

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into this 30th day of November 2022 by and between the CITY OF CROSSVILLE, hereinafter referred to as CITY, TruePani Inc, hereinafter referred to as CONSULTANT, whose address is 618 S Gay Street, Suite L6, Knoxville, Tennessee 37902. The CITY and CONSULTANT hereby agree as follows:

SPECIFIC PROVISIONS

1. DESCRIPTION OF PROJECT

CONSULTANT will complete a lead service line inventory consistent with the EPA inventory template, develop a complaint and replacement plan/program of lead service lines, conduct public outreach activities pursuant to the updated requirements within the Lead and Copper Rules Revisions, and other activities required to ensure compliance with both Federal and State regulations.

2. SCOPE OF SERVICES TO BE PROVIDED BY CONSULTANT

The Scope of Services to be provided by Consultant shall consist of:

1. Develop Initial Service Line Material Inventory
2. Review and Compile Existing Records
3. Verify Data
4. Establish a Service Line Material Database
5. Develop and Implement Strategies to Identify Unknowns
6. Develop Communications Templates

Further details of this scope and additional services that may be rendered by the CONSULTANT are contained in Exhibit A – CONSULTANT Proposal.

3. OBLIGATIONS OF CITY

- a. CITY shall upon request furnish CONSULTANT studies, reports and other data pertinent to CONSULTANT's services available to CITY; obtain or authorize CONSULTANT to obtain or provide additional reports and data as required and available to CITY; furnish to CONSULTANT services of others required for the performance of CONSULTANT's services hereunder as may be deemed necessary by CITY, and CONSULTANT shall be entitled to use and rely upon all such information and services provided by CITY or others in performing CONSULTANT's services under this Agreement to the extent that such reliance is reasonable under the circumstances and given the knowledge and experience of CONSULTANT.

- b. CITY shall arrange for access to and make all provisions for CONSULTANT to enter upon public and private property as required for CONSULTANT to perform services hereunder. To the extent that such access would require the CITY to take efforts that are not reasonable under the circumstances CITY will not be obligated to provide such access and will meet and confer with CONSULTANT on any modifications that may need to be made to the scope of services due to the resulting lack of access.

4. PAYMENT

- a. Compensation: The total cost for services provided by CONSULTANT shall not exceed \$47,000. The cost breakdown consists of the following:

	Project Manager	Data Manager	LCRR Compliance Consultant	Inventory Technician	Outreach Coordinator
Develop Initial Service Line Material Inventory	30	50	5	50	0
Data Verification	15	10	5	30	50
Service Line Material Database	15	25	0	10	0
Identification of Unknowns	10	10	10	30	50
Communications	15	10	20	10	50
Hourly Rates	\$110/hr	\$110/hr	\$80/hr	\$80/hr	\$80/hr

b. Time of Payment

CONSULTANT shall submit monthly invoices for services based upon the percentage of CONSULTANT’S services completed at the time of billing.

All invoices shall be due and payable within sixty (60) days of the invoice date. Payment is not contingent upon governmental approvals. CONSULTANT shall have the right to suspend all services until payment on undisputed

5. TIME OF COMPLETION

CONSULTANT shall perform all task and services in order to meet EPA requirements by October 2024. Upon request of the CITY, CONSULTANT shall submit for the CITY’S approval a schedule for the performance of CONSULTANT’S services which may be adjusted as the Project proceeds, shall include allowances for periods of time required for the CITY’S review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the CITY shall not, except for reasonable cause, be exceeded by CONSULTANT or the CITY.

6. CONSULTANT and the CITY agree the schedules contained in Section 5 represent their best estimates with respect to completion dates and both CONSULTANT and CITY acknowledge

that departures from the schedule may occur. Therefore, both CONSULTANT and CITY will use reasonable efforts to notify one another of changes to the schedule. Any proposed change in the schedule, including a change based on the events described in Section 7, immediately below, shall be delivered to the other party in writing. Any such proposed change by one party shall be subject to the approval of the other party; provided, however, that any such approval may not be withheld unreasonably. The person executing this Agreement on behalf of the CITY shall have the authority to agree to extensions proposed by the CONSULTANT.

7. CONSULTANT shall not be responsible for performance delays caused by others, or delays beyond CONSULTANT'S control, and such delays shall extend the times for performance of the work by CONSULTANT.

8. The term of this Agreement shall be from the date executed above through December 2024.

GENERAL PROVISIONS

1. The status of CONSULTANT is that of an independent contractor operating having control of his/her work and the manner in which it is performed. CONSULTANT is not considered to be an officer, an employee, or an agent of CITY, nor shall he/she hold him/herself out as or represent that he/she is an officer, employee, or agent of the CITY.
2. The CONSULTANT agrees that he/she/it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement, and that he/she/it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any other considerations, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the CITY shall have the right to annul and cancel this Agreement without liability of any sort and/or, in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage brokerage fee, gift, or contingent fee.
3. All reports, drawings, calculations, plans, specifications, and other documents prepared or obtained pursuant to the terms of this Agreement shall be endorsed by Consultant and delivered to and become the property of the City with the exception of proprietary/copyrighted information (as in agreements or software services). In addition, data prepared or obtained under this Agreement shall be made available, upon request, to the City. The foregoing notwithstanding, said documents, plans, etc. which are site specific for the subject project shall not be used for any other work without the consent of Consultant.

Consultant and his/her/its subconsultants shall keep and maintain full and complete documentation and accounting records, including all records, employees' time sheets and correspondence pertaining to this Agreement. The Consultant shall make such documents and records available for review and/or audit evaluation by representatives of the City at all reasonable times during the contract period and for at least four (4) years from the date of final payment. Upon written request by the City, the Consultant shall provide the City with copies of all pertinent reports and correspondence.

4. CONSULTANT shall provide properly skilled professional and technical personnel to perform all services under this contract. The CONSULTANT shall not engage the services of any person or persons now employed by the CITY, except with the written permission of the CITY. Except as otherwise herein provided, the CONSULTANT shall not assign or sublet any portion of the services to be performed under this Agreement without the prior written consent of the CITY. Said consent may be withheld with or without reasons. In the event that the CITY, in writing, approves any assignment or subletting of this Agreement or the retention of sub-consultants by CONSULTANT, the CONSULTANT shall provide to the CITY copies of each and every sub-consultant contract prior to the execution thereof by the CONSULTANT and sub-consultant.
5. CONSULTANT shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement, including without limitation laws requiring licensing and non-discrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability, national origin or other prohibited bases.
6. All changes and/or extra work shall be performed and paid for in accordance with the following:
 - a. Only the CITY Director of Water Resources may authorize extra and/or changed work. CONSULTANT expressly recognizes that other CITY personnel are without authorization to either order extra and/or changed work or waive contract requirements. Failure of CONSULTANT to secure the CITY Director of Water Resources's prior, written authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in contract price due to such unauthorized work and CONSULTANT thereafter shall be entitled to no compensation whatsoever for performance of such work.
 - b. If the CONSULTANT is of the opinion that any work he has been directed to perform is beyond the scope of this Agreement and constitutes extra work, he shall promptly notify the CITY Director of Water Resources of the fact. The CITY Director of Water Resources shall make a determination as to whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work. In the event that the CITY Director of Water Resources determines that such work does constitute extra work, the CITY shall provide compensation to the

CONSULTANT on a fair and equitable basis. A Supplemental Agreement providing for such compensation for extra work shall be negotiated between the CITY and the CONSULTANT. Such Supplemental Agreement shall be executed by the CONSULTANT and be approved by the necessary CITY officials.

- c. In the event the CITY Director of Water Resources determines that such work does not constitute extra work, CONSULTANT shall not be paid extra compensation above that provided herein. The determination of the CITY Director of Water Resources may be appealed to the CITY Council as long as a written appeal is submitted to the CITY Director of Water Resources within five (5) days after the date of the CITY Director of Water Resources's determination. Said written appeal shall include a description of each and every ground upon which CONSULTANT challenges the CITY Manager's determination.
7. CITY has relied upon the professional ability of CONSULTANT to enter into this Agreement. Consultant shall perform in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that payment for or acceptance of CONSULTANT'S work by CITY shall not operate as a waiver or release. CONSULTANT shall indemnify and hold harmless the CITY from and against any and all claims or expenses caused or occasioned directly or indirectly by CONSULTANT'S failure to so perform. CONSULTANT shall be responsible for preparation of documents and performance of all other work under this Agreement meeting the legal and professional requirements and standards applicable to a public project of the nature described by the scope of services.
 8. CONSULTANT assumes all responsibility for damages of property or injury or death to persons caused by negligent performance, errors or omissions of CONSULTANT, their employees, or any equipment furnished under the Agreement or used by CONSULTANT and his/her employees. To the extent permitted by law, CONSULTANT shall indemnify, hold harmless, release and defend CITY, its officers, employees and agents from and against any and all actions, claims, demands, damages, disability, losses, failure to comply with any current or prospective laws, and expenses including attorney's fees and other defense costs or liabilities of any nature that may be asserted by any person or entity including CONSULTANT from any cause whatsoever including another's concurrent negligence arising out of or in any way connected with the activities of CONSULTANT, his/her employees and agents hereunder and regardless of CITY's passive negligence. CITY agrees to provide CONSULTANT with reasonable notification of legal claims and/or lawsuits which CITY may receive and which CITY will request indemnification in under this paragraph.

This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for CONSULTANT under Workers' compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitations of any insurance held by CONSULTANT.

9. Without limiting CONSULTANT'S indemnification provided hereunder, CONSULTANT shall take out and maintain at all times during the life of this contract, up to the date of acceptance of the work by the CITY, the following policies of insurance with a Best rating of no less than A-VII.

- a. Workers' Compensation insurance to cover its employees (excluding owners), and the CONSULTANT shall require all sub-consultants similarly to provide Workers' Compensation insurance as required by the State of Tennessee for all of the sub-consultant's employees. All Workers' Compensation policies shall be endorsed with the provision that it will not be canceled without first giving thirty (30) days prior notice to the CITY.

In the event any class of employees engaged in hazardous work under the Contract is not protected under Workers' Compensation Statutes, the CONSULTANT shall provide, and shall cause all sub-consultants to provide, adequate and suitable insurance for the protection of its employees not otherwise protected. Such policy must be acceptable to CITY and shall provide that it will not be canceled without first giving thirty (30) days' notice to the CITY.

- b. Commercial general liability (CGL) insurance for activities of CONSULTANT arising out of or in connection with the performance of work under this Agreement on a coverage form at least as broad as an ISO CG 00 01 with liability limits of no less than \$2 million per occurrence, which limits can be met with a combination of primary and excess insurance. If a general aggregate applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- c. Automobile Liability insurance at least as broad as an ISO Business Auto Coverage form CA 001 covering Symbol 1 (any auto) or if CONSULTANT has no owned autos, Symbol 8 (hired) and 9 (non-owned) vehicles with limits of no less than \$1 Million combined single limit per accident.
- d. Professional liability - "errors and omissions" coverage appropriate to the CONSULTANT's profession with limits of no less than \$1 million per claim. CONSULTANT agrees to maintain this professional liability coverage in effect for the contract duration.

(1) SUB-CONSULTANTS providing professional services under this agreement shall provide evidence of their own professional liability insurance which is acceptable to the CITY Attorney.

- e. VERIFICATION OF COVERAGE – All Certificates of Insurance will be delivered to the CITY as part of this contract agreement.

10. The CITY shall furnish the CONSULTANT, to the extent that they are available, CITY standards, details, specifications, and regulations applying to the Project and other such information which may be helpful to the CONSULTANT in performance of its service. Any and all additional data necessary for design shall be the responsibility of the CONSULTANT.
11. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the CITY within its sole discretion upon written notice to CONSULTANT. CONSULTANT may terminate this Agreement upon thirty (30) days' written notice to the CITY only for good cause, including without limitation, CONSULTANT'S serious illness or upon material breach of this Agreement by the CITY. CONSULTANT'S written notice of termination shall contain a full explanation of the facts and circumstances constituting good cause. Upon termination, all finished and unfinished documents, project data, and reports shall, at the option of the CITY, become its sole property and shall, at CONSULTANT'S expense, be delivered to the CITY or to any party the CITY may so designate. In the event of termination by CONSULTANT, CONSULTANT shall only be compensated for all work CONSULTANT satisfactorily performs prior to the time CONSULTANT delivers to the CITY the termination notice, unless other arrangements are agreed to by the CITY. In the event of termination by the CITY, CONSULTANT shall be compensated for all work satisfactorily performed prior to the time CONSULTANT receives the termination notice, and shall be compensated for all materials ordered by CONSULTANT, and services of others ordered by CONSULTANT prior to receipt of the CITY'S termination notice, whether or not such materials or instruments of services of others have actually been delivered to CONSULTANT or to the CITY, provided that CONSULTANT is not able to cancel such orders for materials or services of others. In the event this Agreement is terminated pursuant to this section, CONSULTANT shall not be entitled to any additional compensation over that provided herein; nor shall CONSULTANT be entitled to payment for alleged damages or injuries (including lost opportunity damages) purportedly caused by the termination of this Agreement by the CITY pursuant to this section.
12. Should the CONSULTANT fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Agreement, the CITY may terminate this Agreement by giving written notice of such termination, stating the reasons for such termination in such event. CONSULTANT shall be compensated as above, provided, however, there shall be deducted from such amount the amount of damage, if any, sustained by CITY by virtue of the CONSULTANT'S breach of this Agreement.
13. This Agreement shall inure to the benefit of, and be binding upon, the successors in interest, legal representatives, trustees, and permitted assigns of either party.
14. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to included terms and a complete and exclusive statement of the terms of the Agreement. No modification hereof shall be effective unless and until such

modification is evidenced by a writing signed by parties to this Agreement.

15. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed **return** has not been received. After receipt of a demand for assurance, either party's failure to provide such assurance of due performance as is adequate under the circumstances within a reasonable time but not exceeding thirty (30) days, is a breach of this Agreement by that party. Acceptance of any improper delivery of service or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

16. All notices permitted or required hereunder shall be addressed as follows:

If to the CITY:

City of Crossville
Attn: Joe Kerley
392 N Main Street
Crossville, TN 38555

If to the CONSULTANT:

TruePani Inc.
618 S Gay Street, Suite L6,
Knoxville, Tennessee 37902

17. This Agreement shall be construed in accordance with the law of the State of Tennessee.

18. The services to be performed by CONSULTANT are intended solely for the benefit of CITY. No person or entity shall have the right to assert a claim against CONSULTANT by assignment of indemnity rights or breach of contract rights otherwise accrue to a third party as a result of this Agreement or the performance of CONSULTANT's services hereunder.

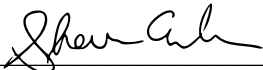
IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written in Tennessee.

CITY OF CROSSVILLE

Date: _____ By: _____
Randall J. Crawford, Mayor

CONSULTANT The corporate officer executing this agreement has been authorized and directed to do so by corporate resolution.

CONSULTANT

Date: 11/30/2022 By: 
Shannon Evanchec, Co-Founder

Attachments:
Exhibit A: CONSULTANT Proposal
Exhibit B: Proof of Required Insurance