

AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF JONESBORO

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

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

RELATIVE TO

Implementation of the **West College Avenue Bridge Replacement** (hereinafter called the "Project") as a Federal-aid project.

WHEREAS, the **City of Jonesboro** (hereinafter called the "Sponsor") and with the Arkansas State Highway and Transportation Department (hereinafter called the "Department") have been selected by the U.S. Department of Transportation to receive Accelerated Innovation Deployment (AID) Demonstration Grant Program funding for the Project; and

WHEREAS, the Sponsor has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching for such funds; and

WHEREAS, the new bridge will be designed utilizing the innovative practice of Geosynthetic Reinforced Soil-Integrated Bridge System (GRS-IBS); and

WHEREAS, the Sponsor will transmit to the Department a signed and sealed Resolution from the City Council authorizing the Mayor to execute agreements and contracts with the Department for the Project; and

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

	<u>Maximum Federal %</u>	<u>Minimum Sponsor %</u>	
Preliminary Engineering	80	20	
Right-of-Way/Utilities	80	20	
Construction by Sponsor	80	20	
Construction Engineering	80	20	
Department Administrative Costs	80	20	; and

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

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

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions or any part of the agreement to make 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

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

THE SPONSOR WILL:

1. Initially submit to the Department \$1,000 (20%) to be matched by \$4,000 (80%) Federal-aid funds for Department administrative costs associated with state preliminary engineering, which includes but is not limited to, on site meetings, environmental review, and plan and specification review. The Sponsor's final share of cost for this phase will be determined by actual Department charges to preliminary engineering.
2. If the services of a consultant engineering firm are required to provide preliminary engineering and construction engineering for the Project, and reimbursement with federal funds will be requested for these services, be responsible for hiring a consultant engineering firm(s) in accordance with the Local Agency Consultant Selection Procedures (Attachment B). **NOTE: FHWA authorization and Department approval must be given prior to issuing a work order to the consultant for federal funds to be allowed in this phase.**
3. Prepare plans, specifications, and a cost estimate for construction. A registered professional engineer must sign the plans and specifications for the Project. FHWA can provide technical assistance during design of the GRS-IBS for the Project.
4. As preliminary engineering for the Project is completed by Sponsor staff, request reimbursement from the Department. Reimbursement requests should be submitted, at a minimum, every six (6) months and not more than once per month.
5. Make periodic payments to the consultant for preliminary engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every six (6) months and not more than once per month.
6. Prepare the necessary environmental documentation as required by FHWA and conduct any required public involvement meetings and public hearings.
7. Ensure that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.
8. Submit to the Department a Cost Effectiveness Determination to utilize Sponsor forces for construction (force account).
9. Conduct a customer satisfaction determination before and after construction of the Project.

10. Before acquiring property or relocating utilities, contact the Department's Right of Way Division to obtain the procedures for acquiring right-of-way and adjusting utilities in compliance with federal regulations. **NOTE: Failure to notify the Department prior to initiating these phases of work may result in all project expenditures being declared non-participating in federal funds.**
11. Acquire property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act").
12. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.
13. Provide a copy of the registered deed or other approved documentation and an appropriate certification stating the Sponsor's clear and unencumbered title to any right-of-way to be used for the Project (Attachment C).
14. Submit plans at 50% and 90% completion stages for Department review.
15. Submit a certification letter (Attachment D), including all items noted, to the Department when requesting approval to begin construction.
16. Prior to construction, submit a check for \$1,000 to be matched by \$4,000 (80%) Federal-aid funds for Department administrative costs on the Project during construction. The Sponsor's final share of cost for this phase will be determined by actual Department charges to construction engineering.
17. Have a full-time employee of the Sponsor in responsible charge during construction of the Project.
18. Prior to beginning construction, hold a pre-construction meeting with all parties involved and invite the Department's Resident Engineer assigned to the Project.
19. Track the Project per the Data Collection and Implementation (DC&I) Plan.
20. Ensure that all work, material testing and acceptance, and inspection is conducted in accordance with the Department's Standard Specifications for Highway Construction (latest edition), Manual of Field Sampling and Testing Procedures, and Resident Engineer's Manual and with the plans, specifications, and all other applicable FHWA and Department procedures for the Project.
21. Make periodic requests for reimbursement from the Department for construction engineering for the Project performed by Sponsor personnel. Reimbursement requests should be submitted, at minimum, every six (6) months and not more than once per month.
22. Make periodic payments to the consultant for construction engineering for the Project and request reimbursement from the Department. Reimbursement requests should be submitted, at minimum, every six (6) months and not more than once per month.
23. After work is accomplished in accordance with the plans and specifications, request reimbursement from the Department on the Construction Certification and Reimbursement

Request (CCRR) form (Attachment E). Reimbursement requests should be submitted, at a minimum, every six (6) months and not more than once per month.

24. Attach Report of Daily Worked Performed (Attachment F) for all days that correspond with each CCRR submittal.
25. Prior to executing the work, submit construction change orders to the Department's Resident Engineer in charge of reimbursements for review and approval.
26. Upon completion of the Project, hold a final acceptance meeting for the Project and submit the Final Acceptance Report form certifying that the Project was accomplished in accordance with the plans and specifications (Attachment G). This form must be signed by the engineer/architect performing construction inspection on the Project, the Department's Resident Engineer assigned to the project, the Sponsor's full-time employee in responsible charge, and the Sponsor's Mayor.
27. Maintain accounting records to adequately support reimbursement with Federal-aid funds and be responsible for the inspection, measurement and documentation of pay items, and certification of all work in accordance with the plans and specifications for the Project.
28. Pay all unpaid claims for all materials, labor, and supplies entered into contingent or incidental to the construction of said work or used in the course of said work including but not limited to materials, labor, and supplies described in and provided for in Act Nos. 65 and 368 of 1929, Act No. 82 of 1935, and Acts amendatory thereof.
29. Submit a final report documenting the process, benefits and lessons learned to FHWA within six months of the Project being completed, as per the DC&I Plan.
30. Indemnify and hold harmless the Arkansas State Highway Commission, the Department, its officers and employees from any and all claims, lawsuits, judgments, damages, costs, expenses, and losses, including those arising from claims before the Arkansas Claims Commission or lawsuits brought in any other legal forum, sustained on account of the operations or actions of the Sponsor, including any act of omission, neglect or misconduct of said Sponsor. Further, the Sponsor shall take no action to compromise the immunity from civil suits afforded the State of Arkansas, the State Highway Commission, Arkansas Code 19-10-305, or the 11th Amendment of the United States Constitution. This obligation of indemnification shall survive the termination or expiration of this Agreement.
31. 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.
32. Retain all records relating to inspection and certification, billing statements, and any other files necessary to document the performance and completion of the work in accordance with requirements of 49 CFR 18.42 - Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Attachment H).

33. Grant the right of access to the Sponsor's records pertinent to the Project and the right to audit by the Department and Federal Highway Administration officials.
34. Be responsible for 100% of all project costs incurred should the Project not be completed as specified.
35. Be responsible for 100% of any and all expenditures which may be declared non-participating in federal funds, including any such award by the State Claims Commission.
36. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Attachment I), which is necessary for Project participation.
37. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Attachment J).
38. Repay to the Department the federal share of the cost of any portion of the Project if, for any reason, federal participation is removed due to actions or inactions of the Sponsor, its agents, its employees, or its assigns or the Sponsor's consultants or contractors or their agents. Such actions or inactions shall include, but are not limited to, federal non-participation arising from problems with design plans, specifications, construction, change orders, construction inspection, or contractor payment procedures. The Sponsor understands and agrees that the Department may cause necessary funds to be withheld from the Sponsor's Motor Fuel Tax allotment should the Sponsor fail to pay to the Department any required funds, fail to complete the Project as specified, or fail to adequately maintain or operate the Project.
39. Be responsible for all costs not provided by the Federal Highway Administration.
40. Repay to the Department the federal share of the cost of the Project if for any reason the Federal Highway Administration removes federal participation.
41. 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;
 - make significant alterations to any improvements constructed with Federal-aid funds; or
 - cease maintenance or operation of a project due to the Project's obsolescence.
42. Be responsible for satisfactory maintenance and operation of all improvements and for adopting regulations and ordinances as necessary to ensure this. Failure to adequately maintain and operate the Project in accordance with Federal-aid requirements may result in the Sponsor's repayment of federal funds and may result in withholding all future Federal-aid.
43. Submit to the Department a Single Audit in accordance with the Office of Management and Budget (OMB) Circular A-133 each fiscal year that the Sponsor expends more than \$500,000 of Federal-aid from any federal source including, but not limited to, the U.S. Department of Transportation. The fiscal year used for the reporting is based on the Sponsor's fiscal year. The \$500,000 threshold is subject to change after OMB periodic reviews.

44. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
45. Promptly notify the Department if the Project is rendered unfit for continued use by natural disaster or other cause.

THE DEPARTMENT WILL:

1. Maintain an administrative file for the Project and be responsible for administering Federal-aid funds.
2. Review environmental documentation as prepared by the Sponsor.
3. Review plans and specifications submitted by the Sponsor.
4. Review and approve Sponsor's request to utilize force account work for the Project.
5. Notify the Sponsor when right-of-way and/or utility plans are approved and the Sponsor may proceed with right-of-way acquisition and/or utility adjustments.
6. Advise the Sponsor when to proceed with construction of the Project.
7. Ensure that the Sponsor and the Sponsor's consultant provide adequate supervision and inspection of the Project by performing periodic inspections with the Sponsor's representatives and their consultant to verify that the work being performed by the Sponsor's forces, and documented and certified by the Sponsor, meets the requirements of the Project plans, specifications, and all applicable FHWA and Department procedures. The Department intends to perform these inspections, at a minimum, when the construction work is approximately 10% and 50% completed. The Department will also participate in the final inspection of the Project.
8. Review and approve any necessary change orders for project/program eligibility.
9. Reimburse the Sponsor 80% (Federal-aid share) for eligible construction costs approved in the Construction Certification and Reimbursement Request form (Attachment E). This reimbursement will be limited to the maximum Federal-aid amount and to the federal amount available at the time payment is requested. If the payment requested exceeds the Federal-aid available at the time, the difference will be reimbursed as additional Federal-aid for the Project becomes available.
10. Subject to the availability of Federal-aid allocated for the Project, pay the Sponsor the amount due upon completion of the Project and submittal of the certified Final Acceptance Report form (Attachment G).
11. Be reimbursed for costs involved in performing all the services listed above.

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

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

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this _____ day of _____, 2015.

**ARKANSAS STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT**

CITY OF JONESBORO

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

Harold Perrin
Mayor

Donna Jackson
City Clerk

**ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT**

NOTICE OF NONDISCRIMINATION

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

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

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