

AGREEMENT OF UNDERSTANDING

BETWEEN

THE CITY OF JONESBORO

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

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

RELATIVE TO

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

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

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

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

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

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

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

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

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

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

THE SPONSOR WILL:

1. Coordinate with the Department's Consultant Contracts Administrator to hire a Department on-call consultant engineering firm(s) to provide engineering services, which include environmental documentation, surveys, design, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities for the Project. **NOTE: FHWA authorization and Department approval must be given prior to issuing a work order to the consultant for federal funds to be allowed in this phase.**
2. Understand that **expenditures for preliminary or construction engineering performed by the Sponsor's forces are not eligible for reimbursement with federal funds.**
3. Prepare the necessary environmental documentation as required by FHWA and conduct any required public involvement meetings and public hearings.
4. Ensure that the plans and specifications are developed using the Department's standard drawings and Standard Specifications for Highway Construction (latest edition). A registered professional engineer must sign the plans and specifications for the Project. (See Attachment B for items to be included in the bid proposal.)
5. Ensure that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.
6. Make periodic payments to the consultant for preliminary engineering for the Project and request reimbursement from the Department.
7. If Federal funds are completely expended, be responsible for 100% of any cost remaining for preliminary engineering, construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities.
8. Before acquiring property or relocating utilities, contact the Department's Right of Way Division to obtain the procedures for acquiring right-of-way and adjusting utilities in compliance with federal regulations. **NOTE: Failure to notify the Department prior to initiating these phases of work may result in all project expenditures being declared non-participating in federal funds.**
9. Acquire property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (commonly referred to as the "Uniform Act").

10. Ensure the preparation of utility adjustment and right-of-way plans are in accordance with Arkansas State Highway Commission Policy.
11. Provide a copy of the registered deed or other approved documentation and an appropriate certification stating clear and unencumbered title to any right-of-way to be used for the Project (See Attachment C). **NOTE: Any property that is to become Department right-of-way must be acquired in the Department's name.**
12. Submit plans at 30%, 60%, and 90% completion stages for Department review.
13. Submit a certification letter (Attachment D), including all items noted, to the Department when requesting that the Department advertise the project for construction bids.
14. Prior to awarding the contract for construction, submit to the Department the Sponsor's share of funds for construction and construction engineering (if greater than the Federal funds available.) The Sponsor's final cost will be determined by actual Department charges.
15. Be responsible for 100% of all preliminary engineering, right-of-way, and other costs incurred should the Sponsor not enter into the construction phase of the Project.
16. Maintain accounting records to adequately support reimbursement with Federal-aid funds.
17. Indemnify and hold harmless the Arkansas State Highway Commission, the Department, its officers and employees from any and all claims, lawsuits, judgments, damages, costs, expenses, and losses, including those arising from claims before the Arkansas Claims Commission or lawsuits brought in any other legal forum, sustained on account of the operations or actions of the Sponsor, including any act of omission, neglect or misconduct of said Sponsor. Further, the Sponsor shall take no action to compromise the immunity from civil suits afforded the State of Arkansas, the State Highway Commission, Arkansas Code 19-10-305, or the 11th Amendment of the United States Constitution. This obligation of indemnification shall survive the termination or expiration of this Agreement.
18. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.
19. Grant the right of access to the Sponsor's records pertinent to the Project and the right to audit by the Department and Federal Highway Administration officials.
20. Be responsible for 100% of any and all expenditures which may be declared non-participating in federal funds, including any such award by the State Claims Commission.
21. Sign and transmit to the Department the Certification for Grants, Loans, and Cooperative Agreements (Attachment E), which is necessary for Project participation.

22. Repay to the Department the federal share of the cost of any portion of the Project if, for any reason, federal participation is removed due to actions or inactions of the Sponsor, its agents, its employees, or its assigns or the Sponsor's consultants or contractors or their agents. Such actions or inactions shall include, but are not limited to, federal non-participation arising from problems with design plans, specifications, construction, change orders, construction inspection, or contractor payment procedures. The Sponsor understands and agrees that the Department may cause necessary funds to be withheld from the Sponsor 's Motor Fuel Tax allotment should the Sponsor fail to pay to the Department any required funds, fail to complete the Project as specified, or fail to adequately maintain or operate the Project.
23. Be responsible for all costs not provided by the Federal Highway Administration.
24. Repay to the Department the federal share of the cost of this project if for any reason the Federal Highway Administration removes federal participation.
25. Submit to the Department a Single Audit in accordance with the Office of Management and Budget (OMB) Circular A-133 each fiscal year that the Sponsor expends more than \$500,000 of Federal-aid from any federal source including, but not limited to, the U.S. Department of Transportation. The fiscal year used for the reporting is based on the Sponsor's fiscal year. The \$500,000 threshold is subject to change after OMB periodic reviews.
26. Complete and transmit to the Department both pages of the Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements (Attachment F).

**THE DEPARTMENT WILL:**

1. Maintain an administration file for the project and be responsible for administering Federal-aid funds.
2. Review environmental documentation as prepared by the Sponsor.
3. Review plans and specifications submitted by the Sponsor.
4. Notify the Sponsor when right-of-way and/or utility plans are approved and the Sponsor may proceed with right-of-way acquisition and/or utility adjustments.
5. Ensure substantial compliance with federal contracting requirements through review of the bidding proposal for inclusion of required federal forms, review of the administration of the DBE program provisions, and general compliance with 23 CFR 635.
6. Be responsible for preparing bid proposals, advertising the Project, receiving bids and assembling contract documents.
7. Be responsible for construction supervision.
8. Be reimbursed for costs involved in performing all the services listed above.

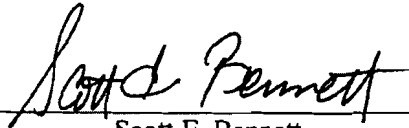
IT IS FURTHER AGREED that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure may disqualify the Sponsor from receiving future Federal-aid highway funds.

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

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 21 day of November, 2013.

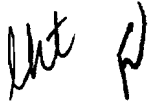
ARKANSAS STATE HIGHWAY AND  
TRANSPORTATION DEPARTMENT

CITY OF JONESBORO



Scott E. Bennett

Director of Highways and Transportation



ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT

NOTICE OF NONDISCRIMINATION

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