

**AGREEMENT OF UNDERSTANDING
FOR AN INFRASTRUCTURE PROJECT
BETWEEN**

CITY OF JONESBORO

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

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

RELATIVE TO

Implementation of Job 100772, Jonesboro SRTS I (2011) (hereinafter called the "Project") as an Arkansas Safe Routes To School (SRTS) Program project.

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users provides 100% Federal-aid funds for certain approved Arkansas SRTS Program projects; and

WHEREAS, the City of Jonesboro (hereinafter called "Sponsor") has expressed its desire to use Federal-aid funds for an eligible project; and

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

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement; and

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

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

THE SPONSOR WILL:

1. Before acquiring additional property for this project, submit a letter to the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the Sponsor will assume or (2) requests that the Department handle some or all of these services. Acquisition of property must be accomplished in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act"). **NOTE: Failure to notify the Department prior to initiating this phase of work may result in all project expenditures being declared non-participating in federal funds.**
2. If no acquisition is required, provide a copy of the registered deed or an appropriate certification stating the Sponsor's clear and unencumbered title to any right-of-way to be used for the project as shown in Attachment B¹. If property has been acquired see Attachment B².
3. Be responsible for all engineering costs associated with any changes to the project if the Sponsor fails to acquire the right-of-way or secure easements required for the project under the original scope.
4. After the Department authorizes the Sponsor to advertise the project, advertise for bids in accordance with Federal procedures as shown in Attachment C.
5. After bids are opened and reviewed, submit a certification letter (Attachment D), including all items noted, to the Department and request concurrence in award of the contract. **Any costs incurred by the Sponsor prior to receiving the Department's concurrence in award are not eligible for reimbursement.**
6. Submit change orders to the contract to the Department for review and approval prior to execution.
7. The purchase of essential replacement parts during construction is bound by the following conditions;
 - 1) The extra parts shall only be used in the locations approved under the original SRTS project.
 - 2) The cost of the extra parts should be kept to a minimum.
8. Make payments to the contractor for work accomplished in accordance with the plans and specifications and then request reimbursement from the Department.
9. Upon completion of the project, provide proof of expenditures to the Department for reimbursement.

10. Be responsible for the inspection, measurement, documentation, certification of all work in accordance with the plans and specifications for the Project and to retain and maintain for three years after completion all records relating to such inspections, certifications, any billing statements, and any other files necessary to document the performance and completion of the work. Such records shall be retained in accordance with the requirements of 49 CFR, Subtitle A, Part 18, Subpart C, Section 18.42 - Retention and access requirements for records. (See Attachment E). The Contractor and subcontractor(s) shall be monitored for compliance with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements.
11. Be responsible for satisfactory maintenance (including reasonable snow removal efforts from sidewalks and other pedestrian facilities) and for the repair or replacement of any damaged infrastructure. Also be responsible for the proper operation of all improvements and for adopting regulations, ordinances and procedures as necessary to ensure this. Failure to adequately maintain, replace and operate the project in accordance with Federal-aid requirements may result in the Sponsor's repayment of Federal funds and may result in withholding future Federal-aid.
12. Grant the right of access to Sponsor's records pertinent to this project and the right to audit by the Department and Federal Highway Administration officials.
13. Retain total, direct control over the project throughout the life of the improvements and not, without prior approval from the Department:
 - sell, transfer, or otherwise abandon any portion of the project;
 - change the intended use of the project as stated in the approved project application;
 - make significant alterations to any improvements constructed with Federal-aid funds;
 - or
 - cease maintenance or operation of the project due to the project's obsolescence.
14. Promptly notify the Department if the project is rendered unfit for continued use by natural disaster or other cause.
15. Be responsible for 100% of all project costs incurred, including but not limited to design costs, should the project not be completed as specified.
16. Be responsible for 100% of any and all expenditures which are declared non-participating in federal funds, including awards by the State Claims Commission.

17. Repay to the Department all Federal funds if the Federal Highway Administration removes Federal participation due to actions of the Sponsor, its agents, its employees, or its assigns, or the Sponsor's consultants or their agents. Such actions shall include, but are not limited to, Federal non-participation arising from problems with design plans, construction, change orders, construction inspection, or contractor payment procedures. The Sponsor understands and agrees that the Department may cause necessary funds to be transferred by the Director of the Department of Finance and Administration from any of the Sponsor's funds should the Sponsor fail to pay the Department any required funds, fail to complete the project as specified, or fail to adequately maintain or operate the project.
18. Conduct surveys of affected students to determine modes of school transportation and potential barriers to walking and bicycling. The survey devices will include a one-week classroom oriented session run by school faculty and a take-home survey to be completed with a child's parent. Completed surveys will be turned in to the Department for tabulation. Both surveys will be provided by the Department. **Final project reimbursement could be withheld if surveys are not completed.**
19. Indemnify and hold harmless the Arkansas State Highway Commission, the Department, its officers and employees from any and all claims, lawsuits, judgments, damages, costs, expenses and losses, including those arising from claims before the Arkansas Claims Commission or lawsuits brought in any other legal forum, sustained on account of the operations or actions for the Sponsor, including any act of omission, neglect or misconduct of said Sponsor. Further, the Sponsor, shall take no action to compromise the immunity from civil suits afforded the State for Arkansas, the State Highway Commission, Arkansas Code §19-10-305, and the 11th Amendment of the Constitution of the United States. This obligation of indemnification shall survive the termination or expiration of this Agreement.
20. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.
21. Comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Sponsor is appropriate, the Sponsor agrees to comply with any additional instructions provided by the Department to the Sponsor regarding such audit.

THE DEPARTMENT WILL:

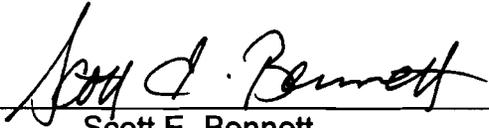
1. Be responsible for administering Federal-aid funds.
2. Provide environmental documentation for the project.
3. Provide plans and specifications and bidding documentation for the project.
4. Upon receipt of the Sponsor's certification of right-of-way (property) ownership, provide the appropriate documentation to the file.
5. Authorize the Sponsor to proceed with advertisement of the project for construction bids.
6. Review bid tabulations and concur in award of the construction contract for the project.
7. Review and approve any necessary change orders for project/program eligibility.
8. Visually verify (insofar as is reasonably possible) that the work meets contract requirements before reimbursement is made to the Sponsor.
9. Reimburse the Sponsor for all eligible construction costs.
10. Provide Sponsors with school transportation surveys to be conducted by the Sponsor and tabulate results of the surveys.

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

IT IS FURTHER AGREED that should the Sponsor fail to pay to the Department any required funds due for implementation of the project or fail to complete the project as specified in this Agreement or fail to adequately maintain or operate the project, the Sponsor hereby authorizes the Director of the Department of Finance and Administration to transfer from any of the Sponsor's State funds to the Department's RRA account such sums as the Director of Highways and Transportation shall certify as due the Department under terms of this Agreement.

ARKANSAS STATE HIGHWAY
AND TRANSPORTATION
DEPARTMENT

City of Jonesboro



Scott E. Bennett

Director of Highways and Transportation



NOTICE OF NONDISCRIMINATION

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

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