

ENGINEERING SERVICES AGREEMENT

CITY OF INDEPENDENCE

2024 Street Rehabilitation Project

Agreement between Owner and Engineer for Professional Services

THIS AGREEMENT, made and entered into this _____ day of _____, 2023, by and between the City of Independence, Iowa, hereinafter referred to as the Owner, and Crawford Engineering & Surveying, Inc., hereinafter referred to as the Engineer.

WITNESSETH: THAT WHEREAS, the Owner is now contemplating construction of the 2024 Street Rehabilitation Project, hereinafter referred to as the Project, and

WHEREAS, the Owner has determined it is appropriate to proceed with design and construction of the Project, and

WHEREAS, the Owner desires to retain the services of the Engineer to provide professional services for design and during construction of the Project, and

NOW, THEREFORE, it is hereby agreed by and between the Owner and Engineer that the City of Independence retains the Engineer to act for and represent it in engineering matters, as set forth hereafter, for the project. Such agreement shall be subject to the following terms and conditions, to wit:

1. **SCOPE OF PROJECT.** It is understood and agreed upon the Project shall include Crack and Seat and Rehabilitation with HMA Overlay on the following streets:

6th Street NW from 8th Avenue NW to West End
7th Avenue NW from 5th Street NW to 8th Street NW
11th Avenue NW from 3rd Street NW to North End
3rd Street SW from 2nd Avenue SW to 3rd Avenue SW
8th Street SW from 6th Avenue SW to 9th Avenue SW
2nd Street SE from 5th Avenue SE to 6th Avenue SE
2. **DESIGN SURVEYS.** The Engineer shall make design surveys necessary for design of the Project and necessary for preparation of plans and specifications. Such design surveys shall include the securing of topographic and cross-sectional data and other field information and measurements.
3. **DESIGN CONFERENCES.** The Engineer shall attend such conferences with the Owner and/or his staff as may be necessary to make decisions as to the details of design of the Project.
4. **REGULATORY REQUIREMENTS.** The design, and plans and specifications shall comply with the requirements of all applicable regulatory agencies.

5. **PLANS AND SPECIFICATIONS.** The Engineer shall prepare such detailed drawings and specifications as are reasonably necessary and desirable for construction of the Project. The plans and specifications shall set forth the details required for the construction of the improvements. The specifications will indicate the quality standards for the materials to be used and will, in general, set forth the requirements of the City and the governmental agencies as to the standards for workmanship.
6. **CERTIFICATION.** Engineer certifies that it is a licensed engineer as required under Iowa Code Chapter 26.3(2).
7. **OPINION OF PROBABLE COST.** The Engineer shall prepare an opinion of cost for the Project. The Engineer shall not be responsible if construction bids for the Project varies from the Engineers' opinion of cost. The Engineers shall advise and assist the City, if necessary, in adjusting the scope and extent of the Project to allow the Project to be constructed within available budget limitations.
8. **ADVERTISEMENT FOR BIDS.** The Engineer shall assist in the preparation of bid documents and shall provide plans and specifications to bidders for contract(s) letting. Publication costs shall be borne by the Owner.
9. **BID OPENING AND AWARD OF CONTRACT(S).** The Engineer shall provide services to assist in the bid letting process, and shall prepare a tabulation of bids for the Owner and shall advise the Owner in making award of contract(s). After award of contract(s) is/are made, the Engineer shall assist in the execution of the necessary contract documents. During the bidding phase, the Engineer shall advise the Owner of the responsiveness of each bid proposal submitted.
10. **PRECONSTRUCTION CONFERENCE.** The Engineer shall conduct a preconstruction conference following award of the construction contract(s). Said conference to be attended by representatives of the Owner, the Engineer, Contractor, and utility companies affected by the project.
11. **GENERAL SERVICES DURING CONSTRUCTION.** The Engineer shall provide general services during construction including, but not limited to, the following:
 - a. Consult with and advise Owner.
 - b. Assist in interpretation of plans and specifications.
 - c. Review drawings and data of manufacturers.
 - d. Process and certify payment estimates of the Contractor to Owner.

- e. Prepare and process necessary change orders or modifications to the construction contract(s).
 - f. Make routine trips to the Project site as required.
12. **RESIDENT REVIEW SERVICES.** Resident review services are understood to include the detailed observation and review of the work of the contractor and materials for compliance with the plans and specifications.
- The Engineer shall provide resident review services as necessary to assist the City by assigning resident engineer and/or engineering technicians to the Project for such periods as may be reasonably required to observe and review the construction work.
13. **FINAL REVIEW.** The Engineer shall make a final review after construction is complete to determine that construction is substantially in compliance with the plans and specifications. The Engineer shall certify to the City that construction has been completed in substantial compliance with the plans and specifications, or note the specific areas of construction that are not in compliance.
14. **COMPENSATION.** The Owner shall compensate the Engineer for their services by payment of the following fees:
- a. The fee for design services, design conferences, and preparation of plans and specifications, opinion of cost, bidding services, and preconstruction conference shall be hourly based on the Engineer's current fee schedule. Estimated fee is \$32,000.00.
 - b. The fee for general services during construction, resident review services, and final review of the Project shall be hourly based on the Engineer's current fee schedule. Estimated fee is \$25,700.00.
 - c. The maximum fee for Items a and b above shall not exceed \$57,700.00 without prior approval of the Owner.
15. **PAYMENT.** Fees shall be due and payable as follows:
- a. For design, preparation of plans and specifications, opinion of cost, bidding services, and preconstruction conference, the fee shall be due and payable based on monthly invoices.
 - b. For general services during construction, resident review services, and final review, the fee shall be due and payable based on monthly invoices.
16. **LEGAL SERVICES.** The Owner shall provide the services of their Attorney in legal matters pertaining to the Project. The Engineer shall cooperate with said

attorney and shall comply with his requirements as to form of contract documents and procedures relative to them.

17. **SERVICES NOT INCLUDED.** The above stated fees do not include compensation for the following items:

- a. Services related to or regarding arbitration or litigation of the construction contract(s) between the construction contractor and the Owner regarding any part of the Project.
- b. Services relating to negotiating the acquisition of right-of-way and easements, permanent or temporary, and condemnation proceedings.
- c. Services related to underground utility replacements and repairs (water main and sanitary sewers and services).
- d. Services related to legal surveys and property surveys, or other surveys necessary for preparation of easement documents.
- e. Special assessments and services related to preliminary and final assessment plats and schedules.
- f. Services relating to the televising of underground utilities or other means to assess the conditions of utilities in the Project area.
- g. Materials testing services during construction.
- h. Services associated with construction staking, right-of-way acquisition, right-of-way easements and services beyond those included in the design of the Project.
- i. Subsurface investigations or geotechnical analysis of the project area.

18. **DISPUTE RESOLUTION.**

- a. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of thirty (30) days from the date of notice prior to other provisions of this Agreement, or under law.
- b. Owner and Engineer agree to use mediation for dispute resolution if the previously described negotiation process is not successful.
- c. In the event of any litigation arising from or related to this Agreement or the services provided under this Agreement, each party shall pay their own legal expenses, including staff time, court costs, attorney's fees and all other related expenses in such litigation.

19. **OWNERSHIP.** All records, plans, specifications, field notes, electronic drawings or other work shall remain the property of the Engineer and the Owner shall have access to those records.
20. **THE OWNER'S RESPONSIBILITIES.** The Owner shall provide full information regarding requirements for the project, including a program, which shall set forth the Owner's design objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, special equipment and systems and site requirements. If the Owner provides a budget for the project, it shall include contingencies for bidding, changes in the work during construction, and other costs which are the responsibility of the Owner. The Owner shall, at the request of the Engineer, provide a statement of funds available for the project, and their source.

The Owner shall designate, when necessary, a representative authorized to act in the Owner's behalf with respect to the project. The Owner or such authorized representative shall examine the documents submitted by the Engineer and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Engineer's services.

The Owner shall furnish all legal, accounting, and insurance counseling services as may be necessary at any time for the project, including such auditing services as the Owner may require to verify the contractor's applications for payment or to ascertain how or for what purposes the contractor uses the moneys paid by or on behalf of the Owner.

If the Owner observes or otherwise becomes aware of any fault or defect in the project or nonconformance with the contract documents, prompt written notice thereof shall be furnished by the Owner to the Engineer.

The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Engineer's services and of the work.

21. **CHANGES.** The Owner, from time to time, may require changes in the scope of services of the Engineer to be performed hereunder. Such changes, which are mutually agreed upon by and between the Owner and Engineer shall be incorporated in written amendments to this agreement.
22. **TERMINATION.** Should the Owner abandon the Project before the Engineer has completed their work, the Engineer shall be paid proportionately for the work and services performed until the date of termination.
23. **ASSISTANTS AND CONSULTANTS.** It is understood and agreed that the employment of the Engineer by the Owner for the purposes aforesaid shall be

exclusive, but the Engineer shall have the right to employ such assistants and consultants as they deem proper in the performance of the work.

24. **ASSIGNMENT.** This Agreement and each and every portion thereof shall be binding upon the successors and the assigns of the parties hereto.

25. **GENERAL TERMS:**

a. During the performance of this contract, the Engineer agrees to not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.

b. Retention of Engineer by the Owner shall be as an independent contractor and shall be exclusive, but the Engineer shall have the right to employ such assistance as may be required for the performance of the Agreement.

c. No Party to this Agreement shall perform contrary to any local, state, or federal law or ordinance.

26. **INSURANCE.** It is hereby agreed that the Engineer is an independent contractor. The Engineer is responsible for providing the Owner with Certificates of Insurance by insurance companies licensed to do business in the State of Iowa in the following limits:

Commercial General Liability Coverage:

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products-Completed Operations Aggregate Limit	\$2,000,000
Personal & Advertising Injury Limit	\$1,000,000
Professional Liability	\$250,000
Workman's Compensation	Statutory

Engineer further agrees to indemnify the Owner for any and all causes of actions commenced against the Owner wherein it is determined by a court of law that the engineering consultant were negligent in the pursuit of their duties.

The undersigned do hereby covenant and state that this Agreement is executed in duplicate as though each were an original and that there are no oral agreements that have not been reduced to writing in this instrument.

It is further covenanted and stated that there are no other considerations or monies contingent upon or resulting from the execution of this Agreement, nor have any of the above been implied by or for any party to this Agreement.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names on the date first written above.

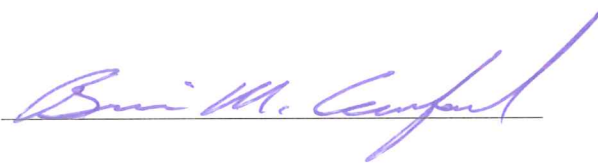
CITY OF INDEPENDENCE, IOWA

ATTEST:

By: _____

By: _____

CRAWFORD ENGINEERING & SURVEYING, INC.

By:  _____