

## AGREEMENT

This Agreement is by and among The City of Crossville, J & P Family LLLP and Bojangles OpCo, LLC effective as of the date last executed below.

WHEREAS, J & P Family LLLP (“J & P”) owns a certain parcel located in the City of Crossville, Cumberland County, Tennessee (the “J & P Property”);

WHEREAS, J & P leases the J & P Property to Bojangles OpCo, LLC (“Bojangles”), as successor to the leasehold interest of Bojangles Restaurant, Inc.;

WHEREAS, a storm water drainage pipe on the J & P Property requires repairs;

WHEREAS, the storm water line extends into the right-of-way of North Side Drive which the City of Crossville (the “City”) wishes to have repaired;

WHEREAS, the parties agree that the foregoing storm water drainage pipe repairs should be undertaken contemporaneously;

WHEREAS, to that end, Bojangles obtained a job bid from Pipeline Utilities Contractor of Bristol, Tennessee (the “PUC”) to perform the storm water line repairs described above and the parties accept said PUC Bid attached hereto as Exhibit “A” subject to all parties executing this Agreement.

Now, therefore, for good and valuable consideration, the parties agree as follows:

1. Bojangles shall accept the PUC Bid and enter into a contract with PUC for completion of the storm water line repairs in accordance with Exhibit “A” (“PUC Contract”) which PUC Contract shall provide that the City and J&P are third-party beneficiaries of the PUC

Contract and are entitled to enforce all warranties under the PUC Contract. In turn, Bojangles shall invoice J & P and the City periodically (but no more than monthly) as the storm water pipe repair work progresses (or upon completion) for their respective shares of the cost for the storm water pipe repair work within thirty (30) days after invoice from Bojangles. Bojangles and J & P shall be responsible for 25% each of said amount and the City shall be responsible for 50% of said amount subject to certain adjustments herein.

2. The parties assume that the repair work will have an estimated cost of \$40,000, based upon the PUC Bid of \$34,550.00 and an additional estimated 15% for permitting and miscellaneous costs of \$5,450.00.

3. In the event that unforeseen issues, like significant soil remediation or rock excavation, arise, Bojangles shall request PUC to provide a change order for approval of the parties. If the repair costs exceed \$40,000.00, Bojangles agrees to pay the first \$1,000.00. In the event total costs exceed \$41,000.00, then any such additional repair costs in excess of said \$41,000 shall be divided 25% each to Bojangles and J & P and 50% to the City.

4. The City Engineering Department shall be authorized to participate in overseeing the ROW portion of the storm water pipe repair. Notwithstanding the foregoing, until completion of the storm water line repairs in accordance with the PUC Contract or earlier assignment of its rights under the PUC Contract to the other parties, all communication and authorizations with PUC shall be administered by and through Bojangles. Upon completion of the storm water pipe repair in accordance with the PUC Contract and/or assignment of its rights under the PUC Contract by Bojangles to the other parties, Bojangles shall have no obligations, responsibilities or liabilities to any of the parties or otherwise under this Agreement

or pertaining to the storm water line repairs. Further, the parties acknowledge and agree that Bojangles will enter the PUC contract as an accommodation to the parties to help facilitate completion of the storm water line repairs and shall have no liability or obligations to any of the parties or otherwise in connection with the PUC Contract or the storm water line repairs, provided that the PUC Contract includes the parties as third-party beneficiaries with rights of enforcement thereof, including all warranties issued or granted pursuant thereto.

5. The parties shall use commercially reasonable efforts to cause PUC to cause the repair work to be completed by December 31, 2021.

6. J & P and Bojangles have been requested to convey certain temporary construction easements for road widening along North Side Drive. J & P and Bojangles agree to share and apply the proceeds from said conveyances toward their respective shares of the cost of the storm water pipe repairs.

7. This Agreement shall be interpreted and enforced pursuant to the laws of the State of Tennessee.

8. This Agreement has been negotiated by all parties and there shall be no presumption as to any party being the drafter.

9. THE PARTIES WAIVE ANY RIGHTS TO A JURY TRIAL. The parties further waive any claims to punitive damages.

10. Interest shall accrue at 10% per annum upon any balance on invoices from Bojangles for repair work outstanding after 30 days from receipt.

11. In the event that any party or parties bring a lawsuit to enforce or to interpret this Agreement, the prevailing party or parties shall be awarded its or their reasonable

attorney's fees and costs of litigation from the non-prevailing party or parties. The provisions of this section shall survive the termination or earlier expiration of this Agreement for any reason.

12. This Agreement constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

City of Crossville

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

Bojangles OpCo, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

J & P Family, LLLP

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

EXHIBIT "A"



PIPE LINE UTILITY CONTRACTORS, LLC  
PO BOX 1053  
BRISTOL, TN 37621  
P: 423-279-0410 F: 423-279-0411

**REVISED PROPOSAL**  
Tuesday June 29, 2021

**Project:** Bojangles, Crossville TN

**Scope:** Repair Crushed Storm Drain & Storm Line @ 24' Depth with 36" RCP

Silt Fence	\$300.00
Vactor truck and camera	\$3,300.00
Subcontractor's Equipment & Labor	\$3,800.00
Excavator/Mobilization & Demobilization	\$6,400.00
Shoring	\$3,600.00
36" Pipe	\$2,700.00
Labor	\$1,600.00
Rip Rap	\$350.00
End Wall-Remove and reinstall	\$1,200.00
Demo existing storm line and dispose of	\$1,500.00
Misc. equipment/skid steer/pumps	\$2,100.00
Misc. materials/hydraulic cement and grout	\$400.00
Travel/Mobilization & Demobilization	\$2,100.00
Stone for Backfill	\$1,600.00
Sight lighting - rerun wiring	\$1,000.00
Concrete curb and asphalt patch	\$2,600.00

**GRAND TOTAL \$34,550.00**

**EXCLUSIONS/CLARIFICATIONS:**

Bonds, Permits, Tap Fees or Meter are not included.  
Undercutting/Backfill of unsuitable materials is not included.  
Construction staking and surveying provided by others.  
Rock excavation is excluded.  
Rock Clause: Unsuitable soils \$50.00 cy/Trench Rock \$250.00 cy

Thank you for the opportunity to bid and we look forward to working with you in the future.

**PIPE LINE UTILITY CONTRACTORS, LLC**  
Bruce Blessing, CEO

This quote is good for 30 days. Due to price increase in materials, need to requote after 30 days.

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