

City of Fayetteville Item Review Form

2014-0115

Legistar File Number

March 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 of a payment in the amount of \$580,000.00 to the Arkansas Highway and Transportation Department (AHTD) for the City's portion of the project costs associated with widening Razorback Road from MLK Jr. Blvd. to Leroy Pond Drive, approving of a project contingency of \$50,000.00, and approving of a budget adjustment.

Does this item have a cost?  Yes

\$630,000.00

Cost of this request

Category or Project Budget

Hwy 112 Razorback Road

Program or Project Name

4520.9555.5809.00

Account Number

Funds Used to Date

Sales Tax Construct Bonds

Program or Project Category

06035.3200

Project Number

-\$630,000.00

Remaining Balance

Street Sales Tax 2013

Fund Name

Budgeted Item?  Yes

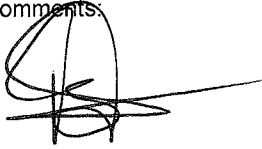
Budget Adjustment Attached?  Yes

V20130812

Previous Ordinance or Resolution # 15-03

Original Contract Number: \_\_\_\_\_

Comments:



Paul A. Bell

Ray Man 3/4/14



ENTERED  
3/3/14  
PA

ENTERED  
3/28/14

## CITY COUNCIL AGENDA MEMO

### MEETING OF MARCH 18, 2014

**TO:** Mayor and City Council

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

**FROM:** Chris Brown, City Engineer

**DATE:** February 28, 2014

**SUBJECT:** Hwy 112 (Razorback Rd) – MLK Jr. Blvd (6<sup>th</sup> St) to Leroy Pond Drive  
Payment of the City's local match to the Arkansas Highway and  
Transportation Department

---

#### RECOMMENDATION:

Staff recommends approval of a payment in the amount of \$580,000 to the Arkansas Highway and Transportation Department (AHTD) for the City's portion of the project costs associated with widening Razorback Road from MLK Jr. Blvd. to Leroy Pond Drive, approval of a project contingency of \$50,000 and approval of a budget adjustment.

#### BACKGROUND:

City Council passed Resolution No. 15-03 on February 4, 2003, approving an Agreement Of-Understanding with AHTD to design and construct this phase of Razorback Road from MLK Jr. Blvd. to Leroy Pond Drive. This project will provide 4 travel lanes, with turning lanes at MLK and at Leroy Pond, and a new signal at Leroy Pond. Sidewalks will be provided on both sides. AHTD agreed to do the design at no cost to the City, if the City would agree to pay all costs above the Federal-aid Surface Transportation Program (STP) funds of \$1,000,000 allotted for this project. Costs under the \$1,000,000 would be split 80/20 with the City paying the 20% until the cap was reached.

This project has had the \$1 million allocation of Federal-aid funding for several years, and recently (FY2013) was approved for additional Federal-aid funding of \$1,080,000 through the STP-A program, thereby closing a funding gap for the \$2.6 million project and allowing it to move forward. Members of City staff are working with UA staff on a 50/50 cost share arrangement for the required 20% matching funds. The City Council committed to partnering on this project in 2003, when the original \$1 million in federal funding was made available.

#### DISCUSSION:

AHTD has recently opened bids for construction, and Sweetser Construction, Inc. is the apparent low bidder at \$2,234,929.00. Adding is the cost for utilities relocation of \$201,260.38 and construction inspection of \$223,492.90, the total project cost is \$2,659,682.28. Deducting the Federal-aid amount of \$2,080,800.00 leaves the City owing \$579,682.28 of which 50% will be reimbursed by the University. Therefore, the City will only pay approximately \$290,000 for

this road widening project.

**BUDGET/STAFF IMPACT:**

Funds are available from the Transportation Bond Program.

**Attachments:**

Letter from AHTD  
Letter from U of A  
Resolution 15-03  
Resolution 89-13

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION TO APPROVE THE PAYMENT OF \$580,000.00 TO THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT REPRESENTING THE CITY'S PORTION OF CONSTRUCTION COSTS RELATED TO THE WIDENING OF RAZORBACK ROAD, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$50,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

**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 payment of \$580,000.00 to the Arkansas State Highway and Transportation Department representing the City's portion of construction costs related to the widening of Razorback Road between Martin Luther King, Jr. Boulevard and Leroy Pond Drive, and further approves a project contingency in the amount of \$50,000.00.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A".

**PASSED and APPROVED** this 18<sup>th</sup> day of March, 2014.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**



## Libertini, Paul

---

**From:** Brown, Chris  
**Sent:** Thursday, February 27, 2014 10:41 AM  
**To:** Libertini, Paul  
**Subject:** FW: Job 040581, Hwy. 180-Leroy Pond Dr. (Hwy. 112) (Fayetteville) (S)  
**Attachments:** 040581BidCostEst.pdf

Paul,

Here is the spreadsheet with the cost for Hwy 112.

---

**From:** Meredith, Carlos A. [mailto:Carlos.Meredith@ahtd.ar.gov]  
**Sent:** Wednesday, February 26, 2014 2:55 PM  
**To:** Brown, Chris  
**Cc:** Siskowski, David M.  
**Subject:** Job 040581, Hwy. 180-Leroy Pond Dr. (Hwy. 112) (Fayetteville) (S)

Chris,

As we discussed, the Department is paying for all preliminary engineering costs associated with this project. The Utility Relocation for the University phone system is still in negotiations but it has come down significantly since we previously talked in January. My office will go through the submitted bid from Sweetser Construction, Inc. to look for any errors before the end of this week. Attached is the worksheet as things stand at this moment. The City's remaining share is currently \$579,682.28. I will be sending the City an official letter sometime next week and it will arrive well before the next City Council meeting. Please put this on their agenda so the Department can concur in the award of this contract as soon as possible.

Thank you for your assistance in this matter.

Carlos A. Meredith

501.569.2562

Arkansas Highway & Transportation Department  
Programs & Contracts Division

# Job 040581

## Bid Cost Estimate

### Hwy. 180-Leroy Pond Dr. (Hwy. 112) (Fayetteville) (S)

	Total Cost	Federal Share	City Share
Utility Relocation	201,260.38	161,008.00	40,252.38
Construction	2,234,929.00	1,744,538.00	490,391.00
Construction Inspection	223,492.90	174,454.00	49,038.90
Total	\$ 2,659,682.28	\$ 2,080,000.00	\$ 579,682.28
City's Remaining Share			\$ 579,682.28

Max Federal Funds (STP-Urban & Attrib)	\$ 2,080,000.00
Federal Share	\$ 2,080,000.00



# UNIVERSITY OF ARKANSAS

Facilities Management

February 28, 2014

Chris Brown  
City Engineer  
City of Fayetteville  
113 West Mountain Street  
Fayetteville, AR 72701

Dear Chris:

The intent of the memo is to inform both the City of Fayetteville and AHTD of the University commitment to cover the increased cost by approximately \$30K for AHTD Job 040581, Hwy. 180-Leroy Pond Dr. (Hwy. 112) (Fayetteville) (S) (Razorback Road Widening Phase I). The original commitment from the University was for 50% of the match required from AHTD, or an estimated \$260,000. Therefore, the current commitment from University with 50% of the match required from AHTD, has been re-estimated at approximately \$290,000. , The University agrees to pay this amount on demand, once contracts are officially executed and a bill is provided.

Sincerely,

A handwritten signature in black ink that reads "Mike Johnson".

Mike Johnson  
Associate Vice Chancellor for Facilities

cc: Don Pederson  
James Ezell  
Jay Huneycutt



**RESOLUTION NO. 89-13**

A RESOLUTION APPROVING A LIST OF ADDITIONAL PROJECTS TO BE  
FUNDED BY THE CITY'S TRANSPORTATION BOND PROGRAM

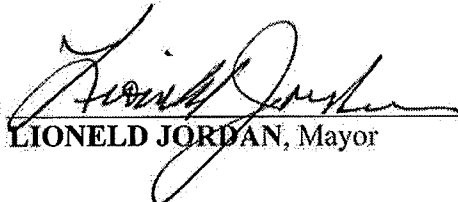
**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves  
the list of additional projects for addition to the City's Transportation Bond Program as  
delineated in the staff memorandum, attached as Exhibit "A".

**PASSED and APPROVED** this 16<sup>th</sup> day of April, 2013.

APPROVED:

ATTEST:

By:   
**LIONELD JORDAN, Mayor**

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





www.accessfayetteville.org

To: Fayetteville City Council

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

From: Chris Brown, City Engineer *CB*

Date: March 29, 2013



Subject: Transportation Bond Program-New Project Recommendations

### INTRODUCTION/SUMMARY

Over the past few months, the Street Committee has worked to develop a list of projects to be added to the Transportation Bond Program. Additional projects are needed in the Program to ensure that all of the funds generated by the bond issued authorized by voters in 2006 are utilized on street improvement projects. The excess funds available are a result of lower than estimated construction costs, additional federal-aid funding that has been secured for certain projects, a contingency/cost sharing allocation that was set aside in the program but has not been used, and the elimination of Highway 112, from Truckers Drive to Van Asche, from full funding under the Bond Program. The list of Street Committee recommended projects, and summary of each project, is included in this memo, along with additional background information on the status of the Transportation Bond Program.

### RECOMMENDATION

After completion of all projects that are currently in the Transportation Bond Program, approximately \$15.5 million remains to be spent. These funds must be spent on construction of street improvements, and must be expended in a timely manner after bonds are issued. With the third bond issue planned for 2014, new projects should be identified now in order for design, right of way acquisition, and other project activities to begin so that construction can begin as soon as possible after the bonds are issued in 2014. Projects that are recommended to be added to the Transportation Bond Program are:

PROJECT NAME	DESCRIPTION	Estimated Project Cost	Other Funding		Cost to Bond Program
			CIP/Cost Share	State/Federal	
Old Wire Road	Mission to Crossover	\$4,016,000	\$400,000		\$3,616,000
Zion Road	Vantage to Crossover	\$4,650,000	\$150,000		\$4,500,000
Regional Park Access Roads	New Location	\$1,400,000			\$1,400,000
College Ave. Enhancements	Maple to Rebecca	\$600,000			\$600,000
College Ave. Enhancements	Rebecca to North St.	\$1,420,000			\$1,420,000
STP-A Matching Funds		\$2,000,000			\$2,000,000
Intersection Improvements and Pedestrian Crossings		\$500,000			\$500,000
Contingency/Cost Sharing		\$1,464,000			\$1,464,000

				Total	\$15,500,000
<b>2013 STP-A Projects:</b>					
Ripple Road	Best Friend Ln. to Mount Comfort	\$3,700,000	\$298,000	\$2,720,000	\$682,000
Highway 112 (Razorback Road)	MLK Dr. to Leroy Pond Dr.	\$2,600,000	\$260,000	\$2,080,000	\$260,000

**BACKGROUND**

The Transportation Bond Program is funded by three bond issues, scheduled in accordance with the availability of dedicated sales tax proceeds to pay off the bonds. Two bond issuances have occurred, one in 2006, and one in 2009, totaling approximately \$34.2 million of the \$65.9 million approved by voters in 2006. The remaining bond issue of approximately \$31.75 million is planned for 2014. The funding provided by these bonds, when combined with State/Federal funding and other City sources, will allow over \$105 million of improvements to be completed.

After the recent receipt of bids on several large projects, the status of the Bond Program and availability of funds in the third bond issue for additional projects is better known. A summary of the financial status is as follows:

Transportation Bonds-Phases 1 and 2	\$ 34,214,960.00
Transportation Bonds-Phase 3	\$ 31,750,000.00
Transportation Bonds-Interest Income	\$ 1,575,600.00
Less: Bond Issuance Costs (Phase 3)	<u>\$ (693,300.00)</u>
<b>Total Transportation Bond Fund Proceeds</b>	<b>\$ 66,847,260.00</b>
Total Cost of Current Projects-Estimated	\$(51,275,615.00)
<b>Unallocated Funds (Proceeds-Total Project Costs)*</b>	<b>\$ 15,571,645.00</b>

**\* Includes \$8.8 million set aside in Phase 3 for cost sharing projects.**

As noted above, available funds for additional projects are estimated at \$15.57 million. This value has been adjusted from the one provided in a December memo to the Committee. This adjustment is due to a proposed change to Garland Avenue (Hwy 112) between I-540 and Howard Nickell Drive. Staff recommends that the funding planned to be allocated to this project be reallocated to other projects. This recommendation is based on the following:

- During the compilation of projects for the 2006 Bond Program, a development along Highway 112 north of Sam's Club was proposed that would have significantly impacted the traffic on Highway 112. This project was never completed, and the current configuration of Highway 112 acceptably handles current levels of traffic.
- The Arkansas State Highway and Transportation Department (AHTD) is designing improvements to the I-540 interchange that will impact Highway 112 up to at least Truckers Drive, and possibly further to the north. This design will not be completed until at least 2015.
- The AHTD is also working on a study of the Highway 112 corridor from I-540 to Bentonville. This could affect the alignment of Highway 112 north of Sam's Club; more importantly, it creates a greater potential for additional state or federal funding of the route.

For these reasons, staff recommends not moving forward with plans to fully fund this project using Transportation Bond Funds; rather, it is prudent to wait on the results of the study, and be prepared to provide matching funds to State or Federal-aid funding that may become available.

A summary of the current projects in the Transportation Bond Program is provided in Attachment 1 to this memo.

**PROJECT SUMMARIES**

1. **Old Wire Road (Mission to Crossover).** (\$4.02 Million) Old Wire Road has been identified as a priority by past Street Committees. The intersection with Mission has previously been approved for signalization and improvements, and is being designed now by the AHTD. Improvements on the rest of Old Wire include widening and intersection improvements, sidewalks, bike lanes, and a roundabout at Old Missouri and Old Wire Road.
2. **Zion Road (Vantage to Crossover).** (\$4.65 Million) Zion Road from College Avenue to Vantage Drive was improved as part of the Bond Program in 2008. This project would extend the improvements to Crossover Road, and provide for a safer route for users by improving the sharp curve just east of Vantage, eliminating the deep ditches next to the road, providing accommodations for bicycles, and providing sidewalks for pedestrian use.
3. **Regional Park Access.** (\$1.4 Million) This project would improve Judge Cummings Road, and provide a new route through the City's property off of Cato Springs Road to access the proposed parking areas for the Regional Park. The street would be constructed with curb and gutter, sidewalks, and streetlights.
4. **College Avenue Improvements (Maple to Rebecca)** (\$600,000) The improvements to College Avenue would match the existing improvements between Rock and Maple, to include 8 foot wide sidewalks adjacent to the curb, trees, and streetlights. The segment between Maple and Rebecca is relatively short, and inexpensive compared to the other segment that is under consideration.
5. **College Avenue Improvements (Rebecca to North Street).** (\$1.42 Million) This segment is complicated by the existing retaining walls along College and the limited space available. If work on this segment moves forward, options other than 8 foot sidewalks adjacent to the curb on both sides may need to be considered.
6. **STP-A Matching Funds (\$2 million).** This placeholder project provides matching funds for federal aid money available through the Surface Transportation Program-Attributable Funds Program. This money is distributed through the Northwest Arkansas Regional Planning Commission. Projects are selected by a local selection committee. Projects selected for funding in Fayetteville in 2013 are Ruppel Road south of Mount Comfort Road (design funding), and Razorback Road (Hwy 112) from Martin Luther King Jr. Blvd. to Leroy Pond Drive through the University of Arkansas Campus. These projects are detailed below.
7. **Intersection Improvements at Selected Intersections (\$500,000)** This project would improve safety and pedestrian access at intersections such as Garland/Maple, Garland/North, North/College, MLK/Razorback, etc. Improvements would be designed as needed. Cost of improvements would be based on intersections selected and the improvements needed at each intersection.
8. **Contingency/Cost Sharing.** This is a placeholder project representing the unallocated funds remaining after funding the above projects. This amount may fluctuate as project budgets are refined during the design and project development process.

### **STP-A PROJECTS**

The following two projects have been approved for funding in 2013 by the Regional Planning Commission. (Discussions regarding 2014 will begin soon.)

1. **Ruppel Road (Best Friend Lane to Mount Comfort Road).** (\$3.7 Million) This project will extend improvements to Ruppel Road from the north end of the Links at Ruppel apartment complex to Mount Comfort Road. The road will be realigned, with a new bridge across Hamstring Creek, to connect with Mount Comfort Road at the existing signal, creating a new 4-way intersection with Ruppel Road and Mount Comfort. Ruppel Road is identified as a priority by the Northwest Arkansas Regional Planning Commission as a north-south connector; therefore, this is one of the projects approved by the NWARPC for federal-aid (STP-A) funding (for design only) for 2013. The City will be responsible for a minimum of 20% matching funds. This project has been previously identified as a priority project by the Street Committee.

2. **Highway 112 (Razorback Road) (Martin Luther King Jr. Blvd. to Leroy Pond Drive).** (\$2.6 Million) This project will provide 4 travel lanes, with turning lanes at MLK and at Leroy Pond, and a new signal at Leroy Pond. Sidewalks will be provided on both sides. This project has had a \$1 million allocation of federal aid funding for several years, and recently has been approved for additional federal aid funding through the STP-A program, thereby closing a funding gap for the \$2.6 million project and allowing it to move forward. Members of City staff are working with UA staff on a cost share arrangement for the required 20% matching funds. The City Council committed to partnering on this project in 2003, when the original \$1 million in federal funding was made available.

### **HOUSES AT WILLOW BEND PROJECT**

The Houses at Willow Bend is an affordable housing project that is being developed by Partners for Better Housing, a local non-profit organization dedicated to providing affordable housing in Fayetteville. The City has worked with this group to secure design funding through the Home Depot Foundation. The Street Committee heard a presentation and a request for cost sharing from Partners for Better Housing. Participation by the City in the cost of the street and drainage infrastructure in the development would make houses that will be constructed more affordable. There were some concerns raised by the City Attorney regarding use of Transportation Bond Funds for this project; therefore, the Committee deferred approval of funding at this time, pending further information on funding sources and other details regarding the development of an agreement with Partners for Better Housing for cost sharing on the Willow Bend Project

### **NEXT STEPS**

Approval of these projects by the City Council will allow staff will begin programming the projects, to include finalizing the work scopes and cost estimates, selecting engineering consultants, developing agreements with the AHTD and other agencies for the federal aid funding, and other preliminary project tasks necessary to move forward with the projects.

---

RESOLUTION NO. 15-03

A RESOLUTION TO APPROVE THE AGREEMENT OF UNDERSTANDING BETWEEN THE CITY OF FAYETTEVILLE AND THE ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT FOR COST SHARING FOR THE PRELIMINARY ENGINEERING WORK TO WIDEN RAZORBACK ROAD

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 the Agreement of Understanding between the City of Fayetteville and the Arkansas Highway and Transportation Department (attached as Exhibit A) relative to widening Razorback Road and requiring an initial payment of \$35,000 for preliminary engineering work by the Arkansas Highway and Transportation Department.

PASSED and APPROVED this the 4<sup>th</sup> day of February, 2003.



By: Sondra Smith  
Sondra Smith, City Clerk

APPROVED:

By: Dan Coody  
DAN COODY, Mayor



**AGREEMENT OF UNDERSTANDING**

**BETWEEN**

**THE CITY OF FAYETTEVILLE**

**AND**

**THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**

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

**RELATIVE TO**

Widening Hwy. 112 from Hwy. 180 (6<sup>th</sup> Street) to Garland Avenue (hereinafter called "the project") utilizing Federal-aid Surface Transportation Program (STP) funds.

WHEREAS, the Transportation Equity Act for the Twenty-first Century provides 80% Federal-aid funds to be matched with 20% local funds (cash match) for improvements to eligible routes, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows, subject to a limit of \$1,000,000 in Federal STP funding:

	<u>Federal %</u>	<u>State %</u>	<u>City %</u>
Preliminary Engineering:	0	100	0
Right-of-Way:	80	0	20
Utilities:	80	0	20
Construction:	80	0	20
Construction Engineering:	80	0	20

, and

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

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

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

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution (Attachment B) from the City Council which requests the project and authorizes the Mayor to execute contracts with the Department.
2. Upon request, submit to the Department \$35,000.00 before preliminary engineering by the Department begins.
3. Be responsible for the 20% match for the cost of construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The maximum amount of Federal STP funding available for this project is \$1 million.**
4. Be responsible for 100% of all right-of-way, utility, construction and construction engineering costs not provided by the Federal Highway Administration.
5. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
6. Be responsible for 100% of all right-of-way and utility costs incurred should the City not enter into the construction phase of the project.
7. Submit to the Department the local matching share of the total estimated cost before the project is awarded to contract.
8. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
9. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for 100% of the cost of developing plans and specifications for the project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.



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

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

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 4~~th~~ day of

February, ~~2002~~  
2003

ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT

CITY OF  
FAYETTEVILLE

\_\_\_\_\_  
Dan Flowers  
Director of Highways and Transportation

Dan Coody  
Dan Coody  
Mayor

Attachment A

**GENERAL REQUIREMENTS  
FOR  
RECIPIENTS AND SUB-RECIPIENTS  
CONCERNING MINORITY BUSINESS ENTERPRISES**

It is the policy of the U. S. Department of Transportation that minority business enterprises (MBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this Agreement.

The recipient or its contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 23, Subpart E, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in Subsection 23.43(a) shall constitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

**AGREEMENT OF UNDERSTANDING**

**BETWEEN**

**THE CITY OF FAYETTEVILLE**

**AND**

**THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**

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

RELATIVE TO

**Widening Hwy. 112 from Hwy. 180 (6<sup>th</sup> Street) to Garland Avenue (hereinafter called "the project") utilizing Federal-aid Surface Transportation Program (STP) funds.**

WHEREAS, the Transportation Equity Act for the Twenty-first Century provides 80% Federal-aid funds to be matched with 20% local funds (cash match) for improvements to eligible routes, and

WHEREAS, the City of Fayetteville (hereinafter called "City") has expressed its desire to use Federal-aid funds for an eligible project and to provide necessary matching cash share for such funds, and

WHEREAS, each project phase will be funded as follows, subject to a limit of \$1,000,000 in Federal STP funding:

	<u>Federal %</u>	<u>State %</u>	<u>City %</u>
Preliminary Engineering:	0	100	0
Right-of-Way:	80	0	20
Utilities:	80	0	20
Construction:	80	0	20
Construction Engineering:	80	0	20

, and

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

WHEREAS, the City understands that the Arkansas State Highway and Transportation Department (hereinafter called "Department") will adhere to the General Requirements for Recipients and Sub-recipients Concerning Minority Business Enterprises as stated on Attachment A,

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

THE CITY WILL:

1. Transmit to the Department a signed and sealed copy of the Resolution (Attachment B) from the City Council which requests the project and authorizes the Mayor to execute contracts with the Department.
2. Upon request, submit to the Department \$35,000.00 before preliminary engineering by the Department begins.
3. Be responsible for the 20% match for the cost of construction, construction engineering, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities. **NOTE: The maximum amount of Federal STP funding available for this project is \$1 million.**
4. Be responsible for 100% of all right-of-way, utility, construction and construction engineering costs not provided by the Federal Highway Administration.
5. Submit a letter to the Right of Way Division of the Department which either (1) stipulates the services relative to right-of-way acquisition, appraisal, relocation, and utilities that the City will assume or (2) requests that the Department handle some or all of these services.
6. Be responsible for 100% of all right-of-way and utility costs incurred should the City not enter into the construction phase of the project.
7. Submit to the Department the local matching share of the total estimated cost before the project is awarded to contract.
8. Make no alterations to the improvements constructed with Federal-aid funds without first consulting with the Department.
9. Assure that its policies and practices with regard to its employees, any part of whose compensation is reimbursed from federal funds, will be without regard to race, color, religion, sex, national origin, age, or disability in compliance with the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, The Americans with Disabilities Act of 1990, as amended, and Title 49 of the Code of Federal Regulations Part 21 (49 CFR 21), Nondiscrimination in Federally-Assisted Programs of the Department of Transportation.

THE DEPARTMENT WILL:

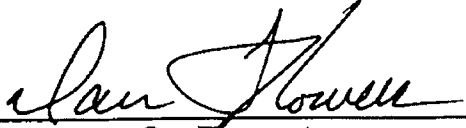
1. Be responsible for administering Federal-aid funds and for project construction supervision.
2. Be responsible for 100% of the cost of developing plans and specifications for the project.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, relocation, and utility adjustments and will be reimbursed for costs involved in performing these services.

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

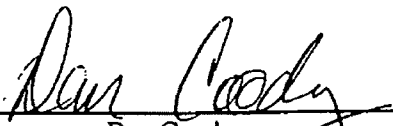
IT IS FURTHER AGREED, that should the City fail to pay to the Department any required funds due for project implementation or fail to complete the project as specified in this Agreement, the Department may cause such funds as may be required to be withheld from the City's gasoline tax allotment.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement this 4<sup>th</sup> day of February, ~~2002~~  
2003

ARKANSAS STATE HIGHWAY  
AND TRANSPORTATION DEPARTMENT

  
\_\_\_\_\_  
Dan Flowers  
pm Director of Highways and Transportation

CITY OF  
FAYETTEVILLE

  
\_\_\_\_\_  
Dan Coody  
Mayor

