

City of Fayetteville Item Review Form

2014-0051

Legistar File Number

February 18, 2014

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Chris Brown

Submitted By

Development Services

Department

Action Required:

A Resolution approving an Agreement with Garver, LLC for professional services for the design of Ruppel Road from Starry Night View to Mount Comfort Road in the amount of \$352,879.00 and approve a Budget Adjustment.

Does this item have a cost? Yes

\$352,879.00

Cost of this request

Category or Project Budget

Transportation Bonds

Program or Project Name

4520.9555.5314.00

Account Number

Funds Used to Date

Sales Tax Construction Bonds

Program or Project Category

06035.3100

Project Number

-\$352,879.00

Remaining Balance

Street Sales Tax 2013

Fund Name

Budgeted Item? Yes

Budget Adjustment Attached? Yes

V20130812

01-29-14 P03:50 RCVD

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Comments:



Paul a. Beech
dms Man 2-1-14
Ronald Jackson



CITY COUNCIL AGENDA MEMO

Council Meeting of February 18, 2014

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

From: Chris Brown, City Engineer *CB*

Date: January 29, 2014

Subject: **A Resolution approving an Agreement with Garver, LLC for professional services for the design of Ruppel Road from Starry Night View to Mount Comfort Road in the amount of \$352,879.00 and approve a Budget Adjustment.**

BACKGROUND:

Federal Aid - Surface Transportation Program-Attributable (STP-A) funds are now available to Northwest Arkansas after the Census Bureau determined the urbanized population to be over 200,000 and the FHWA designated Northwest Arkansas as a Transportation Management Area (TMA). In becoming a TMA, the Northwest Arkansas Regional Planning Commission, of which Fayetteville is a member, will have STP-A discretionary funding available at approximately \$7M per year. Under current legislation, these STP-A funds can be utilized for all permitted transportation projects at the discretion of the TMA Policy Committee. Northwest Arkansas has been officially designated a TMA and approximately \$6.5M are available to the area for 2013.

An application for federal funding for Ruppel Road between Wedington Drive & Mount Comfort Road was submitted to and approved by the Northwest Arkansas Regional Planning Commission. However, the subject project should be considered Phase I of the overall project limits. The total project (Phase I) estimate is \$3,700,000. The design phase is estimated at \$400,000 which was submitted for FY 2013 funding. On January 23, the NWARPC approved funding of the design phase for \$320,000 (80%) from the Surface Transportation Program-Attributable (STP-A), but the City must provide a 20% match of \$80,000. The remainder of the project funding will be submitted for future year's available STP-A funding.

PROPOSAL:

Garver has provided a proposed scope and fee in the amount of \$352,879.00. This contract will be paid based on hourly rates for work completed, up to the total contract amount for professional engineering services for the reconstruction & relocation of Ruppel Road from Starry Night View to Mount Comfort Road, including a bridge over Hamestrung Creek. The proposed improvements will begin at the northern edge of the Starry Night View and proceed north approximately 1,700 linear feet to tie into the existing signalized intersection at Mount Comfort Road and Ruppel Road (existing northern leg of intersection).

The consultant will provide environmental documentation, surveys, geotechnical studies, hydraulic studies, roadway & bridge design and plans, right of way plans, and bidding services. Storm drainage systems, relocated utility facilities, maintenance of traffic and other incidental systems and facilities will be designed and constructed as necessary. All work and contract requirements shall conform to requirements of the Federal Highway Administration (FHWA), AHTD and the City.

This design agreement has allotted 16 (sixteen) months for completion, however, this time frame may be extended depending upon the review workload of the Arkansas State Highway and Transportation Department (AHTD). The consultant will prepare and submit final plans and specifications to the City and will assist the City in throughout the bidding process.

Once the construction contract is awarded, the City will have the opportunity to amend this agreement with Garver to add construction administration services, if needed, depending upon City staff availability. If this option is chosen, a supplemental agreement would be prepared and brought before City Council for approval.

RECOMMENDATION:

Staff recommends City Council approval of the agreement with Garver, LLC for providing the professional design services for the reconstruction and relocation of Ruppel Road from Starry Night View to Mount Comfort Road and authorization for the Mayor to execute said agreement. The executed agreements will then be sent back to AHTD for approval by FHWA and obligation of federal funds.

BUDGET IMPACT:

This project is based on an Agreement Of Understanding with AHTD in which Federal Aid money will pay 80% of the contract amount and the City will pay 20%. The Federal portion will be paid from the Surface Transportation Program-Attributable (STP-A) funds. City funds will be from the Transportation Bond Program or the CIP Fund. The cost of these services will not exceed \$352,879.00, with the City's share being 20% or \$70,575.80.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH GARVER ENGINEERS, LLC IN AN AMOUNT NOT TO EXCEED \$352,879.00 FOR THE DESIGN OF RUPPLE ROAD FROM STARRY NIGHT VIEW TO MOUNT COMFORT ROAD, AND TO APPROVE A BUDGET ADJUSTMENT OF \$352,879.00

WHEREAS, the City of Fayetteville understands that federal aid Surface Transportation Program-Attributable (STP-A) funds are available for certain city projects at a Federal participating ratio of 80% and City participating ratio of 20%; and

WHEREAS, the Northwest Arkansas Regional Planning Commission has approved the funding of professional design services in an amount not to exceed \$320,000.00, which requires the City to provide matching funds in an amount of up to \$80,000.00;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a Contract, a copy of which is attached as Exhibit "A", with Garver, LLC, in an amount not to exceed \$352,879.00 for the design of Ruppel Road from Starry Night View to Mount Comfort Road.

Section 2: That the City Council of the City of Fayetteville, Arkansas approves a budget adjustment, attached hereto as Exhibit "B," in the amount of \$352,879.00.

PASSED and APPROVED this 18th day of February, 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

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

JOB NO. 040657
FEDERAL AID PROJECT (“FAP”) NO. STPU-9142(36)
W. Starry Night View - W. Mount Comfort Rd.(N. Ruppel Road)(Fayetteville)(S)

PREAMBLE

THIS AGREEMENT, entered into this ____ day of _____, _____, by and between the City of Fayetteville, in Washington County, Arkansas (“Owner”), and Garver, LLC, (“Consultant”), a corporation existing under the laws of the State of Arkansas, with principal offices at 2049 E. Joyce Boulevard, Fayetteville, Arkansas.

WITNESSETH:

WHEREAS, the City of Fayetteville is planning to reconstruct and relocate Ruppel Road from Starry Night View to Mount Comfort Road including a bridge over Hamestring Creek; and,

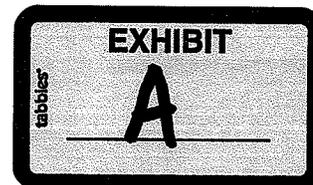
WHEREAS, the City of Fayetteville's forces are fully employed on other urgent work that prevents their early assignment to the aforementioned work; and,

WHEREAS, Garver'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 City of Fayetteville to obtain the assistance of Garver 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 Ron Petrie, PE, 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 **\$352,879**. 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 "AHTD" means the Arkansas State Highway and Transportation Department.
- 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. "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 187.57 percent. If applicable, the Indirect Cost Rate for each subcontractor shall be listed in Appendix B.
- 1.11. "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.
- 1.12. "Title I Services Ceiling Price." The Title I Services Ceiling Price for this Agreement is **\$352,879**. 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.
- 1.13. "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 3.22.
- 1.14. "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.
- 1.15. "Title II Services Ceiling Price". The Title II Services Ceiling Price for this Agreement will be added by amendment at a later date. 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. SCHEDULE OF SALARY RANGES

Description	Billing Class	Min. Hourly	Max. Hourly
Construction Observer	C-1	\$16.00	\$35.00
Construction Observer II	C-2	\$24.00	\$47.00
Sr. Construction Observer	C-3	\$32.00	\$59.00
Designer	D-1	\$18.00	\$36.00
Sr. Designer	D-2	\$26.00	\$48.00
Design Engineer	E-1	\$20.00	\$39.00
Sr. Design Engineer	E-2	\$25.00	\$44.00
Project Eng. / Resident Eng.	E-3	\$30.00	\$53.00
Sr. Proj. Eng. / Sr. Rsdnt. Eng.	E-4	\$38.00	\$60.00
Proj. Mngr. / Sr. Proj. Mngr.	E-5	\$40.00	\$74.00
Sr. Proj. Mngr.	E-6	\$45.00	\$110.00
Environmental Scientist or Specialist	P-1	\$18.00	\$36.00
Environmental Project Manager	P-2	\$36.00	\$53.00
Rodman	S-1	\$10.00	\$20.00
Instrument Man	S-2	\$12.00	\$25.00
Party Chief	S-3	\$15.00	\$30.00
Project Surveyor	S-4	\$22.00	\$44.00
Sr. Project Surveyor	S-5	\$30.00	\$55.00
Technician or Intern	T-1	\$9.00	\$32.00
Sr. Technician	T-2	\$20.00	\$41.00
Administrative Assistant	X-1	\$9.00	\$30.00
Sr. Administrative Asst.	X-2	\$15.00	\$39.00
Executive Assistant	X-3	\$20.00	\$55.00

3.2.2. 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 Highway and Transportation Department'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 **\$34,271** 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, 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 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, AHTD, 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

- 6.1. The City of Fayetteville has programmed a project for the reconstruction and relocation of N. Ruppel Road from W. Starry Night View to W. Mount Comfort Road, including a bridge over Hamestring Creek in Fayetteville, Washington County, Arkansas.
- 6.2. The project generally consists of providing environmental documentation, surveys, geotechnical studies, hydraulic studies, roadway and bridge design and plans, right of way plans, and bidding services. Storm drainage systems, relocated utility facilities, maintenance of traffic and other incidental systems and facilities will be designed and constructed as necessary.
- 6.3. The proposed improvements will begin at the northern edge of the Starry Night View and proceed north approximately 1,700 linear feet to tie into the existing signalized intersection at Mount Comfort Road and Ruppel Road (existing northern leg of intersection).

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

7.1. Identification and Analysis of Traffic Demands

7.1.1. Identification of the Current Transportation Demands: In order to identify the current transportation demands within the study area, the following information will be collected.

- All prior studies conducted within the study area
- New traffic counts (peak hour turning movement and 24-hour machine counts) are expected at the intersection of N. Ruppel Road and W. Mount Comfort Road
- Previous traffic data compiled by AHTD or the City of Fayetteville in the study area

7.1.2. Forecast and Analysis of Future Transportation Demands: The Consultant will project the 2013 traffic volumes to a 20-year horizon to determine the future "no build" traffic conditions. The same analysis procedures performed for the 2013 "no build" will be used for the future "no build" analysis.

7.2. Analysis of Proposed Improvement

7.2.1. Geometric Analysis: The Consultant will evaluate the proposed improvement to ensure that the number of lanes provided and length of turn bays is adequate for the future needs.

7.2.2. Final Report: The Consultant will prepare a letter report containing the results and conclusions of the study and all necessary support documentation.

7.3. Environmental Documentation

7.3.1. Garver will prepare an Environmental Assessment (EA) document that will meet AHTD and FHWA standards in accordance with the National Environmental Policy Act (NEPA). Garver shall undertake the following:

- Attend the initial project kick-off meeting
- Attend monthly progress meetings and review monthly project management reports
- Submit monthly project management reports
- Develop Environmental Constraints Mapping and Data Collection for all reasonable and feasible alternatives (up to three alternative alignments and the no-build alternative are assumed for estimating purposes)
- Develop the purpose and need for the project
- Complete initial and on-going agency coordination
- Evaluate environmental impacts
- Perform specialist studies for the preferred alternative: Phase I Cultural Resources Survey, Wetland Delineation, Hazardous Materials database review, and Noise Analysis
- Organize and participate in one public involvement meeting and up to two public hearings
- Develop and coordinate approval of an EA and FONSI

7.3.2. *Environmental Data Collection* – Garver will develop an environmental study area and collect preliminary environmental data associated with the proposed project. All reasonable and feasible alternatives (up to three proposed alignment concepts (build alternatives) and the no-build are assumed for estimating purposes) will be assessed for the social, economic, and environmental impacts area, including:

- Air Quality
- Community
- Construction Impacts
- Cultural Resources
- Economic
- Endangered Species
- Energy
- Environmental Justice and Title VI
- Fish and Wildlife
- Floodplains
- Forest Service Property
- Hazardous Materials
- Land Use and Land Cover
- Migratory Birds
- Noise Quality
- Protected Waters
- Public Recreation Lands
- Public Drinking Supplies
- Relocates
- Secondary and Cumulative Impacts
- Section 4(f)/6(f)
- Social
- Terrestrial and Aquatic Communities
- Underground Storage Tanks
- Visual
- Streams

- Water Quality
- Wetlands

7.3.3. *Environmental Constraints Map* - All environmental data collected will be transferred to appropriately scaled aerial photographs to produce a map that indicates all known environmental sensitive areas and provided to Garver for avoidance and minimization of impacts. Environmentally sensitive areas should be provided to Garver for notation on the plans as a restraining condition on the Contractor, in accordance with Section 107.10 of the Standard Specifications for Highway Construction. Contract Special Provisions should be developed as necessary to provide protection for environmental sensitive areas or features and to provide guidance to the Contractor.

7.3.4. *Environmental Assessment* - The Engineer will perform social, economic, and environmental studies for inclusion in the environmental documentation. All reasonable and feasible alternatives will be analyzed. An alternative analysis will be completed for documenting environmental impacts associated with the proposed alternatives. The goal is to provide the documentation necessary to obtain FHWA approval of an Environmental Assessment (EA) document and Finding of No Significant Impact (FONSI). The work to be performed shall consist of preparing an EA document based on the NEPA process for the proposed project in accordance with AHTD and FHWA policies and procedures. It is anticipated that minimal additional right-of-way is required. The objectives of this task are: (1) to describe the existing social, economic and physical conditions within the corridor; (2) to identify and evaluate the short-term and long-term impacts of the proposed improvements; and (3) to identify and recommend minimization and/or mitigation measures to be incorporated in the design and/or operation plan for the project.

7.3.5. *Cultural Resources and Historic Properties* – Garver will perform a Phase I cultural resources survey based on state records research and an on-site survey. Develop a cultural resources report documenting the results of cultural resources survey for archaeological and historic properties within the project area. The survey will identify all resources aged 45 years of age or older and provide an evaluation of eligibility for inclusion to the NRHP. All work under this task shall be completed in accordance with the Arkansas State Plan and customary AHTD guidelines and format.

7.3.6. *Tribal Letters* - Coordinate with FHWA through AHTD for tribal consultation and correspondence. Garver will prepare tribal letters per the AHTD letter template for submittal to FHWA through AHTD.

7.3.7. *Field Surveys* - The surveys will provide sufficient information (i.e., a Phase I survey and report) to allow the SHPO to make a determination of effect regarding the project.

7.3.8. *Biological Investigations* Garver will conduct wetland surveys and delineations to determine the limits of all jurisdictional waters of the United States and potential jurisdictional wetlands within the project limits. The area of project impact to jurisdictional waters, including wetlands and streams, will be determined to permit the project under Section 404 of the Clean Water Act. Wetlands will be delineated using the Supplement to the Corps of Engineers Wetlands Delineation Manual: Eastern Mountains and Piedmont Region Version 2.0. Stream impacts should be determined by the Little Rock District USACE Stream Method. Garver will contact the U.S. Fish and Wildlife (USFWS) to ensure all state and federally listed threatened and endangered species of concern are identified, as well as their

habitat areas, to avoid/minimize impacts. This coordination will assist in providing guidelines from these agencies on existence, habitat and mitigation. If suitable habitat for any listed threatened or endangered species is encountered within potential location alternatives, it may be necessary to survey for the species. Presence and absence surveys for any listed threatened or endangered species are not included as a part of this scope.

7.3.9. Hazardous/Regulated Materials - Garver shall conduct a literature and database review and a visual survey to identify potential hazardous/regulated material sites in the vicinity of the proposed project. The results of this effort shall be documented in the EA. The work will include:

- Overview and Summary of Hazardous Materials Sites within Study Area- This initial screening will include a review and evaluation of applicable state and federal regulatory agency databases.
- Identification of Sites of Concern - A review and evaluation of the following list will be performed for the reasonable and feasible alternatives. CERCLA, NPL, RCRA, RST, LRST, State Superfund, city/county Solid Waste Landfills.
- Visual survey of study area.

7.3.10. Other Environmental Studies, Analyses and Investigations – Garver will ensure all environmental commitments and regulatory requirements are incorporated into project plans and contracts by use of plan sheet notes, general notes and special provisions. Garver shall conduct all other environmental studies, analyses and investigations in accordance with FHWA/AHTD requirements for a EA for a transportation improvement project. The other environmental studies, analyses, and investigations may include the following: Air quality, noise quality, hazardous materials, wetlands and stream impacts, water quality, including public drinking supplies, farmland impacts, land use and land cover, terrestrial and aquatic communities, endangered and threatened species, economic, community, environmental justice and Title VI, recreational areas, archeological and historic sites, visual, and Section 4(f) and 6(f) properties.

- **Section 4(f) De minimis Evaluation** – Garver will prepare a Section 4(f) *De minimis* determination for inclusion as an appendix to the EA.
- **Noise Analysis** – Garver will perform a noise study that will include up to three field measurements, identification of sensitive receptors, modeling of the preferred alternative, and report development. The Traffic Noise Model (TNM) 2.5 software will be used to model existing and future traffic noise levels for the preferred alternative. The noise analysis report will include noise levels, distances of receivers from the roadway, estimated noise impacts and recommendations for conducting a noise barrier analysis (if required). The noise analysis shall be conducted according to 23 CFR Part 771. A noise barrier analysis is not included in this scope of work.

7.3.11. Public Involvement Meeting - Garver will plan, coordinate, participate in, and assist the City of Fayetteville in conducting one Public Involvement Meeting near the project area. Garver will identify the logistics involved in selecting the meeting site with the City of Fayetteville. The City of Fayetteville will subsequently secure/reserve and pay any rental costs for such site and any necessary equipment. The work will include:

- Garver will prepare and submit notice of public involvement meeting to the City of Fayetteville and AHTD for review and approval. City of Fayetteville will place the approved notice in a local newspaper in accordance with AHTD

polices and requirements and will be responsible for payment of the publication of legal notices and ads.

- Garver will prepare public involvement displays, sign-in sheets, comment sheets, and other materials for the Public Involvement Meeting as necessary. Garver will provide adequate numbers of handouts and displays for the public involvement meeting and will provide four (4) personnel to support the Public Involvement Meeting by being prepared to answer questions and explain all concepts of the proposed project.
- As directed by the City of Fayetteville, Garver will compile a Project Mailing List database from the City of Fayetteville and update as necessary. Garver will develop and maintain the Project Mailing List database of names/addresses to be utilized in distributing the Public Meeting notice. Persons attending the Public Meeting will be added to the database when requested by the same.
- Garver will compile comments received at the Public Meeting and document the same in the form of a synopsis that will include comments cards, letters, attendance sheets, summary of input, etc. This will include photographs or copies of informational displays, handouts, etc.

7.3.12. *Public Hearing* – Garver will plan, coordinate, participate in, and assist the City of Fayetteville in conducting up to two Public Hearings near the project area. Garver shall identify the logistics involved in selecting the meeting site with the City and shall subsequently secure/reserve such site and any necessary equipment. The work will include:

- Submitting notice of public hearing to the City and AHTD for review and approval. City will place the approved notice in a local newspaper in accordance with AHTD policies and requirements and will be responsible for payment of the publication of legal notices and ads.
- Garver will prepare presentations, displays, sign-in sheets, comment sheets, and other materials for the Public Hearing as necessary. Garver will provide adequate numbers of handouts and displays for the Public Hearing and will provide four (4) personnel to support the meeting by being prepared to answer questions and explain all concepts of the proposed project.
- The City will provide a court reporter to transcribe oral comments.
- Garver will compile comments received at the Public Hearing and document the same in the form of a synopsis that will include the hearing transcript, comments cards, letters, attendance sheets, summary of input, response to public comments, etc. This will include photographs or copies of informational displays, handouts, etc.

7.3.13. *Prepare Environmental Assessment Document* - A draft EA will be prepared and submitted electronically to the City of Fayetteville and AHTD for review and comment. Any necessary revisions to the draft EA will be incorporated. Submit final draft to the City of Fayetteville and AHTD for FHWA approval. All work on the project shall conform to the applicable requirements of the AHTD/FHWA as defined at the time of the notice to proceed. Garver will provide designated number of copies of environmental document after FHWA approval and distribute as directed. An electronic copy of the approved environmental document in pdf format will be provided to the City of Fayetteville and AHTD. The approved EA will be made

available to the public and an opportunity for a public hearing will be posted in a legal ad by the City at a minimum.

7.3.14. *Finding of No Significant Impact (FONSI)* – After the required public comment period, Garver will work with the City to respond to any public comments and make any necessary changes to the project. Garver shall prepare a FONSI request that will designate the preferred alternative based on review of the public hearing synopsis and information documented in the EA. After internal review and approval, the FONSI will be submitted to AHTD for review and approval before being submitted by AHTD to FHWA for signature. Garver will address comments received from the City, AHTD, and FHWA on the FONSI request and submit the designated number of copies of the final document, appendices and electronic copies of all information.

7.3.15. *Environmental Permitting* – Garver shall coordinate with the Arkansas Department of Environmental Quality (ADEQ) for development of a Storm Water Pollution Prevention Plan (SWPPP) that incorporates required measures that may be specified by the USFWS and/or ADEQ.

Garver will obtain the issuance of a Short Term Activity Authorization (STAA) from ADEQ.

Garver will prepare a Section 404 permitting package and coordinate authorization under Nationwide Permits (NWP) as administered by the US Army Corps of Engineers (USACE).

7.3.16. *Environmental Services Exclusions* - This Scope of Services does not include the preparation of an individual or programmatic Section 4(f) Evaluation (required for impacts to parkland, recreation land, historic sites), right-of-entries, formal or informal Section 7 consultation with the USFWS biological assessment/biological evaluation (associated with endangered species/habitat impacts), USACE Section 10 permit, USACE Section 404 Individual Permit, USACE field verification, adjustment of staked boundaries subsequent of a USACE field verification visit, Arkansas Department of Environmental Quality (ADEQ) Section 401 Tier II permitting, any mitigation designs or plans associated with Section 404 permitting. If any of these services are necessary, a supplemental agreement establishing the scope and fee for services will be developed.

7.4. *Topographic and Utility Surveys* – Garver will perform topographical and utility surveys to identify all existing features along the preferred alignment. Garver will subcontract with ARKUPS for marking underground utilities and will pass the direct cost from ARKUPS to the City of Fayetteville. Garver will survey the locations marked by ARKUPS and the utility owners. Garver will not be responsible for the completeness or accuracy of the markings made by ARKUPS or utility owners, nor will Garver be liable for costs incurred by the City of Fayetteville due to incomplete or inaccurate utility markings. AHTD Surveying procedures will not be required. The services performed shall be consistent with the Arkansas minimum standards and in compliance with Arkansas laws and regulations governing the practice of Land Surveyors and with all Federal, State and Local laws, regulations and ordinance applicable to the work.

7.5. *Property Surveys* – Garver will perform property surveys along the preferred alignment. Garver will subcontract with an abstractor to provide property record research along the alignment, including copies of recorded plats, legal descriptions for unplatted tracts, easements and right of way information, and will pass the direct cost from the abstractor to the City of Fayetteville. Garver will perform field surveys to determine existing monumentation and establish land lines, ownership lines, rights of

way, and easements. Garver will stake proposed right of way and easements at intervals which will provide intervisible points for appraisal and acquisition purposes. Larger tracts will be staked at property lines and at intervisible points. Garver will monument right of way for construction purposes after the Right-of-Way Plans have been approved by the AHTD. Garver will prepare and file final survey plats for the acquired properties. Property surveys and related work shall conform to the current Arkansas Minimum Standards for Property Boundary Surveys and Plats and be under the direct supervision of a registered Professional Surveyor (PS) licensed in the State of Arkansas. AHTD Surveying procedures will not be required.

- 7.6. *Geotechnical* - Provide geotechnical investigations for analysis and design of bridge foundations, embankments, retaining walls, roadway subgrade, and pavement structure. A detailed description of this scope of services is provided in the subconsultant contract with Grubbs, Hoskyn, Barton & Wyatt.
- 7.7. *Design Criteria* - The design criteria to be used in the design of the project will be prepared and submitted to the City of Fayetteville and AHTD. Garver will develop design criteria that include AHTD Plan Development Guidelines, AHTD Interoffice Memorandums, AASHTO requirements, and the City of Fayetteville Master Street Plan components. Specific criteria for horizontal curvature will be tailored to the requirements of the design speed. After submittal and approval by the City and AHTD, the design criteria will be distributed to all team members for inclusion in the project quality control plan to ensure that all project requirements are met

7.8. Roadway Design and Plans

- 7.8.1. Garver will provide roadway design services for the realignment of Ruppel Road. The roadway man-hour estimate is based upon a 13 point review by AHTD.
- 7.8.2. *Conceptual Design*: Conceptual alternatives will be developed for improvements of the road along the existing alignment and one alternative realignment option for inclusion in the environmental documentation. Basic plan view graphics with approximate impacts will be developed for each alternative.
- 7.8.3. *30% Plans*: Conceptual plans and an opinion of probable costs shall be submitted at the 30% level for city approval of the geometric design, grades with vertical curve data, outline of proposed bridge showing length and width, limits of construction, existing property lines and right of way, floodway and floodplain limits, and topographical survey. The plans will incorporate the city standards and guidelines where appropriate.
- 7.8.4. *50% Plans*: Garver will provide an opinion of probable costs, roadway plan sheets for 50% review to the City of Fayetteville and AHTD and attend the preliminary field inspection. The roadway plans shall include the following:

- Title sheet
- Typical sections of improvement as defined in Appendix I of the AHTD Roadway Design Plan Development Guidelines
- Special details as needed
- Roadway plan sheets showing:
 - Roadway grades for main lanes, crossing roads, and driveways
 - Alignment data for main lanes and crossing roads
 - Tentative construction limits
 - Right of way, permanent and temporary construction easements
 - All roadway/roadside features within the right of way

- Drainage structures
- Bridge layout with end stationing
- Soil boring station and locations
- Maintenance of traffic conceptual plans with a sequence of construction to complete major phases of the project. It will clearly identify barricades to be placed, striping to be removed and placed prior to diversion of traffic, possible detour routes and the stages required to maintain traffic during construction. These details will supplement AHTD standard drawings TC-1, TC-2, TC-3, TC-4, and TC-5.
- Cross sections at a 1:1 scale as defined in the AHTD Roadway Design Plan Development Guidelines including sections at bridge ends, tapers, nose points, auxiliary lanes and pipes/culverts.
- Water and Sewer facilities relocations based on findings from the 30% design phase.
- Survey control detail sheets of the survey baseline and design centerline with control point data in accordance with the standards used by the Roadway Design Division of AHTD
- Signing and Permanent Pavement Marking Details in accordance with the MUTCD, AHTD and federal regulations, laws and policies. These details will supplement AHTD standard drawings PM-1 and PM-2.
- Culvert Diagrams
- Erosion Control Plans showing temporary and permanent measures.
- Location of any retaining walls as required
- Perform alterations necessary to respond to comments from the preliminary field inspection

7.8.5. *Pavement Design*: The pavement design alternatives for the proposed pavement will be prepared according to the requirements of the AHTD Roadway Design Plan Development Guidelines using AASHTO design procedures. The recommended pavement design will be submitted to the City and AHTD for approval.

7.8.6. *Public Meeting*: Garver shall prepare all design related displays to be used at the public meeting when needed. This would include, but not be limited to plans of the proposed route illustrating the proposed horizontal and vertical alignments complete with all bridge structure. All proposed and existing right of way requirements, including easements, shall be included on this display. Garver shall assist the City of Fayetteville at the meeting by being prepared to answer and explain all concepts of the proposed design. Garver shall also be responsible for developing a written transcript of the public comments and provide written responses to each comment. This written transcript shall be furnished to the City of Fayetteville for the completion of the project certification.

7.8.7. *90% Plans*: Garver will provide 90% roadway plan sheets for review and final field inspection. All roadway design shall be complete, and all drawings shall be thoroughly checked by Garver prior to submittal. Garver will provide the construction plans for the project for one construction contract. The 90% plans shall include everything included in the 50% submittal, along with the following items of work:

- Provide quantities
- Project Manual including front-end documents, supplemental specifications, and special provisions.
- Transportation Management Plan

- Provide a construction cost estimate
- Attend final field inspection
- Make plan changes resulting from the 50% review and final field inspection

7.8.8.100% Plans: Garver will provide final signed and sealed plans after all revisions have been incorporated into the 90% plans.

7.9. Bridge Design and Plans

7.9.1. *Hydrology & Hydraulics*: Provide "Certification of No Rise" for the proposed bridge crossing to the City of Fayetteville for review and approval by the City Flood Plain Administer. An existing flood study in HEC-RAS format will be provided by the City of Fayetteville which will be updated by Garver to include the proposed bridge and roadway.

7.9.2. *30% Submittal*: Based on the required clear span length of the proposed bridge, and considering cost & long term maintenance of this structure, Garver shall compare at least two different bridge design alternatives and make a recommendation to the City of Fayetteville.

7.9.3. *50% Submittal*: Garver will provide an opinion of probable costs, bridge layout sheets for 50% review to the City of Fayetteville and AHTD after 30% roadway plans have been reviewed and approved by the City of Fayetteville and AHTD. The bridge plans shall include the following:

- Topography
- Scour Assessment
- Hydraulic Data at stream crossings shown in table form. The effects of the design flood, 100 and 500 year floods, and overtopping floods shall be included in the table. If the overtopping flood is less than the design flood, the effects of the future roadway embankments will also be determined and included in the table. Scour countermeasures will be shown.
- Bridge type, length, width, and span lengths
- Design, construction, and material specifications
- Bridge foundation type including estimated number and size of columns, pile sizes and lengths
- Schematic cross-section sketches of superstructure, showing deck thickness, girder type, size, and spacing, and stage construction sequencing

7.9.4. *90% Submittal*: Garver will perform bridge design calculations based on the approved layout with any staged construction sequence including:

- Seismic analysis, if necessary
- Foundations and pile lengths
- Substructure
- Superstructure
- Elastomeric bearings
- Bridge expansion joints

Garver will provide complete bridge detail drawings to include end bents, intermediate bents, piles, bearings, superstructure, expansion joints, parapets, retaining walls, approach slabs, approach gutters, bridge quantity sheets, and special provisions. Each detail drawing will be fully checked and signed by a checking engineer. When different detail checking engineers are used for the

same bridge or for different bridges, compatibility of details between bridge components and consistency between different bridges shall be carefully checked and confirmed by Garver prior to submittal to the City of Fayetteville and AHTD.

Garver will provide calculated bridge quantities and grouped by bridge component and item number. The quantities will be calculated in accordance with the current edition of the AHTD "Standard Specifications for Highway Construction" and reported to the accuracy indicated on the January 19, 1997 memorandum entitled "Limits to Show on Bridge Quantity Sheets".

7.9.5.100% Submittal: Garver will provide final signed and sealed plans after all revisions have been incorporated into the 90% plans. Garver will provide hydraulic certification.

7.10. *Permit Submittals* – Garver will prepare a SWPPP containing all the necessary data required to obtain a SWPPP permit for the project, including the AHTD, ADEQ and City of Fayetteville typical details. A Short Term Activity Authorization (STAA) will be submitted to ADEQ for approval and a Section 404 Nationwide Permit will be submitted to the USACE.

7.11. *Utility Company Coordination* – Garver will coordinate the project design with franchise utility companies' relocations and/or new locations to assure adequate space for all facilities and timely relocations.

7.12. *Bidding Phase Services*

7.12.1. During the bidding phase of the project, Garver will:

- Prepare Advertisement for Bids and submit to the City of Fayetteville for issuance to newspaper(s). City of Fayetteville to pay advertising costs outside of this agreement.
- Dispense construction contract documents to prospective bidders at the approximate cost of reproduction and handling.
- Answer questions from contractors during bid phase
- Issue addenda
- Attend pre-bid meeting, if necessary
- Attend Bid Opening
- Review and certify bids for construction
- Prepare Bid Tabulations
- Prepare Construction Contract
- Issue letter of recommendation for acceptance of bid

8. SERVICES TO BE PROVIDED BY THE CITY OF FAYETTEVILLE AND AHTD

8.1. City of Fayetteville

8.1.1. Coordinate review of construction plans and specifications, award of construction contract, and construction contract change orders with AHTD.

8.1.2. Right-of-way and easement acquisition

8.1.3. Conduct the necessary public involvement meeting and public hearings

8.1.4. Available aerial and mapping data

8.1.5. Advertisements for public meetings and construction bidding

8.2. AHTD

8.2.1. Provide sample environmental clearance documents

8.2.2. Review draft Categorical Exclusion (CE) document

- 8.2.3. Coordinate with FHWA for tribal correspondence and document approvals
- 8.2.4. Review final environmental documentation prepared by Garver
- 8.2.5. Review plans and specifications

9. TITLE II SERVICES TO BE PROVIDED BY THE CONSULTANT

Title II Services will be added by supplemental agreement at a later date. At a minimum, the following services will be provided:

- 9.1. Provide review and approval of shop drawings and any other supplementary plans or similar data submitted by the Contractor and requiring approval.
- 9.2. When requested, provide design related solutions to construction problems and issues that may arise.

10. COORDINATION WITH OWNER

- 10.1. Throughout the Project, the Consultant shall hold monthly conferences in Fayetteville, Arkansas, or such other location as designated by the City, with representatives of the City and when necessary, representatives from the AHTD 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 City, the AHTD, and the FHWA at the project office of the Consultant located at 2049 E. Joyce Boulevard, Fayetteville, Arkansas.

12. ACCESS TO PROPERTY

- 12.1. Garver's services to the City of Fayetteville 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

- 13.1. Environmental
 - 13.1.1. SHPO approved Cultural Resources Report prior to EA (4 copies)

- 13.1.2. Newspaper advertisements and/or Legal Notices in English and Spanish
 - 13.1.3. Public Meeting announcement
 - 13.1.4. Project Mailing List database, updated as necessary in Microsoft Excel
 - 13.1.5. Technical handouts for the Public Meetings(up to 100 hard copies)
 - 13.1.6. Comment forms for the Public Meetings(up to 100 hard copies)
 - 13.1.7. Sign-in Sheets for the Public Meetings(up to 10 hard copies)
 - 13.1.8. Exhibits/displays for the Public Meetings (up to 10 exclusive displays)
 - 13.1.9. Synopsis of Public Hearing(2 copies)
 - 13.1.10. Draft EA submittal to City of Fayetteville in MS Word format for text and pdf format for figures and attachments(up to 10 copies)
 - 13.1.11. Final EA submittal to City of Fayetteville, the AHTD and the FHWA
 - 13.1.12. FONSI request to City of Fayetteville, the AHTD and the FHWA
 - 13.1.13. Section 404 Nationwide permit application and attachments
 - 13.1.14. SWPPP and permit application
 - 13.1.15. STAA permit application
- 13.2. Conceptual Design Phase (30%)
- 13.2.1. Roadway and Bridge Design Criteria
 - 13.2.2. Geotechnical Report for Bridges – Preliminary version
 - 13.2.3. Hydraulic Analysis Report with HEC-RAS model
 - 13.2.4. 30% Complete Roadway Plans(4 copies of half-size plans)
 - 13.2.5. Conceptual Bridge Layout(4 copies of half-size plans)
 - 13.2.6. Opinion of Probable Costs
 - 13.2.7. Electronic files as requested including Adobe Acrobat pdf format of plans and reports and Excel spreadsheets of Opinion of Probable Costs
- 13.3. Preliminary Design Phase (50%)
- 13.3.1. Geotechnical Report for Pavement Design
 - 13.3.2. Geotechnical Report for Bridges – Final Design
 - 13.3.3. Hydraulic and Scour Analysis Report
 - 13.3.4. Preliminary Bridge Layout Drawings(4 copies of half-size plans)
 - 13.3.5. 50% Complete Roadway Plans(4 copies of half-size plans)
 - 13.3.6. 60% Right of Way Strip Map
 - 13.3.7. 90% Right of Way Plans
 - 13.3.8. Warranty deed descriptions
 - 13.3.9. Final Right of Way Plans
 - 13.3.10. Opinion of Probable Costs
 - 13.3.11. Meeting minutes from Coordination Meetings
 - 13.3.12. Electronic files as requested including Adobe Acrobat pdf format of plans and reports and Excel spreadsheets of Opinion of Probable Costs
- 13.4. Final Design Phase (90%/100%)
- 13.4.1. 90% Complete Roadway Design Plans(4 copies of half-size plans)
 - 13.4.2. 90% Complete Bridge Design Drawings(4 copies of half-size plans)
 - 13.4.3. Final half-size Roadway Design Plans signed and sealed by an Arkansas Registered Professional Engineer
 - 13.4.4. Final half-size Bridge Design Drawings signed and sealed by an Arkansas Registered Professional Engineer
 - 13.4.5. Final full-size Bridge Design Drawings printed in black ink on quality bond paper and signed and sealed by an Arkansas Registered Professional Engineer
 - 13.4.6. Provide Special Provisions and complete Project Manual for bidding
 - 13.4.7. Provide Transportation Management Plan, if required
 - 13.4.8. Provide Construction cost estimate
 - 13.4.9. Bridge Design and Quantity Computations(1 copy)
 - 13.4.10. Meeting minutes from Coordination Meetings

13.4.11. Electronic files of the project design and plans on a compact disc in AutoCad/Civil 3D format that is fully indexed (all reference files attached and set to load automatically). This includes the electronic copies of Roadway and Bridge submittals. Electronic files of the Project Manual, Special Provisions, design calculations, drainage report, geotechnical report, cost estimates on a compact disc in Adobe Acrobat PDF format and in Word and Excel format, as applicable.

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 AHTD and FHWA, 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 ***within a period of 16 months not including bidding***, unless agency review times exceed the projected time periods or unless the time is 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 schedule for this project has been included in Appendix D.

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 (48 CFR 31.205-42(e)(2)).
- 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, Claims and Disputes. 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 AHTD 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 City of Fayetteville and the AHTD, 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 AHTD 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 procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the USDOT Regulations.
- 30.3. *Solicitations for Subcontracts, Including Procurements of Material & Equipment*. In all solicitations, either by competitive bidding or negotiation, made by the Consultant or for work to be performed under a subcontract, including procurements of materials or 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, accounts, other sources of information, and its facilities by the Owner, the AHTD, or the USDOT and its Affiliated Modes to be pertinent to ascertain compliance with such regulations or 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 AHTD or the USDOT and its Affiliated Modes, as appropriate, and shall set forth what efforts it has made to obtain the 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 AHTD, or the USDOT and its Affiliated Modes 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/or 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 AHTD, or USDOT and its Affiliated Modes 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 or the AHTD to enter into such litigation to protect the interests of the State, and, litigation to protect the interest of the United States.

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:

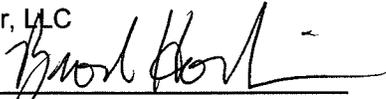
Chris Brown, PE
City of Fayetteville
113 W. Mountain Street

Fayetteville, AR 72701

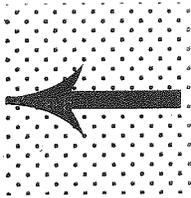
36.1.2. To the Consultant:

Ron Petrie, PE
Garver, LLC
2049 E. Joyce Boulevard
Fayetteville, AR 72703

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

Garver, LLC
BY: 
Brock Hoskins, P.E.
Executive Vice President
1-27-14
Date

City of Fayetteville
BY: 
Mayor Lionel Jordan
2/3/14
Date



APPENDICES

APPENDIX A	JUSTIFICATION OF FEES AND COSTS
APPENDIX B	SUBCONTRACTS
APPENDIX C	STANDARD CERTIFICATIONS/ TITLE VI ASSURANCES
APPENDIX D	PROJECT SCHEDULE

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Stary Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657
 SUMMARY

PROJECT ADMINISTRATION	HOURS	SALARY	FEE	EXPENSES	TOTAL
Garver	91	\$6,263	\$752	\$644	\$7,659
SURVEYS					
Garver	256	\$16,981	\$2,038	\$2,763	\$21,782
TRAFFIC STUDY					
Garver	40	\$5,424	\$651	\$31	\$6,106
ENVIRONMENTAL					
Garver	594	\$59,797	\$7,176	\$1,978	\$68,951
GEOTECHNICAL INVESTIGATION					
GHBW	258	\$20,631	\$2,476	\$3,509	\$26,615
BRIDGE					
Garver	910	\$95,856	\$11,503	\$600	\$107,959
ROADWAY DESIGN, PLANS, AND SPECS					
Garver	977	\$86,386	\$10,366	\$306	\$97,058
ROW					
Garver	124	\$10,522	\$1,263	\$30	\$11,815
BIDDING					
Garver	37	\$4,348	\$522	\$64	\$4,934
PROJECT TOTALS					
Garver	3,029	\$285,577	\$34,271	\$6,416	\$326,264
GHBW	258	\$20,631	\$2,476	\$3,509	\$26,615
Totals	3,287	\$306,208	\$36,747	\$9,925	\$352,879

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

PROJECT ADMINISTRATION

MANHOURS							
TASK	SPM	PM	ADMIN4	ADMIN3	ADMIN2	ADMIN1	TOTAL
Project Management	6	6					12
Meetings	6	36					42
Invoice Processor	12				15	8	35
Administrative Support						2	2
Total MH - Project Administration	24	42	0	0	15	10	91

LABOR COSTS			
Description (Billing Class)	Rate	MH	Amount
SPM - Project Manager (E-6/E-5)	\$68.10	24	\$1,634
PM - Project Manager (E-3/E-4)	\$44.20	42	
ADMIN2 - Sr. Admin. Assistant (X-2)	\$23.60	15	\$354
ADMIN1 - Admin. Assistant (X-1)	\$19.00	10	\$190
		Subtotal	\$2,178
	Overhead	187.57%	\$4,085
		Subtotal	\$6,263
		Fee	\$752
		Subtotal Labor Costs	\$7,015

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Printing (8 1/2 x 11 B&W)	400	each	\$0.10	\$40
Printing (11 x 17 Color)	400	each	\$1.30	\$520
Mileage	150	mile	\$0.56	\$84
			Subtotal Direct Costs	\$644
TOTAL COSTS - PROJECT ADMINISTRATION				\$7,659

BASIS OF ESTIMATE - PROJECT ADMINISTRATION
Description
Includes 18 progress meetings and 18 invoices

Appendix A - Justification of Costs and Fees
January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657

SURVEYS

MANHOURS						
TASK	SPS	PS	ST	PC	IM	TOTAL
Property Survey						
Partial Section Breakdown - (1) NE 1/4, (6) NW 1/4				10	10	20
Recon Parcels & parcel ties (10 (+/-) parcels)				8	8	16
Process Raw Data	2	4				6
Calculations and final Drawings	4	8	2			14
Design Survey						
Horizontal and Vertical Control	2	4		22	22	50
Topographic Survey	1	2		20	20	43
Drainage Survey	1			10	10	21
Locate Utility	1	2		6	6	15
Process Raw Data	1	4				5
Process Drawing and DTM	2	12				14
Final Drawings - Control Sheets	2	4	8			14
Stake Proposed Right of way and Easements	1	2		4	4	11
Monument Right of Way	1	2		12	12	27
Total MH - Surveys	18	44	10	92	92	256
LABOR COSTS						
Description (Billing Class)	Rate	MH	Amount			
SPS - Senior Project Surveyor (S-5)	\$45.83	18	\$825			
PS - Project Surveyor (S4)	\$31.35	44	\$1,379			
TECH - Technician (T-1)	\$21.33	10	\$213			
PC - Survey Party Chief (S-3)	\$21.23	92	\$1,953			
IM - Instrument Man (S-2)	\$16.68	92	\$1,535			
		Subtotal	\$5,905			
		Overhead	187.57%	\$11,076		
		Subtotal	\$16,981			
		Fee	\$2,038			
		Subtotal Labor Costs	\$19,019			
EXPENSES						
ITEM	Quantity	Unit	Rate	Amount		
Printing (8 1/2 x 11 B&W)	40	copy	\$0.10	\$4		
Mileage	240	mile	\$0.56	\$134		
Hotel Lodging	0	night	\$84.70	\$0		
Arkups Utility Markings	1	LS	\$625.00	\$625		
Title Work	10	Cert.	\$200.00	\$2,000		
Utility Survey Support	1	LS	\$0.00	\$0		
Meals	0	day	\$0.00	\$0		
		Subtotal Direct Costs	\$2,763			
TOTAL COSTS - SURVEYS				\$21,782		
BASIS OF ESTIMATE - SURVEYS						
Project						
Number of Anticipated Parcels						10
Hamestrung Creek Sections outside roadway						5
Length of Topographic Survey						0.41 Mile

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Stary Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

TRAFFIC STUDY

MANHOURS						
TASK	PM	PE	DE	DSR	ADMIN	TOTAL
Traffic Forecast for EASL Calculation						
Gather Historical Data (ADT)	1	4				5
Gather NWARPC Travel Demand Data	1	8				9
Review Previous Studies	2	8				10
Project Traffic along Ruppel Road (ADT)	2	8				10
Document the Findings	2	4				6
Total MH - Traffic	8	32	0	0	0	40
LABOR COSTS						
Description (Billing Class)	Rate	MH	Amount			
PM - Project Manager (E-5/E-6)	\$68.10	8	\$545			
PE - Project Engineer (E-3)	\$41.90	32	\$1,341			
DE - Design Engineer (E-1)	\$28.00	0	\$0			
DSR - Sr. Designer (D-2)	\$33.00	0	\$0			
ADMIN - Administrative Assistant (X-1)	\$19.00	0	\$0			
			Subtotal		\$1,886	
			Overhead 187.57%		\$3,538	
			Subtotal		\$5,424	
			Fee		\$651	
			Subtotal Labor Costs		\$6,075	
EXPENSES						
ITEM	Quantity	Unit	Rate	Amount		
Printing (11x17 B&W)	100	each	\$0.20	\$20		
Mileage	20	miles	\$0.56	\$11		
Miscellaneous (Courier)	0	each	\$0.00	\$0		
Lodging	0	each	\$84.70	\$0		
				Subtotal Direct Costs		\$31
TOTAL COSTS - TRAFFIC STUDY						\$6,106

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

ENVIRONMENTAL

TASK	MANHOURS							TOTAL
	SPM	PM	PE	SES	TECH	ARCH	ADMIN	
ENVIRONMENTAL								
Constraints Mapping and Data Collection				6	12			18
Coordination with Roadway and Bridge Design	1	1	4	4	1			11
Alternatives Review and Evaluation of Anticipated Impacts			6	8	12			26
Alternatives Analysis		1	1	8	2			
Develop and Coordinate Purpose and Need		2		2				4
Agency Coordination Letters (USACE, USFWS, SHPO, NRCS)				6	6		1	13
Obtain Project Mailing List Database				1				1
Prepare Public Notice Notification for Client and AHTD Approval		1		2				3
Public Involvement - Stakeholder and Property Owner Notifications			1	4			2	7
Public Meeting Attendance, Handouts, Exhibits, Site Selection	4	4	1	12	22			43
Environmental Data Collection (air, land use, economic, socioeconomic, etc...)				24	8			32
Noise Study		1	2	32	4			39
Phase I Cultural Resources Survey and Prepare Tribal Letters		1		6	4	50		61
Phase I Cultural Resources Survey Review and Coordination		1		2		2		5
Jurisdictional Waters Mapping and Report		1		16	5			22
Section 404 Nationwide Permit Preparation		1		4	4			9
SWPPP Preparation and Coordination with ADEQ			1	16	8			
Initial Site Assessment for Hazardous Waste			1	8	1			10
Public Hearing Attendance, Handouts, Exhibits, Site Selection	8	8	8	28	50			
Public Hearing Response to Comments and Synopsis			8	16				
Prepare Draft EA Document			2	38	22			62
Review Draft EA Document	2	2		2				6
Revisions to Draft EA Document Per City and AHTD Comments		1		6	4			11
Final EA and FONSI Document Preparation			2	20	4		2	28
Final EA and FONSI Review and Submittal	1	4		6				11
Distribute Final FHWA-Approved EA		1		2			6	9
Total MH - Environmental	16	30	37	279	169	52	11	594

LABOR COSTS			
Description (Billing Class)	Rate	MH	Amount
SPM - Project Manager (E-5/E-6)	\$68.10	16	\$1,090
PM - Project Manager (E-3/E-4)	\$44.20	30	\$1,326
PE - Project Engineer (E-2)	\$36.00	37	\$1,332
SES - Sr. Environmental Scientist (P-1)	\$35.00	279	\$9,765
ST - Sr. Technician (T-2)	\$28.00	169	\$4,732
ARCH - Registered Archaeologist (P-2)	\$45.00	52	\$2,340
ADMIN - Administrative Assistant (X-1)	\$19.00	11	\$209
		Subtotal	\$20,794
	Overhead	187.57%	\$39,003
		Subtotal	\$59,797
		Fee	\$7,176
		Subtotal Labor Costs	\$66,973

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

ENVIRONMENTAL

MANHOURS									
TASK	SPM	PM	PE	SES	TECH	ARCH	ADMIN	TOTAL	
EXPENSES									
ITEM					Quantity	Unit		Rate	Amount
Printing B&W					1,500	each		\$0.10	\$150
Printing Color					300	each		\$0.65	\$195
Environmental Database					1	each		\$250.00	\$250
Public Meeting Displays					14	each		\$50.00	\$700
Mileage					320	miles		\$0.56	\$179
Miscellaneous (Courier)					42	each		\$12.00	\$504
								Subtotal Direct Costs	\$1,978
TOTAL COSTS - ENVIRONMENTAL									\$68,951
BASIS OF ESTIMATE - ENVIRONMENTAL									
Up to Two public hearings									
Specialist Studies include Noise, Cultural Resources, Wetlands and Hazardous Waste									

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

BRIDGE

TASK	MANHOURS						TOTAL
	SPM	PM	PE	DE	TECH	ADMIN	
Conceptual Bridge Design							
30% Plan Submittal							
Develop Preliminary Layout	8	16	24	24	24		96
Typical Sections And Details	8	8		16	24		56
H&H Study of Hamestring Creek and Report	2	8	30	12	4		56
Plan Submittal	2	4		4			10
QA/QC Review	4	8			4		16
Preliminary Design							
50% Plan Submittal							
Incorporate Review Comments	2	4	4		4		14
Typical Sections		8	16	16	16		56
Develop Final Layout	4	8	8		16		36
Preliminary Structural Design	4	16	24	24	48		116
Bridge Scour Assessment		2	8				10
QA/QC Review	8	8	4				20
Final Design							
90% Plan Submittal							
Final Superstructure Design and Plans	8	16	40	24	48		136
Final Substructure Design And Plans	8	16	24	40	48		136
Special Provisions	4	8	8		4		24
Quantity Calculations	4	8		16			28
QA/QC Review	4	16	8				28
100% Plan Submittal							
Incorporate Review Comments	4	16	8		8		36
Final Plan Submittal	4	16	8		8		36
Total MH - Design, Plans, and Specs	78	186	214	176	256	0	910

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

BRIDGE

MANHOURS							
TASK	SPM	PM	PE	DE	TECH	ADMIN	TOTAL
LABOR COSTS							
Description (Billing Class)					Rate	MH	Amount
SPM - Project Manager (E-5/E-6)					\$68.10	78	\$5,312
PM - Project Manager (E-3/E-4)					\$44.20	186	\$8,221
PE - Project Engineer (E-2)					\$36.00	214	\$7,704
DE - Design Engineer (E-1)					\$28.00	176	\$4,928
ST - Senior Technician (T-2)					\$28.00	256	\$7,168
						Subtotal	\$33,333
					Overhead	187.57%	\$62,523
						Subtotal	\$95,856
						Fee	\$11,503
						Subtotal Labor Costs	\$107,359
EXPENSES							
ITEM			Quantity	Unit	Rate		Amount
Printing (11x17 B&W)				each	\$0.20		\$400
Miscellaneous (Courier)				each	\$12.00		\$200
						Subtotal Direct Costs	\$600
						TOTAL COSTS - BRIDGE	\$107,959
BASIS OF ESTIMATE - BRIDGE							

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

DESIGN, PLANS, AND SPECIFICATIONS

TASK	MANHOURS						TOTAL
	SPM	PM	PE	DE	TECH	ADMIN	
Roadway Front End Tasks							
Design Criteria		1	3				4
Conceptual Design							
Typical Sections			2	8	10		20
Conceptual Geometric Design	2		4	6	12		24
Prepare Graphics for Environmental Documentation		2		6	8		16
Revisions			2		8		10
Preliminary Design							
30% Plan Submittal							
Title Sheet				1	4		5
Typical Sections			1	2	6		9
Ruppel Road Plan and Profile	4	8		45	60		117
Bridge Team Coordination		4					4
Water/Sewer Relocation Plan		2	8	12			22
Opinion of Probable Costs	1	4		10			15
QA/QC	4	4					8
City Street Committee Meeting	3	4			4		11
Plan Submittal and Address AHTD/City Comments		2	10	10	12	2	36
50% Plan Submittal							
Drainage Design and Drainage Area Map	1	2	20	34	8		65
Typical Sections			2	2	4		8
Pavement Design			4				4
Striping and Signing Plans			1	1	8		10
Soil Boring Logs				2	6		8
Ruppel Road Plan and Profile	4	4	10	40	60		118
Channelization Plan and Profile	1	4	8	24	12		49
Water/Sewer Relocation Plan & Details		4		18			22
Driveways (Up to 4 Anticipated)			4	10	12		26
Cross Sections	1	4	16	8	4		33
Set ROW			2	4	4		10
Survey Control Details				2	4		6
Special Details		4		10	8		22
Maintenance of Traffic Plan and Details		1		10	8		19
Erosion Control Plans			6		8		14
Opinion of Probable Costs	1	2	2	8			13
Franchise Utility Coordination			4	4			8
QA/QC	4	4					8
Design Public Meeting	4	4	6		6		20
Plan Submittal/Address AHTD/City Comments	2	4	8	8	12	2	36

Appendix A - Justification of Costs and Fees
January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
Job 040657

DESIGN, PLANS, AND SPECIFICATIONS

TASK	MANHOURS						TOTAL
	SPM	PM	PE	DE	TECH	ADMIN	
Final Design							
90% Plan Submittal							
Quantity Calculations(Quantity Sheets Excluded)		2	12	16			30
Quantity Calculations Check	4	4					8
Transportation Management Plan		1	3				4
Update Plan and Profile Sheets	1	2	4	10	12		29
Update Cross Sections		2		8	4		14
Project Manual		2	12	4			18
Special Provisions		2	8				10
Franchise Utility Coordination			4	4			8
QA/QC	4	4					8
Plan Submittal/Address AHTD/City Comments	1	4	6	6	8	2	27
100% Plan Submittal							
Plan Check	4	4					8
Final Plans Submittal (Signed and Sealed)	1	2	4		4	2	13
Total MH - Design, Plans, and Specs	47	97	176	333	316	8	977

LABOR COSTS			
Description (Billing Class)	Rate	MH	Amount
SPM - Project Manager (E-5/E-6)	\$68.10	47	\$3,201
PM - Project Manager (E-3/E-4)	\$44.20	97	\$4,287
PE - Project Engineer (E-2)	\$36.00	176	\$6,336
DE - Design Engineer (E-1)	\$28.00	333	\$9,324
TECH - Technician (T-1)	\$21.33	316	\$6,740
ADMIN - Administrative Assistant (X-1)	\$19.00	8	\$152
		Subtotal	\$30,040
	Overhead	187.57%	\$56,346
		Subtotal	\$86,386
		Fee	\$10,366
		Subtotal Labor Costs	\$96,752

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Printing (11x17 B&W)	600	each	\$0.20	\$120
Printing (8.5x11)	500	each	\$0.10	\$50
Mileage	200	miles	\$0.56	\$112
Miscellaneous (Courier)	2	each	\$12.00	\$24
			Subtotal Direct Costs	\$306

TOTAL COSTS - DESIGN, PLANS, AND SPECIFICATIONS \$97,058

BASIS OF ESTIMATE - DESIGN, PLANS, AND SPECIFICATIONS	
Roadway	Quantity
Roadway Improvements (Miles)	0.41
Intersections to be Improved	1 - Partial
Bridge	1
Number of Anticipated Residential Driveways Impacted	4

Note: The manhour estimate is based on a 13 point review by AHTD.

Appendix A - Justification of Costs and Fees
 January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)
 Job 040657

RIGHT OF WAY

MANHOURS						
TASK	SPS	PS	ST	ADMIN	TOTAL	
ROW						
Stage 1						
Plot and verify Certificates against Parcel Surveys	2	20			22	
Create R01 and set ROW points from Construction Plans and PSUR		2			2	
Submit Strip Map (Omit due to length)					0	
Stage 2						
Field Inspection					0	
Revise ROW based on AHTD comments		2			2	
Prepare title sheet		2	4		6	
Prepare layout sheets (estimated 1 sheets)		2	4		6	
Prepare Right-of-Way plan sheets (estimated 4 sheets)	1	8	32		41	
Calculate tract areas (total, to acquire & residuals)	1	8	2		11	
Draw total parcel insets (if necessary)					0	
Prepare Legal Descriptions	6	12			18	
Stage 3						
In-House Plan Check	1	1			2	
Stage 4						
Submit 90% plans to AHTD		2			2	
(Electronics - Plans.dgn, Legals.doc, Certificates & Deeds.pdf)		2			2	
Corrections from Review Comments (Non Chargeable Expense)					0	
Revisions from Review Comments		2			2	
Final Review with Construction Plans	1	2			3	
Stage 5						
Submit Final Plans to AHTD (Electronic Files only)			1		1	
Revisions requested during ROW Acquisition	1	2			3	
UTILITY COORDINATION						
Utility Coordination (City to Perform Utility Coordination)	1				1	
Total MH -Right of Way						
	14	67	43	0	124	
LABOR COSTS						
Description (Billing Class)	Rate	MH	Amount			
SPS - Senior Project Surveyor (S-5)	\$45.83	14	\$642			
PS - Project Surveyor (S4)	\$31.35	67	\$2,100			
TECH - Technician (T-1)	\$21.33	43	\$917			
		Subtotal	\$3,659			
		Overhead 187.57%	\$6,863			
		Subtotal	\$10,522			
		Fee	\$1,263			
		Subtotal Labor Costs	\$11,785			
EXPENSES						
ITEM	Quantity	Unit	Rate	Amount		
Printing (11x17 B&W)	30	each	\$0.20	\$6		
Miscellaneous (Courier)	2	each	\$12.00	\$24		
		Subtotal Direct Costs	\$30			
TOTAL COSTS - RIGHT OF WAY						\$11,815
BASIS OF ESTIMATE - RIGHT OF WAY						
Right of Way				Quantity		
Estimated Number of Parcels and Legal				10 Parcels with 6 Legals		
Estimated Number of Sheets				4 Right of Way		

Appendix A - Justification of Costs and Fees

January 23, 2014

W. Starry Night View - W. Mount Comfort Rd. (N. Ruppel Rd.)(Fayetteville) (S)

Job 040657

BIDDING

MANHOURS							
TASK	SPM	PM	PE	DE	DSR	ADMIN	TOTAL
Bidding							
Dispense plans and specs to prospective bidders						4	4
Addendums/Inquiries		6	2			0	8
Pre-Bid Meeting	2	4				0	6
Bid Opening	2	2	2			0	6
Prepare bid tabulation		1				4	5
Evaluate bids and recommend award	1	2	2			0	5
Prepare construction contracts	1					0	1
Notice to Proceed			2			0	2
Total MH - Design, Plans, and Specs	6	15	8	0	0	8	37
LABOR COSTS							
Description (Billing Class)	Rate	MH	Amount				
SPM - Project Manager (E-5/E-6)	\$68.10	6	\$409				
PM - Project Manager (E-3/E-4)	\$44.20	15	\$663				
PE - Project Engineer (E-2)	\$36.00	8	\$288				
DE - Design Engineer (E-1)	\$28.00	0	\$0				
DSR - Sr. Designer (D-2)	\$33.00	0	\$0				
ADMIN - Administrative Assistant (X-1)	\$19.00	8	\$152				
		Subtotal	\$1,512				
	Overhead 187.57%		\$2,836				
		Subtotal	\$4,348				
		Fee	\$522				
		Subtotal Labor Costs	\$4,870				
EXPENSES							
ITEM	Quantity	Unit	Rate	Amount			
Printing (11x17 B&W)	200	each	\$0.20	\$40			
Miscellaneous (Courier)	2	each	\$12.00	\$24			
				Subtotal Direct Costs			
				\$64			
TOTAL COSTS - BIDDING							\$4,934
BASIS OF ESTIMATE - BIDDING							

APPENDIX B1

SUBCONSULTANT AGREEMENT

JOB NO. 040657

FEDERAL AID PROJECT ("FAP") NO. STPU-9142(36)

W. Starry Night View – W. Mount Comfort Rd. (N. Ruppel Road)(Fayetteville) (S)

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 Fayetteville ("Owner") for Job No. 040657, dated _____, _____. Garver, LLC ("Consultant") and Grubbs, Hoskyn, Barton & Wyatt, 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

- 2.1. The City of Fayetteville has programmed a project for the reconstruction and relocation of N. Ruppel Road from W. Starry Night View to W. Mount Comfort Road, including a bridge over Hamestring Creek in Fayetteville, Washington County, Arkansas.
- 2.2. The project generally consists of providing environmental documentation, surveys, geotechnical studies, hydraulic studies, roadway and bridge design and plans, right of way plans, and bidding services. Storm drainage systems, relocated utility facilities, maintenance of traffic and other incidental systems and facilities will be designed and constructed as necessary.
- 2.3. The proposed improvements will begin at the northern edge of the Starry Night View and proceed north approximately 1,700 linear feet to tie into the existing signalized intersection at Mount Comfort Road and Ruppel Road (existing northern leg of intersection).
- 2.4. "Services to be Provided by Subconsultant." Grubbs, Hoskyn, Barton and Wyatt, Inc. will perform the following tasks to prepare the geotechnical investigation for the project:
 - 2.4.1. Grubbs, Hoskyn, Barton & Wyatt will visit the project alignment to observe site conditions. Published information on site geology and available information from prior geotechnical studies in the area will be reviewed.
 - 2.4.2. Grubbs, Hoskyn, Barton & Wyatt will contact landowners to secure right of access in the project alignment prior to accessing boring locations. Underground utility locations will be cleared prior to beginning drilling. It is expected that Garver or the City of Fayetteville will provide property owner contact information, if needed. It is

assumed that Garver will provide all right of access information and available maps and aerial photographs. This information will be required prior to contacting property owners and beginning work.

- 2.4.3. Access to boring locations will be provided by Grubbs, Hoskyn, Barton & Wyatt as dictated by site conditions and permitted by property owners. Applicable permits will be obtained and traffic control will be provided by Grubbs, Hoskyn, Barton & Wyatt. Truck-mounted drilling equipment will be utilized.
- 2.4.4. Sample borings will be advanced using dry-auger and rotary-wash drilling techniques. The existing pavement section components will be measured. Undisturbed soil samples or Standard Penetration Values will typically be obtained in borings at 2-ft to 5-ft intervals. Groundwater measurements will be obtained during and at the completion of drilling operations. Boreholes will be backfilled after obtaining final groundwater measurements. Boreholes in existing pavement areas will be patched with asphalt concrete cold patch or a concrete mix.
- 2.4.5. The subsurface exploration program will consist of two (2) sample borings drilled to approximately 15-ft depth or auger refusal in the new embankment area in the Hamestring floodplain area, three (3) sample borings drilled to approximately 10-ft depth or auger refusal along the remainder of the alignment, and up to two (2) borings at bridge bent locations to approximately 50 ft-depth with rock cores.
- 2.4.6. An adequate laboratory testing program will be planned and performed after the borings are completed. The purpose of the laboratory testing program will be to evaluate pertinent physical properties and engineering characteristics of the subgrade soils. These data will be used in developing geotechnical recommendations for subgrade support design parameters, subgrade preparation, and site grading. The testing program is expected to consist of classification tests, strength tests, measurements of compressibility, swell potential, and subgrade support properties.
- 2.4.7. An engineering report will be developed which will include the results of the field and laboratory studies, information on site conditions and geology, and recommendations for subgrade preparation, site grading, pavement subgrade support parameters, pavement section, bridge foundation, embankment, and retaining walls.

3. COSTS, FEES, PAYMENTS AND RATE SCHEDULES

- 3.1. For the work described herein, except as otherwise agreed to in writing by the Engineer and the Subconsultant, the Engineer will pay the Subconsultant on a cost plus fixed fee basis. The total not-to-exceed cost for the geotechnical investigation will be **\$26,615** with a fixed fee of **\$2,476**. The justification for the fees and costs is contained in Attachment B1-1. The Subconsultant will submit monthly invoice indicating the amount complete. Engineer will not be required to pay Subconsultant for work represented by invoices received more than 60 days after the billing period when the work occurred.
- 3.2. The Engineer will bill the Owner monthly. All Subconsultant bills must be received 10 calendar days prior to the last Friday of the month in order to be included in the Engineer's invoice to the Owner for that month. Payment to the Subconsultant will be made within 10 days of the Engineer receiving payment from the Owner for the Subconsultant work included in each invoice.

- 3.3. *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 Subconsultant:

3.3.1.SCHEDULE OF SALARY RANGES

Description	Min. Hourly	Max. Hourly
Principal	\$42.50	\$69.71
Project Manager	\$31.25	\$61.05
Project Engineer	\$27.93	\$47.60
Staff Engineer/Geologist	\$23.25	\$42.31
Geologist	\$20.50	\$38.46
Drilling Supervisor	\$18.25	\$28.45
Laboratory Supervisor	\$18.25	\$28.45
Driller/Senior Technician	\$12.00	\$24.50
Technician/Helper	\$9.50	\$15.50
Engineering Aide/Clerical	\$12.00	\$20.50

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 AHTD, 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. COVENANT AGAINST CONTINGENCY FEES

- 6.1. 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 AHTD 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.
- 6.2. *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.
- 6.3. *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.
- 6.4. *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.
- 6.5. *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.

7. TITLE VI ASSURANCES (NONDISCRIMINATION)

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

- 7.1. *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.
- 7.2. *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 material 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.

- 7.3. *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 and 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.
- 7.4. *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 by the Owner, the AHTD 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 Subconsultant shall so certify to the Owner, the AHTD, or the FHWA, as appropriate, and shall set forth the efforts made by the Subconsultant to obtain the records or information.
- 7.5. *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 AHTD, or the Federal Highway Administration 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 cancellation, termination, or suspension of the Subconsultant Agreement, in whole or in part.
- 7.1. *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 AHTD, 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 any direction, the Subconsultant may request the Owner, the AHTD, or the United States to enter into the litigation to protect the interests of the State and the United States, respectively.

8. DBE CLAUSE

- 8.1. 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.
- 8.2. *Prompt Payment.* The Subconsultant shall pay its subcontractors, if any, for satisfactory performance of their subcontracts within 30 days of receipt of each payment by the AHTD 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 Subconsultant Agreement, the AHTD, 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 AHTD, 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.

8.3. The Subconsultant shall insert a clause containing all the terms of this section in all subcontracts under this Subconsultant Agreement.

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

9.1 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.

9.2 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.

9.3 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.

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

10.1. The Subconsultant certifies, to the best of its knowledge and belief, that—

10.1.1. The Subconsultant and any of its Principals—

10.1.1.1. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal or state agency;

10.1.1.2. 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;

10.1.1.3. 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 10.1.1.2; and,

10.1.1.4. 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.

10.2. *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.

10.3. The Subconsultant shall provide immediate written notice to the AHTD 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.

10.4. The certification in subsection 10.1 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 AHTD may terminate the contract resulting from this solicitation for default in addition to any other remedies available to the AHTD.

11. NOTICE

11.1. All notices, approvals, requests, consents, or other communications required or permitted under this Agreement shall be mailed or hand-delivered to:

11.1.1. To the Subconsultant:

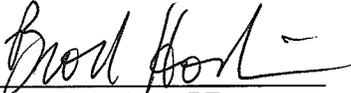
Subra T. Bhat, Ph.D., P.E.
Grubbs, Hoskyn, Barton & Wyatt, Inc.
P.O. Box 1248
Springdale, AR 72764

11.1.2. To the Consultant:

Ron Petrie, PE
Garver, LLC
2049 E. Joyce Boulevard, Suite 400
Fayetteville, AR 72703

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

Garver, LLC.

BY: 
Brock Hoskins, PE
Executive Vice President
1-27-14
Date

Grubbs, Hoskyn, Barton & Wyatt, Inc.

BY: 
Subra Bhat, Ph.D., PE
Principal/Office Manager
1/24/14
Date

Attachment B1-1 - Justification of Costs and Fees
 October 25, 2013
 Ruppel Road
 Job 040657

GEOTECHNICAL

MANHOURS								
TASK	PR	PE	SE/G	D/LS	DT	HT	EA/C	TOTAL
Drilling Program								
Coordination	4	4						8
Drilling and sampling roadway				12	50	40		102
Access								0
Travel				2	4			6
Laboratory Testing and Analysis								
Laboratory Testing - Roadway				16	26			42
Engineering Analyses	20	26	16					62
Report Draft							15	15
Report Preparation and Administration								
Final Report	8	10					5	23
Report Preparation								0
								0
								0
TOTAL MH - GEOTECHNICAL	32	40	16	30	80	40	20	258

LABOR COSTS			
Category - Description	Rate	MH	Amount
PR - Principal	\$59.48	32	\$1,903
PE - Project Engineer	\$38.00	40	\$1,520
SE/G - Staff Engineer or Geologist	\$27.00	16	\$432
D/LS - Drilling or Lab Supervisor	\$25.20	30	\$756
DT - Driller or Sr. Technician	\$21.00	80	\$1,680
HT - Helper or Technician	\$15.50	40	\$620
EA/C - Engineering Aide or Clerical	\$19.50	20	\$390
		Subtotal	\$7,301
	Overhead	182.56%	\$13,329
		Subtotal	\$20,630
		Fee	\$2,476
	FCCM	0.00%	\$0
		Subtotal Labor Costs	\$23,106

Attachment B1-1 - Justification of Costs and Fees
 October 25, 2013
 Ruppel Road
 Job 040657

GEOTECHNICAL

EXPENSES				
ITEM	Quantity	Unit	Rate	Amount
Mob/demob (truck)	40	mile	\$3.30	\$132
In yard mobilization (truck)	1	each	\$140.00	\$140
Drilling equipment (truck)	32	hour	\$31.75	\$1,016
Water truck	20	hour	\$22.00	\$440
Crew truck	50	hour	\$5.65	\$283
Vehicle mileage	40	mile	\$0.55	\$22
Travel expenses	0	day	\$95.00	\$0
Dozer rental	0	day	\$1,250.00	\$0
Equipment set up & Access (truck)	15	hour	\$31.75	\$476
Coring - third party equipment	0	core	\$225.00	\$0
Traffic control - lane closures (4-hr maximum)		hour	\$100.00	\$0
Traffic control - signage and escort	8	hour	\$125.00	\$1,000
			Subtotal Expenses	\$3,509
TOTAL COSTS - GEOTECHNICAL				\$26,615

APPENDIX C
C-1

State Job No. 040657
Federal Aid Project No. STPU-9142(36)

CERTIFICATION OF CONSULTANT

I hereby certify that I, Brock Hoskins, am Executive Vice President and duly authorized representative of the firm of Garver, LLC whose headquarters address is 4701 Northshore Drive, North Little Rock, AR, 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

Garver, LLC ("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 Tatiana Herrington (ADA/504/Title VI Coordinator), 4701 Northshore Dr., North Little Rock, AR, (501-376-3633), or , the following email address: tbherrington@GarverUSA.com. This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.



Authorized Firm Representative

1-27-14
Date

APPENDIX C
C-2

State Job No. 040657
Federal Aid Project No. STPU-9142(36)

CERTIFICATION OF CONSULTANT

I hereby certify that I, Subra Bhat, am a Principle and duly authorized representative of the firm of Grubbs, Hoskyn, Barton, and Wyatt, Inc. whose headquarters address is No. 1 Trigon Plaza, Little Rock, AR, 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

Grubbs, Hoskyn, Barton & Wyatt ("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 Kay Keller (ADA/504/Title VI Coordinator), 8114 Cantrell Road, Suite 350, Little Rock, AR 72227, (501.663.8800), or the following email address: kkellergrubbsengineers.com.

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

State Job No. 040657
Federal Aid Project No. STPU-9142(36)

CERTIFICATION OF CITY OF FAYETTEVILLE

I hereby certify that I am the Mayor of Fayetteville 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:

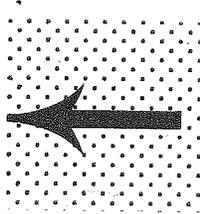
- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee contributions donation, or consideration of any kind:

except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Arkansas 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.


Mayor Lioneld Jordan

2/3/14
Date



Ruppel Road Improvements - AHTD PROJECT NO. 040657
PROJECT TIMELINE with Environmental Assessment

APPENDIX D

Description	Month	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Kickoff Meeting																	
Design and Parcel Surveys																	
Identification and Analysis of Transportation Demands																	
Alternatives Preparation (Up to 3 Build Alt)																	
Data Collection, SOVs, Constraints Mapping																	
AHTD Review of Public Involvement Announcement																	
Public Involvement - 1 Public Meeting (Alternatives)																	
Analysis of Impacts and Preferred Alternative Selection																	
Environmental Specialist Surveys																	
Noise Analysis (contingent on 30% plans)																	
Draft EA Development																	
City, AHTD, FHWA Review of Draft EA																	
Location Public Hearing (if necessary)																	
Final EA Development and Draft FONSI																	
City, AHTD and FHWA Review																	
Environmental Clearance, FONSI																	
Section 404, 401 SWPPP, STAA																	
H&H Study of Hameshing Creek																	
30% Roadway Plans																	
City Review																	
90% Roadway & Bridge Plans																	
City and AHTD Review																	
Right-of-Way Plans																	
City and AHTD Review																	
90% Roadway and Bridge																	
City and AHTD Review																	
Final Plans, Cost Estimate, and Specs																	
Final Approval																	

NOTE: (1) This schedule includes estimated agency review times for all submittals and additional review time may extend the schedule.

City Of Fayetteville - Purchase Order (PO) Request

(Not a Purchase Order)

All purchases under \$2500 shall be used on a P-Card unless medical or 1099 service related. (Call x256 with questions)
All PO Request shall be scanned to the Purchasing e-mail: Purchasing@ci.fayetteville.ar.us

Requisition No.:	Date: 1/28/2014	Garver Engineers, LLC Page 67 of 68
P.O Number:	Expected Delivery Date:	

Vendor #: 52650	Vendor Name: Garver Engineers	Mail Yes: <input type="checkbox"/> XX No: <input type="checkbox"/>	Taxable Yes: <input type="checkbox"/> No: <input type="checkbox"/> XX
Address: 1088 E. Milsap Road		Fob Point:	
City: Fayetteville	State: AR	Zip Code: 72703	Ship to code:
Requester: Chris Brown		Requester's Employee #: 2695	Extension: 8207

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Professional Services	1		70,576.00	\$70,576.00	4520.9555.5314.00	06035.3100		
2	Professional Services	1		282,303.00	\$282,303.00	4470.9470.5809.00 5314	06035.3100		
3	The line above (4470) is a GRANT				\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
*	Shipping/Handling		Lot		\$0.00				

Special Instructions:	Subtotal: \$352,879.00
	Tax: _____
	Total: \$352,879.00

Approvals:

Mayor: _____	Department Director: _____	Purchasing Manager: _____
Finance & Internal Services Director: _____	Budget Manager: _____	IT Manager: _____
Dispatch Manager: _____	Utilities Manager: _____	Other: _____

