	\$ 7,473.75
	<i>SUBTOTAL</i>	\$ 30,121.47
Overhead	(100% of subtotal)	\$ 30,121.47
	<i>TOTAL A</i>	\$ 60,242.94
Supplies		\$ 200.00
Printing		\$ 200.00
Mileage	7,500 * 0.58	\$ 4,350.00
Geotech Services		\$ 19,414.00
	<i>TOTAL B</i>	\$ 24,164.00
	<i>SUBTOTAL (A+B)</i>	\$ 84,406.94
Fixed Fee Profit	(12% of subtotal)	\$ 10,128.83
	<i>TOTAL</i>	\$ 94,535.77
	<i>NOT TO EXCEED</i>	\$ 100,000.00

APPENDIX B1

SUBCONSULTANT AGREEMENT

JOB NO. 2020:97

FEDERAL AID PROJECT ("FAP") NO. _____

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, AR** ("Owner") for Job No. _____, dated _____, _____, **W. WILLIAM GRAHAM JR., INC.** ("Consultant") and **ANDERSON ENGINEERING CONSULTANTS, 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

Geotechnical Engineering Services for the Project including soils investigation and report, quality control and testing of construction.

3. COSTS, FEES, PAYMENTS AND RATE SCHEDULES

See Exhibit "A" – Proposal for Geotechnical Services

- TITLE I \$ 2,500.00
- TITLE II \$ 19,414.00

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, EDA, ArDOT, 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 EDA, the ArDOT, 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. RECORDS & AUDITS

- 6.1. *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.
- 6.2. *Examination.* The Subconsultant shall maintain, and the Owner, the EDA, 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 Subconsultant's offices and facilities, or parts of them, engaged in performing the Agreement.
- 6.3. *Supporting Data.* If the Subconsultant 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, EDA, ArDOT, 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 Subconsultant'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.

- 6.4. *Audit.* The Owner, EDA, ArDOT, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Subconsultant's records involving transactions related to this Agreement or a subcontract hereunder.
- 6.5. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, EDA, ArDOT, 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.
- 6.6. *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—
- 6.6.1. 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,
- 6.6.2. 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.

7. SUBCONTRACTING

- 7.1. Unless expressly disclosed in Appendix B, the Subconsultant 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.
- 7.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Subconsultant'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 Subconsultant of any responsibility, obligation, or duty under this Agreement.
- 7.3. 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.
- 7.4. 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.
- 7.5. *Prompt Payment.* The Subconsultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Consultant to the Subconsultant. Any retainage payments held by the Subconsultant 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 Subconsultant. If the Subconsultant 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 Subconsultant;
- notify any sureties; and/or,
- withhold any or all reimbursements or payments otherwise due to the Subconsultant until the Subconsultant ensures that the subcontractors have been and will be promptly paid for work performed.

8. COVENANT AGAINST CONTINGENCY FEES

- 8.1. 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 ArDOT 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.
- 8.2. *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.
- 8.3. *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.
- 8.4. *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.
- 8.5. *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.

9. TITLE VI ASSURANCES (NONDISCRIMINATION)

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

- 9.1. *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.

- 9.2. *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 materials 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.
- 9.3. *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 or 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.
- 9.4. *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 as may be determined by the Owner, the EDA, the ArDOT, or the FHWA to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Subconsultant is in the exclusive possession of another who fails or refuses to furnish this information, the Subconsultant shall so certify to the Owner, the ArDOT or the FHWA, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.
- 9.5. *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 EDA, the ArDOT, or the FHWA 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/or cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.
- 9.6. *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 EDA, the ArDOT, 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 such direction, the Subconsultant may request the Owner, the EDA, the ArDOT, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

10. DBE CLAUSE

- 10.1. 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.

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

- 11.1. 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.
- 11.2. 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.
- 11.3. 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.

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

- 12.1. The Subconsultant (**Anderson Engineering Consultants, INC**) certifies, to the best of its knowledge and belief, that—
 - 12.1.1. The Subconsultant and any of its Principals (**Mr. Stuart Scheiderer**) —
 - 12.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;
 - 12.1.1.2. 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;
 - 12.1.1.3. 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 12.1.1.2; and,
 - 12.1.1.4. 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.
 - 12.2. *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.

12.3. The Subconsultant shall provide immediate written notice to the ArDOT 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.

12.4. The certification in subsection 12.1 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 ArDOT may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the ArDOT.

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:

**ANDERSON ENGINEERING CONSULTANTS, INC
Att: Mr. Stuart Scheiderer
10205 Rockwood Road
Little Rock, AR 72204
(501)455-4545**

13.1.2. To the Consultant:

**W. WILLIAM GRAHAM JR., INC.
100 N. Rodney Parham Rd (Suite 2B)
Little Rock, AR 72205
(501)227-0078**

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

(CONSULTANT NAME)

BY: _____
ROBERT B. GRAHAM
President

(SUBCONSULTANT NAME)

BY: _____
Stuart Scheiderer
Vice President

APPENDIX B2

SUBCONSULTANT AGREEMENT

JOB NO. 2020:97

FEDERAL AID PROJECT ("FAP") NO. _____

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, AR ("Owner") for Job No. _____, dated _____, _____, W. WILLIAM GRAHAM JR., INC. ("Consultant") and ASSOCIATED ENGINEERING, LLC ("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

Land Surveying Services for the Project including boundary surveying and topographic surveying of the Project areas as required.

3. COSTS, FEES, PAYMENTS AND RATE SCHEDULES

See Exhibit "A" – Proposal for Land Surveying Services

- TITLE I \$ 9,500.00

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 EDA, the ArDOT, 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. RECORDS & AUDITS

- 6.7. *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.
- 6.8. *Examination.* The Subconsultant shall maintain, and the Owner, EDA, ArDOT, 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 Subconsultant's offices and facilities, or parts of them, engaged in performing the Agreement.
- 6.9. *Supporting Data.* If the Subconsultant 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, the EDA, ArDOT, 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 Subconsultant'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.
- 6.10. *Audit.* The Owner, EDA, ArDOT, FHWA, or their authorized representatives, shall have access to and the right to examine any of the Subconsultant's records involving transactions related to this Agreement or a subcontract hereunder.

- 6.11. *Reports.* If the Consultant is required to furnish cost, funding, or performance reports, the Owner, EDA, ArDOT, 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.
- 6.12. *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—
- 6.12.1. 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,
- 6.12.2. 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.

7. SUBCONTRACTING

- 7.1. Unless expressly disclosed in Appendix B, the Subconsultant 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.
- 7.2. Unless the consent or approval specifically provides otherwise, neither consent by the Owner to any subcontract nor approval of the Subconsultant'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 Subconsultant of any responsibility, obligation, or duty under this Agreement.
- 7.3. 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.
- 7.4. 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.
- 7.5. *Prompt Payment.* The Subconsultant shall pay subcontractors for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the Consultant to the Subconsultant. Any retainage payments held by the Subconsultant 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 Subconsultant. If the Subconsultant 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 Subconsultant;
- notify any sureties; and/or,
- withhold any or all reimbursements or payments otherwise due to the Subconsultant until the Subconsultant ensures that the subcontractors have been and will be promptly paid for work performed.

8. COVENANT AGAINST CONTINGENCY FEES

- 8.1. 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 ArDOT 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.
- 8.2. *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.
- 8.3. *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.
- 8.4. *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.
- 8.5. *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.

9. TITLE VI ASSURANCES (NONDISCRIMINATION)

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

- 9.1. *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.

- 9.2. *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 materials 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.
- 9.3. *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 or 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.
- 9.4. *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 as may be determined by the Owner, the EDA, the ArDOT, or the FHWA to be pertinent to ascertain compliance with such regulations and directives. Where any information required of the Subconsultant is in the exclusive possession of another who fails or refuses to furnish this information, the Subconsultant shall so certify to the Owner, the EDA, the ArDOT or the FHWA, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.
- 9.5. *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 EDA, the ArDOT, or the FHWA 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/or cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.
- 9.6. *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 EDA, the ArDOT, 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 such direction, the Subconsultant may request the Owner, the EDA, the ArDOT, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

10. DBE CLAUSE

- 10.1. 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 ArDOT may determine appropriate.

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

- 11.1. 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.
- 11.2. 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.
- 11.3. 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.

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

- 12.1. The Subconsultant (**Associated Engineering, LLC**) certifies, to the best of its knowledge and belief, that—
 - 12.1.1. The Subconsultant and any of its Principals (**Mr. John Easley**) —
 - 12.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;
 - 12.1.1.2. 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;
 - 12.1.1.3. 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 12.1.1.2; and,
 - 12.1.1.4. 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.
 - 12.2. *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.

12.3. The Subconsultant shall provide immediate written notice to the ArDOT 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.

12.4. The certification in subsection 12.1 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 ArDOT may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the ArDOT.

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:

**ASSOCIATED ENGINEERING, LLC
Att: Mr. John Easley
103 South Church Street
Jonesboro, AR 72403
(870)932-3594**

13.1.2. To the Consultant:

**W. WILLIAM GRAHAM JR., INC.
100 N. Rodney Parham Rd (Suite 2B)
Little Rock, AR 72205
(501)227-0078**

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

(CONSULTANT NAME)

(SUBCONSULTANT NAME)

BY: _____
ROBERT B. GRAHAM
President

BY: _____
John Easley
Managing Member

APPENDIX C (C-1)

JOB NO. 2020:97
FEDERAL AID PROJECT ("FAP") NO. _____

CERTIFICATION OF CONSULTANT

I hereby certify that I, **ROBERT B. GRAHAM**, am the **PRESIDENT** and duly authorized representative of the firm of **W. WILLIAM GRAHAM JR., INC.** whose headquarters address is **100 N. Rodney Parham Rd (Ste 2B), Little Rock, AR 72205**, 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

W. WILLIAM GRAHAM JR., 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 **Dewayne Douglas** (ADA/504/Title VI Coordinator), **City of Jonesboro, AR ph.(870)933-4640** (Voice/TTY 711), or, the following email address: DDouglas@Jonesboro.org

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

Authorized Firm Representative

Date

APPENDIX C (C-2)

JOB NO. 2020:97
FEDERAL AID PROJECT ("FAP") NO. _____

CERTIFICATION OF SUBCONSULTANT

I hereby certify that I, _____, am the _____ and duly authorized representative of the firm of _____ whose headquarters address is _____, 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 Economic Development Administration, the Arkansas Department of Transportation 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 9 of this Subconsultant 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

The _____ ("Subconsultant"), 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 Subconsultant does not discriminate on the basis of race, sex, color, age, national origin, or disability, in the admission, access to and treatment in Subconsultant's programs and activities, as well as the Subconsultant's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Subconsultant's nondiscrimination policies may be directed **Dewayne Douglas** (ADA/504/Title VI Coordinator), **City of Jonesboro, AR ph.(870)933-4640** (Voice/TTY 711), or, the following email address: DDouglas@Jonesboro.org

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

Authorized Firm Representative

Date

APPENDIX C (C-3)

JOB NO. 2020:97
FEDERAL AID PROJECT ("FAP") NO. _____

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 Economic Development Administration, the Arkansas Department of Transportation, 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

HAROLD COPENHAVEN
Mayor – City of Jonesboro, AR



Legislation Details (With Text)

File #:	ORD-20:030	Version:	1	Name:	AMENDING THE JONESBORO CODE OF ORDINANCES, SECTION 117.330(c), KNOWN AS THE SIDEWALK ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS, PROVIDING FOR AN EXEMPTION FOR PROPERTY IN PLANNED INDUSTRIAL PARKS
Type:	Ordinance	Status:			Held in Council
File created:	7/29/2020	In control:			Public Works Council Committee
On agenda:	2/2/2021	Final action:			
Title:	AN ORDINANCE AMENDING THE JONESBORO CODE OF ORDINANCES, SECTION 117.330(c), KNOWN AS THE SIDEWALK ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS, PROVIDING FOR AN EXEMPTION FOR PROPERTY IN PLANNED INDUSTRIAL PARKS				
Sponsors:	Mayor's Office				
Indexes:	Code of Ordinances amendment				
Code sections:	Chapter 117 - Zoning				
Attachments:	Letter to Council 9.8.20 Casteel email 09142020 Carlson email 11132020 Allen email 11142020 Vellozo email 11142020 McAvoy email 11152020 RWilliams email 11162020 Vellozo email 11162020 Only email 11162020 JWilliams email 11162020 Vance email 11172020 Nadzam email 11172020 Joshi email 11172020 Hardy email 11172020 Cormier email 11172020 Burns email 11172020				

Date	Ver.	Action By	Action	Result
11/17/2020	1	City Council	Postponed Temporarily	Pass
9/15/2020	1	City Council	Postponed Temporarily	Pass
9/1/2020	1	City Council	Held at second reading	
8/18/2020	1	City Council	Held at one reading	
8/4/2020	1	Public Works Council Committee	Recommended to Council	Pass

AN ORDINANCE AMENDING THE JONESBORO CODE OF ORDINANCES, SECTION 117.330(c), KNOWN AS THE SIDEWALK ORDINANCE OF THE CITY OF JONESBORO, ARKANSAS, PROVIDING FOR AN EXEMPTION FOR PROPERTY IN PLANNED INDUSTRIAL PARKS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JONESBORO, ARKANSAS THAT:

SECTION 1: Section 117.330, known as the sidewalk ordinance of the City of Jonesboro, Arkansas shall add the following as an exemption under subsection (c):

5. Sidewalks or a contribution in lieu of construction fee shall not be required within a planned industrial park. A “planned industrial park” for this purpose is property zoned I-2; a minimum of fifty contiguous acres; and has undeveloped property that is owned either by a public entity, a not for profit organization, or an improvement district that is being promoted for industrial development.

Dear Jonesboro City Council Members:

I am writing to ask your support for Jonesboro's sidewalk ordinance as it stands and to deny the request of the chamber of commerce to allow businesses in the industrial park to be exempt from building sidewalks. Here are my thoughts on that proposal:

- 1) The previous statement claiming sidewalks would create a liability and would pose a danger if built are specious at best. Sidewalks remove pedestrians from the road, the shoulders of the road, the ditches along the road, and the mowed and unmowed grassy areas along those roads. Forcing people to walk in those places is what creates liability issues by endangering pedestrians, trucks, and other vehicles. Furthermore, I can think of no safer way to navigate the two-lane roads, their intersections, and the railroad crossings than to have appropriate infrastructure that makes it safe for both vehicles (those "10,000 trucks", for example) and pedestrians to navigate the industrial park in a safe manner.
- 2) Consideration for connectivity for JETS riders between home and work should not end on the shoulder of the road with nowhere to walk. Employees of those businesses should not have to grapple with whether they can safely navigate their last few yards to work. Our JETS system is intended to transport people safely, but we discount its value as a community asset when we do not support the other features necessary to make public transportation safe. Not providing for a safe passage from bus stop to factory door is about as short sighted and ignorant as laying fiber optic but stopping short of the school that needs it.
- 3) It was also stated that there are residential areas in or adjacent to the industrial park. When it comes time for other areas of the industrial park to be developed or undergo redevelopment, wouldn't we want those residents who work in nearby industries to have safe options for commuting to work as well? (And by safe options, I include: walking to work, if they so choose; taking public transit to work – with safe access to the entrance to their place of work; or driving to work – without the liability of running over some one walking in the road because there are no sidewalks.) Why would we not want to plan for the future?
- 4) I would encourage everyone not to confine ourselves to comparisons with other Arkansas cities if our goal is to compete with the best.
- 5) Businesses who choose not to come here will not come for other reasons. It will not be because we made them build a sidewalk. Let's not kid ourselves. Their not coming here is because we DON'T have sidewalks or any number of other features that are fundamental to communities with a rich and vibrant quality of life.

The mayor appointed a citizens committee to review the original ordinance and make recommendations. That is what it did, with the industrial park included. The City Council voted to approve it. It is not a perfect ordinance, by any means, but it is helping us move the needle on getting sidewalks built. Let us not regress and cave to business interests. These businesses accepted the terms of the ordinance when they chose to build in our industrial park. It will be a sad and slippery slope if the Council votes to exclude industrial areas. Now THAT'S a liability for a lot of reasons.

Thank you for listening and for your service to our city.

Regards,

Pam Alexander

-----Original Message-----

From: Judy Casteel <fairydogmom12@gmail.com>

Sent: Monday, September 14, 2020 3:57 PM

To: Aldermen <Aldermen@jonesboro.org>

Cc: Donna Jackson <DJackson@jonesboro.org>; April Leggett <ALeggett@jonesboro.org>

Subject: Sidewalks in Industrial Park

Dear Council Members,

I write to ask you to vote not to change the current sidewalk ordinance but to keep it as currently written. Imperfect as it may be, it is at least a step in the right direction. Once again, it's about people, pride & progress.

The sidewalk committee, of which I was part, was formed because MAPC was being criticized by some citizens & council members for granting too many waivers as far back as 2015—yet here we are again, same premise, different folks. Please understand, I respect Mark Young & his work with the Chamber as well as understand the importance of industry, but I can't help but feel this is an attempted end run around what the sidewalk committee thoroughly discussed & approved by a majority vote in the spring of 2017.

The American Association of State Highway & Transportation Officials states: "Providing safe places for people to walk is an essential responsibility of all government entities involved in constructing or regulating the construction of public right-of-way." We have that responsibility & need to take it seriously.

Sidewalks in the industrial park are very necessary. Not everyone chooses to use or has access to a vehicle. Many are increasingly bicycle riders as well as JETs riders who will be let out on the side of a busy highway with high rates of speed & already known for several bad accidents. Then they're expected to traverse ditches, marshy ground, railroad tracks, etc. to get to their jobs. That's just wrong & not a face I'd want to present to potential newcomers, industry or families.

We have a responsibility not only to think of the present but the future, laying plans for an ever increasing population & development. We are no longer a small community but a thriving city with huge growth potential.

We are aware we are already woefully behind in the sidewalk department as in several other quality of life areas. We must continue to move relentlessly forward on these matters or that, in fact, is what will make people as well as industry look elsewhere. Not the fact that we care for our populace enough to insist on their safety.

Once again, I see this as a common sense issue. Common sense would indicate there should be mutual respect between government & it's citizens, working together on issues & acting in their best interests of both, in order to not only survive but thrive. Please do not exempt industry from this important responsibility. In my humble opinion, it is not in the best interest of our city or our citizens.

Thank you all, not only for your time on this matter but always for your service to our city.

Warmly,
Judy Casteel

PS. As a side note: Every time something like this comes up & an attempt is made to circumvent a committee's work, people notice, I hear it often. This is the sort of thing that makes citizens hesitate to give of their time & effort to serve on a committee. Please just always keep that in the back of your minds.

From: Zachariah Carlson <zachariah.carlson@gmail.com>
Sent: Friday, November 13, 2020 9:15 PM
To: Council Coments <CouncilComments@jonesboro.org>
Cc: City Clerk <CityClerk@jonesboro.org>
Subject: Reject ORD-20:030

Hello,

I'm writing in regards to Ordinance 20:030, which amends the "sidewalk ordinance" of Jonesboro and is on the agenda for the upcoming City Council regular meeting.

I read the action details for the first and second readings of this ordinance, and I appreciate the thoughtful discussion that has gone into it so far. Ultimately I'm not in favor of this amendment being made for several of the same reasons that were raised by Councilman McClain, Beverly Parker, and others in the previous readings.

1. The pedestrian safety objections made by the businesses in planned industrial parks, with relation to how trafficked the area is by large vehicles, have to be considered against whether pedestrians in the area will be safer (should they need to move to protect themselves) on a sidewalk, or on a rough/uneven patch of gravel or grass.
2. Of course you already know exemptions are like candy for kids - once you hand some out to a few, everybody else wants some too.
3. Cities grow, even here in the quasi-rural NEA. Industrial parks won't be 3 miles away from residential neighborhoods forever, and empty adjacent properties will not stay empty. Consistent accessible sidewalks are an investment and should frankly never be waived.

Thanks for taking the time to listen!

Zachariah Carlson

-----Original Message-----

From: Emily Allen <emilyeallen@gmail.com>

Sent: Saturday, November 14, 2020 6:18 PM

To: Aldermen <Aldermen@jonesboro.org>

Subject: I support Sidewalks

Please keep sidewalks included in new developments. Sidewalks make us a better community, encouraging walking and togetherness. Developers should include sidewalks in their new constructions.

Thank you,

Emily Allen

From: paul vellozo

Sent: Saturday, November 14, 2020 6:34 PM

To: Aldermen

Subject: Sidewalks

Dear Mayor Perrin and members of the city council.

I oppose any ordinance to exempt developers (or anyone for that matter) from building or paying for sidewalks.

Jonesboro is woefully under supplied with sidewalks as you know. Please do everything to encourage building of sidewalks and nothing to exempt people from building sidewalks.

I hope you will vote against the proposed ordinance.

Thanks

Sincerely,
Paul Vellozo
Jonesboro

From: David McAvoy <david.mcavoy2@gmail.com>

Sent: Sunday, November 15, 2020 8:56 PM

To: Aldermen <Aldermen@jonesboro.org>; City Clerk <CityClerk@jonesboro.org>

Subject: Proposed Amendment to Sidewalk Ordinance

Please vote no on the proposed ordinance that would give industrial developers an exemption from having to either construct sidewalks or pay a fee. There are people that walk to work in those areas and need a safe place to do so and Jonesboro needs more connectivity.

Thank you

-David McAvoy

1524 Charles Drive in Jonesboro

From: Renay! <bottle.of.shine@gmail.com>
Sent: Monday, November 16, 2020 2:42 PM
To: Aldermen <Aldermen@jonesboro.org>
Cc: City Clerk <CityClerk@jonesboro.org>
Subject: Vote No on ORD-20:030

Jonesboro City Council,

Please vote no on the proposed ordinance that would give industrial developers an exemption to our sidewalk requirements.

Accessibility issues are often the first thing to be disregarded and that's why accessibility should be front loaded as a requirement for any development. I have read everything on the legislative record for this item and I'm unconvinced by any of the arguments that this area deserves an exemption from having to build one of the most basic public accessibility tools we have.

- It should not matter how "close" neighborhoods are to this area. If there is a place people will travel to and from, there needs to be accessibility to and from those locations: for people who walk to and from them, for people who get dropped off/picked up at them (such as families who share a car) or from an area close by, and for people who are disabled. Generic public transport options also open up when there's more accessibility, removing the need for the companies to ferry workers just because they don't want to build some sidewalks. Jonesboro already fails at having sidewalks in so many places where they are desperately needed; let's not compound the issue in a new area.
- One cited reason for an exemption is having to build across driveways and how that could impact safety. How is having sidewalks, with clearly marked driveways (as I assume there might be curb cuts or a lowered profile for the sidewalk on each driveway) less safe than no sidewalks? The issue of business entrances and exits remain the same with or without—there's always going to be a risk of hitting a pedestrian, but it doesn't become *more* likely when there are sidewalks—the data on sidewalks and paved shoulders bears that out. The presence of sidewalks should alert drivers to the potential that pedestrians may be near and they should pay attention to their surroundings.

Because accessibility is often the first thing to go when considering new projects—from huge industrial development projects to simple office projects—due to ease of completion or for "cost saving", we **MUST** be vigilant and not let ourselves be convinced that exemptions serve anyone but the people requesting the exemption. Any time accessibility issues are sidelined due to industry pressure, that's a loss for the people in a community.

Please prioritize and advocate for the *people* who will work in this area and may need accessibility options by voting no on this proposed ordinance.

Best,
Renay Williams
Bunker Hill

From: paul vellozo <vellozo.p@gmail.com>
Sent: Monday, November 16, 2020 4:06 PM
To: City Clerk <CityClerk@jonesboro.org>
Subject:

Dear Mayor Perrin and members of the city council.

I oppose any ordinance to exempt developers (or anyone for that matter) from building or paying for sidewalks.

Jonesboro is woefully under supplied with sidewalks as you know. Please do everything to encourage building of sidewalks and nothing to exempt people from building sidewalks.

I hope you will vote against the proposed ordinance.

Thanks

Sincerely,
Pail Vellozo
Jonesboro

From: SHAWN ONLY <shawnonlyforstatehouse@gmail.com>
Sent: Monday, November 16, 2020 6:02 PM
To: Aldermen <Aldermen@jonesboro.org>
Cc: City Clerk <CityClerk@jonesboro.org>
Subject: Sidewalks - Sec. 117-330 - AGAINST EXEMPTION

Council,

Not sure if part of council business tomorrow includes the sidewalk issue but I'd like to add my 2 cents worth when sidewalks are discussed. I am absolutely against the exemption (luxury) of any business (i.e. builder, developer, etc.) manipulating approval of construction that initially includes sidewalks and then opts out (when no one is paying attention) by paying a bogus and nominal fee. This is unacceptable and should not be tolerated! They should NEVER receive final plat approval for residential subdivisions or the issuance of the building permit for industrial or commercial projects unless and until. Moreover, builders that are in the business of cutting corners should have their license/permit revoked.

A city cannot compete with other cities nor protect its citizens when it lacks sidewalks AND, that only follows the minimum building standards necessary. There should be a hefty fine for this that discourages builders from pulling a bait and switch AND more notice should be provided to all citizens.

This is probably why our infrastructure is crumbling and our city is in shambles in our main thoroughfare (i.e. Red Wolfe) esp. Do better on behalf of your citizens and families. Thank you for your consideration.

AGAINST EXEMPTION!

--

Shawn Only, Citizen
P.O. Box 805
State University, Ar 72467
870-397-8300

-----Original Message-----

From: Julia Williams <japghw@yahoo.com>

Sent: Monday, November 16, 2020 8:18 PM

To: alderman@jonesboro.org; City Clerk <CityClerk@jonesboro.org>

Subject: ordinance on sidewalks

To whom it may concern,

Making exceptions for certain businesses on building sidewalks due to their location is not good planning for the future. Communities and neighborhoods change. Making sure that all our neighborhoods with business and industry where people walk, bike, or drive are accessible is very important. Please vote NO on this proposal.

Julia Williams

Bunker Hill

Sent from my iPad

-----Original Message-----

From: Omar Vance <sovance@suddenlink.net>

Sent: Tuesday, November 17, 2020 9:44 AM

To: Aldermen <Aldermen@jonesboro.org>

Subject: Sidewalks

Hello, I understand you are hearing a resolution to except businesses from having sidewalks. I would have to say I am against this. We actually need more sidewalks. Many people walk or bicycle and sidewalks would have it safer. For a road like Airport or Aggie where they do not even have shoulders it would be a huge improvement to have a sidewalk. They should be required with all new constructions or remodels and backtrack to existing properties as money allows. Thank you for your time.

Sent from my iPhone

From: Jessica Nadzam <jessenderlin@gmail.com>

Sent: Tuesday, November 17, 2020 9:43 AM

To: Aldermen <Aldermen@jonesboro.org>

Subject: Sidewalks

Hello,

I am writing today as a citizen of Jonesboro to state that I object to businesses being exempted from providing sidewalks on their property. Please oppose the resolution which allows businesses to be exempt from building sidewalks. They are necessary for pedestrian traffic, and should be installed whenever possible.

--

Jessica Enderlin Nadzam, Ed. S.

Teacher at Jonesboro High School

Teach for America, AR '15

Cell: (501)519-7006

From: Raman Joshi <joshir2@gmail.com>
Sent: Tuesday, November 17, 2020 7:59 AM
To: Aldermen <Aldermen@jonesboro.org>
Subject: I Support Sidewalks

I support constructing sidewalks and **oppose any ordinance to exempt** developers for constructing or financially contributing for the construction of sidewalks.

Sidewalks are safe and essential for the residents of Jonesboro to be able to walk safely in and around the community.

Thank You,

Raman Joshi

From: Dylan Hardy <dylank.hardy@gmail.com>
Sent: Tuesday, November 17, 2020 10:46 AM
To: Aldermen <Aldermen@jonesboro.org>
Subject: Jonesboro Sidewalk Ordinance - Please Read

Dear Mayor Perrin and City Council,

I oppose any ordinance to exempt developers from building or paying for sidewalks. As a practicing Civil Engineer in the commercial and residential sector, municipalities across the country require this as part of their own code, but also as standard practice.

The City of Jonesboro must move forward with its Master Plan towards developing functional, accessible, and attractive infrastructure and this is an area where the private sector must do its part. The “old ways” of doing things is not acceptable and will only hurt the residents of Jonesboro in the long term.

I hope you will vote against the proposed ordinance and require that developers are required to either construct or pay for sidewalks within and adjacent to public right-of-way.

Thanks,

Dylan Hardy
337-344-5159

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Dylan Hardy
337-344-5159

-----Original Message-----

From: Savannah Cormier <scormier@astate.edu>

Sent: Tuesday, November 17, 2020 10:20 AM

To: Aldermen <Aldermen@jonesboro.org>

Subject: Sidewalk ordinance

Dear Mayor Perrin and members of the city council.

I oppose any ordinance to exempt developers (or anyone for that matter) from building or paying for sidewalks.

Jonesboro is woefully under supplied with sidewalks as you know. Please do everything to encourage building of sidewalks and nothing to exempt people from building sidewalks.

I hope you will vote against the proposed ordinance.

Take care and be well,

Dr. Cormier

(Sent with iPhone- Please excuse brevity and typos.)

-----Original Message-----

From: Kathryn Burns <kburns@astate.edu>

Sent: Tuesday, November 17, 2020 4:20 PM

To: Aldermen <Aldermen@jonesboro.org>

Cc: City Clerk <CityClerk@jonesboro.org>

Subject: Sidewalk ordinance

Dear City Council Members,

I am writing to respectfully ask that you don't allow industrial developers to be exempt from putting in sidewalks. They should be required to do that and not put that on the shoulders of taxpayers.

Thank you for your consideration.

Best,

Kathryn Burns

Department of Chemistry and Physics

kburns@astate.edu

(870) 972-3061