

AGREEMENT FOR ENGINEERING SERVICES
UTILITIES RELOCATION
STATE ROUTE 28 FROM SOUTH OF STATE ROUTE 68 TO
SOUTH OF THE BRIDGE OVER BYRD'S CREEK
CROSSVILLE, TENNESSEE

THIS AGREEMENT made this _____ day of _____, 2021, by and between the CITY OF CROSSVILLE, TENNESSEE, hereinafter called the OWNER, and J. R. WAUFORD & COMPANY, CONSULTING ENGINEERS, INC., a Tennessee Corporation, hereinafter called the ENGINEER.

WITNESSETH, the OWNER requires engineering services in connection with a project to construct new utility lines to replace approximately 3,640 L.F. of existing water line and approximately 200 L.F. of existing sewer line, in response to the Tennessee Department of Transportation's (TDOT) relocation of State Route 28 and State Route 68 in Cumberland County, Tennessee, in conjunction with TDOT Project Number 18006-3214-04, referred to as "Project"; and

WITNESSETH, the OWNER desires to include the utility project in the Roadway Construction Contract for the Project; and

WITNESSETH, the OWNER wishes to employ the ENGINEER to provide the required engineering services, including assistance with preliminary work, permitting, design and plans preparation, construction administration and resident observation of the aforementioned project.

FOR AND IN CONSIDERATION of the covenants contained, the OWNER hereby retains the ENGINEER to perform the engineering services described hereinafter and the ENGINEER agrees to perform such work for the consideration enumerated.

NOW, THEREFORE, the OWNER and the ENGINEER agree as follows:

1. SCOPE OF THE WORK

From a cursory review of the Tennessee Department of Transportation (TDOT) Right-of-Way plans furnished to the ENGINEER in November 2021, it appears the hereinafter delineated scope of work is required. If additional utility relocation is required due to a change in the TDOT plans, then the OWNER and the ENGINEER agree to amend this Agreement to reflect the actual work required and to adjust the fees accordingly.

a. Preliminary and Design Engineering Services

The ENGINEER shall furnish engineering services as follows:

- (1) The ENGINEER shall attend conferences with the OWNER or other interested parties as may be reasonably necessary.
- (2) The ENGINEER shall assist the OWNER with the preparation of preliminary information to submit to the Tennessee Department of Transportation (TDOT). Said preliminary information shall include but not be limited to: Plans for preliminary relocation of utilities plans; cost estimates of the proposed utilities relocation; and completion of TDOT forms.
- (3) The ENGINEER shall perform the necessary design surveys, accomplish the detailed design of the project, prepare Plans, highway permits and a final cost estimate based on the final design. If, after the OWNER approves the proposed route(s) or design(s), changes are made by the OWNER or by TDOT, the ENGINEER shall be paid at the ENGINEER's Standard Charges effective January 1, 2021, a copy of which is included as Attachment No. 1 of this Agreement.
- (4) The ENGINEER shall furnish additional copies of the Plans and Specifications as required by the OWNER, TDOT and other interested parties. Original documents, survey notes, tracings, and the like, except those furnished to the ENGINEER by the OWNER, are and shall remain the property of the ENGINEER.
- (5) The Plans and Specifications prepared by the ENGINEER under the provisions of Paragraph 1.a.(3) above shall be suitable for inclusion in the Construction Contract for the Project. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation two (2) copies of a map(s) showing the general location of needed construction easements and permanent easements and the land to be acquired. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be accomplished by the OWNER.
- (6) If subsurface investigations (such as borings, soil tests, rock soundings, etc.) are required, the ENGINEER will assist the OWNER in retaining the services of a geotechnical engineer to perform subsurface investigations of the geological conditions along the route(s) where the OWNER and the ENGINEER agree such investigations should be undertaken. The results of said exploration, procurement of said subsurface exploration firm and the costs incidental to such explorations shall be paid for by and are the sole responsibility of the OWNER.

- (7) The Plans furnished by the ENGINEER shall be approvable by the OWNER, the OWNER's attorney, the Tennessee Department of Environment and Conservation and TDOT. The ENGINEER shall make reasonable changes at no additional cost to the OWNER.

b. General Engineering During Construction

The ENGINEER agrees to provide general engineering services during construction including review of Contractor's submittals for compliance with technical specifications, assisting TDOT with preparing any necessary change orders, making reports to the OWNER relative to the project's progress and quality of workmanship and attending any necessary conferences.

c. Resident Construction Observation

The ENGINEER agrees to furnish a Resident Project Representative (RPR) for on-the-job observation of the work of the construction contractor. The ENGINEER shall endeavor by general observations and by the furnishing of an RPR to guard the OWNER against defects and deficiencies in the work of the Contractor(s) and to assure the OWNER that the Plans and Specifications are adhered to, but the ENGINEER does not guarantee the performance of the Contractor. The Resident Project Representative's duties are as outlined in Attachment No. 2 of this AGREEMENT.

2. COMPENSATION

The OWNER agrees to pay the ENGINEER for the work performed as stated hereinafter. The amount of any excise, value added or gross receipts tax that may be imposed shall be added to the compensation as determined hereinafter.

a. Assistance with Procurement of Permits, Preparation Technical Specifications, Construction Drawings, Contract Documents and General Engineering During Construction

As the extent of this phase of the ENGINEER's efforts cannot be predetermined with exactness at this time, it is not feasible to establish payment on a lump sum amount or unit-of-work basis; therefore, it is mutually agreed by and between the OWNER and the ENGINEER that compensation to the ENGINEER will be on the basis of the ENGINEER's actual cost of performing said services plus a fixed amount to cover net fee only. Actual costs eligible for reimbursement are those directly attributable and properly allocable to the accomplishment of the specific work for which the ENGINEER's services have been retained under the AGREEMENT. These may include:

(1) Labor Costs

Hourly salary rates reflecting labor costs for productive technical personnel and other employees for work-time directly associated with and essential to performance of work chargeable to the Project and salaries of principals for time they are productively engaged in work or activities that are necessary to fulfill the provisions and conditions of this AGREEMENT.

(2) Out-of-Pocket Direct Project Expense

Any non-salary cost identified specifically with the Project is a direct charge to the Project. Accordingly, any direct project non-salary costs under this AGREEMENT not included in the ENGINEER's general operating overhead or payroll additives in conformance with his normal accounting practices, as is justified, will be eligible for reimbursement at the ENGINEER's actual cost.

(3) Total Estimated Compensation

The ENGINEER estimates his actual cost of performing all services required for the successful execution of the scope of work described at Paragraph 1.a. to be FORTY THOUSAND FIVE HUNDRED FORTY-EIGHT AND 75/100 DOLLARS (\$40,548.75) and for the scope of work described at Paragraph 1.b. to be TWENTY-ONE THOUSAND NINE HUNDRED ELEVEN AND 26/100 DOLLARS (\$21,911.26) which is reimbursable through the Contract between the City of Crossville, Tennessee and the Tennessee Department of Transportation for the Project.

It is agreed that if it appears that due to the underestimation of man-hours or the increase in salary rates the top-side limiting amounts for the ENGINEER's services may be exceeded, the same will be subject to adjustment by mutual agreement between the OWNER and the ENGINEER to absorb the ENGINEER's additional costs that will be incurred by reason of said underestimation of man-hours or increase in salary rates upon written request by the ENGINEER prior to the limiting amount being exceeded.

c. Resident Observation During Construction

The OWNER shall compensate the ENGINEER for the work performed under Paragraph 1.c. upon presentation by the ENGINEER of a monthly invoice itemizing the hours worked by each employee of the ENGINEER and the expenses directly chargeable to the OWNER, the OWNER shall

pay the ENGINEER based on the ENGINEER's Standard Charges effective January 1, 2021, a copy of which is included as Attachment No. 1 of this AGREEMENT.

3. EXCLUSIONS

The ENGINEER shall not and will not be considered in charge of, or responsible for, acts of the Construction Contractor(s)' methods of construction, construction progress, construction forces or equipment or OSHA safety procedures.

The work contracted does not include a bond prospectus or related documents.

The ENGINEER will not be considered responsible for or in charge of non-technical items not within its purview and/or control, including but not limited to, legal and financing services.

No inclusion is made for extra work which causes revision of plans due to changes instigated by TDOT.

No inclusion or allowance is made for extra work caused by changes in State or Federal law or regulation.

No inclusion or allowance is made for boundary surveys which require the stamp of a registered land surveyor or acquisition documents.

The ENGINEER will not perform geotechnical analyses or subcontract directly for these services. The ENGINEER will provide the OWNER with a proposal form for directly procuring geotechnical engineering services and a list of at least three (3) geotechnical firms for solicitations of proposals if such services are required.

It is agreed by the parties that the ENGINEER will not be held responsible for office or field changes made unilaterally by TDOT.

4. OWNER'S RESPONSIBILITIES

The OWNER will furnish access to all land required for surveying work.

The OWNER will furnish access to any records required.

The OWNER will furnish plans of its existing relevant facilities.

The OWNER will verify the location and/or uncover existing utilities, if requested by the ENGINEER if it is uncertain of their size and/or location.

The OWNER will furnish liaison with and will be responsible for securing permits, licenses, or other approvals from local utilities including electric, gas, water, wastewater, telephone and railroad.

The OWNER shall obtain any special property surveys required for acquisition of sites and/or easements.

5. CONFINED SPACES

During the performance of work under this Agreement, the ENGINEER may find it necessary to enter "confined space(s)", as defined by OSHA regulations, in order to observe conditions and/or obtain necessary data. The OWNER is required by regulation to have in place a "Confined Space Permit Program" including the necessary testing and safety equipment. The OWNER shall provide without cost to the ENGINEER the proper "Permit", the "Attendant" and/or "Entry Supervisor" together with all necessary testing, safety, and emergency equipment and all other means of compliance with OSHA regulations. The ENGINEER will provide general training to its proposed "Authorized Entrant(s)"; however, the OWNER shall provide the training required for the equipment furnished, the OWNER's Permit System or any other condition special to the OWNER's facilities. The OWNER shall be fully responsible for compliance with the appropriate regulations.

6. ADDITIONAL PROVISIONS

The amount of any excise, value added or gross receipts tax that may be imposed during the life of this Agreement shall be considered allowable costs and shall be added to the compensation as determined hereinbefore.

The amount of any review fees required by the Tennessee Department of Environment and Conservation shall be the sole responsibility of the OWNER.

7. ADDITIONAL ENGINEERING SERVICES

In addition to the foregoing being performed, the following services may be provided UPON WRITTEN AUTHORIZATION OF THE OWNER. The OWNER agrees to negotiate with the ENGINEER a scope of work and compensation for same at the time the work is contemplated.

- a. Redesigns by the OWNER or by TDOT after final plans have been accepted by the OWNER and/or by TDOT
- b. A Storm Water Pollution Prevention Plan

8. OWNERSHIP OF DOCUMENTS

Plans as instruments of service are the property of the ENGINEER whether the work for which they are made be executed or not and are not to be used on other work except by agreement with the ENGINEER.

9. LEGAL AND FINANCING

The OWNER shall provide all legal and financing services required for the project, but the ENGINEER shall provide incidental data and assistance.

10. DESIGNATED REPRESENTATIVES

The OWNER and the ENGINEER, without relinquishing statutory authority, designate the following representatives:

OWNER: Tim Begley
 Director of Engineering
 City of Crossville
 392 Main Street
 Crossville, TN 38555
 (931) 456-6172

ENGINEER: J. Gregory Davenport, P.E.
 President
 J. R. Wauford & Company
 Consulting Engineers, Inc.
 2835 Lebanon Road
 P.O. Box 140350
 Nashville, Tennessee 37214
 (615) 883-3243

11. TERMINATION

The OWNER may terminate this Agreement for its convenience at its sole discretion by the payment to the ENGINEER for all work performed by the ENGINEER for the OWNER as outlined under the provisions of Paragraph 1. Scope of the Work of this Agreement up to the date of said termination. If the work has been partially performed, the fee shall be as outlined in Attachment No. 1, a copy of which is attached. However, the amount of said payment shall not exceed the applicable lump sum or ceiling price amount indicated in Paragraph 2. Compensation of this Agreement without written authorization of the OWNER.

12. DISPUTE RESOLUTION BY MEDIATION

In an effort to resolve any conflicts that arise during the performance of the work or following the completion thereof, the OWNER and the ENGINEER agree that all disputes between them arising out of or relating to this AGREEMENT or the Project shall be submitted to nonbinding mediation. The mediator shall be selected from a panel of persons having experience with and knowledge of the practice of environmental engineering. The place of mediation shall be as mutually agreed upon by the OWNER and the ENGINEER.

The OWNER and the ENGINEER hereby agree to the full performance of the covenants contained herein.

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

ENGINEER:

J. R. WAUFORD & COMPANY
CONSULTING ENGINEERS, INC.

OWNER:

CITY OF CROSSVILLE, TENNESSEE

BY: _____
J. Gregory Davenport, P.E.
President

BY: _____
James Mayberry
Mayor

ATTEST:

ATTEST:

BY: _____
Stephen C. Lee, P.E.
Corporate Secretary

BY: _____
Valerie Hale
City Clerk

Attachments:

- Attachment No. 1: Standard Charges effective January 1, 2021
- Attachment No. 2: A Listing of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative