

RESOLUTION 2024-R-73

*Authorizes the execution of an Engineering On-Call Contract with Sain Associates, Inc.
for the Provision of Engineering Services*

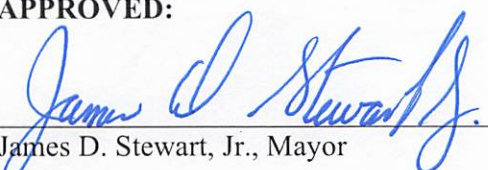
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Irondale, Alabama, in regular meeting duly assembled, a quorum being present that Mayor James D. Stewart, Jr., or his designee, is hereby authorized to execute an Engineering On-Call Contract with Sain Associates, Inc. for the provision of engineering services to the City of Irondale in substantially the form attached hereto as Exhibit 1.

ADOPTED & APPROVED: This 7th day of May, 2024.



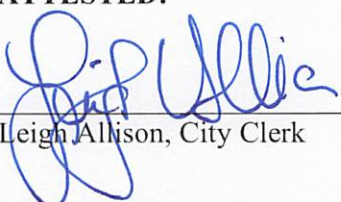
David Spivey, City Council President

APPROVED:



James D. Stewart, Jr., Mayor

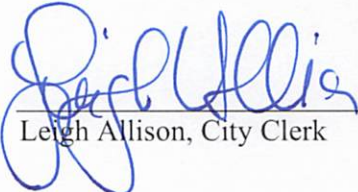
ATTESTED:



Leigh Allison, City Clerk

CERTIFICATION

I, Leigh Allison, the City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of a resolution adopted by the City Council of the City of Irondale at its regular meeting held on the 7th day of May, 2024, as the same appears in the minutes of record of said meeting.



Leigh Allison, City Clerk

Exhibit 1



SAIN
ASSOCIATES

AGREEMENT

BETWEEN

SAIN ASSOCIATES, INC.

AND

CITY OF IRONDALE, ALABAMA

ENGINEERING ON-CALL CONTRACT

SA # 12-0258

May, 2024

Note: This agreement supersedes any previous agreements, and any previous on-call agreements would become null and void upon execution of this agreement.

AGREEMENT

PROJECT: ENGINEERING ON-CALL CONTRACT

This AGREEMENT is made and entered into by and between the City of Irondale, Party of the First Part, hereinafter referred to as the CITY, and Sain Associates, Inc., in the execution and performance of the AGREEMENT, qualified to do business in the State of Alabama, Party of the Second Part, hereinafter referred to as the CONSULTANT.

WHEREAS the CONSULTANT has agreed and by these presents does agree with the CITY for the consideration hereinafter mentioned to perform engineering support services on an as-needed basis.

ARTICLE I – SCOPE OF WORK

The scope of work is to provide engineering support services to the CITY as requested, which may include but is not limited to: review of subdivision plats and engineering plans submitted to the CITY for approval; land surveying, including property surveys, plats, and topographic surveys; civil engineering design, including master planning, design of roadways, utilities, drainage and site development; assisting with pavement management; GIS and traffic engineering. The services under this AGREEMENT will continue for the period specified in article IV, with the option of renewing at the end of this period.

We will submit a separate AGREEMENT for any special assignments that are outside of the scope of work listed above.

ARTICLE II – EXCLUSIONS

Services shall be rendered by the CONSULTANT only at the request of the CITY and in accordance with this AGREEMENT. The CONSULTANT shall have no authority to direct staff employed by the CITY or authorize the expenditure or use of CITY resources.

ARTICLE III – TIME OF BEGINNING AND COMPLETION

- A. The CONSULTANT agrees to start work on the professional services outlined under ARTICLE 1 of this AGREEMENT upon either of the following:
 1. MAYOR or PUBLIC WORKS DIRECTOR notifies CONSULTANT of assignment by email, phone, or verbally. If notified by phone or verbally, CONSULTANT shall confirm understanding of assignment by email, and MAYOR or PUBLIC WORKS DIRECTOR shall reply with confirmation and notice to proceed. The MAYOR/PUBLIC WORKS DIRECTOR may appoint another City Employee with the authority to assign work to CONSULTANT.
- B. Any request for work by the CITY made prior to the completion date of this AGREEMENT may be covered by this AGREEMENT.

ARTICLE IV – PAYMENT

For services performed by the CONSULTANT as provided for under this AGREEMENT, and as full and complete compensation thereof, including all expenditures made and all expenses incurred by the CONSULTANT in connection with this AGREEMENT, except as otherwise expressly provided herein, subject to and in conformity with all provisions of this AGREEMENT, the CITY will pay the CONSULTANT a fee based on applicable unit prices listed in the attached Terms and Conditions:

Rates:

Principal	\$220.00 - \$330.00 per Hour
Engineer/Planner	\$110.00 - \$175.00 per Hour
Senior Engineer.....	\$173.00 - \$255.00 per Hour
GIS Professional	\$148.00 - \$165.00 per Hour
Designer.....	\$100.00 - \$154.00 per Hour
Surveyor	\$115.00 - \$170.00 per Hour
Survey Crew (1-Person)	\$115.00 per Hour
Survey Crew (1-Person + Robot)	\$175.00 per Hour
Survey Crew (2-Person)	\$200.00 per Hour
Survey Crew (3-person)	\$252.00 per Hour
Survey Per Diem	\$170.00 per person per Night
Level 1 Inspector	\$90.00 - \$110.00 per Hour
Level 2 Inspector	\$95.00 - \$132.00 per Hour
Administrative Support	\$68.00 - \$105.00 per Hour

Sain reserves the right to raise rates up to a maximum of 10% at the end of each calendar year.

The budget for the period from May of 2024 to October 31, 2025 is estimated to be \$150,000.

Our monthly invoices will be used to track our utilization of the yearly budget and include a brief summary of the provided services each month. We will notify the MAYOR when our utilization reaches 80% and request a budget modification if needed.

Reimbursable Expenses

Printing, contract carrier service, and travel expenses are not included within our basic fee and will be passed along to the CLIENT at cost, plus 10%.

Payment

Payment for services by CONSULTANT is to be made monthly based upon the percentage of work completed and invoiced to CLIENT. CLIENT'S obligation to pay for services rendered hereunder is in no way dependent upon its ability to obtain financing, to obtain payment from a third party, or to obtain approval of any governmental or regulatory agencies, or upon CLIENT'S successful completion of the project. Payment for services and expenses hereunder is due in full within thirty (30) days after receipt of invoice. For past due accounts in excess of 120 days CONSULTANT will issue a past due statement with interest of 1½% per month from said thirtieth (30th) day. CONSULTANT may elect to seek assistance in collection of accounts in excess of 120 days in which case CLIENT will be billed for attorney's fees for collection in the amount of 1/3 of the outstanding balance or such greater amount as the court finds reasonable. CONSULTANT reserves the right to suspend services under this AGREEMENT until receipt of payment in full for all amounts due for services rendered and expenses incurred.

ARTICLE V – TERMS AND CONDITIONS

Alabama Immigration Law Compliance

By signing this contract, the contracting parties affirm, for the duration of the AGREEMENT, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the AGREEMENT and shall be responsible for all damages resulting there from.

Standard of Care

The standard of care for all professional services performed or furnished by CONSULTANT under this AGREEMENT will be the skill and care ordinarily provided by members of CONSULTANT'S profession practicing under the same or similar circumstances and professional licenses at the same time and in the same locality, as expeditiously as is prudent considering the ordinary professional skill and care of a competent member of CONSULTANT'S profession. CONSULTANT makes no warranties, express or implied, under this AGREEMENT or otherwise, in connection with CONSULTANT'S services.

Responsibility of the CITY

The CITY shall provide all criteria and full information to CONSULTANT as to the CITY'S requirements for the Project, including budgetary limitations.

Reliance on Information Provided by Others

CONSULTANT shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by the CITY, CITY'S Consultants and Contractors, and information from public records, without the need for independent verification.

Schedules, Budgets and Estimates or Opinions of Cost

Any schedules or completion dates, budgets, or estimates of cost prepared by CONSULTANT represent CONSULTANT'S professional judgment based on its experience and available information. Since neither CONSULTANT nor CITY has control over: the cost of labor, materials, or equipment, or contractor's methods of determining prices; competitive bidding or market conditions; utility conflicts or right-of-way acquisition; agency approval times or actions of a Consultant Program Manager not employed by the CONSULTANT, the CONSULTANT cannot and does not warrant or represent that actual schedules, budgets or completion dates or actual costs will not vary from schedules or completion dates, budgets or estimates of cost prepared by CONSULTANT or proposed, established, or approved by the CITY.

Approvals

The CITY agrees and acknowledges that the approval process necessary to maintain a project timeline is both unpredictable and outside of the CONSULTANT'S control. Consequently, the CONSULTANT makes no representations as to its ability to timely achieve or to obtain said permits or approvals from any governing authority or outside agency.

Jobsite Safety/Construction Phase Services

The CONSULTANT and CITY acknowledge and agree that the CONSULTANT shall not have responsibility and will not be liable for jobsite safety or construction means and methods, regardless of whether CONSULTANT'S scope of services documented herein include site visits during the construction phase. The CONSULTANT is not responsible for, and shall by no means be liable for, the acts or omissions of any owner, contractor, subcontractor or material supplier.

Right of Entry

The CITY, at its sole cost and expense, shall furnish the CONSULTANT, its agents, employees, and subcontractors a right-of-entry and any other authorizations or licenses needed for CONSULTANT to enter the Project location to perform the services contemplated by this AGREEMENT. CITY agrees and acknowledges that the services provided by the CONSULTANT may require certain activities that may disrupt the use of the Project's property location and may disturb, alter, or damage the terrain and vegetation thereabout and that CONSULTANT will not restore the property to its original state.

Certifications

CONSULTANT shall not be required to sign any documents, no matter by whom requested, that would result in CONSULTANT'S having to certify, guaranty, or warrant the existence of conditions that CONSULTANT cannot ascertain or verify. Further, CONSULTANT and CITY acknowledge and agree that Consultant shall not be expected to provide any certifications unless expressly agreed upon by CONSULTANT, as evidenced in writing within the scope of CONSULTANT'S work invoiced to CITY.

Unforeseen Conditions and Occurrences

If, during the course of performance of services pursuant to this AGREEMENT, any unforeseen hazardous substance, material, object, element, or other unforeseen conditions or occurrences are encountered which, in the CONSULTANT'S judgment, materially affects or may affect the services to be provided hereunder, the risk involved in providing the services, or the scope of the services, CONSULTANT will notify CITY. Subsequent to that notification, CONSULTANT may: (a) if practicable, in CONSULTANT'S judgment and with CITY'S approval, complete the original scope of services in accordance with this AGREEMENT; (b) agree with CITY to modify the scope of services and the estimate of costs to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the CITY and CONSULTANT and incorporated herein; or (c) terminate the services effective on the date of notification for convenience.

Use of Electronic Media

Copies of documents that may be relied upon by the CITY are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Files in electronic media format or text, data, graphic or other types that are furnished by CONSULTANT to CITY are only for convenience of the CITY. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, CONSULTANT makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application, operating systems or computer hardware differing from those in use by CONSULTANT at the beginning of this assignment.

Insurance Coverage

The CONSULTANT shall own and maintain insurance coverage for the duration of this project and in the amounts not less than the following: for Worker's Compensation \$1,000,000; for General Liability \$2,000,000; for Employers Liability \$1,000,000; for Automobile Liability \$1,000,000; and for Professional Liability \$2,000,000. A Certificate of Insurance shall be provided by the CONSULTANT to the CITY upon request.

Limitation of Remedies

Liability of remedies of the CONSULTANT resulting from errors, omissions, or the negligence of CONSULTANT, its agents or employees, pursuant to work under this AGREEMENT shall not exceed the lesser of the value of engineering or surveying services required to correct the deficiency or the basic consulting fee for work covered hereunder or the actual cost of the remedies. This provision is being agreed to as a result of the fees being charged.

Dispute Resolution

CITY and CONSULTANT agree that if a dispute arises out of or relates to this AGREEMENT, the parties will attempt to settle the dispute through good faith negotiations. If direct negotiations do not resolve the dispute, the CITY and CONSULTANT agree to endeavor to settle the dispute by mediation prior to the initiation of any legal action unless delay in initiating legal action would irrevocably prejudice one of the parties. Mediation shall take place in Jefferson County, Alabama, and if a mediator cannot be agreed upon by parties, then it is agreed that AAA (American Arbitration Association) will appoint a mediator. If mediation is unsuccessful, any such dispute shall be subject to and resolved at the election of CONSULTANT, by either arbitration in accordance with the Rules of the AAA or by a trial by judge in the Circuit Court for Jefferson County, Alabama.

Indemnification

To the extent permitted by law, CITY and CONSULTANT each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of the CITY and CONSULTANT, they shall be borne by each party in proportion to their negligence.

Force Majeure

Neither party shall be deemed in default of this AGREEMENT to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Termination of Contract

CITY may terminate this AGREEMENT with seven days prior written notice to CONSULTANT for convenience or cause. CONSULTANT may terminate this AGREEMENT for cause with seven days prior written notice to CITY. Failure of CITY to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until CONSULTANT has been paid in full all amounts due for services, expenses and other related charges.

Ownership of Documents

All documents prepared or furnished by CONSULTANT pursuant to this AGREEMENT are instruments of CONSULTANT'S professional service, and CONSULTANT shall retain an ownership and property interest therein. CONSULTANT grants CITY a license to use instruments of CONSULTANT'S professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by CITY, without CONSULTANT'S written permission, shall be at CITY'S sole risk, and, to the extent permitted by law, CITY agrees to indemnify and hold CONSULTANT harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by CITY or CITY'S disclosure of any such documents to any third party.

Third Parties

Nothing contained in this AGREEMENT shall create a contractual relationship with, or a cause of action in favor of, a third party against either the CITY or CONSULTANT. CONSULTANT'S services hereunder are being performed solely for the benefit of the CITY, and no other entity shall have any claim against CONSULTANT because of this AGREEMENT or CONSULTANT'S performance of services hereunder.

Consequential Damages Waiver

Neither the CITY nor the CONSULTANT shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this AGREEMENT. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

Conflicting or Inconsistent Terms/Severability

In the event that any term, condition, provision, requirement or specification set forth in this body of the AGREEMENT conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this AGREEMENT, the provisions of this body of the AGREEMENT shall prevail. Any provision of this AGREEMENT which is held to be void or unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions.

APPROVED BY:

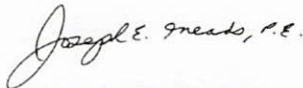
ACCEPTED BY:

SAIN ASSOCIATES, INC.


CITY OF IRONDALE




Stefan Graeber, PE
Team Leader
Alabama Reg #26311



Joseph E. Meads, P.E.
Principal/Owner
AL Reg #17103

BY:  _____

TITLE:  _____

DATE:  _____