

FEDERAL-AID PROJECT RESOLUTION

RESOLUTION NO. R98-10

**A RESOLUTION EXPRESSING THE WILLINGNESS OF
THE CITY OF CONWAY
TO UTILIZE FEDERAL-AID MONIES
FOR THE FOLLOWING CITY PROJECT:**

Salem Road Railroad Overpass (Conway) (PE & ROW) (S)

WHEREAS, the City of Conway understands Federal-aid Attributable funds are available for preliminary engineering and right-of-way on this project with 80% Federal and 20% city matching.

WHEREAS, city projects programmed but not let to contract are 100% city.

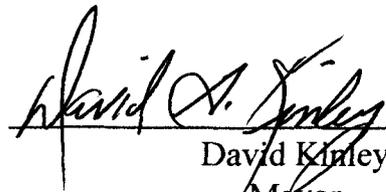
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF CONWAY, ARKANSAS, THAT:**

SECTION I: The City will participate in accordance with its designated responsibilities in this project.

SECTION II: The Mayor is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the design of this city project.

SECTION III: The City pledges its full support and hereby authorizes the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS RESOLUTION adopted this 10th day of February, 1998.



David Kinley
Mayor

ATTEST: Martha Hutchinson
(SEAL)

AGREEMENT OF UNDERSTANDING
BETWEEN

ARKANSAS STATE HIGHWAY
AND
TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Telephone (501) 569-2000



P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400

January 28, 1998

*Home
Agenda
2-10-98*

The Honorable David G. Kinley
Mayor of Conway
1201 Oak Street
Conway, AR 72032

Re: Salem Road U.P. Railroad Overpass

Dear Mayor Kinley:

Reference is made to your recent letter regarding programming and environmental clearance for the proposed rail grade separation connecting Salem Road and Meadowlake Road in Conway. In order to proceed with programming the project, your City Council must adopt a resolution for the project (sample enclosed) and then the enclosed Agreement of Understanding should be signed.

Upon receipt of a signed and sealed copy of the resolution and the signed Agreement, State and Federal-aid numbers will be assigned and a copy of the executed Agreement of Understanding will be returned to you. At that time, we will request a deposit for our costs associated with the environmental review.

If you have any questions, please contact Mr. Bill Bradberry in our Programs and Contracts Division at (501) 569-2261.

Sincerely,

Roger Almond
Deputy Director
and Chief Engineer

c: Bill Polk

Enclosures

**AGREEMENT OF UNDERSTANDING
BETWEEN
THE CITY OF CONWAY
AND
THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT**
In Cooperation with the
U.S. Department of Transportation, Federal Highway Administration
RELATIVE TO
Salem Road Railroad Overpass (Conway) (PE & ROW) (S)

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 provides 80% Federal-aid STP Attributable funds to be matched with 20% local funds for certain city projects, and

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

WHEREAS, each project phase will be funded as follows:

	<u>Federal %</u>	<u>City %</u>	
Preliminary Engineering:	80	20	
Right-of-Way:	80	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 the attachment,

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. Be responsible for 100% of all preliminary engineering, right-of-way, and other costs incurred should the City not enter into the construction phase of the project.
2. Be responsible for any and all expenditures which may be declared non-participating in federal funds, including any such awards by the State Claims Commission.
3. Repay to the Department the federal share of the cost of this project if for any reason the Federal Highway Administration removes federal participation.
4. 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.

NOTE: Failure to notify the Department prior to initiating this phase of work may result in any expenditures being declared non-participating in federal funds.

**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 many 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 substitute 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".)

5. Be responsible for hiring a consultant engineering firm to design the project.
NOTE: FHWA authorization and AHTD approval must be obtained prior to issuing a work order to the consultant for federal funds to be allowed in this phase.
6. Hereby attest that the employment 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, creed, or national origin.
7. Be responsible for all costs not provided by the Federal Highway Administration.
8. Indemnify and save harmless the Department from all suits, actions, or claims of any character brought because of any damage sustained on account of the operations, actions, acts of omission, neglect, or misconduct of the City relating to this agreement and project.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds.
2. Review the proposed consultant contract for preliminary engineering and obtain authorization from the Federal Highway Administration prior to approving the contract for this work.
3. When requested, provide the necessary services relative to right-of-way acquisition, appraisal, and relocation 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 _____ day of _____, 1998.

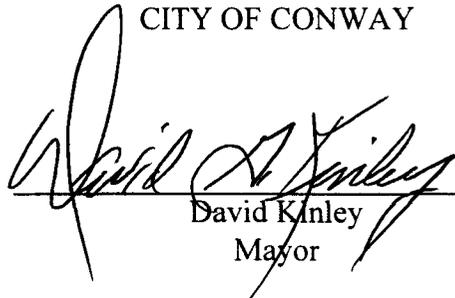
RECOMMENDED:

 Assistant Chief Engineer for Planning

ARKANSAS STATE HIGHWAY
 AND TRANSPORTATION DEPARTMENT

 Dan Flowers
 Director of Highways and Transportation

CITY OF CONWAY



 David Kinley
 Mayor