

RIGHTS-OF-WAY LICENSE

This Rights-of-Way License ("License") made and entered on this the ____ day of _____, 20____, by and between the City of Murfreesboro acting through the Street Division of the Engineering Department hereinafter referred to as "CITY", and

hereinafter referred to as "APPLICANT".

WITNESSETH:

WHEREAS, the City Engineer, ACTING THROUGH its Street Division, is responsible for all matters related to this License; and

WHEREAS, CITY has granted or expects to grant to APPLICANT the right to excavate within or otherwise use and occupy City rights-of-way ("ROW") for installation of utilities or other appropriate purposes; and

WHEREAS, in the event that APPLICANT will regularly use City ROW for such purpose, CITY and APPLICANT may desire to provide a method for the expeditious approval of individual applications for Rights-of-Way Excavation Permits.

NOW, THEREFORE, in consideration of the premises, CITY and APPLICANT hereby agree to the following:

1. APPLICANT has been or will be authorized to install, and/or repair and maintain utility or other facilities in the City ROW in accordance with the Rights-of-Way Excavation Permit and Murfreesboro City Code Sections 28-101 through 28-119, which are incorporated herein by reference and made a part of this Agreement.

2. With respect to commencing any future work, APPLICANT shall submit to the City Street Division plans showing the location, type and scope of all work to be performed. Such plans, when approved by CITY, shall constitute authorization for performance of the work in accordance with the approved plans, subject to the terms of this Agreement.

3. Where APPLICANT's utility facilities are or will be within controlled access ROW (as defined in TCA § 54-16-101 et seq.) within the City, access for servicing such facilities will be by:

- a. frontage roads where provided;
- b. nearby or adjacent public roads or streets; or,
- c. trails along or near the ROW boundary lines.

It is further understood that APPLICANT may service such facilities from, and park its vehicles or equipment at, such points within the ROW as may be necessary under extraordinary conditions or under circumstances requiring emergency operations for the safety and welfare of the public. When such service is required, APPLICANT shall notify CITY as soon as practicable.

4. APPLICANT shall replace or repair, in accordance with CITY's Street Design Specifications and any instructions which may be issued by CITY, the area located within a City ROW, including but not limited to pavement, shoulder, curb, sidewalk, traffic control device, storm drainage way, public utility easement, bridge, that portion of any private driveway in the street ROW, access ramps, trees and other landscaping within the City ROW, hardscape elements within the City ROW, or other parts of a City ROW (all herein referred to as "ROW") which may be damaged or disturbed by its activities, and in the event such replacements or repairs are not made in a manner reasonably satisfactory to CITY, APPLICANT agrees that CITY may make additional replacements or repairs at the expense of APPLICANT. Notwithstanding the foregoing, CITY shall give APPLICANT a reasonable time to correct any deficiency unless there is an unreasonably dangerous situation existing that could expose the parties to liability if not promptly corrected. All construction shall be in conformity with the Americans with Disabilities Act.

5. If CITY proposes street, storm drainage, or utility improvements which reasonably require the relocation of utilities of APPLICANT, APPLICANT agrees to promptly remove and relocate said facilities at the expense of APPLICANT. The duty of relocation shall include all facilities of APPLICANT placed in any City ROW before and after execution of this Agreement.

6. APPLICANT shall be responsible for any conflicts with structures or other utility facilities that are in the City ROW and shall notify the owners thereof of any conflicts and allow alterations by any such owners or secure permission for any alterations.

7. CITY does not grant APPLICANT any right, title or claim to any City ROW in granting any approval, and does not agree to assume the maintenance of APPLICANT's facilities. APPLICANT shall maintain its utilities in the City ROW in a lawful manner so they are not a risk to public safety.

8. It is agreed that any authority of APPLICANT issued under the terms of this License shall become void if any work contemplated under such authority is not commenced within 60 days and not completed within one year from the approval date, or if the surety relating to any such work is revoked or cancelled without an approved substitution.

9. It is agreed that in some instances special provisions will need to be designated by CITY. Such special provisions will be detailed by CITY when it approves the plans of APPLICANT and APPLICANT hereby agrees to abide by such special provisions, which shall be deemed to be incorporated herein by reference.

10. APPLICANT agrees to its faithful performance of this License and to the satisfactory replacement, repair and maintenance of disturbed City ROW used by APPLICANT for a period of twelve (12) months after City inspection and approval of its installations. APPLICANT hereby agrees to hold CITY harmless from and to indemnify CITY and any of its agents, servants and employees, for all claims of personal injury, property damages, trespass, inverse condemnation or otherwise, together with reasonable attorneys fees and all costs, arising from the acts of omissions of APPLICANT, its employees, agents or subcontractors related to this License and any

Rights-of-Way Excavation Permit issued to, for or on behalf of APPLICANT. Notwithstanding the foregoing, APPLICANT shall not be required to hold harmless or indemnify CITY for any claim of personal injury, property damages, trespass, inverse condemnation, reasonable attorney fees and costs which are not proximately caused by the acts or omissions of APPLICANT, its employees, agents, contractors or subcontractors.

11. APPLICANT agrees to maintain liability insurance coverage in amounts of not less than \$ _____ per occurrence

12. APPLICANT has provided or, prior to commencement of any work, will provide CITY with surety in the form of a bond, letter of credit, or other financial instrument in form and amount acceptable to CITY to guarantee APPLICANT'S performance in accordance with the terms of this Agreement, including the warranty period. APPLICANT may elect to provide for Continuing Performance Surety in lieu of surety for each separate authorization. In such event, bond, letter of credit or other financial instrument shall provide for its cancellation only upon thirty (30) days notice to CITY. In the event CITY receives notice of cancellation, the privileges set forth in this Agreement shall be suspended until alternative surety arrangements have been provided to and approved by CITY. Furthermore, in the event APPLICANT'S work increases in size or frequency from that contemplated when the amount of the Continuing Performance Surety is established, CITY may increase the amount of Continuing Performance Surety required and the privileges set forth in this License shall be suspended until additional Continuing Performance Surety shall have been provided to and accepted by CITY.

IN WITNESS WHEREOF, the parties have caused this License to be executed by their duly authorized officials in three (3) original counterparts on the day and date hereinabove written.

APPLICANT

CITY OF MURFREESBORO
STREET DIVISION OF
ENGINEERING DEPARTMENT

By: _____

By: _____

Printed name _____

Printed name _____

Title: _____

Title: _____

Approved as to form:

CITY ATTORNEY