

**AGREEMENT  
FOR PROFESSIONAL AIRPORT SERVICES**

This AGREEMENT is made this 13th day of June 2019, by and between the City of Crossville hereinafter called the OWNER, and Atkins North America, Inc., hereinafter called the ENGINEER.

WHEREAS, OWNER has selected ENGINEER in accordance with FAA Advisory Circular 150/5100-14C and hereby retains ENGINEER to provide Professional Airport Services in connection with the development of the Crossville Memorial Airport including, but not limited to: general consulting, funding procurement and grant administration, planning and programming, engineering design, architectural design, resident engineering, master planning, environmental analysis, noise studies, preparation of DBE plans, land surveying, construction, and associated services in connection with the planning and development of various projects listed in Section I below, and WHEREAS, ENGINEER has represented that it is qualified to provide such services and is willing to do so.

NOW THEREFORE, OWNER and ENGINEER agree that OWNER, when it so desires, may engage the services of ENGINEER to provide Professional Airport Services and that each assignment will be authorized by an individual Work Authorization, written in the form of Exhibit A and shall be designated "WORK AUTHORIZATION NUMBER \_\_\_", being in accordance with the sequence in which the assignments are made.

**I. SCOPE OF SERVICES**

**General**

The parties acknowledge the need for flexible procedures in order to facilitate timely response to OWNER and project needs, as they arise. Therefore, the Professional Airport Services under this Agreement shall be delivered using a Work Authorization system. Work Authorizations are intended to be discrete working elements that will provide, in summary form, the background and factual content, which the Project is based; and the detailed scope of work, schedule and compensation of ENGINEER. Work Authorizations are to be construed to be in addition to, supplementary to and consistent with the provisions of this Agreement. In the event of a conflict between a particular provision of any Work Authorization and a provision of this Agreement, the provision of this Agreement will take precedence.

For the purpose of this AGREEMENT, the City Manager is hereby designated as OWNER's representative to act for OWNER in giving approvals and authorizations for OWNER as hereinafter set forth.

When mutually agreed by OWNER and ENGINEER, and after having received from OWNER written approval of ENGINEER's Work Authorization, including an estimate of ENGINEER's compensation, and time of performance for specified services, ENGINEER shall provide professional services including but not limited to: grant administration, planning and programming, engineering design, architectural design, resident engineering, master planning, environmental analysis, noise studies, preparation of DBE plans, land surveying, construction, and associated services.

## **II. PAYMENT OF SERVICES**

- A. OWNER agrees to compensate ENGINEER for services performed in accordance with one of the following methods as hereinafter set forth. It is further agreed that such compensation includes both direct and indirect costs chargeable to the Project under generally accepted accounting principles and as allowed in the Federal Procurement Regulations Part 1-15.2, and not prohibited by the laws of the State of Tennessee.

The method of payment and the amount of payment for specified services shall be detailed in a Work Authorization, sample form attached as Exhibit A, which shall be prepared by ENGINEER and submitted to OWNER for review and approval. The receipt of an approved Work Authorization will constitute ENGINEER's Notice-to-Proceed.

ENGINEER is not to undertake any work prior to the receipt of an approved Work Authorization executed by the OWNER nor is the budget stipulated in a Work Authorization to be exceeded without prior written approval from OWNER in the form of a supplemental Work Authorization.

- B. The following methods of payment shall be used:

ENGINEER's compensation will be based on an hourly rate plus reimbursable expense (time and charges) or a lump sum method as specified in the particular Work Authorization. The ENGINEER's 2019 labor rates by labor classification are attached as Exhibit "B." Labor rates will be adjusted at the beginning of Atkins' fiscal year, as agreed between the OWNER and ENGINEER.

Reimbursable costs include fees of Professional Associates (whose expertise is required to complete the project) and non-standard project expenses. Fees for Professional Associates shall be charged at actual cost plus ten (10) percent and shall be itemized in the invoice.

- C. Payments to ENGINEER on account of the above fees shall be made within thirty (30) days after the receipt of invoices supported by appropriate documentation or, in the case of a lump sum, by an estimate of the percentage of Project completion. Invoices shall be submitted monthly or bi-monthly, as may be appropriate, for the amount of work carried out in that period. The OWNER hereby acknowledges that unpaid invoices shall accrue interest at the maximum rate allowed by law after they have been outstanding for over thirty (30) days.

OWNER shall make the aforementioned payments pursuant to written monthly or bi-monthly statements submitted by ENGINEER to OWNER in a format provided by OWNER. Said statements shall describe the services performed by ENGINEER, itemize fees and charges corresponding to approved Work Authorization, and provide such supporting documentation as may be required by OWNER. ENGINEER agrees to permit OWNER and its representatives to enter upon ENGINEER's premises to audit ENGINEER's books and records to verify fees and charges payable hereunder. ENGINEER agrees to keep books and records in satisfactory form and content to permit such audit and verification, for such period of time as may be reasonable required by applicable FAA regulations.

### **III MISCELLANEOUS PROVISIONS**

- A. Opinion of Probable Construction Cost: Since ENGINEER has no control over the cost of labor and materials, or over competitive bidding market conditions, the opinions of probable construction cost provided by ENGINEER are to be made on the basis of experience and qualifications but ENGINEER does not guarantee the accuracy of such estimates as compared to the Contractor's bid for construction of the Project.
  
- B. Extra Work: It is mutually understood and agreed that OWNER will compensate ENGINEER for services resulting from any changes in general scope of the Project or its design, including but not necessarily limited to, changes in size, complexity, Project schedules, character of construction, revisions to previously accepted studies, reports, design documents or contract documents and for preparation of documents for separate bids, when such revisions are due to causes beyond ENGINEER's control and when requested or authorized by OWNER. Compensation for such extra work when authorized by OWNER shall be in accordance with Section II.

### **IV. OWNERSHIP AND REUSE OF DOCUMENTS**

All original documents, including tracings, plans, specifications, maps, survey notes, sketches, charts, computations and other such data prepared by or obtained by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement, are instruments of service in respect of the Project and shall remain the property of ENGINEER. They are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such use without written verification or adaptation by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or ENGINEER's independent professionals or consultants. OWNER expressly agrees to indemnify and hold ENGINEER, and ENGINEER's independent professionals and consultants, harmless from any and all liability, claims, damages, losses and expenses, including attorney fees, arising out of or the resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates and amounts agreed upon by OWNER and ENGINEER. Notwithstanding the above, OWNER shall be provided, upon request, a reproducible copy of any drawing and other data, including electronic files, produced under this Agreement at the cost of reproduction.

## **V. RESPONSIBILITY OF THE ENGINEER**

- A. OWNER understands that ENGINEER is rendering professional services under this Agreement and that ENGINEER cannot and does not warrant or guaranty that those services will be rendered perfectly or without error. OWNER agrees that each of the obligations of this Agreement are not warranties or guaranty of any kind, and that nothing ENGINEER does or advises shall be construed as a warranty or guaranty of any kind. Services provided by ENGINEER under this Agreement will be performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. Upon notice to ENGINEER and by mutual agreement between the parties, ENGINEER will correct those services not meeting such standard without additional compensation. It is understood and agreed between the parties hereto that neither party shall be in any event be liable for loss of profit, loss of business, or other indirect or consequential damages.
- B. Approval by Owner or FAA of drawings, designs, specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve ENGINEER of his responsibility for the technical adequacy of his work.
- C. ENGINEER shall keep OWNER informed of progress made during all phases of the Project and prompt OWNER when ENGINEER or the Project requires action by OWNER. Toward this end ENGINEER shall submit periodic progress reports to OWNER detailing work completed during the period, work anticipated during the coming period, schedule changes, and noting any problem areas.

## **VI. SUBCONTRACTS**

In fulfilling its duties pursuant to this Agreement, OWNER recognizes that ENGINEER may elect to subcontract to others certain portions of the work.

## **VII. PERIOD OF SERVICES**

- A. This Agreement shall apply to all Projects initiated within a five (5) year period, more or less, starting after the effective date of this agreement for Professional Airport Services.
- B. ENGINEER acknowledges that OWNER retains the right to initiate other procurement actions for projects, which may be initiated within the five-year period, and OWNER is under no obligation whatsoever to award said assignments to ENGINEER.

## **VIII. TERMINATION**

- A. This Agreement may be terminated in whole or in part in writing by either party under this Agreement through no fault of the terminating party provided that no such termination may be affected unless the other party is given:
  - 1. Not less than ten (10) calendar days written notice of intent to terminate; and

2. An opportunity for consultation with the terminating party prior to termination.
- B. This Agreement may be terminated in whole or in part, in writing, by OWNER for its convenience provided that such termination is for good cause (such as legal or financial reasons or major changes in the work program requirements) and that ENGINEER is given:
1. Not less than ten (10) calendar days written notice of the intent to terminate; and
  2. An opportunity for consultation with the terminating party prior to termination.
- C. Upon receipt of a termination notice, ENGINEER shall promptly discontinue all services affected (unless the notice directs otherwise) and deliver or otherwise make available to OWNER copies of all data, drawings, specifications, report estimates, summaries, and such other information and materials as may be accumulated by ENGINEER performed under this Agreement, whether completed or in process, at the cost of reproduction.
- D. If either party terminates this Agreement, ENGINEER shall be paid for services rendered and any expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by ENGINEER relating to commitments, which have become firm prior to termination.
- E. OWNER expressly agrees to indemnify and hold ENGINEER, and ENGINEER's independent professionals and associates, harmless from any and all liability, claims, damages, losses, and expense, including attorney fee, arising out of or resulting from termination of ENGINEER's services hereunder due to OWNER's failure to perform and/or pay in accordance with the provisions of this Agreement.

## **IX. REMEDIES**

Except as may be otherwise provided in this Agreement, all claims, counter claims, disputes and other matters in question between OWNER and ENGINEER arising out of or related to this Agreement or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or the Chancery Court Cumberland County, Tennessee in which OWNER is located.

## **X. AUDIT: ACCESS TO RECORDS**

- A. ENGINEER shall maintain books; records, documents and other evidence directly pertinent to the work under this Agreement in accordance with generally accepted accounting principles and practices. OWNER, the FAA, the Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, papers, records and other evidence which relates directly to the Project for the purpose of examination, audit, excerpts and transcriptions.
- B. Records described above shall be maintained and made available during the performance under this Agreement and for a period of three (3) years after OWNER makes final payment.

## **XI. INSURANCE**

- A. ENGINEER shall make arrangements for, acquire and maintain during the life of this Agreement, Comprehensive General Liability Insurance as shall protect it performing the work covered by this Agreement from claims for injury to persons, including wrongful death, and for damage to property which may arise from the operations under this Agreement, whether such operations be by ENGINEER or by anyone employed by ENGINEER. The Comprehensive General Liability Policy shall include, but not be limited to the following:
1. The policy shall afford coverage for contractual liability on the broad form basis or contractual liability specifically covering this Agreement between ENGINEER and the OWNER.
  2. The Comprehensive General Liability Policy shall be in an amount not less than a combined single limit of Five Hundred Thousand Dollars (\$500,000) per occurrence, for injury to persons and damage to property.
  3. ENGINEER shall carry Comprehensive Liability Insurance covering all owned automobiles. The Automobile Liability Insurance required shall afford not less than a combined single limit of One Million Dollars (\$1,000,000) per occurrence, for injury to persons and damage to property.
- B. ENGINEER shall provide evidence of Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000).
- C. ENGINEER shall carry Worker's Compensation Insurance as required by law.
- D. ENGINEER will require its subcontractors to comply with such insurance requirements as may be required of the ENGINEER by OWNER.
- E. Certificates of Insurance. ENGINEER shall provide to OWNER Certificates of Insurance, on a form approved by OWNER, evidencing the insurance required hereunder. OWNER shall be named as an "Additional Insured" on all such liability policies and certificates, except that this requirement shall not apply to professional liability insurance or Worker's Compensation.
- F. ENGINEER shall also provide Certificates of Insurance evidencing the renewal of such policies of insurance, which expire during the term of this Agreement. The Certificates of Insurance shall provide that the insurance company or authorized representative of said company will inform OWNER in writing thirty (30) days prior to the termination or cancellation of the policy and prior to any material alteration of said policy which would materially reduce coverage, limits or named insured. The certificates shall contain and provide such additional information and provisions as may be requested by the OWNER.
- G. OWNER, in its discretion, may modify or waive any of the foregoing requirements, and may approve such deductions, as it deems appropriate. In the event OWNER requires coverage different than those indicated above, ENGINEER shall be due consideration for additional compensation.

## **XII. CIVIL RIGHTS ASSURANCE**

During the performance of this Agreement, ENGINEER, for itself, its assignees and successors in interest agrees as follows:

- A. Compliance with Regulations. ENGINEER shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations) which are herein incorporated by reference and made a part of this Agreement.
- B. Nondiscrimination. ENGINEER, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including practices when this Agreement covers a program set forth in Appendix B of the Regulations.
- C. Solicitations for Subcontractors, including procurement of materials and equipment. In all solicitations, either by competitive bidding or negotiations made by ENGINEER, for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by ENGINEER of ENGINEER's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports. This Agreement shall provide all information and reports required by Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by OWNER or the FAA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information ENGINEER shall so certify to OWNER or the FAA as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance. In the event of ENGINEER's noncompliance with the nondiscrimination provisions of this Agreement, OWNER shall impose such Agreement sanctions as it or the FAA may determine to be appropriate, including but not limited to:
  - 1. Withholding of payments to ENGINEER under the Agreement until ENGINEER complies, and/or
  - 2. Cancellation, termination, or suspension of the Agreement, in whole or in part.

- F. Incorporation of Provisions. ENGINEER shall include the provisions of paragraphs A through E in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. ENGINEER shall take such action with respect to any subcontract or procurement as OWNER or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event ENGINEER becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, ENGINEER may request OWNER and/or the United States to enter into such litigation to protect interests of the United States.

### **XIII. DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCES**

- A. Policy: It is the policy of the DOT that disadvantaged business enterprises as defined in 49 CFR Part 26 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 DBE requirements of 49 CFR Part 26 applies to this Agreement.
- B. DBE Obligation: ENGINEER agrees to ensure that minority business enterprises as defined in 49 CFR Part 26 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, ENGINEER shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. ENGINEER shall not discriminate on the basis of race, color, national origin, age, sex, or handicap in the award and performance of DOT-assisted contracts.

### **XIV. OWNER'S RESPONSIBILITY**

OWNER shall:

- A. Provide all criteria and full information as to OWNERS requirements for each Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; furnish copies of all design and construction standards which OWNER will require to be included in the drawings and specifications.
- B. Assist ENGINEER by placing at its disposal all available information pertinent to each Project including previous reports and any other data relative to design or construction of each Project.
- C. Furnish to ENGINEER upon its request, as required for performance of ENGINEER's Scope of Services, any existing available data in OWNER's possession prepared by OWNER or by others, including without limitation core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property description; zoning, deed and other land use restriction; and other special data or consultations, all of which ENGINEER may rely upon in performing its services.



- D. Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER, and obtain such advice as OWNER deems appropriate and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.
- F. Furnish approvals and permits from all governmental authorities having jurisdiction over each Project and such approvals and consents from others as may be necessary for completion of each Project.
- G. Provide such accounting, independent cost estimating and insurance counseling services as may be required for each Project, and such legal services as OWNER may require pertaining to each Project.
- H. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect in the work of contractor(s).
- I. Bear all costs incident to compliance with the requirements of Section XIV.

**XV. MAILING ADDRESSES**

All notices and communications under this Agreement to be mailed or delivered to OWNER shall be sent to the address of OWNER's designated representative as follows, unless and until ENGINEER is otherwise notified:

Ms. Valerie Hale  
City Clerk  
City of Crossville  
392 N Main St  
Crossville, TN 38555

Notices and communications to be mailed or delivered to the ENGINEER shall be sent to the address of ATKINS as follows, unless and until OWNER is otherwise notified:

Mr. Jeff Reilly  
Atkins  
404 BNA Dr., Suite 600  
Nashville, TN 37217

Any notices or communications required to be given in writing by one party to the other shall be considered as having been given to the addressee on the date the notice or communication is posted by the sending party as documented by certified mail with return receipt requested.

**XVI. LIABILITY**

ENGINEER agrees to indemnify and hold OWNER, its directors, employees and agents harmless against all losses, damages, costs, expenses, including reasonable attorneys fees, and liabilities, which OWNER incurs as a result of any third party claim against OWNER for damages arising from ENGINEER’s work performed under this Agreement that were caused by ENGINEER’s negligence.

**XVII. CONSEQUENTIAL DAMAGES**

Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party regardless of the nature of this fault or whether it was committed by the OWNER or ENGINEER, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

OWNER and ENGINEER for themselves, their successors and assigns hereby agree to the full performance of the covenants contained herein.

Neither OWNER nor ENGINEER shall assign, sublet or transfer their interest in this Agreement without the written consent of the other.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, the day and year first above written.

OWNER:

ENGINEER:

**City of Crossville**

**Atkins North America, Inc.**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

WITNESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_

**EXHIBIT "A"**

**Work Authorization Number A-\_\_\_\_**

Date: \_\_\_\_\_

---

(Project Identification No.)

It is agreed to undertake the following work in accordance with the provisions of the Agreement between the City of Crossville (OWNER) and ATKINS (ENGINEER) dated \_\_\_\_\_, 2019.

---

Scope of Services:

(The ENGINEER shall prepare a detailed written Scope of Work.)

Time of Performance:

(The duration of the assignment shall be indicated and the ENGINEER shall prepare a detailed schedule.)

Compensation:

(This section shall establish the ENGINEER's compensation for the particular Work Authorization and the basis for payment (hourly rate plus reimbursable expenses or lump sum). The ENGINEER shall also attach to the Work Authorization a detailed work sheet showing personnel by classification, hourly rates, estimated hours and reimbursable expenses including subcontract work.)

---

Agreed as to Scope of Services, Time of Performance and Compensation:

OWNER: **City of Crossville**

ENGINEER: **Atkins North America, Inc.**

---

---

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT "B"

### ATKINS RATE SCHEDULE 2019

Principal-in-Charge.....	\$225.00/hour
Group Manager .....	\$180.00/hour
Sr. Project Manager .....	\$170.00/hour
Project Manager .....	\$120.00/hour
Senior Professional Engineer.....	\$130.00/hour
Professional Engineer .....	\$100.00/hour
Staff Engineer .....	\$ 90.00/hour
Engineering Tech. III .....	\$ 110.00/hour
Engineering Tech. II .....	\$ 90.00/hour
Engineering Tech. I .....	\$ 80.00/hour
Senior Aviation Planner .....	\$160.00/hour
Mid-Level Aviation Planner .....	\$130.00/hour
Junior Aviation Planner .....	\$100.00/hour
Senior Architect .....	\$160.00/hour
Mid-Level Architect .....	\$130.00/hour
Junior Architect .....	\$100.00/hour
Senior Environmental Scientist .....	\$150.00/hour
Environmental Scientist .....	\$110.00/hour
Senior Field Construction Representative.....	\$100.00/hour
Field Representative .....	\$80.00/hour
Contract Administrator .....	\$60.00/hour
Clerical .....	\$50.00/hour

#### Reimbursable Expenses:

Outside services contracted for a specific project such as professional and technical consultants, laboratory testing, reproduction, photography, etc. will be invoiced at the amount of the actual statement plus ten percent (10%). Other expenses that are properly accountable to the work will be invoiced as follows:

- Travel by private vehicle at the then current approved IRS rate per mile (current IRS rate is 58 cents per mile).
- Travel and living expenses for all personnel when required to be away from headquarters in connection with the work at cost.
- In-house printing, reproduction, and photography at commercial rates.

Construction vehicles used for specific projects will be billed at a rate of \$1,000 per month, per vehicle. If the vehicle is not used for the entire month, then the billing rate will be pro-rated.