

Supplemental Note for Checklist Item #14– A copy of the Engineering Contract –

Do not exceed the maximum amount allowed in a construction engineering contract without a supplemental agreement. Supplemental work accomplished prior to the execution of the supplemental agreement will be classified as non-participating.

CONTRACT AGREEMENT FOR CONSTRUCTION ENGINEERING SERVICES

THIS AGREEMENT is entered into this _____ day of _____ 200_, between **ABC Consultants, Inc., P.O. Box 48751, Jackson, Mississippi** (hereinafter designated as the ENGINEER) and the Local Public Agency (LPA), **City of Jackson, Post Office Box 17, Jackson, Mississippi 39205**, County of **HINDS**, MISSISSIPPI (hereinafter designated as the LPA).

WITNESSETH THAT:

WHEREAS, the LPA desires to engage the ENGINEER to provide construction engineering services in connection with the Traffic Signal Improvements, City Wide, Surface Transportation Project No. STP-0123(004)/46-0123-00-004-10.

NOW THEREFORE:

IT IS AGREED by and between the ENGINEER and the LPA as follows:

- I. **CONSULTING ENGINEERING SERVICES:** The ENGINEER will furnish consulting services during construction of Federal Aid Project No. STP-0123(004)/46-0123-00-004-10, to the LPA of **City of Jackson**, County of **Hinds**, Mississippi, to include the following: construction engineering for the construction contract, which shall be in accordance with the approved plans, specifications and contract documents, all of which are incorporated in and made a part of this AGREEMENT.

- II. **ENGINEERING ADMINISTRATION:** The engineering administration of construction will be the responsibility of the LPA acting through the ENGINEER, and will be subject to inspection and approval of the Chief Engineer of the MISSISSIPPI D.O.T., (hereinafter designated as the DEPARTMENT), and of the Federal Highway Administration (FHWA) or their representatives.

- III. **CONSTRUCTION ENGINEERING SERVICES:** Construction engineering services shall consist of all engineering work involved from the contract stage, beginning the date of FHWA concurrence in award of the construction contract, through the preparation and submission of the final estimate and supporting documents to the DEPARTMENT, and shall include the following:
 - A. Setting of all stakes to control the work, and resident project representation and other controls to insure that work is performed in accordance with the plans and specifications. All materials to be used in the construction of this project shall be tested and certified by the ENGINEER as meeting the requirements of the approved plans and specifications in accordance with Federal Aid Policy Guide (FAPG) 23CFR637B, Construction Inspection and Approval.
 - B. The ENGINEER shall promptly prepare, verify and recommend payment of all eligible Contractor's estimates: he shall maintain a project diary as the official project record for each project, showing the Contractor's daily operation; and the engineering daily activities by names, function performed and hours worked. He shall maintain records of the ENGINEER'S out-of-pocket cost plus additives for profit and overhead items. He shall check and verify the quantities of all materials incorporated in the project; and shall make prompt preparation and submission of the final estimate and supporting documents to the LPA for approval and payment. He shall likewise make such records available at all reasonable times during the contract period, and for three (3) years from the date of payment of the final estimate. These records, documents,, and data shall be

available for inspection by the LPA, DEPARTMENT, and the Federal Highway Administration and any other authorized representative of the Federal Government, and copies thereof shall be furnished if requested. c . For work involved in Items (A), (B), and (D) the LPA will pay to the ENGINEER monthly for work done the previous month an amount equal to the ENGINEER'S out-of-pocket cost plus additives for profit and current overhead items (payroll, taxes, insurance, etc.) as provided for in Appendix "A" which is attached hereto and made part of this AGREEMENT. Monthly payments will be made on the basis of Certified Time Records. The maximum amount payable under this agreement shall be \$85,978.06, including a fixed fee of \$11,856.22, beyond which no funds will be authorized for payment without a Supplement-Agreement to this Agreement. Each monthly billing will be reduced by 5%, which shall be retained until final acceptance of the project by MDOT and FHWA.

- D. The duties, responsibilities, and limitations of authority of the resident project representative(s) are listed in Appendix B, which is attached to and made a part of this AGREEMENT.
 - E. The responsible engineer employed by the ENGINEER is John J. Kellum, P.E., Mississippi Registration No. 8555.
- IV. **COVENANT AGAINST CONTINGENT FEES:** The ENGINEER warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the ENGINEER, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the ENGINEER, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award of the making of this contract. For breach or violation of this warranty, the DEPARTMENT shall have the right to annul this contract price, or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or other contingent fee.
- V. **OWNERSHIP OF DOCUMENTS:** All project documents, including tracings, drawings, estimates, specifications, field notes investigations, studies, etc., as instruments of service are to become the property of the LPA. During the performance of the engineering services herein provided for, the ENGINEER shall be responsible for any loss of or damage to the documents herein enumerated while they are in his/her possession, and any such loss or damage shall be restored at his/her expense.
- VI. **CHANGES IN WORK:** A Supplemental Agreement may be entered into between the LPA and the ENGINEER to increase the maximum amount payable under this contract for additional labor costs and expenses, provided there is a change in scope, character or complexity of the work to be performed. This Supplemental Agreement must be approved by the DEPARTMENT and the Federal Highway Administration prior to the performance of the additional work by the ENGINEER for which reimbursement will be requested.
- VII. **DELAYS AND EXTENSIONS:** Engineering services shall be performed on a reasonable schedule for both the construction contract and for the preparation of reports and estimates and final documents. Approval of a delay of the submission must be requested by letter through the DEPARTMENT, giving reasons for the request and the approximate date proposed for submission of that data.
- VIII. **TERMINATION OR SUSPENSION:** The terms of this contract shall be binding upon the parties hereto until the work has been completed and accepted by the LPA and all payments

required to be made to the ENGINEER have been made; but this contract may be terminated under any or all of the following conditions:

- A. By mutual agreement and consent of the parties hereto.
- B. By the LPA as a consequence of the failure of the Engineer to comply with the terms, progress or quality of work in a satisfactory manner. Proper allowance will be made for circumstances beyond the control of the ENGINEER.
- C. By either party upon failure of the other party to fulfill its obligations as set forth in this contract.
- D. By the LPA due to the departure for whatever reason of any principal member or members of the ENGINEER firm.
- E. By satisfactory completion of all services and obligations described herein.
- F. By the LPA giving thirty (30) days notice to the ENGINEER in writing and paying fees which both parties, the Department and FHWA, agree are due for completed work. If termination is made by the LPA under Condition (F) after work has started, the ENGINEERS will be paid for actual service rendered on the basis of their certified and itemized direct payroll cost plus the applicable percentage rates to cover payroll and overhead costs plus direct costs; however, the fixed fee will be adjusted to allow the same percentage of the original agreed upon fixed fee that the amount earned is of the original estimated cost of the work. Upon termination, the ENGINEER shall deliver to the LPA all documents specified in Section V, and the LPA shall pay in full for all work accomplished up to the date of termination, including any retained percentage earned to date. Should the LPA desire to suspend the work but not definitely terminate the contract, this may be done by thirty (30) days notice in writing to that effect.

IX. **DISPUTES AND LAW VIOLATIONS:** Prior to the filing of any lawsuit in a court of competent jurisdiction, the LPA and ENGINEER shall mediate any disputes. The results of any mediation shall not be binding upon the LPA without the consent of the governing authorities of the LPA. The results of any mediation shall not be binding upon the ENGINEER without the consent of the ENGINEER. The DEPARTMENT shall review any proposed resolution of any dispute reached through mediation and such mediated resolution shall only become final upon concurrence by the DEPARTMENT. The requirement to mediate prior to the filing of any lawsuit shall not be construed as a waiver of any right in law or equity that the parties to this agreement have to present a dispute to a court of competent jurisdiction for resolution of that dispute. Violations of the law will be referred to the local, state, or federal authority having proper jurisdiction.

X. **RESPONSIBILITIES FOR CLAIMS AND LIABILITY:** The ENGINEER will indemnify and save harmless the LPA, and the DEPARTMENT, its officers and employees from or occasioned by, any act of or omission of the ENGINEER, his/her employees, agents or servants, resulting in bodily injury, property damage or death of any party.

In the event of joint or concurrent negligence of Engineer and LPA, each shall bear that portion of the loss or expense that its share of the joint or concurrent negligence bears to that total negligence (including that of third parties) which caused the personal injury or property damage.

XI. **SUBLETTING, ASSIGNMENT OR TRANSFER OF WORK:** The ENGINEER is expressly prohibited from subletting, assigning or transferring any part of these engineering services, other than the testing of materials, to any other person, firm or engineering consultant.

- XII. **FEDERAL PROVISIONS:** See Appendix C, which is hereby made a part of this AGREEMENT.
- XIII. **ENERGY CONSERVATION:** The Engineer warrants that he/she will conduct his/her office and field operations in an energy efficient manner in compliance with the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-165).
- XIV. **TIME OF PERFORMANCE:** The construction engineering services of the ENGINEER shall start with **date of FHWA concurrence in the award of the construction contract by the LPA**, and be completed within 60 days after the final inspection and acceptance of the construction work performed by others. The services of the ENGINEER are anticipated to be needed and completed in an expedient manner. It is understood that construction progress of force account work by the LPA and/or contractor's work shall influence the time period for the ENGINEER'S services. Therefore, it is necessary that construction be completed in accordance with the original time limit set forth in the original construction schedule. When it becomes evident to the LPA that the maximum amount payable under Section III (c) will be depleted due to the need for more man-hours of work than estimated, a Supplement Agreement will be processed to provide for reimbursement to the ENGINEER for out-of-pocket expenses including overhead costs as provided for in Appendix A. The need for an adjustment in the fixed fee will be determined and made a part of the Supplemental Agreement if appropriate. This Supplemental Agreement must be approved by the DEPARTMENT and the Federal Highway Administration prior to the performance of additional work by the ENGINEER for which additional reimbursement will be requested. The estimated fees in Appendix A are based on the initial construction time estimate as included in the Contract Documents. If the construction time extends beyond the contract time, through no fault of the ENGINEER, the LPA agrees to pay the ENGINEER for the construction engineering services to complete the project with or without Federal participation, subject to approval by MDOT and FHWA.
- XV. **LIMITATION OF ENGINEER'S SERVICES:** It is understood that the Construction Engineering Services and Resident Project Representative furnished by the ENGINEER under this agreement will endeavor to protect the LPA against defects and deficiencies in the work of the contractor but the ENGINEER does not guarantee the contractor's performance, nor assume any duty to supervise construction and safety procedures followed by any contractor or subcontractor, nor the LPA in the case of force account work performed directly by the LPA or their respective employees or by any other person, nor for any public liability for property damage caused through acts of the contractor, subcontractor, the LPA and or their employees or any other person.
- XVI. **Subsurface Conditions and Utilities.** LPA recognizes that a comprehensive sampling and testing program implemented by trained and experienced personnel of ENGINEER or ENGINEER's subconsultants with appropriate equipment may fail to detect certain hidden conditions. LPA also recognizes that actual environmental, geological and geotechnical conditions that ENGINEER properly inferred to exist between sampling points may differ significantly from those that actually exist.

ENGINEER will locate utilities which will affect the project from information provided by the LPA and utility companies and from ENGINEER's surveys. In that these utility locations are based, at least in part, on information from others, ENGINEER cannot and does not warrant their completeness and accuracy.

XVII. **Hazardous Materials.** When hazardous materials are known, assumed or suspected to exist at a project site, ENGINEER is required to take appropriate precautions to protect the health and safety of his personnel, to comply with the applicable laws and regulations and to follow procedures deemed prudent to minimize physical risks to employees and the public. LPA hereby warrants that, if he knows that hazardous materials may exist at the project site, he will inform ENGINEER in writing prior to initiation of services under this Agreement.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. LPA agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. ENGINEER agrees to notify LPA as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered.

The LPA and the ENGINEER each binds himself, his partners, successors, administrators and assigns to the other party to this AGREEMENT, and to the partners, successors, executors, administrators and assigns of each other party in respect of all of covenants this AGREEMENT.

The LPA and ENGINEER hereby agree to full performance of the covenants contained herein and it is understood that the work under this agreement is not eligible for Federal-aid participation until approved by the DEPARTMENT AND FHWA.

IN WITNESS WHEREOF, they have executed this AGREEMENT the day and year first mentioned.

BY: _____
Authorized LPA Official

Title

For the Consultant

Title

RECOMMENDED FOR APPROVAL:

APPROVED:

Chief Engineer, MDOT

Executive Director, MDOT

DATE: _____

DATE: _____

Revised: 1/15/2009

APPENDIX "A"
 AGREEMENT FOR ENGINEERING SERVICES
 FEDERAL-AID PROJECT STP-0123(004)/46-0123-00-004-10
 CITY/COUNTY CITY OF JACKSON, HINDS COUNTY
 ESTIMATED CONSTRUCTION ENGINEERING COSTS - ESTIMATED 250 WORKING DAYS (CONTRACT TIME)

| CLASSIFICATION | Basic Hourly Rate * | Total Overhead ** | Total Hourly Rate | Estimated Number of Hours # | Estimated Cost |
|---|------------------------|----------------------|--|-----------------------------------|-------------------|
| Project Manager | \$33.28 | \$46.55 | \$79.83 | 400 | \$31,932.00 |
| Project Engineer | 21.40 | 29.93 | 51.33 | 450 | 23,098.50 |
| Resident Project Representative | 23.40 | 32.73 | 56.13 | 1800 | 101,034.00 |
| Clerical | 14.70 | 20.56 | 35.26 | 100 | 3,526.00 |
| SUBTOTAL LABOR COST | | | | | 159,590.50 |
| Fixed Fee | | | | | 19,150.86 |
| Direct Expenses | | | | | |
| Estimated Travel Mileage *** of 10,000 Miles at \$0.31/Mile | | | | | 3,250.00 |
| Other Expenses (Reproductions, etc.) | | | | | 500.00 |
| Commercial Testing Laboratory Expenses (Only if Federal-Aid Participating) | | | | | 1,500.00 |
| Estimate = \$1,524,032.00 | at 15% | 228,605.00 | TOTAL CONSTRUCTION ENGINEERING COST | | 183,991.36 |

Notes:

- * Basic hourly rate is direct salary rate. Hourly basic rate does not include any premium or overtime costs nor are premium or overtime costs included in other payroll cost or overhead. (Numbers shown are approximate rates for estimating purposes only).
- ** See attached form of percentages added for "other payroll costs" and "overhead".
- *** Mileage Records: Keep a daily record of miles traveled and places visited to support mileage reimbursements.
- # See attached estimate of project time for construction engineering services.

ABC CONSULTANTS, INC.
SCHEDULE OF OVERHEAD
FISCAL YEAR ENDING DECEMBER 31, 2001

| | ALLOWABLE EXPENSES PER AUDIT | ALLOCATION HOME | FIELD | % ALLOCATED TO FIELD OFFICE |
|-----------------------------|------------------------------------|--------------------|------------|--------------------------------|
| DIRECT LABOR | 2,188,095.04 | 1,590,102.69 | 597,992.35 | 9.66% |
| FRINGE BENEFITS | | | | |
| Bonuses | 981,477.87 | 886,631.84 | 94,846.03 | 9.66% |
| Insurance-Employee | 610,363.60 | 551,627.16 | 59,009.44 | 9.66% |
| Payroll Taxes | 726,021.38 | 655,861.63 | 70,159.75 | 9.66% |
| Pension Plan/Profit Sharing | 726,021.38 | 223,275.91 | 23,884.59 | 9.66% |
| GENERAL OVERHEAD | | | | |
| Computer Expenses | 234,693.80 | 226,709.76 | 7,984.04 | 3.40% |
| Continuing Education | 610,363.60 | 551,627.16 | 5,009.44 | 3.40% |
| Depreciation | 726,021.38 | 655,861.63 | 7,159.75 | 3.40% |
| Dues & Subscriptions | 726,021.38 | 655,861.63 | 3,884.59 | 3.40% |
| Insurance-Business | 226,709.76 | 220,159.75 | 655,861.63 | 3.40% |
| Indirect Salaries | 115,627.00 | 126,021.38 | 655,861.63 | 3.40% |
| Miscellaneous | 7,984.04 | 10,363.60 | 6,363.60 | 3.40% |
| Rent-Building | 1,884.59 | 1,021.42 | 5,984.22 | 3.40% |
| Rent-Equipment | 985.68 | 849.56 | 555.26 | 3.40% |
| Travel | 0 | 0 | 0 | 3.40% |
| Interest | 0 | 0 | 0 | 3.40% |
| Other Unallowed | 0 | 0 | 0 | 3.40% |
| | 2,859,191.61 | 2,469,698.67 | 389,492.94 | |

Indirect salaries were allocated to the Field Office on the basis of Field Office Direct Labor divided by Total Direct Labor = 9.66%

$$211,369.98 / 2,188,095.04$$

Indirect expenses supporting field office for support of the indirect salaries were allocated to the Field Office on the basis of the allocated indirect salaries as determined above, divided by Total Home Office Salaries = 3.40%

$$157,322.37 / 4,627,128.58$$

| | Total | | Home Office | | Field Office | |
|--------------------------|--------------|----------------|--------------|----------------|--------------|----------------|
| Fringe Benefits | 907,184.20 | 41.46% | 659,256.57 | 41.46% | 87,633.99 | 41.46% |
| | 2,188,095.04 | | 1,590,102.69 | | 211,369.98 | |
| General O/H | 2,071,688.38 | 94.68% | 155,681.98 | 97.85% | 137,665.27 | 65.13% |
| | 2,188,095.04 | | 1,590,102.69 | | 211,369.98 | |
| Total O/H | | 136.14% | | 139.30% | | 106.59% |
| Facility Cost of Capital | | 0.61% | | 0.61% | | 0.61% |
| Combined Rate | | 136.75% | | 139.91% | | 107.20% |

ESTIMATE OF PROJECT TIME FOR CONSTRUCTION ENGINEERING SERVICES

Working Days X Increase* = Project Construction Duration

180 X 1.25% = 225 Days = Project Construction Duration + Project Closeout = Time for Construction Engineering Services.

25% increase attributed the use of two project observers at times when contractor is working multi sites, as well as project kickoff and non-chargeable days i.e., partial or no-work days over the course of the project and project closeout.

RESIDENT PROJECT REPRESENTATIVE

225 days X 8.0 hour/day average = 1,800 hours

PROJECT MANAGER -- 180 DAYS + 75 DAYS (STARTUP/CLOSEOUT) = 255 DAYS

255 days X 1.5 hour/day average = 382.5 \approx 400

ASSISTANT ENGINEER

225 days X 2.0 hours/day = 450

APPENDIX B
A LISTING OF THE DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY
OF THE RESIDENT PROJECT REPRESENTATIVE.

The ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist the ENGINEER in inspecting performance of the Work of the CONTRACTOR. Through more extensive on-site inspections of the Work in progress and field checks of materials and equipment by the RPR and assistants, the ENGINEER shall endeavor to provide further protection for the LPA against defects and deficiencies in the Work; but, the furnishing of such services will not make the ENGINEER responsible for or guarantee the CONTRACTOR'S performance, nor assume any duty to supervise construction and safety procedures followed by the CONTRACTOR or subcontractors. The duties and responsibilities of the RPR are limited to those of the ENGINEER in the ENGINEER'S agreement with the LPA and in the construction Contract Documents, and are further limited and described as follows:

I. General:

The RPR is the ENGINEER'S agent at the site, will act as directed by and under the supervision of the ENGINEER, and will confer with the ENGINEER regarding RPR'S actions. The RPR'S dealings in matters pertaining to the on-site work shall in general be with the ENGINEER and CONTRACTOR, keeping the LPA advised as necessary. The RPR'S dealings with subcontractors shall only be through or with the full knowledge and approval of the CONTRACTOR. The RPR shall generally communicate with the LPA with the knowledge of and under the direction of the ENGINEER.

II. Duties and Responsibilities of the RPR:

A. Schedules:

Review progress schedule of Shop Drawing submittals and schedule of values prepared by the CONTRACTOR and consult with the ENGINEER concerning acceptability.

B. Conferences and Meetings: Attend meetings with the CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

C. Liaison:

1. Serve as the ENGINEER'S liaison with the CONTRACTOR, working principally through the CONTRACTOR'S superintendent and assist in understanding the intent of the Contract Documents; and assist the ENGINEER in serving as the LPA'S liaison with the CONTRACTOR when the CONTRACTOR's operations affect the LPA's on-site operations.
2. Assist in obtaining from the LPA additional details or information, when required for Proper execution of the Work.

D. Shop Drawings and Samples:

1. Record the date of receipt of Shop Drawings and samples.
2. Take samples and receive samples which are furnished at the site by the CONTRACTOR, and notify the ENGINEER of availability of samples for examination.

3. Advise the ENGINEER and the CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by the ENGINEER.
- E. Review of Work, Rejection of Defective Work, Inspections and Tests:
1. Conduct on-site observations of the Work in progress to assist the ENGINEER in determining if the Work is in general proceeding. in accordance with the Contract Documents.
 2. Report to the ENGINEER whenever the RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise the ENGINEER of Work that the RPR believes should be corrected or rejected for should be uncovered for observation, or requires special testing, inspection or approval.
 3. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that the CONTRACTOR maintains adequate records thereof-, and observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
 4. Accompany visiting inspectors representing the public or other agencies having jurisdiction over the Project, record the results of these inspections and report to the ENGINEER.
- F. Interpretation of Contract Documents:
Report to the ENGINEER when clarifications and interpretation of the Contract Documents are needed and transmit to the CONTRACTOR clarifications and interpretations as issued by the ENGINEER.
- G. Modifications:
Consider and evaluate the CONTRACTOR'S suggestions for modifications in Drawings or Specifications and report with the RPR'S recommendations to the ENGINEER. Transmit to the CONTRACTOR decisions as issued by the ENGINEER.
- H. Records:
1. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER'S clarification and interpretations of the Contract Documents, progress reports, and other Project related documents.
 2. Keep a diary signed daily, recording the CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities of the prime contractors and all subcontractors, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to the ENGINEER.
 3. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.

I. Reports:

1. Furnish the ENGINEER periodic reports as required of progress of the Work and of the CONTRACTOR'S compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
2. Consult with the ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
3. Draft proposed Supplemental Agreements, Quantity Adjustments and Work Directive Changes, obtaining backup material from the CONTRACTOR; and recommend Supplemental Agreements, Quantity Adjustments, Work Directive Changes, and Field Orders to the ENGINEER.
4. Report immediately to the ENGINEER and to the LPA upon the occurrence of any accident.

J. Payment Requests:

Review applications for payment with the CONTRACTOR for compliance with the established procedure for their submission and forward with the RPR's recommendations to the ENGINEER, noting particularly the relationship of the payment requested to the schedule of values and Work completed and materials and equipment delivered to the site but not incorporated in the Work.

K. Certificates, Maintenance and Operation Manuals:

During the course of the Work verify that certificates, maintenance and operations manuals and other data required to be assembled and furnished by the CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the ENGINEER for review and forwarding to the LPA prior to final payment for the Work.

L. Completion:

1. Before the ENGINEER issues a Certificate of Substantial Completion, submit a list of observed items requiring completion or correction to the Contractor.
2. Conduct a final inspection in the company of the ENGINEER, the LPA, the CONTRACTOR, the MDOT, & FHWA, and prepare a final list of items to be completed or corrected.
3. Observe that all items on-the final list have been completed or corrected and make recommendations to the ENGINEER concerning acceptance.

III. Limitations of Authority The Resident Project Representative:

- A. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by the ENGINEER.
- B. Shall not exceed the limitations of the ENGINEER'S authority as set forth in the Contract Documents.
- C. Shall not undertake any of the responsibilities of the CONTRACTOR, subcontractors or the CONTRACTOR's superintendent.
- D. Shall not advise on, issue directions relative to, or assume control over any aspect of the means, method, techniques, sequences or procedures of construction unless such advise or directions are specifically required by the Contract Documents.

- E. Shall not advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the Work.
- F. Shall not accept Shop Drawing or sample submittals from anyone other than the Contractor.
- G. Shall not authorize the LPA to occupy the Project in whole or in part.
- H. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

APPENDIX C
FEDERAL PROVISIONS

The following required contract provisions shall apply to this CONTRACT and AGREEMENT:

- I. CIVIL RIGHTS ACT: The CONSULTANT will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49. Code of Federal Regulations, Part 21.
 - A. The CONSULTANT agrees to comply: All contracts and subgrants in excess of \$10,000 shall include provisions for compliance with Executive Order No. 11246, entitled, "Equal Employment Opportunity, " as supplemented in Department of Labor Regulations (41 CFR, Part 60). Each contractor or subgrantee shall be required to have an affirmative action plan which declares that it does not discriminate on the basis of race, color, religion, creed, national origin, sex, and age and which specifies goals and target dates to assure the implementation of that plan. The grantee shall establish procedures to assure compliance with this suspected or reported violations are promptly investigated.
 - B. The CONSULTANT agrees to comply with Title VI of the Civil Rights Act of 1964 as amended by 49 CFR 21 through Appendix C and 23 CFR 710.405 (b).
 - C. Pursuant to Section 23.43 of 49 CFR Part 23, the following statements regarding disadvantaged business enterprises are included in, and made a part of this CONTRACT and AGREEMENT:
 1. (1.) "Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises 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 the Federal funds under this agreement. Consequently the DBE requirements of 49 CFR Part 23 apply to this statement.
(2.) "DBE Obligation. The DEPARTMENT and the CONSULTANT agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontractors financed in whole or in part with federal funds provided under this AGREEMENT. In this regard the DEPARTMENT and the CONSULTANT shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The DEPARTMENT and the CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance or DOT-assisted contracts."
 2. The DEPARTMENT shall advise the CONSULTANT that failure to carry out the requirements set forth in 23.43 (a) shall constitute a breach of contract and, after the notification of the DOT, may result in termination of the contract by the DEPARTMENT or such remedy as the DEPARTMENT deems appropriate.
- II. CONSTRUCTION ENGINEERING SERVICES - In accordance with 23 CFR 1204, Supp. D, Paragraphs e., f., and g., Attachment 0, and 49 CFR Part 18C, Paragraphs 12 and 13:

- A. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.
- B. When required by the Federal grant program legislation, all construction contracts awarded by grantees and subgrantees in excess of \$2,000 shall include a provision for compliance with the Davis Bacon Act (40 USC 276a to a7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.
- C. Where applicable, all contracts awarded by grantees and subgrantees in excess of \$2,000 for construction contracts and excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basis rate of pay for all hours worked in the excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- D. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
- E. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163).

III. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

Certification in accordance with 49 CFR Part 29, Subpart E, Section 29.510, Appendix A:

- (A) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement 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) transaction or contract under a public transaction; violation of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - 3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
 - 4. Have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State, or local) terminated for cause or default.

- (B) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**TRAFFIC SIGNAL IMPROVEMENTS, CITYWIDE
CITY OF JACKSON, MISSISSIPPI
HINDS COUNTY
PROJECT NO. STP-0123(004)**

I hereby certify that I am an Officer and duly authorized representative of the firm of ABC Consultants, Inc., whose address is P.O. Box 48751, Jackson, Mississippi, 39225-2625, and that neither I nor the above firm I hereby represent has:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) 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 or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out the contract; except as here expressly stated (if any).

I acknowledge that this certificate is to be furnished to the Mississippi Department of Transportation and the Federal Highway Administration of the United States in connection with the contract involving participation of Federal Aid Funds and is subject to applicable state and federal laws, both criminal and civil.

Date

James Smith, P.E. Vice President
ABC Consultants, Inc.

CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modifications of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Form-LLL, "Disclosure Form to Report Lobbying:", in accordance with its instruction.

This certificate is a material representative of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Date

James Smith, Vice President
ABC Consultants, Inc.

**TRAFFIC SIGNAL IMPROVEMENTS, CITYWIDE
CITY OF JACKSON, MISSISSIPPI
HINDS COUNTY
PROJECT NO. STP-0123(004)
CERTIFICATION OF LOCAL JURISDICTION**

I hereby certify that I am the Mayor of the City of Jackson, Mississippi and that the ENGINEER or his representative have 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 any, to any firm or person, or organization any fee, contribution, donation, or consideration of any kind; except as here expressly stated (if any).

I acknowledge that this certificate is to be furnished to the Mississippi Department of Transportation and to the Federal Highway Administration in connection with the contract involving participation of Federal Aid Funds, and is subject to applicable state and federal laws, both criminal and civil.

Date

John Nelson, Mayor