

**RESOLUTION 17-31**

**A RESOLUTION TO AMEND RESOLUTION 17-20, AUTHORIZING AMENDED AMOUNTS FOR CONTRACTS WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR WATER AND SEWER LINE RELOCATION FOR THE DUPLEX ROAD WIDENING PROJECT  
CONTRACT NUMBERS CU8645, CU8646, CU8647, CU8648**

**WHEREAS**, the City of Spring Hill Board of Mayor and Aldermen passed Resolution 17-31 on February 21, 2017; and

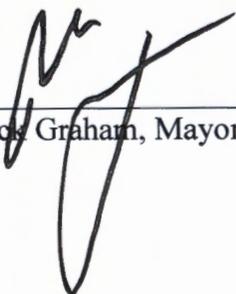
**WHEREAS**, updated information indicates changes in original amounts; and

**WHEREAS**, the contract supplied states the City will fund the relocation of the sewer facilities in the amount of **\$5,716,051.00**, with reimbursement from the state in the amount of \$1,456,355.63, as follows:

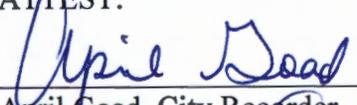
Water Relocation Estimate	\$4,630,534.00
Reimbursement Estimate	(\$1,574,381.00)
Sewer Relocation Estimate	\$1,085,517.00
Reimbursement Estimate	(\$ 32,565.51)
Additional Easement for Water	\$ 0 (no water easements needed)
Additional Easement for Sewer	\$ 0 (no sewer easements needed)

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Spring Hill authorizes the amended amounts as stated above for water and sewer line relocation contracts with the Tennessee Department of Transportation for the Duplex Road project, Contract numbers: CU8645, CU8646, CU8647, CU8648.

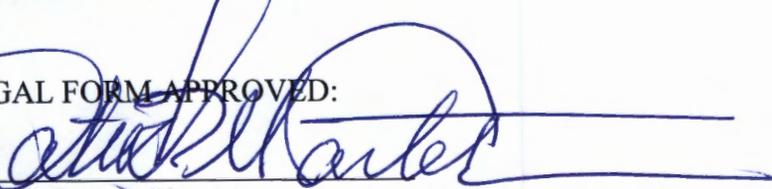
**Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on this 20<sup>th</sup> day of March, 2017.**

  
\_\_\_\_\_  
Rick Graham, Mayor

ATTEST:

  
\_\_\_\_\_  
April Goad, City Recorder

LEGAL FORM APPROVED:

  
\_\_\_\_\_  
Patrick Carter, City Attorney

RESOLUTION 17-20

**A RESOLUTION TO AUTHORIZE THE MAYOR OF SPRING HILL, TN TO ENTER INTO CONTRACTS WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR WATER AND SEWER LINE RELOCATION AND ADDITIONAL EASEMENTS FOR THE DUPLEX ROAD WIDENING PROJECT  
CONTRACT NUMBERS CU8645, CU8646, CU8647, CU8648**

WHEREAS, TDOT proposes to widen and install improvements on Duplex Road; and

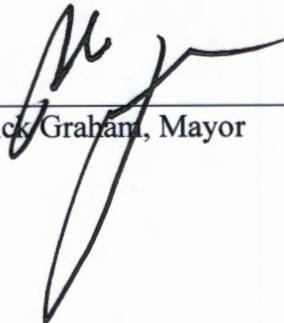
WHEREAS, TDOT has asked for the Mayor to sign the contract supplied that states the City agrees to relocate certain utilities and additional water and sewer easements as set forth in the proposal, so the general highway program may be carried out in accordance with the intent of the General Assembly of the State; and

WHEREAS, the contract supplied states the City will fund the relocation of the sewer facilities in the amount of ~~\$5,594,813.00~~, with reimbursement from the state in the amount of \$1,456,355.63, as follows: **\$5,716,051.00**

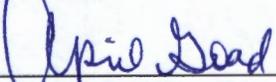
Water Relocation Estimate	<del>\$4,187,618.00</del>	<b>\$4,630,534.00</b>
Reimbursement Estimate	<del>(\$1,423,790.12)</del>	<b>\$1,574,381.00</b>
Sewer Relocation Estimate	\$1,085,517.00	
Reimbursement Estimate	(\$ 32,565.51)	
Additional Easement for Water	<del>\$ 189,305.00</del>	<b>Void-No Easement Needed</b>
Additional Easement for Sewer	<del>\$ 132,373.00</del>	<b>Void-No Easement Needed</b>

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Spring Hill authorizes the Mayor of Spring Hill, TN to sign and approve funding for water and sewer line relocation contracts and additional water and sewer easements with the Tennessee Department of Transportation for the Duplex Road project, Contract numbers: CU8645, CU8646, CU8647, CU8648.

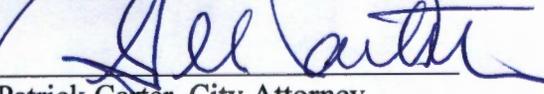
**Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on this 21<sup>st</sup> day of February, 2017.**

  
\_\_\_\_\_  
Rick Graham, Mayor

ATTEST:

  
\_\_\_\_\_  
April Goad, City Recorder

LEGAL FORM APPROVED:

  
\_\_\_\_\_  
Patrick Carter, City Attorney



Contract No. 8645

STP-M-247(9) / 94031-2209-54 / 60020-2201-54

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## UTILITY RELOCATION CONTRACT

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THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Spring Hill (Water)**, hereinafter called the "Utility".

### WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **103169.00, SR-247. Duplex Road, From SR-6 (Main Street) in Spring Hill to Near I-65** located in **Maury County, Tennessee** (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to relocate certain of its facilities, **66** percent of which are located on public highway right-of-way and **34** percent of which are located on private utility right-of-way; and

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$4,187,618.00**, including the amount of **\$6,008.00** for the cost of engineering; including the amount of **\$0.00** for the cost of inspection provided by the Utility; including the amount of **\$0.00** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$2,759,862.60** for deposit for the utility work in the State contract, and of which **34** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **66** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering and inspection, excluding betterment and the cost over the maximum TDOT reimbursement amount; and

WHEREAS, TDOT is liable for the relocation of utility facilities located on private utility right-of-way but is not liable for adjustment of the facilities located on publicly owned right-of-way or for any utility betterment costs; and

WHEREAS, the parties want to enter into a contract to provide for the relocation of the Utility's facilities in conjunction with this highway construction project, and the Utility has requested TDOT to undertake the hereinafter described utility relocation work in its highway construction contract; and

WHEREAS, it is in the mutual interest of the parties that this utility relocation work be performed together with the proposed highway construction;

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

- (f) It is also understood and agreed that TDOT, in its sole discretion, may reject any and all bids submitted for the construction of said Project without any liability whatsoever to the Utility.
2. It is further agreed that in letting the contract with respect to the proposed relocation of the Utility's facilities, TDOT is acting solely in accommodation of the Utility and shall have no liability to the Utility for any damages or claims arising out of acts or omissions on the part of TDOT's contractor. The Utility agrees that it will not hold TDOT responsible for any claims arising out of the inclusion of the Utility's items of work in TDOT's highway construction contract. Under this contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment with the State of Tennessee.
  3. (a) The Utility has acquired or shall acquire all utility rights-of-way outside of the proposed public highway right-of-way as may be needed to relocate its utility facilities, including any betterment, and the Utility shall provide TDOT and its contractor with the rights to use these utility rights-of-way for construction purposes. The Utility further agrees that it has acquired or will acquire these rights-of-way at no cost to TDOT except insofar as TDOT may be liable to reimburse the Utility for the replacement of previously owned private utility rights-of-way as may be provided in a separate contract between the parties.  
  
(b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way as needed for highway purposes.
  4. The Utility agrees that:
    - (a) The Utility will perform the utility engineering work provided for in this Contract by its own forces and/or consultant engineering services approved by TDOT.
    - (b) It will develop the utility engineering costs in accordance with the current provisions of 23 CFR §645.117.
  5. The Utility shall have the right and responsibility to inspect and approve, prior to TDOT's release of its highway contractor's bond, all items of utility relocation work, including betterment, to be performed under the proposed highway construction contract to ensure that the relocation is completed in accordance with this Contract and all applicable specifications and safety codes. The Utility shall provide progressive inspection reports to TDOT in accordance with the current TDOT Construction Circular Letter section 105.07 "Utilities Diaries and Inspection Procedures" incorporated herein by reference. TDOT agrees that it will reimburse the Utility the pro-rata share for the inspection of utility facilities on private utility right-of-way when the utility relocation is completed in accordance with the approved relocation plans, incorporated herein by reference. The inspection of utility facilities on public highway right-of-way shall be performed at no cost to TDOT.
  6. The Utility agrees to comply with all current, applicable provisions of 23 CFR Subpart 645A, which are incorporated herein by reference; provided, however, that provisions for review, approval, authorization and participation by the Federal Highway Administration set forth in 23 CFR Subpart 645A shall not apply to the

- (f) The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of cost attached hereto as Exhibit "A" to this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
  - (g) TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof, TDOT shall specifically identify those objections in writing to the Utility so as to allow the parties to address them in a prompt manner. If the invoice is otherwise acceptable, TDOT shall only withhold payment(s) as to those cost items it has specified in its written notice of objections to the Utility. All other reimbursable cost items set out in the Utility's invoice shall be paid by TDOT.
  - (h) Subject to the Utility's right to bill on an interim basis as described above, the Utility shall by invoice provide one final and complete billing of all costs incurred within one year following the completion of the Utility relocation work in its entirety. Otherwise, any previous payments to the Utility may be considered final, and the Utility may be deemed to have waived any claim for additional payments, except as TDOT and Utility may have agreed otherwise in writing before the end of that year.
  - (i) The Utility's invoice(s) shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by TDOT, on the basis of audits or monitoring conducted in accordance with the terms of this Contract, not to constitute allowable costs. The payment of an invoice shall not prejudice TDOT's right to object to or question any invoice or matter in relation thereto. Such payment by TDOT shall neither be construed as acceptance of the work nor as final approval of any of the costs invoiced therein.
  - (j) The Utility's invoice(s) shall include a Buy America certification attesting that all products used in the Utility's relocation work that are manufactured of steel or iron comply with the Buy America requirements set forth in 23 USC § 313 and 23 CFR § 635.410 and as further described in paragraph 8 of this Contract.
10. The Utility agrees that its cost records will be subject to inspection at any reasonable time by representatives of TDOT before or after final payment for reimbursable work. In the event any costs are determined not to be allowable under provisions of this Contract, the Utility agrees to repay TDOT such amount of ineligible costs included within payments made by TDOT.
11. The Utility shall keep and maintain accurate records by which all invoices can be verified. The books, records, and documents of the Utility, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years after final payment has been received by the Utility and shall be subject to audit at any reasonable time and upon reasonable notice by

disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

18. The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended, under this Contract.
19. This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.
20. The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
21. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Utility acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.
22. If any terms, covenants, conditions or provisions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms, covenants, conditions and provisions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
23. TDOT and the Utility agree that any notice provided for in this Contract or concerning this Contract shall be in writing and shall be made by personal delivery, by certified mail (return receipt requested), by nationally recognized overnight delivery service (such as FedEx or UPS), or by facsimile transmission (provided that notice shall also be given in one of the other methods prescribed herein) addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

To TDOT:

Tennessee Department of Transportation  
Attention: State Utility Coordinator  
Suite 600, James K. Polk Building  
505 Deaderick Street



Contract No. 8646

STP-M-247(9) / 94031-2209-54 / 60020-2201-54

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## UTILITY RELOCATION CONTRACT

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THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Spring Hill (Sewer)**, hereinafter called the "Utility".

### WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **103169.00, SR-247. Duplex Road, From SR-6 (Main Street) in Spring Hill to Near I-65** located in **Maury County, Tennessee** (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to relocate certain of its facilities, **97** percent of which are located on public highway right-of-way and **3** percent of which are located on private utility right-of-way; and

WHEREAS, the Utility has furnished TDOT with an estimate, plans, and specifications showing the cost and manner of relocating these facilities, which estimate is in the amount of **\$1,085,517.00**, including the amount of **\$96,504.00** for the cost of engineering; including the amount of **\$78,608.00** for the cost of inspection provided by the Utility; including the amount of **\$0.00** for the cost of betterment to the Utility's facilities (hereinafter called the "Betterment Cost"), and including the amount of **\$883,092.85** for deposit for the utility work in the State contract, and of which **3** percent represents the pro-rata share to which the Utility is entitled to reimbursement for relocation of utility facilities located on private utility right-of-way, and **97** percent represents the pro-rata share for relocation of utility facilities located on public highway right-of-way, reimbursement being for the cost of construction, engineering and inspection, excluding betterment and the cost over the maximum TDOT reimbursement amount; and

WHEREAS, TDOT is liable for the relocation of utility facilities located on private utility right-of-way but is not liable for adjustment of the facilities located on publicly owned right-of-way or for any utility betterment costs; and

WHEREAS, the parties want to enter into a contract to provide for the relocation of the Utility's facilities in conjunction with this highway construction project, and the Utility has requested TDOT to undertake the hereinafter described utility relocation work in its highway construction contract; and

WHEREAS, it is in the mutual interest of the parties that this utility relocation work be performed together with the proposed highway construction;

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

- (f) It is also understood and agreed that TDOT, in its sole discretion, may reject any and all bids submitted for the construction of said Project without any liability whatsoever to the Utility.
2. It is further agreed that in letting the contract with respect to the proposed relocation of the Utility's facilities, TDOT is acting solely in accommodation of the Utility and shall have no liability to the Utility for any damages or claims arising out of acts or omissions on the part of TDOT's contractor. The Utility agrees that it will not hold TDOT responsible for any claims arising out of the inclusion of the Utility's items of work in TDOT's highway construction contract. Under this contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment with the State of Tennessee.
  3. (a) The Utility has acquired or shall acquire all utility rights-of-way outside of the proposed public highway right-of-way as may be needed to relocate its utility facilities, including any betterment, and the Utility shall provide TDOT and its contractor with the rights to use these utility rights-of-way for construction purposes. The Utility further agrees that it has acquired or will acquire these rights-of-way at no cost to TDOT except insofar as TDOT may be liable to reimburse the Utility for the replacement of previously owned private utility rights-of-way as may be provided in a separate contract between the parties.  
  
(b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way as needed for highway purposes.
  4. The Utility agrees that:
    - (a) The Utility will perform the utility engineering work provided for in this Contract by its own forces and/or consultant engineering services approved by TDOT.
    - (b) It will develop the utility engineering costs in accordance with the current provisions of 23 CFR §645.117.
  5. The Utility shall have the right and responsibility to inspect and approve, prior to TDOT's release of its highway contractor's bond, all items of utility relocation work, including betterment, to be performed under the proposed highway construction contract to ensure that the relocation is completed in accordance with this Contract and all applicable specifications and safety codes. The Utility shall provide progressive inspection reports to TDOT in accordance with the current TDOT Construction Circular Letter section 105.07 "Utilities Diaries and Inspection Procedures" incorporated herein by reference. TDOT agrees that it will reimburse the Utility the pro-rata share for the inspection of utility facilities on private utility right-of-way when the utility relocation is completed in accordance with the approved relocation plans, incorporated herein by reference. The inspection of utility facilities on public highway right-of-way shall be performed at no cost to TDOT.
  6. The Utility agrees to comply with all current, applicable provisions of 23 CFR Subpart 645A, which are incorporated herein by reference; provided, however, that provisions for review, approval, authorization and participation by the Federal Highway Administration set forth in 23 CFR Subpart 645A shall not apply to the

- (f) The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of cost attached hereto as Exhibit "A" to this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
  - (g) TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof, TDOT shall specifically identify those objections in writing to the Utility so as to allow the parties to address them in a prompt manner. If the invoice is otherwise acceptable, TDOT shall only withhold payment(s) as to those cost items it has specified in its written notice of objections to the Utility. All other reimbursable cost items set out in the Utility's invoice shall be paid by TDOT.
  - (h) Subject to the Utility's right to bill on an interim basis as described above, the Utility shall by invoice provide one final and complete billing of all costs incurred within one year following the completion of the Utility relocation work in its entirety. Otherwise, any previous payments to the Utility may be considered final, and the Utility may be deemed to have waived any claim for additional payments, except as TDOT and Utility may have agreed otherwise in writing before the end of that year.
  - (i) The Utility's invoice(s) shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by TDOT, on the basis of audits or monitoring conducted in accordance with the terms of this Contract, not to constitute allowable costs. The payment of an invoice shall not prejudice TDOT's right to object to or question any invoice or matter in relation thereto. Such payment by TDOT shall neither be construed as acceptance of the work nor as final approval of any of the costs invoiced therein.
  - (j) The Utility's invoice(s) shall include a Buy America certification attesting that all products used in the Utility's relocation work that are manufactured of steel or iron comply with the Buy America requirements set forth in 23 USC § 313 and 23 CFR § 635.410 and as further described in paragraph 8 of this Contract.
10. The Utility agrees that its cost records will be subject to inspection at any reasonable time by representatives of TDOT before or after final payment for reimbursable work. In the event any costs are determined not to be allowable under provisions of this Contract, the Utility agrees to repay TDOT such amount of ineligible costs included within payments made by TDOT.
11. The Utility shall keep and maintain accurate records by which all invoices can be verified. The books, records, and documents of the Utility, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years after final payment has been received by the Utility and shall be subject to audit at any reasonable time and upon reasonable notice by

disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

18. The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended, under this Contract.
19. This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.
20. The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
21. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Utility acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-407.
22. If any terms, covenants, conditions or provisions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms, covenants, conditions and provisions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
23. TDOT and the Utility agree that any notice provided for in this Contract or concerning this Contract shall be in writing and shall be made by personal delivery, by certified mail (return receipt requested), by nationally recognized overnight delivery service (such as FedEx or UPS), or by facsimile transmission (provided that notice shall also be given in one of the other methods prescribed herein) addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

To TDOT:

Tennessee Department of Transportation  
Attention: State Utility Coordinator  
Suite 600, James K. Polk Building  
505 Deaderick Street



STP-M-247(9) / 94031-2209-54 / 60020-2201-54

Contract No. 8647

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## UTILITY EASEMENT CONTRACT

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THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Spring Hill (Water)**, hereinafter called the "Utility".

### WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **103169.00, SR-247. Duplex Road, From SR-6 (Main Street) in Spring Hill to Near I-65** located in **Maury County, Tennessee** (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to convey existing utility easements for the proposed highway right-of-way and acquire replacement easements for the relocation of their facilities in order that said Project may be constructed; and

WHEREAS, the Utility has furnished TDOT with a relocation plans and an estimate showing the cost of acquiring said replacement easements, which estimate is in the amount of **\$189,305.00**; and

WHEREAS, the parties want to enter into a contract to provide for the acquisition of said replacement easements.

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

1. (a) The Utility shall acquire said replacement easements in accordance with the estimate of cost and relocation plan as approved by TDOT, incorporated herein by reference, and as otherwise contemplated by this Contract. The estimate includes a written valuation of the replacement right-of-way. The approved estimate of cost is attached hereto as Exhibit "A".  
  
(b) Any change in the approved relocation plan shall require the prior written approval of TDOT. TDOT agrees to review and, if acceptable, approve such requests for change in a timely manner, and TDOT agrees to cooperate with the Utility to resolve, if possible, any objections TDOT may have to such requested changes in the Contract.
2. (a) The Utility shall acquire all utility rights-of-way outside of the proposed public highway right-of-way as may be needed to relocate its utility facilities, including any betterment.  
  
(b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way.

extent that the Project is not a federal-aid project. The Utility acknowledges possession of a copy of the 23 CFR Subpart 645A.

5. The Utility agrees to comply with all current, applicable provisions of the Guidelines for Governmentwide Debarment and Suspension of 2 CFR §180.355 through §180.365 which are incorporated herein by reference. The Utility acknowledges possession of 2 CFR Part 180 and the requirements of the attached FHWA Form 1273, Section X – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.
6. Subject to the provisions of this paragraph and as otherwise provided in this Contract, TDOT agrees to reimburse the Utility for the cost of acquiring replacement easements in accordance with the approved plan, as follows:
  - (a) Subject to the provisions of the next succeeding paragraphs herein, the State agrees that it will pay the Utility the entire cost, under the provisions of 23 CFR §645.111, for acquiring the Utility's replacement easements in accordance with said estimate. The parties specifically recognize that the costs of acquiring easements are not fixed. TDOT agrees to pay the eligible, reasonable, and acceptable actual costs of acquiring the easements; provided, however, TDOT reserves the right to reject costs it finds to be ineligible or unreasonable. However, in no event shall the State be liable for costs of acquiring easements not included in the approved relocation plans or as modified and approved under this contract.
  - (b) TDOT shall reimburse the Utility for such direct and indirect costs as are allowable under the current provisions of 23 CFR Subpart 645A. Any claim for costs that would be ineligible for Federal reimbursement under 23 CFR Subpart 645A on a federal-aid project shall be ineligible for reimbursement by TDOT on this Project, whether it is or is not a federal-aid project.
  - (c) The Utility shall develop and record acquisition costs in a manner consistent with the current provisions of 23 CFR §645.117 as of the effective date of this Contract and as approved by TDOT.
  - (d) The Utility shall submit all requests for payment by invoice, in form and substance acceptable to TDOT, with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amount charged for the period invoiced, and the total amount charged under the Contract to date.
  - (e) The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of reimbursable costs for the total acquisition project, as described in Exhibit "A" of this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
  - (f) TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof,

to recover from TDOT any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

11. The Utility agrees to, the extent provided by law, that it will be solely responsible for any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Utility, its employees, its contractors, or any person acting for or on its or their behalf in the performance of the acquisition work relating to this contract. The Utility further agrees that it will not hold TDOT responsible for any such claims. Under this Contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment.

In the event that TDOT is sued for damages arising from acts, omissions, or negligence by the Utility or its employees, the Utility shall cooperate in TDOT's defense. TDOT shall give the Utility written notice of any such claim or suit, and the Utility shall have full right and obligation to conduct the Utility's own defense thereof. Nothing contained herein shall be deemed to accord to the Utility, through its attorney(s), the right to represent TDOT in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

12. TDOT shall have no liability except as specifically provided in this Contract.
13. This Contract may be modified only by a written amendment executed by the parties hereto.
14. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term, covenant, condition or provision of this Contract shall be held to be waived, modified, or deleted except by written amendment signed by the parties hereto.
15. The Utility hereby agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Utility on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall, upon request, show proof of such nondiscrimination and post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
16. The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended under this Contract.
17. This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.
18. The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged

To the Utility:

Attention: \_\_\_\_\_

\_\_\_\_\_

Facsimile Number: \_\_\_\_\_

With a copy if requested by Utility to:

Attention: \_\_\_\_\_

\_\_\_\_\_

Facsimile Number: \_\_\_\_\_

**IN WITNESS WHEREOF**, the parties have executed this contract.

**UTILITY**  
**City of Spring Hill (Water)**

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

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

DATE: \_\_\_\_\_

STATE OF TENNESSEE  
DEPARTMENT OF  
TRANSPORTATION

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

John C. Schroer  
Commissioner

DATE: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY:

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

John H. Reinbold  
General Counsel



STP-M-247(9) / 94031-2209-54 / 60020-2201-54

Contract No. 8648

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## UTILITY EASEMENT CONTRACT

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THIS CONTRACT made and entered into by and between the **State of Tennessee** acting through its Department of Transportation, hereinafter called "TDOT", and **City of Spring Hill (Sewer)**, hereinafter called the "Utility".

### WITNESSETH:

WHEREAS, TDOT plans to construct PIN Number **103169.00, SR-247. Duplex Road, From SR-6 (Main Street) in Spring Hill to Near I-65** located in **Maury County, Tennessee** (hereinafter called the "Project"), and for said Project to be constructed it will be necessary for the Utility to convey existing utility easements for the proposed highway right-of-way and acquire replacement easements for the relocation of their facilities in order that said Project may be constructed; and

WHEREAS, the Utility has furnished TDOT with a relocation plans and an estimate showing the cost of acquiring said replacement easements, which estimate is in the amount of **\$132,373.00**; and

WHEREAS, the parties want to enter into a contract to provide for the acquisition of said replacement easements.

NOW, THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

1. (a) The Utility shall acquire said replacement easements in accordance with the estimate of cost and relocation plan as approved by TDOT, incorporated herein by reference, and as otherwise contemplated by this Contract. The estimate includes a written valuation of the replacement right-of-way. The approved estimate of cost is attached hereto as Exhibit "A".  
(b) Any change in the approved relocation plan shall require the prior written approval of TDOT. TDOT agrees to review and, if acceptable, approve such requests for change in a timely manner, and TDOT agrees to cooperate with the Utility to resolve, if possible, any objections TDOT may have to such requested changes in the Contract.
2. (a) The Utility shall acquire all utility rights-of-way outside of the proposed public highway right-of-way as may be needed to relocate its utility facilities, including any betterment.  
(b) The Utility agrees to transfer to TDOT that portion of the previously owned private utility rights-of-way being vacated by the Utility and within the Project proposed right-of-way.

extent that the Project is not a federal-aid project. The Utility acknowledges possession of a copy of the 23 CFR Subpart 645A.

5. The Utility agrees to comply with all current, applicable provisions of the Guidelines for Governmentwide Debarment and Suspension of 2 CFR §180.355 through §180.365 which are incorporated herein by reference. The Utility acknowledges possession of 2 CFR Part 180 and the requirements of the attached FHWA Form 1273, Section X – Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.
6. Subject to the provisions of this paragraph and as otherwise provided in this Contract, TDOT agrees to reimburse the Utility for the cost of acquiring replacement easements in accordance with the approved plan, as follows:
  - (a) Subject to the provisions of the next succeeding paragraphs herein, the State agrees that it will pay the Utility the entire cost, under the provisions of 23 CFR §645.111, for acquiring the Utility's replacement easements in accordance with said estimate. The parties specifically recognize that the costs of acquiring easements are not fixed. TDOT agrees to pay the eligible, reasonable, and acceptable actual costs of acquiring the easements; provided, however, TDOT reserves the right to reject costs it finds to be ineligible or unreasonable. However, in no event shall the State be liable for costs of acquiring easements not included in the approved relocation plans or as modified and approved under this contract.
  - (b) TDOT shall reimburse the Utility for such direct and indirect costs as are allowable under the current provisions of 23 CFR Subpart 645A. Any claim for costs that would be ineligible for Federal reimbursement under 23 CFR Subpart 645A on a federal-aid project shall be ineligible for reimbursement by TDOT on this Project, whether it is or is not a federal-aid project.
  - (c) The Utility shall develop and record acquisition costs in a manner consistent with the current provisions of 23 CFR §645.117 as of the effective date of this Contract and as approved by TDOT.
  - (d) The Utility shall submit all requests for payment by invoice, in form and substance acceptable to TDOT, with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall indicate, at a minimum, the amount charged by allowable cost line-item for the period invoiced, the amount charged by line-item to date, the total amount charged for the period invoiced, and the total amount charged under the Contract to date.
  - (e) The Utility may submit invoices for interim payments during the progress of the work; provided, however, that such interim payments may be approved only up to a maximum of eighty percent (80%) of the approved estimate of reimbursable costs for the total acquisition project, as described in Exhibit "A" of this Contract, and any remaining reimbursable costs must be submitted on the final bill. Such invoices for interim payments shall be submitted no more often than monthly.
  - (f) TDOT shall, unless it has good faith and reasonable objections to the Utility's invoice for interim payment, use its best efforts to issue payment based on the Utility's invoice within forty-five (45) days after receipt. If, however, TDOT has good faith and reasonable objections to the Utility's invoice(s) or any part thereof,

to recover from TDOT any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

11. The Utility agrees to, the extent provided by law, that it will be solely responsible for any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Utility, its employees, its contractors, or any person acting for or on its or their behalf in the performance of the acquisition work relating to this contract. The Utility further agrees that it will not hold TDOT responsible for any such claims. Under this Contract, "TDOT" shall include any and all officers and employees of the State of Tennessee acting within the scope of their employment..

In the event that TDOT is sued for damages arising from acts, omissions, or negligence by the Utility or its employees, the Utility shall cooperate in TDOT's defense. TDOT shall give the Utility written notice of any such claim or suit, and the Utility shall have full right and obligation to conduct the Utility's own defense thereof. Nothing contained herein shall be deemed to accord to the Utility, through its attorney(s), the right to represent TDOT in any legal matter, such rights being governed by Tennessee Code Annotated, Section 8-6-106.

12. TDOT shall have no liability except as specifically provided in this Contract.
13. This Contract may be modified only by a written amendment executed by the parties hereto.
14. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term, covenant, condition or provision of this Contract shall be held to be waived, modified, or deleted except by written amendment signed by the parties hereto.
15. The Utility hereby agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Utility on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any classification protected by the Constitution or statutes of the United States or the State of Tennessee. The Utility shall, upon request, show proof of such nondiscrimination and post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
16. The Utility shall comply with all applicable federal and state laws and regulations in the performance of its duties under this Contract. The Utility agrees that failure of the Utility to comply with this provision may subject the Utility to the repayment of all State funds expended under this Contract.
17. This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Time is of the essence of this Contract.
18. The parties hereto, in the performance of this contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged

To the Utility:

Attention: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

With a copy if requested by Utility to:

Attention: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

**IN WITNESS WHEREOF**, the parties have executed this contract.

**UTILITY**  
**City of Spring Hill (Sewer)**

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

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

DATE: \_\_\_\_\_

STATE OF TENNESSEE  
DEPARTMENT OF  
TRANSPORTATION

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

John C. Schroer  
Commissioner

DATE: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGALITY:

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

John H. Reinbold  
General Counsel

W/S

			Deposit Required
Water Relocation Estimate	✓ \$ 4,187,618.00		
Reimbursement Estimate (34%)	\$ (1,423,790.12)	34%	
	\$ 2,763,827.88	\$	2,759,862.60
Sewer Relocation Estimate	✓ \$ 1,085,517.00		
Reimbursement Estimate (3%)	\$ (32,565.51)	3%	
	\$ 1,052,951.49	\$	883,092.85
Additional Easement for Water	✓ \$ 189,305.00		
Additional Easement for Sewer	✓ \$ 132,373.00		
	<u>\$ 4,138,457.37</u>		
		\$	<u>3,642,955.45</u>

→ 5,594,813



October 24, 2016

Ms. Monica Cromer  
Asst. State Utility Coordinator/Right-Of-Way Division  
James K. Polk Bldg, 6<sup>th</sup> Floor  
505 Deaderick Street  
Nashville, TN 37243

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Please find enclosed (2) City executed copies of each of the following contracts for TDOT project number 60LPLM-F1-010, Federal project number STP-M-247(9). This project is for SR-247 (Duplex Road) from SR-6 (Main Street) to near I-65 in Spring Hill.

- Utility relocation contract for water facilities (Contract # CU8645)
- Utility relocation contract for sewer facilities (Contract # CU8646)
- Utility easement contract for water facilities relocation (Contract # CU8647)
- Utility easement contract for sewer facilities relocation (Contract # CU8648)

Once they have been signed by TDOT representatives, please return one original to our office to my attention.

If you have any further questions, please contact my office at 931-486-2252 ext. 202.

Sincerely,

Missy Stahl  
CMFO, Project Manager  
City of Spring Hill