



City of Franklin

109 3rd Ave S
Franklin, TN 37064
(615)791-3217

Meeting Agenda Capital Investment Committee

Thursday, March 28, 2019

4:00 PM

Board Room

Call To Order

1. [19-0225](#) Consideration of Minutes from January 24 and February 28, 2019.

Legislative History
2/28/19 Capital Investment referred to the Capital Investment Committee
 Committee
2. [19-0278](#) Consideration of DRAFT On-Call Engineering and/or Surveying Contracts with Alfred Benesch & Company (COF Contract No. 2019-0083), Civil & Environmental Consultants, Inc (COF Contract No. 2019-0084), Stantec Consulting Services Inc. (COF Contract No. 2019-0085) and Civil Infrastructure Associates, LLC (COF Contract No. 2019-86)

Sponsors: Paul Holzen and Jonathan Marston
Attachments: [2019-0083 Benesch PSA - On Call Engineering 3-15-2019.pdf](#)
[COF 2019-0084 PSA.pdf](#)
[COF 2019-0086 psa.pdf](#)
[CoFranklin Contract 2019-0085 Stantec.pdf](#)
3. [19-0284](#) Consideration of a Local Agency Project Agreement (COF Contract No. 2019-0097) with the Tennessee Department of Transportation for the SR-96 (Murfreesboro Road) Traffic Signal Improvements (TDOT PIN 127913.00)

Sponsors: Engineering
Attachments: [127913.00 Contract.docx](#)
[127913.00 Exhibit A.docx](#)
4. [19-0309](#) Consideration of a DRAFT Professional Services Agreement (COF Contract No. 2019-0098) with Alfred Benesch & Company for the Design of the Southeast Park Bridge & Carothers Parkway Intersection Improvements in the Lump Sum Amount of \$358,656.00

Sponsors: Engineering
Attachments: [C2019-0098 PSA Benesch Design SEParkBridge.docx](#)
[City of Franklin - Southeast Park - Road and Structural Scope 03-04-2019.pdf](#)

5. [19-0253](#) Consideration of DRAFT Professional Services Agreement (COF Contract No. 2019-0091) with CDM Smith, Inc. for the Robinson Lake Dam Rehabilitation Project in an Amount Not-to-Exceed \$602,300.00
- Sponsors:** Lisa Clayton, Paul Holzen and Jonathan Marston
- Attachments:** [COF 2019-0091 Robinson Lake Dam Final Scope.pdf](#)
[COF 2019-0091 Robinson Lake Dam PSA.docx](#)
6. [19-0280](#) Consideration of DRAFT Resolution 2019-27, "A Resolution to Award the Construction Contract (COF Contract No. 2019-0057) for the East McEwen Drive Roundabout Improvements Project (COF Project No. 2017-010) to Sessions Paving Company in the Amount of \$1,324,963.45 and to Establish a Project Contingency in the Amount of \$150,000.00
- Sponsors:** Engineering
- Attachments:** [Res2019-27_EMcEwenRndabtImprovements_ContractAward.doc](#)
7. [19-0201](#) Consideration Of A Request For Sanitary Sewer Availability Approval For 1261 Lewisburg Pike. (Map 106H, Parcel 04600). (Deferred from 2/28/19 CIC; 03/28/19 CIC 4-0)
- Sponsors:** Michelle Hatcher
- Attachments:** [1261 Lewisburg Pike - Availability Form](#)
[1261 Lewisburg Pike - Map](#)
[1261 Lewisburg Pike - Plan](#)
- Legislative History**
- | | | |
|---------|------------------------------|--|
| 2/28/19 | Capital Investment Committee | referred to the Capital Investment Committee |
|---------|------------------------------|--|
8. [19-0312](#) Consideration TO DENY a Request for Sanitary Sewer Availability for 1357 Ascot Lane (Map 0890, Parcel 01200) (03/28/19 CIC 4-0)
- Sponsors:** Michelle Hatcher
- Attachments:** [20190319_EMAIL_Ms. Morton to COF RE Request for Sewer Availability_V1 Request for Water & or SKM_C45819031913280](#)
9. [19-0286](#) Capital Projects Status Report
- Sponsors:** Engineering
- Attachments:** [Capital Projects Status Report.pdf](#)
10. [19-0318](#) Water and Sanitary Sewer Project Status
- Sponsors:** Michelle Hatcher
- Attachments:** [March 2019 CIC Project Status Update](#)

Other Business

Adjournment

ANYONE REQUESTING ACCOMMODATIONS DUE TO DISABILITIES SHOULD CONTACT A.D.A. COORDINATOR, AT 791-3277 AT LEAST 10 DAYS PRIOR TO THE MEETING, IF POSSIBLE.

**CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No. 2019-0083**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **ALFRED BENESCH & COMPANY** hereinafter referenced as Consultant, who mutually agree as follows:

DECLARATIONS. City desires to retain Consultant to provide engineering, related technical, and other services in connection with City's project hereinafter referenced as Project. The Project is described as follows:

ON-CALL ENGINEERING

1. SCOPE OF SERVICES. Consultant shall provide engineering related technical services and /or construction engineering and inspection services, and/or survey services/ and or appraisal services for the Project in accordance with the Scope of Services (Services) as found in Attachment A which shall be considered as an integral part hereof.
2. Consultant shall submit as a part of Attachment A an individual Fee Schedule and a Completion Schedule for the Project based on the detailed Scope of Services.
3. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.
4. Consultant shall be paid on a monthly basis for work performed based on the Fee Schedule as contained in Attachment A.

**The Board of Mayor and Aldermen Approved this Agreement on the
_____ Day of _____ 201__.**

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. Consultant will:

- 1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry:
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Designate, in writing, the sole Project representative to coordinate with City the Services to be provided, including all contact information.
- 1.5 Unless provided for in the Project Scope of Services (Attachment A), Consultant shall perform all Services with his own forces (employees). Should sub-consultants be proposed to be used in the Project, a listing of said sub-consultants with Services to be performed shall be provided. After approval of this Agreement, no substitute for sub-consultants shall be allowed unless approved by City.
- 1.6 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

ARTICLE 3. GENERAL CONDITIONS.

- 3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.

- 3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the Project acting upon written instruction issued by the Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 3.4 **ALLOCATION OF RISK AND LIABILITY; GENERAL.** Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.
- 3.5 **INDEMNIFICATION.** Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.
- 3.5.1 **SURVIVAL.** The terms and conditions of this paragraph shall survive completion of this services agreement.
- 3.6 **LIMITATIONS OF RESPONSIBILITY.** Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, Scope of Services ; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, Scope of Services.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 **Termination for Convenience.** The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such

termination becomes effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

- (1) The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.
- (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
- (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
 - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, Scope of Services.

5.1 By mutual agreement, this Agreement and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 **ENVIRONMENTAL RESPONSIBILITY.**

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 **TIME OF THE ESSENCE.** The parties agree that time is of the essence with respect to the parties' performance of all provisions of the Agreement.

6.2 Before executing this Agreement, the Consultant shall have prepared and submitted for approval to the City a Completion Schedule for the Project with milestones for the various stages (tasks) of the Services as outlined in the Scope of Services. The Consultant shall submit and obtain the City's approval for any proposed changes to the logic, durations, sequences, or timing of tasks as approved in the Completion Schedule.

6.3 **FORCE MAJEURE.** Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to

machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

- 6.4 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant's Services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.

- 7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.

7.1.1 **USE OF DATA SYSTEMS:** Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.

7.1.2 **DISCLOSURE OF DOCUMENTS/DATA.** City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.

- 7.2 By execution of this Agreement, Consultant and his sub-consultant(s) grant the City a royalty-free, perpetual, irrevocable, and assignable license to use any and all intellectual property interest Consultant or his sub-consultant(s) possess to any drawings, details, specifications, documents, and other information created before each of their first involvement with the Project and subsequently incorporated into the Project's documents. City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to

- the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.
- 7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, Scope of Services. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.
- 7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.
- 7.5 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 packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's sub-consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.

ARTICLE 8. INSURANCE.

- 8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
- a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
 - c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days' written notice to City.
- 8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.
- 9.2 Consultant shall be paid in full for all services under this Agreement, including City authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.
- 9.3 **TRAVEL; EXPENSES**
City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed

in the per diem reimbursement rates on the “CONUS” website developed by the United States General Services Administration, located at www.gsa.gov [click on ‘per diem rates’ under the ‘etools’ category].

ARTICLE 10. MISCELLANEOUS PROVISIONS

- 10.1 **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with this Agreement and the Project, City and Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. City and Consultant will take affirmative action to ensure that the contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.1.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.2 **TITLE VI – CIVIL RIGHTS ACT OF 1964.** City and Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.
- 10.2.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.3 **NO THIRD PARTY RIGHTS CREATED.** City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.
- 10.4 **WARRANTIES/LIMITATION OF LIABILITY/WAIVER.** City reserves all rights afforded to local governments under law for all general and implied warranties. City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:

- 11.1 **APPLICABLE LAW/CHOICE OF FORUM AND VENUE.** This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.
- 11.2 **ENTIRE AGREEMENT.** This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.

- 12.1 If a dispute should arise relating to the performance of or payment for the Services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to this Agreement. No arbitration or mediation shall be binding.
- 12.2 **BREACH.** Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement with notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity.

ARTICLE 13. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Agreement, contract or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.

BY: 
Consultant's Signature
TITLE: VICE PRESIDENT
Date: 3/15/2019

BY: _____
Dr. Ken Moore
Mayor
Date: _____

Approved as to Form;

Shauna R. Billingsley, City Attorney

**COF 2019-0083
ATTACHMENT A
SCOPE OF SERVICES**

- I. Alfred Benesch & Company (Consultant) is pleased to provide this proposal for on-call engineering services to the City of Franklin, TN (City). It is anticipated that this contract will be in effect for a five (5)-year period. Individual Work Orders will be assigned on an as needed basis.
- II. Work Order Request Procedure
 - A. Each task to be performed shall be set forth in a written request produced by the City Engineer, or his designee, with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.
 - B. Following receipt of the request, the Consultant shall prepare a "Task Proposal" that includes the following components:
 - a. A written description of the requested task including: all components and subtasks, and including any clarifications of the descriptions provided in the request;
 - b. The hourly or lump sum costs to perform the task. Hourly compensation shall be at the rates provided below, with allowances for a new rate schedule to become effective on the contract anniversary date, based upon the contract execution date, for each succeeding year. Updated fee schedules shall be reviewed and approved by the City Engineer prior to invoices;
 - c. An explanation of how the cost was determined; and
 - d. A schedule for completion of the task, including a completion date.
 - C. The City Engineer shall issue an approved and signed Work Order, including the Task Proposal as an attachment, in writing prior to any work being completed.
 - D. Consultant shall complete the task and provide all deliverables to the City Engineer, or his designee, as agreed upon in the Task Proposal.
 - E. During performance of the services, Consultant will keep the City apprised of the status of performance by delivering status reports as requested by the City.
- III. MUNICIPAL SERVICES FEE SCHEDULE

See Following Page



2019 HOURLY RATE TABLE

<u>CLASSIFICATION</u>	<u>RATE</u>
Technologist I	\$56.00
Technologist II	\$76.00
Senior Technologist	\$92.00
Designer I	\$80.00
Designer II	\$89.00
Senior Designer	\$98.00
Project Engineer I	\$100.00
Project Engineer II	\$122.00
Senior Project Engineer	\$145.00
Project Manager I	\$135.00
Project Manager II	\$155.00
Senior Project Manager	\$175.00
Principal	\$200.00

DIRECT REIMBURSABLE EXPENSES

Permit Fees

At Cost

- Direct Reimbursables if required will be negotiated at cost on a lump sum basis as needed per the individual work orders.
- Subconsultants for specialty services will be included as direct expenses at cost
- Alfred Benesch & Company does not charge additional hourly rates for Accounting or Administrative functions.
- The above rates are all inclusive; there are no extra charges or fees.
- Rates are subject to change on a calendar year basis

**CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No. 2019-0084**

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**The Board of Mayor and Aldermen Approved this Agreement on the
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TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

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- 1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry:
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Designate, in writing, the sole Project representative to coordinate with City the Services to be provided, including all contact information.
- 1.5 Unless provided for in the Project Scope of Services (Attachment A), Consultant shall perform all Services with his own forces (employees). Should sub-consultants be proposed to be used in the Project, a listing of said sub-consultants with Services to be performed shall be provided. After approval of this Agreement, no substitute for sub-consultants shall be allowed unless approved by City.
- 1.6 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

ARTICLE 3. GENERAL CONDITIONS.

- 3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.

- 3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the Project acting upon written instruction issued by the Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 3.4 **ALLOCATION OF RISK AND LIABILITY; GENERAL.** Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.
- 3.5 **INDEMNIFICATION.** Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.
- 3.5.1 **SURVIVAL.** The terms and conditions of this paragraph shall survive completion of this services agreement.
- 3.6 **LIMITATIONS OF RESPONSIBILITY.** Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, Scope of Services ; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, Scope of Services.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 **Termination for Convenience.** The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such

termination becomes effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

- (1) The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.
- (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
- (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
 - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, Scope of Services.

5.1 By mutual agreement, this Agreement and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 **ENVIRONMENTAL RESPONSIBILITY.**

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 **TIME OF THE ESSENCE.** The parties agree that time is of the essence with respect to the parties' performance of all provisions of the Agreement.

6.2 Before executing this Agreement, the Consultant shall have prepared and submitted for approval to the City a Completion Schedule for the Project with milestones for the various stages (tasks) of the Services as outlined in the Scope of Services. The Consultant shall submit and obtain the City's approval for any proposed changes to the logic, durations, sequences, or timing of tasks as approved in the Completion Schedule.

6.3 **FORCE MAJEURE.** Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to

machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

- 6.4 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant's Services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.

- 7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.

7.1.1 **USE OF DATA SYSTEMS:** Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.

7.1.2 **DISCLOSURE OF DOCUMENTS/DATA.** City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.

- 7.2 7.2 By execution of this Agreement, Consultant and his sub-consultant(s) grant the City a royalty-free, perpetual, irrevocable, and assignable license to use any and all intellectual property interest Consultant or his sub-consultant(s) possess to any drawings, details, specifications, documents, and other information created before each of their first involvement with the Project and subsequently incorporated into the Project's documents. City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to

- the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.
- 7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, Scope of Services. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.
- 7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.
- 7.5 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 packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's sub-consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.

ARTICLE 8. INSURANCE.

- 8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
- a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
 - c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days' written notice to City.
- 8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.
- 9.2 Consultant shall be paid in full for all services under this Agreement, including City authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.
- 9.3 **TRAVEL; EXPENSES**
City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed

in the per diem reimbursement rates on the “CONUS” website developed by the United States General Services Administration, located at www.gsa.gov [click on ‘per diem rates’ under the ‘etools’ category].

ARTICLE 10. MISCELLANEOUS PROVISIONS

- 10.1 **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with this Agreement and the Project, City and Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. City and Consultant will take affirmative action to ensure that the contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.1.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.2 **TITLE VI – CIVIL RIGHTS ACT OF 1964.** City and Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.
- 10.2.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.3 **NO THIRD PARTY RIGHTS CREATED.** City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.
- 10.4 **WARRANTIES/LIMITATION OF LIABILITY/WAIVER.** City reserves all rights afforded to local governments under law for all general and implied warranties. City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:

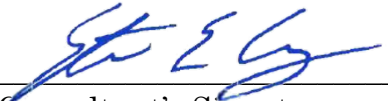
- 11.1 **APPLICABLE LAW/CHOICE OF FORUM AND VENUE.** This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.
- 11.2 **ENTIRE AGREEMENT.** This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.

- 12.1 If a dispute should arise relating to the performance of or payment for the Services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to this Agreement. No arbitration or mediation shall be binding.
- 12.2 **BREACH.** Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement with notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity.

ARTICLE 13. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Agreement, contract or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.

BY: 
Consultant's Signature
TITLE: Senior Principal
Date: February 27, 2019

BY: _____
Dr. Ken Moore
Mayor
Date: _____

Approved as to Form;

Shauna R. Billingsley, City Attorney

**COF 2019-0084
ATTACHMENT A
SCOPE OF SERVICES**

- I. Civil and Environmental Consultants, Inc (Consultant) is pleased to provide this proposal for on-call engineering and surveying services to the City of Franklin, TN (City). It is anticipated that this contract will be in effect for a five (5)-year period. Individual Work Orders will be assigned on an as needed basis.
- II. Work Order Request Procedure
 - A. Each task to be performed shall be set forth in a written request produced by the City Engineer, or his designee, with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.
 - B. Following receipt of the request, the Consultant shall prepare a "Task Proposal" that includes the following components:
 - a. A written description of the requested task including: all components and subtasks, and including any clarifications of the descriptions provided in the request;
 - b. The hourly or lump sum costs to perform the task. Hourly compensation shall be at the rates provided below, with allowances for a new rate schedule to become effective on the contract anniversary date, based upon the contract execution date, for each succeeding year. Updated fee schedules shall be reviewed and approved by the City Engineer prior to invoices;
 - c. An explanation of how the cost was determined; and
 - d. A schedule for completion of the task, including a completion date.
 - C. The City Engineer shall issue an approved and signed Work Order, including the Task Proposal as an attachment, in writing prior to any work being completed.
 - D. Consultant shall complete the task and provide all deliverables to the City Engineer, or his designee, as agreed upon in the Task Proposal.
 - E. During performance of the services, Consultant will keep the City apprised of the status of performance by delivering status reports as requested by the City.
- III. MUNICIPAL SERVICES FEE SCHEDULE

Insert Fee Schedule Here

CIVIL & ENVIRONMENTAL CONSULTANTS, INC.
325 SEABOARD LANE • SUITE 170
FRANKLIN, TENNESSEE 37067
PHONE: 615-333-7797 • FAX: 615-333-7751
E-MAIL: nashville@cecinc.com

City of Franklin Services Fee Schedule

January 1, 2019 through December 31, 2019

PROFESSIONAL SERVICES

Classification	Rate/Hour
Senior Principal.....	\$222
Principal.....	\$202
Senior Project Manager	\$176
Project Manager III	\$166
Project Manager II	\$151
Project Manager I	\$137
Assistant Project Manager	\$113
Project Consultant / Geologist / Ecologist / Environmental Scientist.....	\$106
Staff Consultant / Geologist / Ecologist / Environmental Scientist	\$99
Designer	\$107
Draftsperson / CADD Operator.....	\$68
Senior Field Technician.....	\$84
Environmental Technician./ Intern.....	\$52
Senior Land Surveyor	\$141
Assistant Project Surveyor.....	\$102
Survey Technician IV	\$96
Survey Technician III.....	\$86
Survey Technician II.....	\$76
Survey Technician I.....	\$66
Administrative Assistant	\$66
Administrative Manager	\$76

DIRECT EXPENSES

Printing and Reproduction *
Miscellaneous Reimbursables *

* As directed by the City Engineer on a project-by-project basis

SUBCONTRACT SERVICES

Services @ Cost Plus 10%

CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No. 2019-86

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and CIVIL INFRASTRUCTURE ASSOCIATES, LLC, hereinafter referenced as Consultant, who mutually agree as follows:

DECLARATIONS. City desires to retain Consultant to provide engineering, related technical, and other services in connection with City's project hereinafter referenced as Project. The Project is described as follows:

ON-CALL SURVEY

1. **SCOPE OF SERVICES.** Consultant shall provide engineering related technical services and /or construction engineering and inspection services, and/or survey services/ and or app services for the Project in accordance with the Scope of Ser (Services) as found in Attachment A which shall be consider an integral part hereof.
2. Consultant shall submit as a part of Attachment A an indiv Fee Schedule and a Completion Schedule for the Project bas the detailed Scope of Services.
3. In event of a conflict between this Agreement and the att document(s), this Agreement shall supersede conflicting term conditions.
4. Consultant shall be paid on a monthly basis for work perfe based on the Fee Schedule as contained in Attachment A.

ON CALL ENGINEERING

The Board of Mayor and Aldermen Approved this Agreement c
_____ Day of _____ 201__.

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. Consultant will:

- 1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry:
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Designate, in writing, the sole Project representative to coordinate with City the Services to be provided, including all contact information.
- 1.5 Unless provided for in the Project Scope of Services (Attachment A), Consultant shall perform all Services with his own forces (employees). Should sub-consultants be proposed to be used in the Project, a listing of said sub-consultants with Services to be performed shall be provided. After approval of this Agreement, no substitute for sub-consultants shall be allowed unless approved by City.
- 1.6 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

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- 3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties,

responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.

- 3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the Project acting upon written instruction issued by the Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 3.4 ALLOCATION OF RISK AND LIABILITY; GENERAL. Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.
- 3.5 INDEMNIFICATION. Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.
- 3.5.1 SURVIVAL. The terms and conditions of this paragraph shall survive completion of this services agreement.
- 3.6 LIMITATIONS OF RESPONSIBILITY. Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, Scope of Services ; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, Scope of Services.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 Termination for Convenience. The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated,

other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such termination becomes effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

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- (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
- (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
 - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of

compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, Scope of Services.

5.1 By mutual agreement, this Agreement and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 **ENVIRONMENTAL RESPONSIBILITY.**

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 **TIME OF THE ESSENCE.** The parties agree that time is of the essence with respect to the parties' performance of all provisions of the Agreement.

6.2 Before executing this Agreement, the Consultant shall have prepared and submitted for approval to the City a Completion Schedule for the Project with milestones for the various stages (tasks) of the Services as outlined in the Scope of Services. The Consultant shall submit and obtain the City's approval for any proposed changes to the logic, durations, sequences, or timing of tasks as approved in the Completion Schedule.

6.3 **FORCE MAJEURE.** Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or

military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

- 6.4 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant's Services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.

- 7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.

7.1.1 USE OF DATA SYSTEMS: Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.

7.1.2 DISCLOSURE OF DOCUMENTS/DATA. City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.

- 7.2 7.2 By execution of this Agreement, Consultant and his sub-consultant(s) grant the City a royalty-free, perpetual, irrevocable, and assignable license to use any and all intellectual property interest Consultant or his sub-consultant(s) possess to any drawings, details, specifications, documents, and other information created before each of

their first involvement with the Project and subsequently incorporated into the Project's documents. City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.

- 7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, Scope of Services. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.
- 7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.
- 7.5 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 packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's sub-consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.

ARTICLE 8. INSURANCE.

- 8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
- a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
 - c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days' written notice to City.
- 8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.

9.2 Consultant shall be paid in full for all services under this Agreement, including City authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.

9.3 TRAVEL; EXPENSES

City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed in the per diem reimbursement rates on the "CONUS" website developed by the United States General Services Administration, located at www.gsa.gov [click on 'per diem rates' under the 'etools' category].

ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 EQUAL EMPLOYMENT OPPORTUNITY. In connection with this Agreement and the Project, City and Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. City and Consultant will take affirmative action to ensure that the contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.1.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.

10.2 TITLE VI – CIVIL RIGHTS ACT OF 1964. City and Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.

10.2.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.

10.3 NO THIRD PARTY RIGHTS CREATED. City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement

shall be construed to give any rights or benefits to anyone other than City and Consultant.

- 10.4 **WARRANTIES/LIMITATION OF LIABILITY/WAIVER.** City reserves all rights afforded to local governments under law for all general and implied warranties. City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:

- 11.1 **APPLICABLE LAW/CHOICE OF FORUM AND VENUE.** This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.
- 11.2 **ENTIRE AGREEMENT.** This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.

- 12.1 If a dispute should arise relating to the performance of or payment for the Services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to this Agreement. No arbitration or mediation shall be binding.
- 12.2 **BREACH.** Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement with notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity.

ARTICLE 13. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Agreement, contract or other document to which it may accompany or incorporate

by reference or which subsequently may be modified, unless expressly
excepted from this Article upon consent of both parties.

BY: 
Consultant's Signature
TITLE: PRESIDENT
Date: FEB 28 2019

BY: _____
Dr. Ken Moore
Mayor
Date: _____

Approved as to Form;

Shauna R. Billingsley, City Attorney

**COF 2019-0086
ATTACHMENT A
SCOPE OF SERVICES**

- I. Civil Infrastructure and Associates (Consultant) is pleased to provide this proposal for on-call surveying services to the City of Franklin, TN (City). It is anticipated that this contract will be in effect for a five (5)-year period. Individual Work Orders will be assigned on an as needed basis.
- II. Work Order Request Procedure
 - A. Each task to be performed shall be set forth in a written request produced by the City Engineer, or his designee, with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.
 - B. Following receipt of the request, the Consultant shall prepare a "Task Proposal" that includes the following components:
 - a. A written description of the requested task including: all components and subtasks, and including any clarifications of the descriptions provided in the request;
 - b. The hourly or lump sum costs to perform the task. Hourly compensation shall be at the rates provided below, with allowances for a new rate schedule to become effective on the contract anniversary date, based upon the contract execution date, for each succeeding year. Updated fee schedules shall be reviewed and approved by the City Engineer prior to invoices;
 - c. An explanation of how the cost was determined; and
 - d. A schedule for completion of the task, including a completion date.
 - C. The City Engineer shall issue an approved and signed Work Order, including the Task Proposal as an attachment, in writing prior to any work being completed.
 - D. Consultant shall complete the task and provide all deliverables to the City Engineer, or his designee, as agreed upon in the Task Proposal.
 - E. During performance of the services, Consultant will keep the City appraised of the status of performance by delivering status reports as requested by the City.
- III. MUNICIPAL SERVICES FEE SCHEDULE

Insert Fee Schedule Here



February 27, 2019

LAND SURVEYING & MAPPING.....	hourly rate
One Man Robotic or RTK (GPS) Survey Crew.....	\$120
Two Man Survey Crew.....	\$160
Senior Survey CADD/GIS Technician (min. 5 years of experience).....	\$100
Survey CADD/GIS Technician (less than 5 years of experience).....	\$90
Sr. Land Surveyor/Manager (P/RLS with min 20 years of experience).....	\$155
Land Surveyor/Manager (P/RLS with min 5 years of experience).....	\$130
Party Chief/Sr. Field Technician (Certified LSIT or min. 8 years of experience)...	\$100
Field Technician 2 (min. 5 years of experience).....	\$90
Field Technician 1 (less than 5 years of experience).....	\$80
Administrative Professional.....	\$80
ENGINEERING	hourly rate
PE II (10+ years experience).....	\$170
PE I (1-9 years experience).....	\$150
CADD Designer/Technician.....	\$95
Administrative.....	\$80

NOTE: Rates include compensation, benefits, overhead, and fee. Rates also include limited direct expenses such as postage, communications, printing, and incidental mileage.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/27/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Risk Strategies Company 104 Woodmont Blvd. Suite 400 Nashville TN 37205	CONTACT NAME: Andrea Vitch PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: avitch@risk-strategies.com INSURER(S) AFFORDING COVERAGE INSURER A: Beazley Ins Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED CIA, Civil Infrastructure Associates, LLC 307 Hickerson Drive Murfreesboro TN 37129	NAIC #

COVERAGES**CERTIFICATE NUMBER:** 18/19 Master**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			V1A2D7170401	12/02/2018	12/02/2019	Each Claim \$2,000,000 Aggregate \$2,000,000 Deductible \$15,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Evidence of insurance only.

CERTIFICATE HOLDER**CANCELLATION**

City of Franklin, Tennessee City Hall 109 3 rd Avenue South Franklin TN 37064	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/27/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Miller Loughry Beach 214 West College Street PO Box 7001 Murfreesboro TN 37133-7001		CONTACT NAME: mlbsupport PHONE (A/C, No, Ext): (615) 896-9292 E-MAIL: mlbsupport@mlbins.com ADDRESS: FAX (A/C, No): (615) 849-1586	
INSURED CIA Civil Infrastructure Associates LLC 307 Hickerson Dr Murfreesboro TN 37129-3528		INSURER(S) AFFORDING COVERAGE INSURER A: The Cincinnati Insurance Company INSURER B: Accident Fund Insurance Company of America INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 10677 10166	

COVERAGES CERTIFICATE NUMBER: 18-19 GL, Auto, UMB, WC REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:			ECP 0194113	7/21/2018	7/21/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS			ECP 0194113	7/21/2018	7/21/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☒ UMBRELLA LIAB ☐ EXCESS LIAB DED ☒ RETENTION \$ 0			ECP 0194113	7/21/2018	7/21/2019	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ Y	N/A	WCV6144439	7/21/2018	7/21/2019	☒ PER STATUTE E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Franklin is Additional Insured per written contract. See policy for specific coverage and exclusions.

CERTIFICATE HOLDER

paul.holzen@franklintn.gov

City of Franklin
Engineering Dept
109 3rd Ave S
Franklin, TN 37064

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Melissa OBrien/MO

Melissa D. O'Brien

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**CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No. 2019-0085**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **STANTEC CONSULTING SERVICES INC.** hereinafter referenced as Consultant, who mutually agree as follows:

DECLARATIONS. City desires to retain Consultant to provide engineering, related technical, and other services in connection with City's project hereinafter referenced as Project. The Project is described as follows:

ON CALL ENGINEERING

1. **SCOPE OF SERVICES.** Consultant shall provide engineering related technical services and /or construction engineering and inspection services, and/or survey services/ and or appraisal services for the Project in accordance with the Scope of Services (Services) as found in Attachment A which shall be considered as an integral part hereof.
2. Consultant shall submit as a part of Attachment A an individual Fee Schedule and a Completion Schedule for the Project based on the detailed Scope of Services.
3. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.
4. Consultant shall be paid on a monthly basis for work performed based on the Fee Schedule as contained in Attachment A.

**The Board of Mayor and Aldermen Approved this Agreement on the
_____ Day of _____ 201__.**

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. Consultant will:

- 1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry:
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Designate, in writing, the sole Project representative to coordinate with City the Services to be provided, including all contact information.
- 1.5 Unless provided for in the Project Scope of Services (Attachment A), Consultant shall perform all Services with his own forces (employees). Should sub-consultants be proposed to be used in the Project, a listing of said sub-consultants with Services to be performed shall be provided. After approval of this Agreement, no substitute for sub-consultants shall be allowed unless approved by City.
- 1.6 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

ARTICLE 3. GENERAL CONDITIONS.

- 3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.

- 3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the Project acting upon written instruction issued by the Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 3.4 **ALLOCATION OF RISK AND LIABILITY; GENERAL.** Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.
- 3.5 **INDEMNIFICATION.** Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.
- 3.5.1 **SURVIVAL.** The terms and conditions of this paragraph shall survive completion of this services agreement.
- 3.6 **LIMITATIONS OF RESPONSIBILITY.** Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, Scope of Services ; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, Scope of Services.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 **Termination for Convenience.** The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such

termination becomes effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

- (1) The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.
- (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
- (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
 - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, Scope of Services.

5.1 By mutual agreement, this Agreement and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 **ENVIRONMENTAL RESPONSIBILITY.**

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 **TIME OF THE ESSENCE.** The parties agree that time is of the essence with respect to the parties' performance of all provisions of the Agreement.

6.2 Before executing this Agreement, the Consultant shall have prepared and submitted for approval to the City a Completion Schedule for the Project with milestones for the various stages (tasks) of the Services as outlined in the Scope of Services. The Consultant shall submit and obtain the City's approval for any proposed changes to the logic, durations, sequences, or timing of tasks as approved in the Completion Schedule.

6.3 **FORCE MAJEURE.** Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to

machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

- 6.4 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant's Services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.

- 7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.

7.1.1 **USE OF DATA SYSTEMS:** Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.

7.1.2 **DISCLOSURE OF DOCUMENTS/DATA.** City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.

- 7.2 7.2 By execution of this Agreement, Consultant and his sub-consultant(s) grant the City a royalty-free, perpetual, irrevocable, and assignable license to use any and all intellectual property interest Consultant or his sub-consultant(s) possess to any drawings, details, specifications, documents, and other information created before each of their first involvement with the Project and subsequently incorporated into the Project's documents. City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to

the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.

- 7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, Scope of Services. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.
- 7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.
- 7.5 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 packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's sub-consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.

ARTICLE 8. INSURANCE.

- 8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
- a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
 - c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days' written notice to City.
- 8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.
- 9.2 Consultant shall be paid in full for all services under this Agreement, including City authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.
- 9.3 **TRAVEL; EXPENSES**
City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed

in the per diem reimbursement rates on the “CONUS” website developed by the United States General Services Administration, located at www.gsa.gov [click on ‘per diem rates’ under the ‘etools’ category].

ARTICLE 10. MISCELLANEOUS PROVISIONS

- 10.1 **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with this Agreement and the Project, City and Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. City and Consultant will take affirmative action to ensure that the contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.1.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.2 **TITLE VI – CIVIL RIGHTS ACT OF 1964.** City and Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.
- 10.2.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.3 **NO THIRD PARTY RIGHTS CREATED.** City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.
- 10.4 **WARRANTIES/LIMITATION OF LIABILITY/WAIVER.** City reserves all rights afforded to local governments under law for all general and implied warranties. City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:

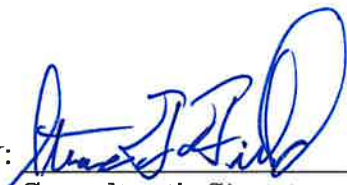
- 11.1 **APPLICABLE LAW/CHOICE OF FORUM AND VENUE.** This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.
- 11.2 **ENTIRE AGREEMENT.** This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.

- 12.1 If a dispute should arise relating to the performance of or payment for the Services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to this Agreement. No arbitration or mediation shall be binding.
- 12.2 **BREACH.** Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement with notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity.

ARTICLE 13. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Agreement, contract or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.

BY: 
Consultant's Signature
TITLE: Senior Principal
Date: 3/14/2019

BY: _____
Dr. Ken Moore
Mayor
Date: _____

Approved as to Form;

Shauna R. Billingsley, City Attorney

**COF 2019-0085
ATTACHMENT A
SCOPE OF SERVICES**

- I. Stantec Consulting Services, Inc. (Consultant) is pleased to provide this proposal for on-call engineering services to the City of Franklin, TN (City). It is anticipated that this contract will be in effect for a five (5)-year period. Individual Work Orders will be assigned on an as needed basis.
- II. Work Order Request Procedure
 - A. Each task to be performed shall be set forth in a written request produced by the City Engineer, or his designee, with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.
 - B. Following receipt of the request, the Consultant shall prepare a "Task Proposal" that includes the following components:
 - a. A written description of the requested task including: all components and subtasks, and including any clarifications of the descriptions provided in the request;
 - b. The hourly or lump sum costs to perform the task. Hourly compensation shall be at the rates provided below, with allowances for a new rate schedule to become effective on the contract anniversary date, based upon the contract execution date, for each succeeding year. Updated fee schedules shall be reviewed and approved by the City Engineer prior to invoices;
 - c. An explanation of how the cost was determined; and
 - d. A schedule for completion of the task, including a completion date.
 - C. The City Engineer shall issue an approved and signed Work Order, including the Task Proposal as an attachment, in writing prior to any work being completed.
 - D. Consultant shall complete the task and provide all deliverables to the City Engineer, or his designee, as agreed upon in the Task Proposal.
 - E. During performance of the services, Consultant will keep the City apprised of the status of performance by delivering status reports as requested by the City.

III. MUNICIPAL SERVICES FEE SCHEDULE

Minimum Billing Level	Billing Rate Table 1	Classification		
3	\$87	Administrative I		
4	\$97	Administrative II	CADD Technician I	Research Technician
5	\$105	Administrative III	CADD Technician I	Permitting Technician
6	\$110	Administrative IV	CADD Technician I, II	Assistant Eng./Scientist
7	\$116		CADD Technician II	Staff Engineer/Scientist I
8	\$121	Design Engineer	CADD Technician II, III	Staff Engineer/Scientist II
9	\$131	Design Engineer	CADD Technician III	Civil Designer
10	\$137	Project Engineer I	CADD/GIS Tech IV	Civil Designer
11	\$147	Project Engineer II	Civil Designer	Project Civil Designer
12	\$151	Associate Engineer	Project Manager I	Senior Civil Designer
13	\$160	Associate Engineer II	Project Manager II	Principal I
14	\$166	Senior Engineer	Sr. Project Manager	Principal II
15	\$184	Senior Engineer II	Sr. Project Manager	Senior Principal I
16	\$211	Principal Engineer	Sr. Project Manager	Senior Principal II
17	\$221	Sr. Principal Engineer	Sr. Project Manager	Managing Principal
18	\$227			Chief Engineer/Scientist
19	\$235			Technical Director

Agreement Number: 180180

Project Identification Number: 127913.00

Federal Project Number: CM-NH-96(59)

State Project Number: 94LPLM-F3-110

State of Tennessee Department of Transportation

LOCAL AGENCY PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20____ by and between the STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION, an agency of the State of Tennessee (hereinafter called the "Department") and the CITY OF FRANKLIN (hereinafter called the "Agency") for the purpose of providing an understanding between the parties of their respective obligations related to the management of the project described as:

"SR-96 (Murfreesboro Road) Traffic Signal Improvements"

A. PURPOSE OF AGREEMENT

A.1 Purpose:

- a) The purpose of this Agreement is to provide for the Department's participation in the project as further described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter called the "Project") and state the terms and conditions as to the manner in which the Project will be undertaken and completed.

A.2 Modifications and Additions:

- a) Exhibit(s) are attached hereto and by this reference made a part hereof.

B. ACCOMPLISHMENT OF PROJECT

B.1 General Requirements:

a)

	Responsible Party	Funding Provided by Agency or Project.
Environmental Clearance by:	AGENCY	PROJECT
Preliminary Engineering by:	AGENCY	PROJECT
Right-of-Way by:	AGENCY	AGENCY
Utility Coordination by:	AGENCY	AGENCY
Construction by:	AGENCY	PROJECT

- b) After receiving authorization for a phase, the Agency shall commence and complete the phases as assigned above of the Project as described in Exhibit A with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws. The Project will be performed in accordance with all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines, available in electronic format, which by this reference is made a part hereof as if fully set forth herein.
- c) A full time employee of the Agency shall supervise the herein described phases of the Project. Said full time employee of the Agency shall be qualified to and shall ensure that the Project will be performed in accordance with the terms of this Agreement and all latest applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's Local Government Guidelines and this Agreement.

B.2 Completion Date:

- a) The Agency agrees to complete the herein assigned phases of the Project on or before **February 29, 2024**. If the Agency does not complete the herein described phases of the Project within this time period, this Agreement will expire on the last day of scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of the Agreement. An extension of the term of this Agreement will be effected through an amendment to the Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the expiration date of the Agreement will not be reimbursed by the Department.

B.3 Environmental Regulations:

- a) The Department will review environmental documents and require any appropriate changes for approval as described in the Department's Local Government Guidelines.
- b) In the event the Agency is made responsible for the Environmental Clearances in Section B.1(a) of this Agreement, the Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations and will reimburse the Department of any loss incurred in connection therewith to the extent permitted by Tennessee Law. The Agency will be responsible for securing any applicable permits as described in the Department's Local Government Guidelines.
- c) In the event the Agency is made responsible for the Environmental Clearances in section B.1.(a) of this Agreement, then the Agency must complete environmental clearances before it begins final design and understands that a separate Notice to Proceed will be submitted for final design. Any work on final design performed ahead of this Notice to Proceed will not be reimbursable.

B.4 Plans and Specifications

- a) In the event that the Agency is made responsible for the Preliminary Engineering in Section B.1.(a) of this Agreement and federal and/or state funding is providing reimbursement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Preliminary Engineering phase of the Project without the written approval of the Department. Failure to obtain such written approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that this Agreement involves constructing and equipping of facilities on the State Highway System and/or is a Project with Federal participation and the Agency is made responsible for Preliminary Engineering in section B.1.(a) of this Agreement, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate.
 - 1) After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval and authorization to proceed with the next assigned phase of the Project. Failure to obtain this written approval and authorization to proceed shall be sufficient cause for nonpayment by the Department.
- c) In the event that this Agreement involves the use of State Highway Right-of-Way, the Agency shall submit a set of plans to the TDOT Traffic Engineer responsible for

the land in question. These plans shall be sufficient to establish the proposed Project and its impact on the State Highway Right-of-Way.

B.5 Right-of-Way

- a) The Agency shall, without cost to the Department, provide all land owned by the Agency or by any of its instrumentalities as may be required for the Project right-of-way or easement purposes.
- b) The Agency understands that if it is made responsible for the Right-of-Way phase in section B.1(a) hereof and federal and/or state funds are providing the reimbursement, any activities initiated for the appraisal or the acquisition of land prior to authorization from the Department will not be reimbursed and that failure to follow applicable Federal and State law in this regard may make the Project ineligible for federal and/or state funding.
- c) The Department will review the processes the Agency used for the acquisition of land and other right-of-way activities. If those processes are found to be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), the Department will certify that the acquisition phase was completed appropriately. The Agency understands that the Project cannot proceed to the Construction phase until this certification of the acquisition phase has been provided. It further understands that if the processes used for acquisition are such that certification is impossible, federal and/or state funds will be withdrawn from the Project. If such withdrawal does occur, the Agency hereby agrees to reimburse the Department for all federal and/or state funds expended at the time of such withdrawal.
- d) If the Agency is responsible for the Construction phase, it agrees to correct any damage or disturbance caused by its work within the State Highway Right-of-Way, including but not limited to the replacement of any control access fence removed by the Agency or its Contractor or agent during the Construction phase of the Project.

B.6 Approval of the Construction Phase

- a) In the event that the Agency is made responsible for the Construction phase in section B.1.(a) of this Agreement, except as otherwise authorized in writing by the Department, the Agency shall not execute an agreement for the Construction phase of the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement, when the construction phase begins, the Agency may make such periodic visits to the Project site as necessary to familiarize itself generally with the progress and quality of the work and to determine in general if

the work is proceeding in accordance with the Construction Agreement. If there is any perceived failure, the Agency shall give prompt written notification to the Department's Resident Engineer in charge.

- c) If the Project includes State Highway Right-of-Way and the Agency is responsible for the Construction phase, the Agency shall follow all requirements imposed by the TDOT Traffic Engineer.
- d) In the event that the Project includes State Highway Right-of-Way and the Agency is performing any construction work on this project, such work shall be performed to the satisfaction of the Department. If the Agency is being compensated for any construction work under this Agreement, any remedial work deemed necessary by the Department shall be done at the Agency's sole expense.
- e) The Agency understands that all contractors allowed to bid hereunder must be included on the Department's pre-qualified contractor list. Under Federal law, however, no contractor shall be required by law, regulation, or practice to obtain a license before submitting a bid or before a bid may be considered for an award of a contract; provided, however, that this is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding.

B.7 Detours

- a) If the Agency deems a detour to be necessary to maintain traffic during a road closure, then the Agency shall select, sign, and maintain the detour route in strict accordance with the Departments Final Construction Plan Notes and the Manual on Uniform Traffic Control Devices.

B.8 Utilities

- a) In the event that the Department is made responsible for the Construction phase in Section B.1(a) of this Agreement, the Department shall also be responsible for the Utilities phase.
- b) In the event that the Agency is made responsible for the Utilities Phase in section B.1.(a) of this Agreement, the following applies:
 - 1) The Agency shall assist and ensure that all utility relocation plans are submitted by the utilities and received by the Regional TDOT Utility Office per TDOT's coordination instructions for approval prior to the Project advertisement for bids.
 - 2) The Agency agrees to provide for and have accomplished all utility connections within the right-of-way and easements prior to the paving stage of the Construction phase.

B.9 Railroad

- a) In the event that a railroad is involved, Project costs may be increased by federally required improvements. The Agency agrees to provide such services as necessary to realize these improvements. The Agency understands it may have to enter into additional agreements to accomplish these improvements.

C. PAYMENT TERMS AND CONDITIONS

C.1 Total Cost:

In the event that the Agency shall receive reimbursement for Project expenditures with federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Department agrees to reimburse the Agency for eligible and appropriate Project expenditures as detailed in the Department's Local Government Guidelines with federal and/or state funds made available and anticipated to become available to the Agency, provided that the maximum liability of the Department shall be as set forth in Exhibit A.

C.2 Eligible Costs:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) Only Project costs incurred after the issuance of the Notice to Proceed for each phase as detailed in the Department's Local Government Guidelines are eligible for Department reimbursement.

C.3 Limits on Federal and State Participation:

- a) Federal and/or state funds shall not participate in any cost which is not incurred in conformity with applicable federal and state law, the regulations in 23 C.F.R. and 49 C.F.R., and policies and procedures prescribed by the Federal Highway Administration (FHWA). Federal funds shall not be paid on account of any cost incurred prior to authorization by the FHWA to the Department to proceed with the Project or part thereof involving such cost. (23 CFR 1.9 (a)). If FHWA and/or the Department determines that any amount claimed is not eligible, federal and/or state participation may be approved in the amount determined to be adequately supported. The Department shall notify the Agency in writing citing the reasons why items and amounts are not eligible for federal and/or state participation. Where correctable non-compliance with provisions of law or FHWA requirements exists, federal and/or state funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA and/or the Department may deny participation in Project costs in part or in total.

- b) For any amounts determined to be ineligible for federal and/or state reimbursement for which the Department has made payment, the Agency shall promptly reimburse the Department for all such amounts within ninety (90) days of written notice.
- c) The Agency agrees to pay all costs of any part of this project which are not eligible for federal and/or state funding. These funds shall be provided upon written request therefore by either (a) check, or (b) deposit to the Local Government Investment Pool, whenever requested.

C.4 Payment Methodology:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency shall submit invoices, in a form outlined in the Local Government Guidelines with all necessary supporting documentation, prior to any reimbursement of allowable costs. Such invoices shall be submitted no more often than monthly but at least quarterly and 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 amounts charged for the period invoiced, and the total amount charged under this agreement to date. Each invoice shall be accompanied by proof of payment in the form of a canceled check or other means acceptable to the Department.
- b) The payment of an invoice by the Department shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department shall neither be construed as acceptance of any part of the work or service provided nor as final approval of any of the costs invoiced therein. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department not to constitute allowable costs. Any payment may be reduced for overpayments or increased for under-payments on subsequent invoices.
- c) Should a dispute arise concerning payments due and owing to the Agency under this Agreement, the Department reserves the right to withhold said disputed amounts pending final resolution of the dispute.

C.5 The Department's Obligations:

In the event that the Department is managing all phases of the Project herein described, this provision C.5 does not apply.

- a) Subject to other provisions hereof, the Department will honor requests for reimbursement to the Agency in amounts and at times deemed by the Department

to be proper to ensure the carrying out of the Project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect not to make a payment if:

1) **Misrepresentation:**

The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

2) **Litigation:**

There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, this Agreement or payments to the Project;

3) **Approval by Department:**

The Agency shall have taken any action pertaining to the Project, which under this Agreement requires the approval of the Department or has made related expenditure or incurred related obligations without having been advised by the Department that same are approved;

4) **Conflict of Interests:**

There has been any violation of the conflict of interest provisions contained herein in D.16; or

5) **Default:**

The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

C.6 Final Invoices:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) The Agency must submit the final invoice on the Project to the Department within one hundred twenty (120) days after the completion of the Project. Invoices submitted after the one hundred twenty (120) day time period may not be paid.

C.7 Offset:

In the event that the Agency shall receive federal and/or state funds for any portion of the herein described Project, this provision shall apply.

- a) If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Agency owing such amount if, upon

demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting any amount pursuant to this section shall not be considered a breach of agreement by the Department.

C.8 Travel Compensation

- a) If the Project provided for herein includes travel compensation, reimbursement to the Agency for travel, meals, or lodging shall be subject to amounts and limitations specified in the “State Comprehensive Travel Regulations,” as they are amended from time to time and subject to the Agreement Budget.

D. STANDARD TERMS AND CONDITIONS

D.1 Governing Law:

- a) This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Agency 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.

D.2 General Compliance with Federal, State, and Local Law:

- a) The Agency is assumed to be familiar with and observe and comply with those Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work and those instructions and prohibitive orders issued by the State and Federal Government regarding fortifications, military and naval establishments and other areas. The Agency shall observe and comply with those laws, ordinances, regulations, instructions, and orders in effect as of the date of this Agreement.
- b) The parties hereby agree that failure of the Agency to comply with this provision shall constitute a material breach of this Agreement and subject the Agency to the repayment of all damages suffered by the State and/or the Department as a result of said breach.

D.3 State Law:

- a) Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable state law, provided, that if any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be

made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

D.4 Submission of the Proceedings, Agreements, and Other Documents:

- a) The Agency shall submit to the Department such data, reports, records, agreements, and other documents relating to the Project as the Department and the Federal Highway Administration may require.

D.5 Appropriations of Funds:

- a) This Agreement is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Agreement upon thirty (30) days written notice to the Agency. Said termination shall not be deemed a breach of agreement by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Agreement. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.6 Rights and Remedies Not Waived:

- a) In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b) Nothing in this agreement shall be construed to limit the Department's right at any time to enter upon its highway right-of-way, including the area occupied by the Project, for the purpose of maintaining or reconstructing its highway facilities.

D.7 Department and Agency Not Obligated to Third Parties:

- a) The Department and Agency shall not be obligated hereunder to any party other than the parties to this Agreement.

D.8 Independent Contractor:

- a) The parties hereto, in the performance of this Agreement, shall not act as agents, 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 Agreement shall be construed to create a principal/agent 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.

- b) The Agency, being a political subdivision of the State, is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101, et seq, and all other applicable laws.

D.9 Maintenance:

- a) Nothing contained herein shall be construed as changing the maintenance responsibility of either party for any part of the referenced project that lies on its system of highways. If the project funded hereunder results in the installation of any traffic signal, lighting or other electrically operated device(s), then the Agency shall be solely responsible for and pay all costs associated with maintenance and operation of all electrically operated devices together with the related equipment, wiring and other necessary appurtenances, and the Agency shall furnish electrical current to all such devices which may be installed as part of the project. Additionally, the Agency shall be solely responsible for and pay all costs associated with the maintenance and operation of solar-powered devices, including, but not limited to, replacement of solar panels, batteries, lights and lenses.
- b) In the event that the Department is made responsible for the Construction phase in section B.1.(a) of this Agreement and to the extent that the Department is responsible for accomplishing the construction of the project, the Department will notify the Agency when Construction phase of the project has been completed; provided however, that failure to notify the Agency shall not relieve the Agency of its maintenance responsibilities.

D.10 Disadvantaged Business Enterprise (DBE) Policy and Obligation:

In the event that the herein-described project is funded with federal funds, the following shall apply:

- a) **DBE Policy:**
It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 C.F.R., Part 26, as amended, shall have the opportunity to participate in the performance of agreements financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state regulations apply to this Agreement; including but not limited to project goals and good faith effort requirements.

b) **DBE Obligation:**

The Agency and its Contractors agree to ensure that Disadvantaged Business Enterprises, as defined in applicable federal and state regulations, have the opportunity to participate in the performance of agreements and this Agreement. In this regard, all recipients and Contractors shall take all necessary and reasonable steps in accordance with applicable federal and state regulations, to ensure that the Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements. The Agency shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department-assisted agreements.

D.11 Tennessee Department of Transportation Debarment and Suspension:

- a) In accordance with the Tennessee Department of Transportation regulations governing Contractor Debarment and Suspension, Chapter 1680-5-1, the Agency shall not permit any suspended, debarred or excluded business organizations or individual persons appearing on the Tennessee Department of Transportation Excluded Parties List to participate or act as a principal of any participant in any covered transaction related to this Project. Covered transactions include submitting a bid or proposal, entering into an agreement, or participating at any level as a subContractor.

D.12 Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (applies to federal aid projects):

a) **Instructions for Certification - Primary Covered Transactions:**

By signing and submitting this Agreement, the Agency is providing the certification set out below.

- 1) The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The Agency shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the Agency to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- 2) The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Agency knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

- 3) The Agency shall provide immediate written notice to the Department if at any time the Agency learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
- 5) The Agency agrees by entering into this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department.
- 6) The Agency further agrees by entering into this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 7) An Agency may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement portion of the "Lists of Parties Excluded From Federal Procurement or Non-procurement Programs" (Non-procurement List) which is compiled by the General Services Administration.
- 8) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 9) Except for transactions authorized under these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause or default.

b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions:

The prospective participant in a covered transaction certifies to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency;
- 2) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or agreement under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in this certification; and
- 4) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 5) Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

D.13 Equal Employment Opportunity:

- a) In connection with the performance of any Project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability or marital status. The Agency will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) The Agency shall insert the foregoing provision in all agreements modified only to show the particular contractual relationship in all its agreements in connection with the development of operation of the Project, except agreements for the standard commercial supplies or raw materials, and shall require all such Contractors to

insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the Project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for Project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

D.14 Title VI – Civil Rights Act of 1964:

- a) The Agency shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations. The Agency shall include provisions in all agreements with third parties that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R., Part 21, and related statutes and regulations.

D.15 Americans with Disabilities Act of 1990 (ADA):

- a) The Agency will comply with all the requirements as imposed by the ADA and the regulations of the federal government issued thereunder.

D.16 Conflicts of Interest:

- a) The Agency warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement.
- b) The Agency shall insert in all agreements entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its Contractors to insert in each of its subcontracts, the following provision:
 - 1) "No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subContractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Agreement."

D.17 Interest of Members of or Delegates to, Congress (applies to federal aid projects):

- a) No member of or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

D.18 Restrictions on Lobbying (applies to federal aid projects):

The Agency certifies, to the best of its knowledge and belief, that:

- a) No federally appropriated funds have been paid or will be paid, by or on behalf of the Agency, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, and entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.
- b) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this grant, loan, or cooperative agreement, the Agency shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The Agency shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and agreements under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

D.19 Records:

- a) The Agency shall maintain documentation for all charges against the Department under this Agreement. All costs charged to the Project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, agreements or vouchers evidencing in proper detail and in a form acceptable to the Department the nature and propriety of the charges. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Agreement, shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for at least three (3) years after final payment is made.
- b) Copies of these documents and records shall be furnished to the Department, the Comptroller of the Treasury, or their duly appointed representatives, upon request. Records of costs incurred includes the Agency's general accounting records and the Project records, together with supporting documents and records, of the Agency and all subContractors performing work on the Project and all other records of the Agency and subContractors considered necessary by the Department for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

- c) The aforesaid requirements to make records available to the Department shall be a continuing obligation of the Agency and shall survive a termination of the Agreement.

D.20 Inspection:

- a) The Agency shall permit, and shall require its Contractor, subContractor or materials vendor to permit, the Department's authorized representatives and authorized agents of the Federal Highway Administration to inspect all work, workmanship, materials, payrolls, records and to audit the books, records and accounts pertaining to the financing and development of the Project.
- b) The Department reserves the right to terminate this Agreement for refusal by the Agency or any Contractor, subContractor or materials vendor to allow public access to all documents, papers, letters or other material made or received in conjunction with this Agreement.

D.21 Annual Report and Audit:

- a) In the event that an Agency expends \$500,000 or more in federal awards in its fiscal year, the Agency must have a single or program specific audit conducted in accordance with the United States Office of Management and Budget (OMB) Circular A-133.
- b) All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Agency may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit agreement between the Agency and the licensed independent public accountant shall be on an agreement form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the Audit Manual for Governmental Units and Recipients of Grant Funds published by the Tennessee Comptroller of the Treasury.
- c) The Agency shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Agency shall be subject to the provisions relating to such fees contained in the prescribed agreement form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the Department, the Tennessee Comptroller of the Treasury, and the

Department of Finance and Administration and shall be made available to the public.

D.22 Termination for Convenience:

- a) The Department may terminate this agreement without cause for any reason. Said termination shall not be deemed a breach of agreement by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. The final decision as to the amount for which the Department is liable shall be determined by the Department. Should the Department exercise this provision, the Agency shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.23 Termination for Cause:

- a) If the Agency fails to properly perform its obligations under this Agreement in a timely or proper manner, or if the Agency violates any terms of this Agreement, the Department shall have the right to immediately terminate the Agreement and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Agreement by the Agency.
- b) In the event that the Project herein described includes Federal funds, the Agency understands that if the Federal Highway Administration (FHWA) determines that some or all of the cost of this project is ineligible for federal funds participation because of failure by the Agency to adhere to federal laws and regulations, the Agency shall be obligated to repay to the Department any federal funds received by the Agency under this agreement for any costs determined by the FHWA to be ineligible.
- c) If the Project herein described lies on the state highway system and the Agency fails to perform any obligation under this section of this agreement, the Department shall have the right to cause the Agency, by giving written notice to the Agency, to close the Project to public use and to remove the Project at its own expense and restore the premises to the satisfaction of the Department within ninety (90) days thereafter.

D.24 How Agreement is Affected by Provisions Being Held Invalid:

- a) If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

D.25 Agreement Format:

- a) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

D.26 Certification Regarding Third Party Contracts:

- a) The Agency certifies by its signature hereunder that it has no understanding or contract with a third party that will conflict with or negate this Agreement in any manner whatsoever.
- b) The Agency further certifies by its signature hereunder that it has disclosed and provided to the Department a copy of any and all contracts with any third party that relate to the Project or any work funded under this Agreement.
- c) The Agency further certifies by its signature hereunder that it will not enter into any contract with a third party that relates to this project or to any work funded under this Agreement without prior disclosure of such proposed contract to the Department.
- d) The Agency hereby agrees that failure to comply with these provisions shall be a material breach of this Agreement and may subject the Agency to the repayment of funds received from or through the Department under this Agreement and to the payment of all damages suffered by the Department as a result of said breach.

D.27 Amendment:

- a) This Agreement may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Agreement.

D.28 State Liability:

- a) The Department shall have no liability except as specifically provided in this Agreement.

D.29 Force Majeure:

- a) The obligations of the parties to this Agreement are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

D.30 Required Approvals:

- a) The Department is not bound by this Agreement until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.

D.31 Estimated Cost:

- a) The parties recognize that the estimated costs contained herein are provided for planning purposes only. They have not been derived from any data such as actual bids, etc
- b) In the event that the Department is made responsible in section B.1.(a) of this Agreement for the management of the herein described Project, the parties understand that more definite cost estimates will be produced during project development. These more reliable estimates will be provided to the Agency by the Department as they become available.

D.32 Third Party Liability:

- a) The Agency shall assume all liability for third-party claims and damages arising from the construction, maintenance, existence and use of the Project to the extent provided by Tennessee Law and subject to the provisions, terms and liability limits of the Governmental Tort Liability Act, T.C.A. Section 29-20-101, et seq, and all applicable laws.

D.33 Deposits:

- a) Required deposits and any other costs for which the Agency is liable shall be made available to the Department, whenever requested.

D.34 Department Activities:

- a) Where the Agency is managing any phase of the project the Department shall provide various activities necessary for project development. The estimated cost for these activities are included in the funds shown herein.

D.35 Congestion Mitigation and Air Quality Requirement:

- a) If the herein described project is funded with Congestion Mitigation Air Quality (CMAQ) funds, this section D.35 shall apply.
 - 1) Whereas the Agency understands and agrees that the funding provided hereunder must be obligated with the Federal Highway Administration within three years from the date of this agreement. It is further agreed that once all requirements have been met for development of the project, the Agency will expend the funds in a manner to insure its expenditure on a continuous basis until the funds are exhausted. Failure to follow this process may result in a loss of funds.

D.36 Investment of Public Funds:

- a) The facility on which this project is being developed shall remain open to the public and vehicular traffic for a sufficient time to recoup the public investment therein as shown below:

Amount		Open to Public and Vehicular Traffic
\$1.00 - \$200,000	=	5 Years
>\$200,000 - \$500,000	=	10 Years
>\$500,000 - \$1,000,000	=	20 Years

- b) Projects over \$1,000,000 carry a minimum 25 years open to public and vehicular traffic requirement and will be subject to individual review.

D.37 Federal Funding Accountability and Transparency Act:

- a) **If the Project is funded with federal funds the following shall apply:** The Agency shall comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109-282), as amended by section 6202 of Public Law 110-252 ("the Transparency Act") and the regulations and requirements of the federal government issued thereunder, including, but not limited to, 2 CFR Part 170. The Agency shall submit the information needed for the Transparency Act in accordance with the forms and processes identified by the Department.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

CITY OF FRANKLIN

**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

By: _____ By: _____
Ken Moore **Date** **Clay Bright** **Date**
Mayor **Commissioner**

**APPROVED AS TO
FORM AND LEGALITY**

**APPROVED AS TO
FORM AND LEGALITY**

By: _____ By: _____
Shauna Billingsley **Date** **John Reinbold** **Date**
Attorney **General Counsel**

EXHIBIT "A"

AGREEMENT #: **180180**

PROJECT IDENTIFICATION #: **127913.00**

FEDERAL PROJECT #: **CM-NH-96(59)**

STATE PROJECT #: **94LPLM-F3-110**

PROJECT DESCRIPTION: 2017 CMAQ Award: SR-96 (Murfreesboro Road) Traffic Signal Improvements. This project will improve 13 signalized intersections along SR-96 between Eddy Lane and Arno Road. These improvements will include Automated Traffic Signal Performance Measures (ATSPMs), Signal Phase and Timing Broadcasts using Dedicated Short Range Communications, the installation of Flashing Yellow Arrows, Advanced Traffic Controllers, and improved vehicle detection.

CHANGE IN COST: Cost hereunder is controlled by the figures shown in the TIP and any amendments, adjustments or changes thereto.

TYPE OF WORK: Intelligent Transportation System

PHASE	FUNDING SOURCE	FED %	STATE %	LOCAL %	ESTIMATED COST
PE-NEPA	CMAQ	100	0	0	\$150,000.00
PE-DESIGN	CMAQ	100	0	0	\$150,000.00
CONSTRUCTION	CMAQ	100	0	0	\$966,600.00
CONSTRUCTION	CMAQ	80	0	20	\$183,000.00
CEI	CMAQ	100	0	0	\$125,000.00
TDOT ES	CMAQ	100	0	0	\$12,000.00

INELIGIBLE COST: One hundred percent (100%) of the actual cost will be paid from Agency funds following expenditure the most recently approved TIP cost or if the use of said federal funds is ruled ineligible at any time by the Federal Highway Administration.

TDOT ENGINEERING SERVICES (TDOT ES): In order to comply with all federal and state laws, rules, and regulations, the TDOT Engineering Services line item in Exhibit A is placed there to insure that TDOT's expenses associated with the project during construction are covered. The anticipated TDOT expenses include but are not necessarily limited to Construction Inspection and Material and Testing Expenses (Quality Assurance Testing).

LEGISLATIVE AUTHORITY: **CMAQ: 23 U.S.C.A., Section 149**, Congestion Mitigation and Air Quality Improvement Program funds allocated or subject to allocation to the Agency.

For federal funds included in this contract, the CFDA Number is 20.205, Highway Planning and Construction funding provided through an allocation from the US Department of Transportation.

CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No. 2019-0098

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and ALFRED BENESCH & COMPANY hereinafter referenced as Consultant, who mutually agree as follows:

DECLARATIONS. City desires to retain Consultant to provide survey, engineering, and related technical services in connection with City's project, hereinafter referenced as Project. The Project is described as follows:

Design of Southeast Park Bridge & Carothers Parkway Intersection Improvements

1. SCOPE OF SERVICES. Consultant shall provide survey, engineering, and related technical services for the Project in accordance with the Scope of Services ("Services") as found in Attachment A, which shall be considered as an integral part hereof.
2. Consultant shall submit as a part of Attachment A an individual Fee Schedule and a Completion Schedule for the Project based on the detailed Scope of Services.
3. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.
4. Consultant shall be paid on a monthly basis for work performed based on the Fee Schedule, as contained in Attachment A, in the Lump Sum Amount of Three Hundred Fifty-Eight Thousand Six Hundred Fifty-Six and No/100 Dollars (\$358,656.00).

The Board of Mayor and Aldermen Approved this Agreement on the _____ Day of _____ 201____.

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. Consultant will:

- 1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry:
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Designate, in writing, the sole Project representative to coordinate with City the Services to be provided, including all contact information.
- 1.5 Unless provided for in the Project Scope of Services (Attachment A), Consultant shall perform all Services with his own forces (employees). Should sub-consultants be proposed to be used in the Project, a listing of said sub-consultants with Services to be performed shall be provided. After approval of this Agreement, no substitute for sub-consultants shall be allowed unless approved by City.
- 1.6 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

ARTICLE 3. GENERAL CONDITIONS.

- 3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.
- 3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the Project acting upon written instruction issued by the Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 3.4 ALLOCATION OF RISK AND LIABILITY; GENERAL. Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.

- 3.5 INDEMNIFICATION. Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.
- 3.5.1 SURVIVAL. The terms and conditions of this paragraph shall survive completion of this services agreement.
- 3.6 LIMITATIONS OF RESPONSIBILITY. Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, Scope of Services ; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, Scope of Services.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 Termination for Convenience. The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such termination becomes effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:
- (1) The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.
 - (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
 - (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
 - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;

- (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, Scope of Services.

5.1 By mutual agreement, this Agreement and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 ENVIRONMENTAL RESPONSIBILITY.

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 TIME OF THE ESSENCE. The parties agree that time is of the essence with respect to the parties' performance of all provisions of the Agreement.

6.2 Before executing this Agreement, the Consultant shall have prepared and submitted for approval to the City a Completion Schedule for the Project with milestones for the various stages (tasks) of the Services as outlined in the Scope of Services. The Consultant shall submit and obtain the City's approval for any proposed changes to the logic, durations, sequences, or timing of tasks as approved in the Completion Schedule.

6.3 FORCE MAJEURE. Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

6.4 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant's Services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.

7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments

of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.

7.1.1 USE OF DATA SYSTEMS: Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.

7.1.2 DISCLOSURE OF DOCUMENTS/DATA. City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.

7.2 7.2 By execution of this Agreement, Consultant and his sub-consultant(s) grant the City a royalty-free, perpetual, irrevocable, and assignable license to use any and all intellectual property interest Consultant or his sub-consultant(s) possess to any drawings, details, specifications, documents, and other information created before each of their first involvement with the Project and subsequently incorporated into the Project's documents. City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.

7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, Scope of Services. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.

7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.

- 7.5 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 packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's sub-consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.

ARTICLE 8. INSURANCE.

- 8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
 - a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
 - c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days' written notice to City.
- 8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon

receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.

- 9.2 Consultant shall be paid in full for all services under this Agreement, including City authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.

9.3 TRAVEL; EXPENSES

City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed in the per diem reimbursement rates on the "CONUS" website developed by the United States General Services Administration, located at www.gsa.gov [click on 'per diem rates' under the 'etools' category].

ARTICLE 10. MISCELLANEOUS PROVISIONS

- 10.1 EQUAL EMPLOYMENT OPPORTUNITY. In connection with this Agreement and the Project, City and Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. City and Consultant will take affirmative action to ensure that the contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.1.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.

- 10.2 TITLE VI – CIVIL RIGHTS ACT OF 1964. City and Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.

10.2.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.

- 10.3 NO THIRD PARTY RIGHTS CREATED. City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.

- 10.4 WARRANTIES/LIMITATION OF LIABILITY/WAIVER. City reserves all rights afforded to local governments under law for all general and implied warranties. City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:

- 11.1 APPLICABLE LAW/CHOICE OF FORUM AND VENUE. This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.
- 11.2 ENTIRE AGREEMENT. This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.

- 12.1 If a dispute should arise relating to the performance of or payment for the Services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to this Agreement. No arbitration or mediation shall be binding.
- 12.2 BREACH. Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement with notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity.

ARTICLE 13. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Agreement, contract or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.

CONSULTANT

CITY OF FRANKLIN, TENNESSEE

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Dr. Ken Moore
Mayor
Date: _____

Approved as to form:

Shauna R. Billingsley
City Attorney



Alfred Benesch & Company
8 Cadillac Drive, Suite 250
Brentwood, Tennessee 37027
www.benesch.com
P 615-370-6079
F 615-627-4066

March 4, 2018

Mr. Paul Holzen, PE
City of Franklin
109 Third Avenue South, Suite 142
Franklin, TN 37064

RE: Scope and Design Proposal
Carothers Parkway Modification and SE Park Entrance Road
Including a new bridge over the Harpeth River
Franklin, TN

Dear Mr. Holzen:

In response to your request I have attached a design scope for completing the roadway and bridge design for the new SE Park Entrance Road in Franklin, TN. Included with this scope is a separate scope from Terracon for the completion of the geotechnical exploration required for the project. The proposed design fee assumes that a 600 feet long bridge will be constructed.

As part of this estimate we will coordinate with Barge Design Solutions for the completion of the hydraulic model for the park and this new entrance road. We will also coordinate the location of the entrance road to fit within their design for the remainder of the park project.

If you have any questions or need additional information, please let me know. Thanks for the opportunity to serve the City of Franklin.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sammie McCoy".

Sammie McCoy, PE
Vice President
TN Division Manager



Alfred Benesch & Company
 8 Cadillac Drive, Suite 250
 Brentwood, Tennessee 37027
www.benesch.com
 P 615-370-6079
 F 615-627-4066

Southeast Park Entrance Road– City of Franklin

Proposed Scope of Work: Roadway and Structural Design Tasks

Park Entrance Road over the Harpeth River

The overall park plans are being developed by Barge Design services (Barge). As part of their work they will be providing the survey and hydraulic modeling for the entire site which includes the roadway entrance and new bridge. Benesch will work closely with Barge for the development of the plans.

Benesch will develop plans for the entrance road into the new SE Park off Carothers Parkway in Franklin. The new road will tie as a fourth leg to the Carothers and Lockwood Way intersection. Carothers and the current intersection are only partially constructed so the plans will include development of crossovers on each Carothers approach so that the full intersection can be constructed to accommodate the future widening of Carothers. This work will include the design of the full width intersection for Carothers. The intersection will be developed to accommodate all future lanes but in the interim Carothers through traffic will remain in a single lane in each direction vs. the future two lanes. The intersection will not be signalized at this time. Carothers will be free flowing, and the side roads will be under stopped condition.

On Carothers, Benesch will design the crossovers which are anticipated to be a total of approximately 1800 feet of widened roadway. This includes building the full length of intersection turn lanes, so the intersection will not require additional work in the future widening of Carothers. These cross overs will be designed to meet the original design speed of Carothers. The design will coordinate with the original design plans for Carothers and modify the drainage as necessary to accommodate the widening. If existing lighting along Carothers is impacted by the widening the poles will either be removed or temporarily relocated to a nearby location, so no redesign of lighting is anticipated. Our understanding is MTEMCO developed the lighting design for the previous Carothers Parkway Project. Currently the median light poles contain only one light head but were designed and installed so a second head can be installed with minimal work. The addition of the second head will be incorporated into the plans within the limits of the work on Carothers.

The new park entrance designed by Benesch is estimated at 1150 feet long from the center of Carothers Parkway and will meet the internal roadway designed by Barge. This leg of the intersection will include one inbound lane and 2 outbound lanes (**left turn and a thru-right turn**). All tapers will occur on the east side of the river bridge to avoid extra widening on the bridge. Gates to control access to the park are required and these will either be accommodated on the east end of the bridge if adequate room is available for turnaround or shortly after crossing the bridge.

This portion of the roadway will be curb and gutter. Lanes will be 12' wide with 2' shoulders to provide additional width between parapets across the bridge. Along the south side of the roadway a 6' grass strip will provide separation for a 12' concrete multiuse path. Across the bridge a pedestrian parapet will be constructed within the 6' grass strip. Closed drainage will be designed for the curb and gutter sections of roadway and this will discharge near the bridge. Design of water quality units or other water quality items are not included for this portion of closed drainage system.

The entrance road and bridge will accommodate the following items to be designed by others: a Milcrofton waterline, a Franklin reclaimed water line, lighting conduits/foundations, Franklin fiber optic, ATMOS gas line



and future multi-use paths under each bridge approach. For purposes of this estimate these lines are all assumed to be less than 12" diameters and can be versatile (i.e. internal bay is acceptable) in where they can be located.

Fill material will be required to construct the approaches to the bridge. Should the Benesch plans be bid separately our plans will coordinate with the Barge mass grading plan to provide access to adequate borrow material within the park boundary.

The roadway plans will be developed as a standard Preliminary 30% set of plans that can be used by Barge for coordination with FEMA. Following FEMA approval development of a 60% Utility set will occur. Right of Way is not anticipated as all the property is owned by the City of Franklin, but this 60% set can be used for coordination with utility companies. The 100% construction documents will be produced for bidding. Probable construction costs will be estimated at the 60% and 100% stages of plans production. The plans will be developed for the project based upon the approved alignment. The roadway design parameters for the project will be based upon current versions of the following design guides; "A Policy on Geometric Design of Highways and Streets", American Association of State Highway and Transportation Officials; "TDOT Standards Specifications for Road and Bridge Construction"; City of Franklin Street Standards. These technical guidelines and specifications shall be followed unless superseded by the standard for the City of Franklin.

The scope includes plans to attend a Public Meeting should this be deemed necessary to inform the public about the project. Benesch will assist city staff through-out the bidding phase of the project. This will include supplying all required documents in Portable Document Format (PDF) suitable for printing. Benesch will assist the city in producing the bid book. Benesch can organize and lead the pre-bid meeting and assist the city as necessary with opening and evaluating the bids once received.

The roadway design scope includes production of erosion control plans and a SWPPP for this portion of roadway and bridge construction. This will be used to apply for initial NPDES Permit coverage which can be amended by Barge for the larger site project. ARAP and USACE permits will be applied for by Benesch to cover the bridge construction over the Harpeth River.

Proposed New Bridge

The proposed structure has yet to be determined. It will be assumed for this scope that a 600-foot-long, three to five span, prestressed concrete beam bridge will be constructed. This crossing of the Harpeth River lies within a FEMA designated Zone AE floodplain. A hydraulic study will be required for this project to demonstrate that the proposed design will not increase the water surface elevation (No Rise). It is our understanding that another consultant will perform the hydrologic analysis and develop hydraulic models for existing and proposed conditions. Benesch will coordinate preliminary structural design with the other consultant performing the hydraulic analysis. Once a bridge configuration is confirmed by the hydraulic engineer and the City of Franklin, Benesch will develop final design and construction plans for the structure.

Structural Design Scope of Work

1. General Bridge Design: Assumed 600', maximum five span, prestressed concrete girder bridge, concrete deck, concrete substructures with H-Pile foundations or spread footings on sound bedrock.

2. Preliminary bridge design

- a. Coordination with hydraulic design to size the structure opening for the Harpeth River.
- b. Coordination with roadway design to set centerline, profile, bridge width, approach limits, and phasing requirements. As noted in the section above the proposed width for the bridge will be 52.5' wide to accommodate 2-12' lanes, 2' shoulders, C&G on both sides, on the south side a 6' grass strip and 12' multi use path. A pedestrian safety rail will be constructed within the 6' grass strip.
- c. Development of utility conveyance needs and incorporation into proposed bridge design.
- d. Coordination with environmental requirements regarding stream impact and substructure locations.
- e. Develop a preliminary structural design for:
 - i. Substructures: Abutments, piers, and foundation types
 - ii. Superstructure: Prestressed concrete girder size and configuration, expansion joint location if required, location of deck drains
- f. Coordination with utility requirements to avoid conflicts and incorporate conveyance with the structure.
- g. Coordination with Geotechnical Engineer for foundation recommendations
- h. Development of preliminary plans including:
 - i. Preliminary Layout of Bridge
 - ii. Preliminary Bridge Cross Section
 - iii. Preliminary Bridge Phasing
 - iv. Accommodations for the utilities noted above
 - v. Accommodations for lighting conduits and foundations for the lighting design by Barge

3. Final bridge design

- a. Develop final design for all structural elements as required
- b. Develop final plans for the structure in accordance with TDOT standards
- c. Incorporation of utility conveyance loads in design
- d. Tabulation of required quantities and assistance with cost estimates
- e. Submit all CAD files as required

**Bridge Geotechnical**

1. See the attached scope and fee from Terracon to provide the necessary geotechnical exploration and report for construction of the bridge over the Harpeth River.

Items not included in the Benesch Scope

1. Survey to be provided by Barge
2. Hydraulic engineering and FEMA coordination to be completed by Barge
3. Stormwater quality design
4. Signal design or traffic studies
5. Landscape or irrigation design
6. Roadway and under bridge lighting will be designed by Barge for the park entrance road
7. Utility Coordination or design
8. Environmental boundary determinations will be provided by Barge for the entire site.
9. Mitigation design for impacted environmental features.
10. Permit fees will be paid for by the City **as a reimbursable item(s) under this contract.**
11. Construction phase services or full TDOT level Construction Engineering and Inspection (CEI)
12. Printing of review or bid plans

Compensation:

The following is the compensation to be paid to Benesch for the scope items noted above:

Fee Summary		
Item	Fee Type	Amount
Roadway Design	Lum Sum	\$ 124,548.00
Bridge Design	Lum Sum	\$ 202,908.00
SWPPP and Permitting	Lum Sum	\$ 7,800.00
Bid Administration	Lum Sum	\$ 3,900.00
Geotechnical (By Terracon)	Lum Sum	\$ 19,500.00
Total Lump Sum		\$ 358,656.00



March 1, 2019

Alfred Benesch & Company
8 Cadillac Drive, Suite 250
Brentwood, TN 37027

Attn: Jake Williams – Project Manager II
P: (615) 370-3079
E: jwilliams@benesch.com

Re: Proposal for Geotechnical Engineering Services Revised
SE Municipal N Access Approach and Bridge
Carothers Parkway
Franklin, Williamson County, TN
Terracon Proposal No. P18185215 R1

Dear Mr. Williams:

We appreciate the opportunity to submit this proposal to Alfred Benesch & Company (Benesch) to provide Geotechnical Engineering services for the above referenced project. The following are exhibits to the attached Agreement for Services. Our proposal was revised to provide alternate scope and pricing for additional spans.

Exhibit A	Project Understanding
Exhibit B	Scope of Services
Exhibit C	Compensation and Project Schedule
Exhibit D	Site Location and Nearby Geotechnical Data
Exhibit E	Anticipated Exploration Plan

Our base fee to perform the scope of services described in this proposal is \$11,500. See Exhibit C for more details of our fees and consideration of additional services.

Your authorization for Terracon to proceed in accordance with this proposal can be issued by signing and returning a copy of the attached Agreement for Services to our office.

Sincerely,
Terracon Consultants, Inc.

John E. Agee, P.E.
Regional Manager

David A. Been, P.E.
Geotechnical Department Manager

Terracon Consultants, Inc. 5217 Linbar Drive, Suite 309 Nashville, TN 37211
P (615) 333 6444 F (615) 333 6443 terracon.com

Proposal for Geotechnical Engineering Services Revised

SE Municipal N Access Approach and Bridge ■ Franklin, Williamson County, TN

March 1, 2019 ■ Terracon Proposal No. P18185215 R1

**EXHIBIT A - PROJECT UNDERSTANDING**

Our scope of services is based on our understanding of the project as described by Benesch and the expected subsurface conditions as described below. We have not visited the project site specifically to confirm the information provided. Aspects of the project, undefined or assumed, are highlighted as shown below. We request the design team verify this information prior to our initiation of field exploration activities.

Site Location and Anticipated Conditions

Item	Description
Parcel Information	The project is located at Carothers Parkway in Franklin, Williamson County, TN. 35.8887404, -86.8228464
Existing Improvements	Agricultural uses
Current Ground Cover	Earth and grass covered areas, wooded areas,
Existing Topography (from Williamson County GIS)	Surface elevations vary from about 640 feet to 635 feet, MSL, and generally slopes down from west to east and east to west towards the Harpeth River.
Site Access	We expect the site, and all exploration locations, are accessible with our ATV-mounted drilling equipment. Dozer clearing is anticipated and budgeted to move trees from desired exploration locations.
Expected Subsurface Conditions	Our experience near the vicinity of the proposed development indicates subsurface conditions consist of 15 to 20 feet of lean to fat clay overlying limestone bedrock.

Planned Construction

Item	Description
Information Provided	Bridge layout drawing and requested borings locations were provided by Benesch via email from Mr. Jake Williams to Terracon's John Agee on November 15, 2018. An alternate 600-foot, 6-span request was made via email March 1, 2019.
Project Description	The project is the construction of a bridge across the Harpeth River to connect the planned recreational complex to Carothers Parkway.
Proposed Structure	The project includes a 300-foot long, three span bridge, with an alternate for a 600-foot long, six span bridge. The new spans would progress south into the park from the original layout.
Building Construction	Concrete bridge with steel pile supported abutments and bents supported on cast foundations or drilled shafts.

Proposal for Geotechnical Engineering Services Revised

SE Municipal N Access Approach and Bridge ■ Franklin, Williamson County, TN

March 1, 2019 ■ Terracon Proposal No. P18185215 R1



Item	Description
Finished Floor Elevation	Unknown
Maximum Loads	■ Bents: 1,500 kips ■ Abutments: 500 kips
Grading/Slopes	We anticipated up to 3 feet of cut and 3 feet of fill will be required to develop final grades. Final slope angles of as steep as 4H:1V (Horizontal: Vertical) are expected.
Below Grade Structures	None anticipated
Free-Standing Retaining Walls	Abutment walls are expected to be constructed as part of site development to achieve final grades.
Pavements	Paved driveway will be constructed on the approach to the bridge from Carothers Parkway. We assume both rigid (concrete) and flexible (asphalt) pavement sections should be considered. Please confirm this assumption. Anticipated traffic is as follows: ■ Autos/light trucks: 1,000 vehicles per day ■ Light delivery and trash collection vehicles: 10 vehicles per week ■ Tractor-trailer trucks: <1 vehicle per week The pavement design period is 20 years.
Estimated Start of Construction	Q3 2019

Proposal for Geotechnical Engineering Services Revised

SE Municipal N Access Approach and Bridge ■ Franklin, Williamson County, TN

March 1, 2019 ■ Terracon Proposal No. P18185215 R1

**EXHIBIT B - SCOPE OF SERVICES**

Our proposed scope of services consists of field exploration, laboratory testing, and engineering/project delivery. These services are described in the following sections.

Field Exploration

The field exploration program consists of the following:

Number of Borings	Planned Boring Depth (feet) ¹	Planned Location
8	Auger refusal	Planned bridge supports
1	10 or refusal	Approach drive

¹. Below ground surface

The alternate field exploration program for the 600-foot, 6-span bridge consists of the following:

Number of Borings	Planned Boring Depth (feet) ¹	Planned Location
14	Auger refusal	Planned bridge supports
1	10 or refusal	Approach drive

¹. Below ground surface

Boring Layout and Elevations: For improved accuracy, we request Benesch have the corners of the planned bridge staked in the field for our use in locating our borings. Field measurements from existing site features may be utilized. If available, approximate elevations are obtained by interpolation from a site specific, surveyed topographic map.

Subsurface Exploration Procedures: We advance soil borings with an ATV-mounted drill rig using continuous flight augers (solid stem and/or hollow stem, as necessary, depending on soil conditions). Four samples are obtained in the upper 10 feet of each boring and at intervals of 5 feet thereafter. Soil sampling is typically performed using thin-wall tube and/or split-barrel sampling procedures. In the thin-walled tube sampling procedure, a thin-walled, seamless steel tube with a sharp cutting edge is pushed hydraulically into the soil to obtain a relatively undisturbed sample. In the split barrel sampling procedure, a standard 2-inch outer diameter split barrel sampling spoon is driven into the ground by a 140-pound automatic hammer falling a distance of 30 inches. The number of blows required to advance the sampling spoon the last 12 inches of a normal 18-inch penetration is recorded as the Standard Penetration Test (SPT) resistance value. The SPT resistance values, also referred to as N-values, are indicated on the boring logs at the test depths. The samples are placed in appropriate containers, taken to our soil laboratory for testing, and classified by a geotechnical engineer. In addition, we observe and record groundwater levels during drilling and sampling.

Proposal for Geotechnical Engineering Services Revised

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March 1, 2019 ■ Terracon Proposal No. P18185215 R1



Six of the exploration borings will use rock core methods to collect at least 10-feet of sample of the auger refusal material. For the 600-foot, 6-span alternate; 12 of the exploration borings will use rock core methods to collect at least 10-feet of sample of the auger refusal material.

Our exploration team prepares field boring logs as part of standard drilling operations including sampling depths, penetration distances, and other relevant sampling information. Field logs include visual classifications of materials encountered during drilling, and our interpretation of subsurface conditions between samples. Final boring logs, prepared from field logs, represent the geotechnical engineer's interpretation, and include modifications based on observations and laboratory tests.

Property Disturbance: Based on aerial images, we anticipate clearing is required on both sides of the river in order to access the requested boring locations. Felled trees will be windrowed and we anticipate not felling anything into the river.

We backfill borings with auger cuttings after completion. Our services do not include repair of the site beyond backfilling our boreholes. Excess auger cuttings are dispersed in the general vicinity of the borehole. Because backfill material often settles below the surface after a period, we recommend boreholes are checked periodically and backfilled, if necessary. We can provide this service, or grout the boreholes for additional fees, at your request.

Laboratory Testing

The project engineer reviews field data and assigns various laboratory tests to better understand the engineering properties of various soil strata. Exact types and number of tests cannot be defined until completion of field work. Procedural standards noted below are for reference to methodology in general. In some cases, local practices and professional judgement require method variations. Standards noted below include reference to other related standards. Such references are not necessarily applicable to describe the specific test performed.

- ASTM D2216 Standard Test Methods for Laboratory Determination of Water (Moisture) Content of Soil and Rock by Mass
- ASTM D4318 Standard Test Methods for Liquid Limit, Plastic Limit, and Plasticity Index of Soils
- ASTM D7012 Standard Test Method for Compressive Strength of Intact Rock Core Specimens

Our laboratory testing program often includes examination of soil samples by an engineer. Based on the material's texture and plasticity, we describe and classify soil samples in accordance with the Unified Soil Classification System (USCS).

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**Safety**

Terracon is currently not aware of environmental concerns at this project site that would create health or safety hazards associated with our exploration program; thus, our scope considers standard OSHA Level D Personal Protection Equipment (PPE) appropriate. Our scope of services does not include environmental site assessment services, but identification of unusual or unnatural materials encountered while drilling will be noted on our logs and discussed in our report.

Exploration efforts require borings (and possibly excavations) into the subsurface, therefore Terracon complies with local regulations to request a utility location service through Tennessee 811. We consult with the owner/client regarding potential utilities, or other unmarked underground hazards. Based upon the results of this consultation, we consider the need for alternative subsurface exploration methods, as the safety of our field crew is a priority.

Private utilities should be marked by the owner/client prior to commencement of field exploration. Terracon will not be responsible for damage to private utilities that are not made aware to us. If the owner/client is not able to accurately locate private utilities, Terracon can assist the owner/client by coordinating or subcontracting with a private utility locating services. Fees associated with the additional services are not included in our current scope of services and will be forwarded to our client for approval prior to initiating. The detection of underground utilities is dependent upon the composition and construction of the utility line; some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private utility locate service would not relieve the owner of their responsibilities in identifying private underground utilities.

Site Access: Terracon must be granted access to the site by the property owner. By acceptance of this proposal, without information to the contrary, we consider this as authorization to access the property for conducting field exploration in accordance with the scope of services.

Engineering and Project Delivery

Results of our field and laboratory programs are evaluated by a professional engineer. The engineer develops a geotechnical site characterization, performs the engineering calculations necessary to evaluate foundation alternatives, and develops appropriate geotechnical engineering design criteria for earth-related phases of the project.

Your project is delivered using our **GeoReport** system. Upon initiation, we provide you and your design team the necessary link and password to access the website (if not previously registered). Each project includes a calendar to track the schedule, an interactive site map, a listing of team members, access to the project documents as they are uploaded to the site, and a collaboration portal. A typical delivery process includes three basic stages:

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- Stage 1: Project Planning
- Stage 2: Site Characterization
- Stage 3: Geotechnical Engineering

When utilized, a collaboration portal documents communication, eliminating the need for long email threads. This collaborative effort allows prompt evaluation and discussion of options related to the design and associated benefits and risks of each option. With the ability to inform all parties as the work progresses, decisions and consensus can be reached faster. In some cases, only minimal uploads and collaboration will be required, because options for design and construction are limited or unnecessary. This is typically the case for uncomplicated projects with no anomalies found at the site.

When services are complete, we upload a printable version of our completed final geotechnical engineering report, including the professional engineer's seal and signature, which documents our services. Previous submittals, collaboration, and final report are maintained in our system indefinitely. This allows future reference and integration into subsequent aspects of our services, as the project goes through final design and construction.

The final geotechnical engineering report provides the following:

- Boring logs with field and laboratory data
- Stratification based on visual soil (and rock) classification
- Groundwater levels observed during and after completion drilling
- Site and Boring location plans
- Subsurface exploration procedures
- Description of subsurface conditions
- Recommended foundation options and engineering design parameters, including L-Pile material parameters
- Estimated settlement of foundations
- Seismic site classification
- Subgrade preparation/earthwork recommendations
- Recommended pavement options and design parameters

Proposal for Geotechnical Engineering Services Revised

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**Additional Services**

In addition to basic services noted above, the following services are often associated with geotechnical engineering services. Fees for basic services noted above do not include the following:

Review of Plans and Specifications: Our geotechnical report and associated verbal and written communications will be used by others in the design team to develop plans and specifications for construction. Review of the project plans and specifications is a vital part of our geotechnical engineering services. This consists of review of project plans and specifications related to site preparation, foundation, and pavement construction. Our review includes a written statement, which conveys our opinions, related to the plans and specifications' consistency with our geotechnical engineering recommendations.

Observation and Testing of Pertinent Construction Materials: Development of our geotechnical engineering recommendations and report relies on an interpretation of soil conditions. This is based on widely spaced exploration locations, and assuming construction methods will be performed in a manner sufficient to meet our expectations and is consistent with recommendations made at the time the geotechnical engineering report is issued. We should be retained to conduct construction observations, and perform/document associated materials testing, for site preparation, foundation, and pavement construction. This allows a more comprehensive understanding of subsurface conditions and necessary documentation of construction, to confirm and/or modify (when necessary) the assumptions and recommendations made by our engineers.

Perform Environmental Assessments: Our scope for this project does not include, either specifically or by implication, an environmental assessment of the site intended to identify or quantify potential site contaminants. If the client/owner is concerned about potential for such conditions and/or contamination, an environmental site assessment should be conducted. We can provide a proposal for an environmental assessment, if desired.

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**EXHIBIT C - COMPENSATION AND PROJECT SCHEDULE****Compensation**

Based upon our understanding of the site, the project as summarized in **Exhibit A**, and our planned scope of services outlined in **Exhibit B**, our base fee is shown in the following table:

Task	Lump Sum Fee
Clearing, Subsurface Exploration, Laboratory Testing, Geotechnical Consulting & Reporting	\$11,500

Additional services not part of the base fee include the following:

Additional Services (see Exhibit B)	Lump Sum Fee	Initial for Authorization
Private Utility Locate Service ¹	\$1,000	
Additional scope for Alternate 6-Span Bridge	\$6,500	
Plans and Specifications Review	\$500	
Construction Materials Testing Services	TBD	

1. If the owner/client is unable to accurately locate private utilities, we can subcontract a private utility locating firm and/or utilize geophysical equipment, if necessary. The detection of underground utilities is dependent upon the composition and construction of utility lines. Some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private locate service does not relieve the owner of their responsibilities in identifying private underground utilities.

Our scope of services does not include services associated with site clearing, wet ground conditions, tree or shrub clearing, or repair of/damage to existing landscape or crops. If such services are desired by the owner/client, we should be notified so we can adjust our scope of services. If borings are performed when crops are planted, a crop damage agreement should be established between the Client and crop owner prior to subsurface exploration.

Unless instructed otherwise, we will submit our invoice(s) to the address shown at the beginning of this proposal. If conditions are encountered that require scope of services revisions and/or result in higher fees, we will contact you for approval, prior to initiating services. A supplemental proposal stating the modified scope of services as well as its effect on our fee will be prepared. We will not proceed without your authorization, as evidenced by your signature on the Supplemental Agreement for Services form.

Proposal for Geotechnical Engineering Services Revised

SE Municipal N Access Approach and Bridge ■ Franklin, Williamson County, TN
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**Project Schedule**

We developed a schedule to complete the scope of services based upon our existing availability and understanding of your project schedule. However, this does not account for delays in field exploration beyond our control, such as weather conditions, permit delays, or lack of permission to access the boring locations. In the event the schedule provided is inconsistent with your needs, please contact us so we may consider alternatives.

GeoReport Stage	Posting Date from Notice to Proceed^{1, 2}
Project Planning	3 days
Site Characterization	15 days ³
Geotechnical Engineering	25 days ³

1. Upon receipt of your notice to proceed we will activate the schedule component of our **GeoReport** website with specific, anticipated calendar dates for the three delivery points noted above as well as other pertinent events such as field exploration crews on-site, etc.
2. We will maintain a current calendar of activities within our **GeoReport** website. In the event of a need to modify the schedule, the schedule will be updated to maintain a current awareness of our plans for delivery.
3. Add 5 days for the Alternate 6-Span Bridge

EXHIBIT D - SITE LOCATION and NEARBY GEOTECHNICAL DATA

SE Municipal N Access Approach and Bridge ■ Franklin, Williamson County, TN

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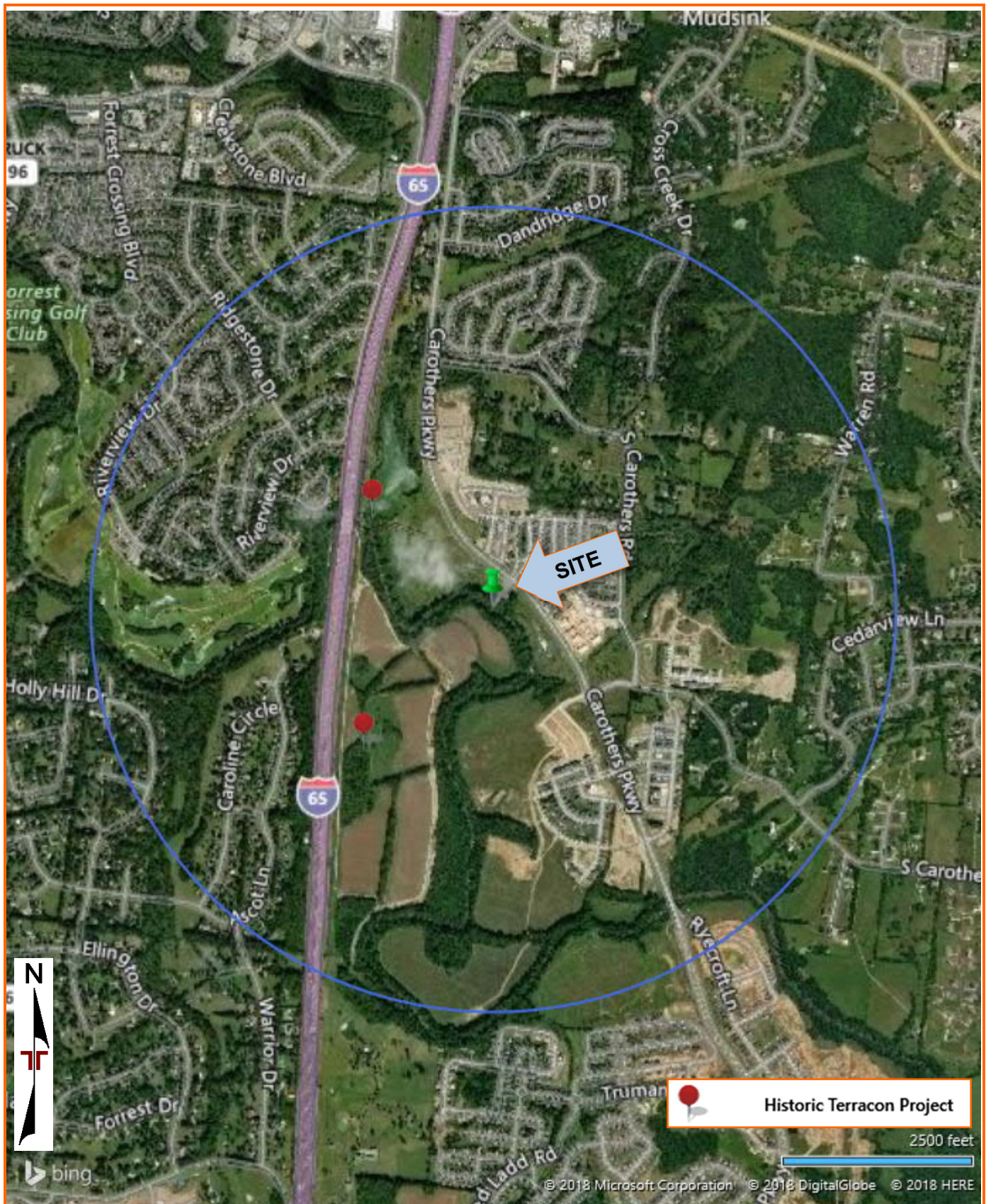


DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

MAP PROVIDED BY MICROSOFT BING MAPS

EXHIBIT E - ANTICIPATED EXPLORATION PLAN

SE Municipal N Access Approach and Bridge ■ Franklin, Williamson County, TN
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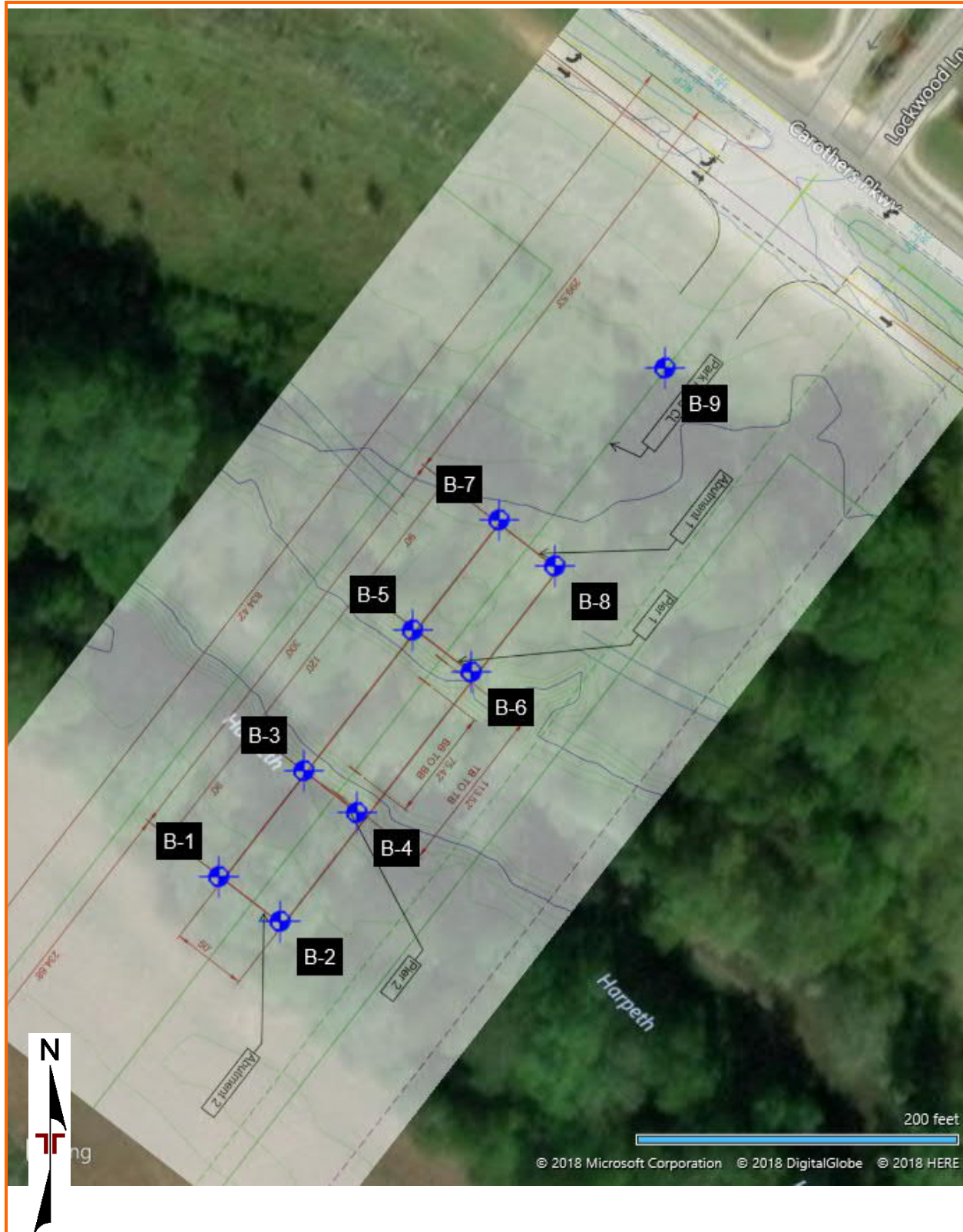



DIAGRAM IS FOR GENERAL LOCATION ONLY, AND IS NOT INTENDED FOR CONSTRUCTION PURPOSES

MAP PROVIDED BY MICROSOFT BING MAPS



Memorandum

*To: Paul Holzen, PE
David Hodnett, PE*

*From: Dave Mason, PE, PMP
Zack Daniel, PE*

Date: February 19, 2019

*Subject: Scope of Work for Robinson Lake Dam – Final Rehabilitation Design
Franklin, Tennessee*

The purpose of this memorandum is to provide a scope of work and cost proposal for final design of rehabilitation measures for Robinson Lake Dam in Franklin, Tennessee. This scope of work includes a geotechnical investigation to evaluate subsurface conditions for the lake and dam and lake rehabilitation needs summarized in the *Conceptual Engineering Report, Robinson Lake Dam* (CER) dated December 8, 2017 prepared by CDM Smith Inc. (CDM Smith).

Background

The existing Robinson Lake Dam is an earth embankment dam with a concrete spillway in the right abutment discharging to the Harpeth River. The dam has a structural height of 22.5 feet and hydraulic height of 19 feet, with a storage capacity of 91 acre-feet at normal pool and 136 acre-feet at maximum pool.

CDM Smith was recently engaged by the City of Franklin to perform a conceptual engineering design study of Robinson Lake Dam prior to the City acquiring the property on which the dam and lake are located. The purpose of the assessment was to identify potential dam safety deficiencies and provide recommendations for a rehabilitation alternative and an Opinion of Probable Construction Costs (OPCC) as discussed in the *Conceptual Engineering Report* (CER). Following the submittal of the CER, the City purchased the property from the landowner. Subsequently, the City has selected CDM Smith to perform additional geotechnical investigations and design rehabilitation measures for the dam to meet the requirements of the Tennessee Department of Environmental Conservation (TDEC) dam safety regulations. The design must also consider the plans developed by others to construct a park on the subject property.

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Scope of Services

Task 1.0 Initial Meetings

Task 1.1 Project Kickoff Meeting and Project Quality Management (PQM) Workshop

CDM Smith will conduct a project kickoff meeting within two weeks from receipt of a written authorization from the City. This meeting will provide an opportunity for interested and affected parties to understand the scope, schedule, budget, and individual responsibilities for project completion. In conjunction with the typical project kickoff activities, the kickoff meeting will include facilitation of a Project Quality Management (PQM) workshop. The PQM is a facilitated session by a project-independent PQM facilitator where key stakeholders (including City staff if desired) participate in a consensus-building exercise to confirm the project goals and define the critical success factors (CSFs); the processes, activities, and tasks (PATs) needed to achieve success; and, to assign responsibilities for carrying out the tasks.

City staff including Engineering and Parks Department representative(s) should attend both the kickoff meeting and workshop. CDM Smith attendees will include the PQM Facilitator, the Project Manager and the Client Service Leader. CDM Smith geotechnical and structural representatives will participate via conference call.

CDM Smith will prepare and distribute a summary of meeting minutes for the kickoff meeting and Action Items from the PQM to document items discussed with the parties in attendance.

Task 1.2 TDEC Meeting

CDM Smith will coordinate a meeting with TDEC at their headquarters within one month from receipt of a written authorization from the City. The purpose of the meeting will be to review the project and confirm regulatory requirements. City staff, the CDM Smith project manager and senior geotechnical engineer will attend at TDEC's office, and the CDM Smith geotechnical engineer and structural engineer will participate via conference call.

CDM Smith will prepare and distribute a summary of meeting minutes to document items discussed with the parties in attendance.

Task 2.0 Geotechnical Investigation

Task 2.1 Geophysical Surveys

CDM Smith will engage a local geophysical firm, S&ME, Inc. (S&ME), to perform geophysical surveys over the dam embankment, in the downstream areas, across the lake and sinkhole areas within the property to investigate subsurface conditions and identify approximate sediment and overburden thicknesses, depth to bedrock, and potential karst features. The geophysical exploration will consist of land and over-water phases. The proposed test line locations are shown on **Figure 1** and **Figure 1b**.

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The geophysical land phase investigations will focus on using Frequency Domain Electromagnetics (FDEM), Electrical Resistivity Tomography (ERT), and Spontaneous Potential (SP) that are summarized below. The field data acquisition is anticipated to take up to four days. The proposed methods will evaluate potential areas of seepage along the dam and downstream areas, identify potential buried structures in the embankment, provide the overburden thickness and top of limestone bedrock and investigate the cause of sinkholes east of the dam. FDEM will be performed over the entirety of the dam embankment and park areas in a grid pattern. FDEM is capable of covering a large area in a limited period of time and permits the ERT test lines and SP to focus on select areas that exhibit subsurface anomalies. The ERT will consist of up to two test lines run along the length of the dam crest and length of the downstream slope or toe of the dam. ERT test lines will also run through the area of known sinkholes in the park. The SP would be performed in the general vicinity of the ERT lines.

The geophysical over-water phase investigations will focus on the lake itself using FDEM and ERT. The field data acquisition is anticipated to take up to five days. FDEM will be conducted in a grid pattern and used initially to map the areas of overburden to identify the top of bedrock and potential karst conditions. Based on the FDEM results, up to three ERT test lines will be conducted at select locations across the lake to identify potential karst features.

CDM Smith's level of effort for this task includes time for arranging the geophysical program and field coordination with the geophysical subcontractor to confirm the appropriate data are collected.

Task 2.2 Sediment Sounding

CDM Smith will engage a local commercial diving firm, Mainstream Commercial Divers, Inc. (MCD), to perform sediment depth readings across the lake using a probe rod and plate. A plate will be attached to the probe rod to measure the depth to the top of the sediment, and the probe rod will be pushed to the approximate bottom of sediment. The readings will be taken on a grid spacing of 20 feet within 100 feet of the dam crest and on a grid spacing of 50 feet over the remainder of the lake. The readings will be taken from a small jon boat or by wading, and each reading will be surveyed using a GPS device.

CDM Smith's level of effort for this task includes time for arranging the sediment sounding program and field oversight for the first day of work to verify that appropriate methods are used. The CDM Smith representative will also collect up to three sediment samples for environmental analysis to be conducted in general accordance with United States Environmental Protection Agency (USEPA) analysis methods for sediment.

Task 2.3 Geotechnical Test Boring and Laboratory Testing Program

CDM Smith will engage a local geotechnical drilling firm, S&ME, to perform field explorations on the dam embankment, in the downstream and abutment areas and in the vicinity of known sink holes to identify potential karst features. The geotechnical exploration will consist of a minimum of 13 Standard Penetration Test (SPT) borings including the following:

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- 13 land borings: two borings along the dam crest, two borings along the existing auxiliary spillway, four borings along the proposed emergency spillway and associated crest, one boring at the proposed outlet structure, one boring near the right abutment and three in the vicinity of the known sink holes in the park. The assumed depth of boring ranges from 15-25 feet per location with an assumed rock coring length of 10-20 feet per location. The boring locations are shown on **Figure 2**.

The borings will include continuous sampling through the overburden, and NQ-size rock coring. It is assumed that packer testing will be conducted in up to five of the borings for evaluation of bedrock permeability.

CDM Smith's level of effort for this task includes field oversight by a qualified geotechnical engineer to direct the work, log the borings, and verify that appropriate methods are used. This oversight is typical for CDM Smith projects where dam safety investigations are performed.

Geotechnical laboratory tests will be performed on selected samples from the borings. The tests will include grain size tests, moisture content, Atterberg limits, triaxial tests, and laboratory mini-vane tests.

Task 3.0 Final Studies and Analyses

Task 3.1 Final Dam Breach Analysis and Spillway Evaluation

Following the meeting with TDEC to confirm the requirements for the dam hazard classification, CDM Smith will perform an updated dam breach analysis to develop the basis for a new dam hazard classification. The updated analysis will use the previous modeling effort performed by CDM Smith for the Conceptual Engineering Report as the baseline. The following tasks will be completed for this updated analysis:

- Simulation of "stormy day" dam failure flood waves and resulting incremental inundation extents for determining loss-of-life hazards. The "stormy day" is based on the 100-year, 1/3 Probable Maximum Precipitation (PMP), and ½ PMP design storms in support of determining the hazard classification.
- Evaluation of the hazard classification of Robinson Lake Dam based on downstream potential for loss of life during a dam failure.
- Summarize the results of the H&H analysis and document impact of the floodwave resulting from dam breach scenarios and associated hazards in technical memorandum.
- Provide recommendations for hazard classification in accordance with requirements of the Rules of Tennessee Department of Environment and Conservation Water Resources Division Chapter 0400-45-07-.05 Classification of Dams.
- Determination of the 6-hour design storm associated with the updated hazard classification and a SMALL size dam as defined in Section (3)(B) of TDEC Rule 0400-45-07-.05.

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February 19, 2019
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- Hydraulic calculations to size the primary spillway, downstream impact stilling basin/energy dissipation structure, auxiliary spillway, and emergency spillway based on the required design storm of the appropriate hazard classification

Task 3.2 Final Geotechnical Analyses

CDM Smith will perform geotechnical design analyses for the dam rehabilitation design. The analyses will include seepage, stability, settlement and other analyses required for the rehabilitation design. CDM Smith will also perform a spillway alternatives analysis to include in the draft design report.

Task 3.3 Final Structural Analyses and Design

CDM Smith will perform structural design analyses for the dam rehabilitation. The analyses will include structural design of the drop-inlet, downstream impact stilling basin/energy dissipation structure, and auxiliary spillway replacement.

Task 3.4 Draft Design Report Deliverable

CDM Smith will prepare a draft design report summarizing the data collection completed in Task 2, provide updated modeling and analyses completed under Tasks 3.1 and 3.2 and will include preliminary design figures. The report will generally be presented as follows:

- Summary of field data collection
- Design criteria for rehabilitation design
- Hydrologic/hydraulic, geotechnical and structural analyses
- Summary of rehabilitation design
- Revised summary of permitting requirements
- Opinion of probable construction cost (OPCC)
- Preliminary construction drawings
- Proposed table of contents for technical specifications

Three hard copies and one digital copy of the draft design report will be provided to the City for review. Comments will be incorporated, and three hard copies and one digital copy of the PDR will be provided to the City.

The proposed contract drawing list is included in **Attachment A**.

Task 3.4.1 Progress Meeting No. 1

A progress meeting will be conducted near the end of Task 3.4 to present the findings for Task 3.0 and decide the rehabilitation measures for the dam and lake. Prior to Progress Meeting No. 1, CDM

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Smith will provide the City with the draft PDR that will be finalized following the conclusion of the meeting. City staff and the CDM Smith project manager will attend this progress meeting that will be held at the City's office. CDM Smith geotechnical and structural representative(s) will attend via conference call. City stakeholders, such as a representative of the Parks Department, should attend this meeting to confirm that the proposed design and spillway alignment will not impact key components of the planned park project that is being completed by others.

CDM Smith will prepare and distribute a summary of meeting minutes to document items discussed with all parties in attendance.

Task 4.0 Preparation of Contract Documents

CDM Smith will prepare final design documents for bidding and construction of the project. The preliminary design evaluation conducted by CDM Smith will be used as the basis for the final design.

The following is a description of the design submittals and technical review approach.

Task 4.1 60-Percent Design Submittal

CDM Smith will prepare a 60-percent design package that will include design drawings with comments incorporated from the draft PDR review by the City, draft project specifications, and an opinion of probable construction cost. The cost will be developed by CDM Smith's cost estimating group and will include an evaluation of recent bid tabulation data and local contractor input for similar projects.

Project specifications will be developed using the Construction Specifications Institute (CSI) 50 division format. CDM Smith will use the City Contract Forms, General Conditions, and appropriate Supplementary Conditions for the contractual requirements. The entire draft construction contract will be submitted for review.

Three hard copies and one digital copy of the 60-percent design submittal will be provided to the City for review.

Task 4.1.1 Progress Meeting No. 2

A progress meeting will be held after the City has reviewed the 60-percent design and provided written comments to CDM Smith. City staff and the CDM Smith project manager and senior geotechnical engineer will attend this progress meeting that will be held at the City's office. CDM Smith's geotechnical engineer and structural engineer will attend via conference call.

CDM Smith will prepare and distribute a summary of meeting minutes to document items discussed with all parties in attendance.

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Task 4.2 90-Percent Design Submittal

CDM Smith will prepare a 90-percent design package that will include design drawings with comments incorporated from the 60-percent design review by the City, project specifications, and an opinion of probable construction cost. The cost will be developed by CDM Smith's cost estimating group and will include an evaluation of recent bid tabulation data and local contractor input for similar projects.

Three hard copies and one digital copy of the 90-percent design submittal will be provided to the City for review.

Task 4.2.1 Progress Meeting No. 3

A progress meeting will be held after the City has reviewed the 90-percent design and provided written comments to CDM Smith. City staff and the CDM Smith project manager will attend this progress meeting that will be held at the City's office. CDM Smith's geotechnical engineers and structural engineer will attend via conference call.

CDM Smith will prepare and distribute a summary of meeting minutes to document items discussed with all parties in attendance. Any comments provided in writing by the City or at the Progress Meeting will be addressed in the 100-percent design submittal.

Task 4.2.2 Finalize Design Report

The final design report will be updated based upon the draft design report and will reflect any updates from the design submittals. The final design report along with the 90-percent design package will be the basis of required submittals to the permitting agencies for project approval.

Task 4.3 100-Percent Design Submittal

CDM Smith will prepare final design drawings and specifications for the 100-percent design submittal. The 100-percent design submittal will be provided to the City and considered final.

Three hard copies and one digital copy of the 100-percent design submittal will be provided to the City. Digital files will include PDF files and AutoCAD™ files of the design and survey files.

TASK 5 Permitting Services

Task 5.1 Permit Package Development and Submittals

Implementing the proposed project will require multiple permits from several agencies. This scope of work includes labor by CDM Smith staff to meet with the respective agencies, develop the appropriate permitting packages for each agency and to respond to one round of comments on the permit submittals for each agency. All fees associated with the permit submittal applications will be paid by the City of Franklin. It is anticipated that the proposed spillway alignment and/or park improvements (to be completed by others) will likely impact one or more existing wetlands on-site. This scope of services does NOT include preparation of a wetland mitigation plan as it has not yet been determined if such a plan is required. The scope of work also does not include the design of a

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wetland mitigation project. If meetings with the regulatory agencies for the permits below conclude that a wetland mitigation plan is required, additional compensation in the form of a contract amendment may be necessary.

The following subsections summarize the anticipated permit requirements:

- **Local City of Franklin Permits** – Per communication with David Hodnett via email in December 2018, City staff will be responsible for obtaining all local permits. CDM Smith design plans will be used to support these permits submittals, but CDM Smith will not be responsible for developing the permit packages.
- **TDEC Aquatic Resource Alteration Permit (ARAP)** – CDM Smith will meet with the relevant agency and prepare a complete submittal package for approval. This scope of work assumes that a general permit will be issued for this project. If an individual ARAP is required, additional compensation in the form of a contract amendment may be required. Any public notice requirements associated with the permit will be the responsibility of the City of Franklin.
- **TDEC Alteration Permit** - A Safe Dams Alteration Certificate will need to be issued for the rehabilitation of the Robinson Lake Dam. The plans, specifications and engineering report for the rehabilitation will need to be submitted for approval prior to the issuing the project for bid. CDM Smith will prepare this submittal package for approval.
- **TDEC NPDES Stormwater Construction General Permit** – This scope of work includes the development of the NOI and associated SWPPP. CDM Smith will complete the NOI and prepare the project specific SWPPP to be submitted to TDEC for approval.
- **FEMA No-Impact Certification** – This scope of work assumes that the proposed project will not cause a rise in the FEMA regulated floodplain. CDM Smith will prepare the supporting documentation and application for a No-Impact Certification to be submitted to the City of Franklin Floodplain Administrator.
- **USACE Pre-Construction Notification** – A Pre-Construction Notification (PCN) is required to be submitted to the USACE. The notification application form requires a delineation of wetlands on the site. The level of effort to perform a wetland delineation on the site is included in this level off effort, along with the preparation of the PCN submittal package.
- **USACE Section 404 Permit** – The project as proposed is likely to require a Nationwide Permit 3 from the USACE. The scope and fee associated with this effort assumes that a general Nationwide permit will be granted. CDM Smith will prepare the relevant materials for this permit submittal. If the USACE determines that an individual permit is required, the level of effort for the submittal package will increase and additional compensation for services will be required.

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Task 6.0 Bidding Services

Task 6.1 Pre-Bid Meeting

The City of Franklin staff will facilitate a pre-bid meeting to discuss the project with prospective bidders and provide a site visit. City staff and the CDM Smith project manager will attend the meeting in person. The CDM Smith geotechnical engineer (Engineer of Record) will participate in the meeting via conference call.

The City of Franklin will prepare and distribute a summary of meeting minutes to document items discussed with the parties in attendance as part of the first addendum. CDM Smith will contribute to the meeting minutes by providing answers to specific questions. CDM Smith is not responsible for distribution of plan sets to prospective bidders.

Task 6.2 Addenda

The City of Franklin will coordinate all responses to contract and design document addenda. CDM Smith staff will assist the City in providing technical responses associated with the design.

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General

Project management and administration costs associated with this scope of work are included within each task.

Schedule

CDM Smith will begin work on this project immediately upon receipt of a written authorization from the City. It is anticipated that the work will be completed within a 15-month period. A proposed milestone schedule is provided herein. A detailed project schedule will be developed after the project kickoff meeting.

Key Milestone and/or Deliverable	Anticipated Timeline
Notice to Proceed	April 1, 2019
Draft Design Report & Preliminary Drawings	August 31, 2019
60 Percent Design Package	December 20, 2019
90 Percent Design Package	March 30, 2020
100% Design Package	June 30, 2020

The schedule milestones are contingent upon timely review by City staff of deliverables. It has been assumed that deliverables will be reviewed within two weeks of submittals. The final, 100% design package timeline is contingent upon timely review of permit packages by the respective regulatory agencies. This schedule assumes a 60-day review period for regulatory agencies.

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Budget

CDM Smith will perform Tasks 1.0 to 6.0, billed hourly, for a not-to-exceed upper limit of \$602,300, which includes CDM Smith labor, outside professionals (including a 10% markup for administration), and other direct costs not included within the billing rates.

Invoices will be submitted to the City monthly based on hours completed and charges incurred within the billing period. A project status report will accompany each invoice. A table of billing rates and a summary of costs by task is provided below:

**City of Franklin, Tennessee
Robinson Lake Dam Final Rehabilitation Design
February 2019**

Task	Description	Task Hours	Labor Cost	Other Direct Costs	Outside Professionals	Total Cost
1	Initial Meetings	75	\$ 12,900	\$ 2,400	\$ -	\$ 15,300
2	Geotechnical Investigation	319	\$ 43,300	\$ 6,000	\$ 119,100	\$ 168,400
3	Final Studies and Analyses	1,173	\$ 156,000	\$ 1,200	\$ -	\$ 157,200
4	Preparation of Contract Documents	1,514	\$ 209,500	\$ 1,200	\$ -	\$ 210,700
5	Permitting Services	331	\$ 44,900	\$ -	\$ -	\$ 44,900
6	Bidding Services	33	\$ 5,800	\$ -	\$ -	\$ 5,800

TOTAL BASIC SERVICES =	3,445	\$ 472,400	\$ 10,800	\$ 119,100	\$ 602,300
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Project Billing Rates	
Category	Rate
Officer	\$225
Project Manager	\$200
Senior Technical Specialist	\$210
Technical Specialist	\$190
Senior Engineer/Scientist	\$165
Engineer/Scientist III	\$145
Engineer/Scientist II	\$130
Junior Engineer/Scientist	\$120
Construction Cost Estimator	\$160
Senior Designer	\$165
Designer/Drafter/GIS Technician	\$110
Project Accounting	\$100
Administrative	\$100

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Attachment A – Proposed Contract Drawing List

1. G-0 Cover Sheet
2. G-1 General Notes, Symbols and Abbreviations
3. G-2 Construction Sequence
4. C-1 Existing Conditions Plan
5. C-2 Horizontal Control Plan
6. C-3 Demolition and Temporary Bypass Plan
7. C-4 Stream Diversion Plan
8. C-5 Stream Diversion Details I
9. C-6 Stream Diversion Details II
10. C-7 Foundation Grouting Plan and Details
11. C-8 Lake Sediment Excavation Plan
12. C-9 Lake Sediment Excavation Sections
13. C-10 Proposed Conditions Plan
14. C-11 Proposed Dam Sections I
15. C-12 Proposed Dam Sections II
16. C-13 Grading Plan
17. C-14 Emergency Spillway Plan, Sections and Details
18. C-15 Erosion and Sedimentation Control Plan (Phase 1)
19. C-16 Erosion and Sedimentation Control Plan (Phase 2)
20. C-17 Stabilization Plan
21. CD-1 Erosion and Sedimentation Control Details I
22. CD-2 Erosion and Sedimentation Control Details II
23. CD-3 Civil Details I

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24. CD-4	Civil Details II
25. CD-5	Stabilization Notes
26. S-1	Standard Structural Notes and Abbreviations
27. S-2	Riser Inlet Plans and Sections
28. S-3	Riser Inlet Sections and Details
29. S-4	Impact Stilling Basin Plan and Section
30. S-5	Impact Stilling Basin Sections and Details
31. S-6	Auxiliary Spillway Replacement Plan
32. S-7	Auxiliary Spillway Replacement Sections and Details
33. SD-1	Standard Structural Details I
34. SD-2	Standard Structural Details II

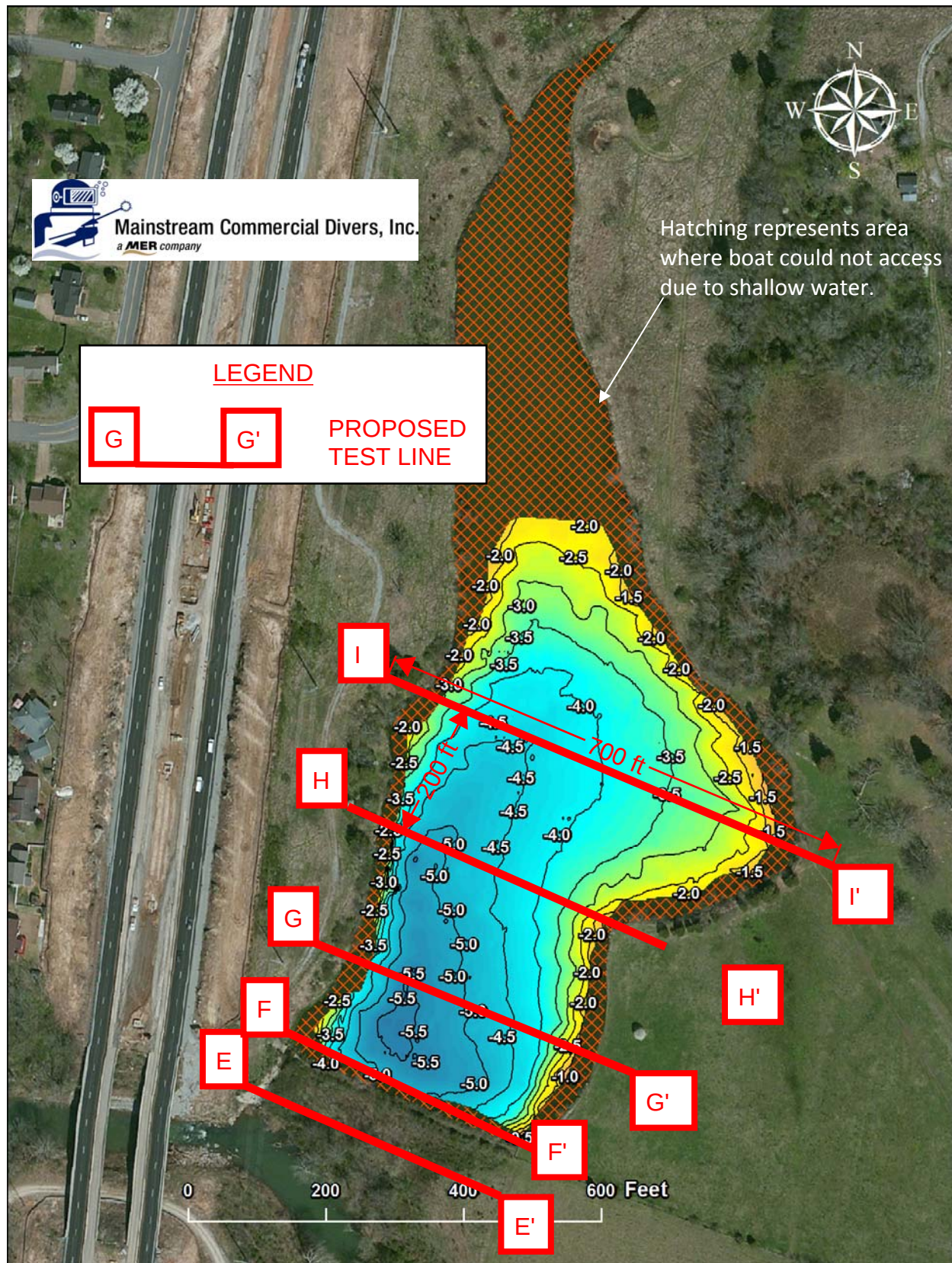
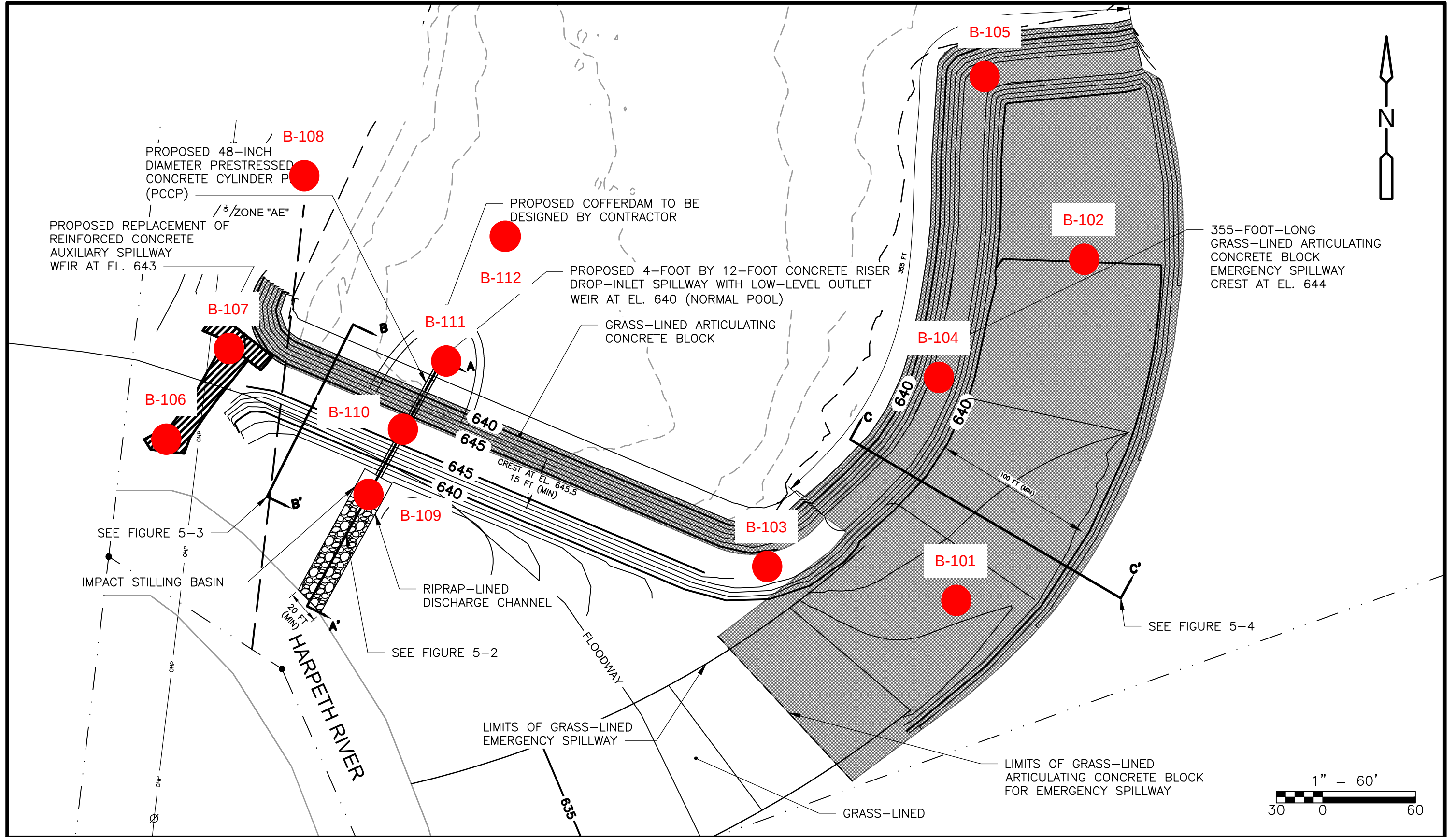


FIGURE 1 -
PROPOSED GEOPHYSICAL ERT
TEST LINE LOCATION PLAN



Figure 1b – Geophysical Test Lines in park area to investigate sinkholes

© 2015 CDM SMITH ALL RIGHTS RESERVED. REUSE OF DOCUMENTS: THESE DOCUMENTS AND DESIGNS PROVIDED BY PROFESSIONAL SERVICE, INCORPORATED HEREIN, ARE THE PROPERTY OF CDM SMITH AND ARE NOT TO BE USED, IN WHOLE OR PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF CDM SMITH.



CITY OF FRANKLIN, TENNESSEE
ROBINSON LAKE DAM
ROBINSON LAKE
FRANKLIN, TENNESSEE

FIGURE 2 -
PROPOSED BORING LOCATION
PLAN

**CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No. 2019-0091**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **CDM SMITH INC.** hereinafter referenced as Consultant, who mutually agree as follows:

DECLARATIONS. City desires to retain Consultant to provide engineering, related technical, and other services in connection with City's project hereinafter referenced as Project. The Project is described as follows:

Robinson Lake Dam Rehabilitation

1. SCOPE OF SERVICES. Consultant shall provide engineering related technical services for the Project in accordance with the Scope of Services (Services) as found in Exhibit A which shall be considered as an integral part hereof.
2. Consultant shall submit as a part of Attachment A an individual Fee Schedule and a Completion Schedule for the Project based on the detailed Scope of Services.
3. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.
4. Consultant shall be paid on a monthly basis for work performed based on the fee schedule as contained in Attachment A in the Amount of SIX HUNDRED TWO THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$602,300.00).

The Board of Mayor and Aldermen Approved this Agreement on the _____ Day of _____ 201__.

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. Consultant will:

- 1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry:
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Designate, in writing, the sole Project representative to coordinate with City the Services to be provided, including all contact information.
- 1.5 Unless provided for in the Project Scope of Services (Attachment A), Consultant shall perform all Services with his own forces (employees). Should sub-consultants be proposed to be used in the Project, a listing of said sub-consultants with Services to be performed shall be provided. After approval of this Agreement, no substitute for sub-consultants shall be allowed unless approved by City.
- 1.6 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

ARTICLE 3. GENERAL CONDITIONS.

- 3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.

- 3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the Project acting upon written instruction issued by the Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 3.4 **ALLOCATION OF RISK AND LIABILITY; GENERAL.** Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.
- 3.5 **INDEMNIFICATION.** Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.
- 3.5.1 **SURVIVAL.** The terms and conditions of this paragraph shall survive completion of this services agreement.
- 3.6 **LIMITATIONS OF RESPONSIBILITY.** Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, Scope of Services ; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, Scope of Services.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 **Termination for Convenience.** The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such

termination becomes effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

- (1) The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.
- (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
- (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
 - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, Scope of Services.

5.1 By mutual agreement, this Agreement and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 **ENVIRONMENTAL RESPONSIBILITY.**

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 **TIME OF THE ESSENCE.** The parties agree that time is of the essence with respect to the parties' performance of all provisions of the Agreement.

6.2 Before executing this Agreement, the Consultant shall have prepared and submitted for approval to the City a Completion Schedule for the Project with milestones for the various stages (tasks) of the Services as outlined in the Scope of Services. The Consultant shall submit and obtain the City's approval for any proposed changes to the logic, durations, sequences, or timing of tasks as approved in the Completion Schedule.

6.3 **FORCE MAJEURE.** Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to

machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

- 6.4 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant's Services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.

- 7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.
- 7.1.1 **USE OF DATA SYSTEMS:** Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.
- 7.1.2 **DISCLOSURE OF DOCUMENTS/DATA.** City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.
- 7.2 7.2 By execution of this Agreement, Consultant and his sub-consultant(s) grant the City a royalty-free, perpetual, irrevocable, and assignable license to use any and all intellectual property interest Consultant or his sub-consultant(s) possess to any drawings, details, specifications, documents, and other information created before each of their first involvement with the Project and subsequently incorporated into the Project's documents. City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to

- the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.
- 7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, Scope of Services. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.
- 7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.
- 7.5 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 packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's sub-consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.

ARTICLE 8. INSURANCE.

- 8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
- a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.
 - c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days' written notice to City.
- 8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.
- 9.2 Consultant shall be paid in full for all services under this Agreement, including City authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.
- 9.3 **TRAVEL; EXPENSES**
City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed

in the per diem reimbursement rates on the “CONUS” website developed by the United States General Services Administration, located at www.gsa.gov [click on ‘per diem rates’ under the ‘etools’ category].

ARTICLE 10. MISCELLANEOUS PROVISIONS

- 10.1 **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with this Agreement and the Project, City and Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. City and Consultant will take affirmative action to ensure that the contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 10.1.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.2 **TITLE VI – CIVIL RIGHTS ACT OF 1964.** City and Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.
- 10.2.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.3 **NO THIRD PARTY RIGHTS CREATED.** City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Consultant.
- 10.4 **WARRANTIES/LIMITATION OF LIABILITY/WAIVER.** City reserves all rights afforded to local governments under law for all general and implied warranties. City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:

- 11.1 APPLICABLE LAW/CHOICE OF FORUM AND VENUE. This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.
- 11.2 ENTIRE AGREEMENT. This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.

- 12.1 If a dispute should arise relating to the performance of or payment for the Services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to this Agreement. No arbitration or mediation shall be binding.
- 12.2 BREACH. Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement with notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity.

ARTICLE 13. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Agreement, contract or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.

BY: _____
Consultant's Signature
TITLE: _____
Date: _____

BY: _____
Eric S. Stuckey
City Administrator
Date: _____

Approved as to Form;

Shauna R. Billingsley, City Attorney

RESOLUTION 2019-27

A RESOLUTION TO AWARD THE CONSTRUCTION CONTRACT (COF CONTRACT NO. 2019-0057) FOR THE EAST MCEWEN DRIVE ROUNDABOUT IMPROVEMENTS PROJECT (COF PROJECT NO. 2017-010) TO SESSIONS PAVING COMPANY IN THE AMOUNT OF \$1,324,963.45 AND TO ESTABLISH A PROJECT CONTINGENCY IN THE AMOUNT OF \$150,000.00

WHEREAS, on October 25, 2016, the City of Franklin Board of Mayor and Aldermen ("BOMA") approved Resolution 2016-69 to adopt the project list for phase 1 of the FY 2017-2026 Capital Investment Program; and

WHEREAS, the approved project of East McEwen (Phase IV) included, as a subset of the main project, the construction of right-turn bypass lanes at the roundabout intersection of East McEwen Drive and Oxford Glen Drive/Cool Springs Boulevard; and

WHEREAS, the BOMA contracted with Barge Waggoner Sumner & Cannon, Inc., which is now known as Barge Design Solutions, Inc., to design the right-turn bypass lanes and other operational improvements at the roundabout; and

WHEREAS, on March 11, 2019, sealed bids for the construction of the East McEwen Drive Roundabout Improvements Project (COF Project No. 2017-010) were received by the City of Franklin Engineering Department at City Hall, 109 3rd Avenue South, Franklin, Tennessee 37064 and were publicly opened and read aloud; and

WHEREAS, after careful review and tabulation of all submitted bids, City staff recommends award of the contract (COF Contract No. 2016-0276) for construction of the East McEwen Drive Roundabout Improvements Project to the low bidder, Sessions Paving Company, in the bid amount of One Million Three Hundred Twenty-Four Thousand Nine Hundred Sixty-Three and 45/100 Dollars (\$1,324,963.45); and

WHEREAS, in the case of any unforeseen or changed project conditions, quantities, or cost overruns, City staff requests an additional One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) project contingency to allow for the expedient completion of the East McEwen Drive Safety Enhancements Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION I. Approval is granted to award the contract (COF Contract No. 2019-0057) for the construction of the East McEwen Drive Roundabout Improvements Project to Sessions Paving Company in the amount of One Million Three Hundred Twenty-Four Thousand Nine Hundred Sixty-Three and 45/100 Dollars (\$1,324,963.45).

SECTION II. Approval is granted to create a project contingency in the amount of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) for the East McEwen Drive Roundabout Improvements Project (COF Project No. 2017-010).

SECTION III. Authority is granted to the City Administrator, City Engineer, and the Assistant Director of Engineering to review and approve the spending of all project funds, both in the bid award and from the project contingency, toward the completion of the East McEwen Drive Roundabout Improvements Project (COF Project No. 2017-010).

IT IS SO RESOLVED AND DONE on this ____ day of _____, 20__

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
Eric S. Stuckey
City Administrator

By: _____
Dr. Ken Moore
Mayor

Approved as to form:

By: _____
Shauna R. Billingsley
City Attorney



Please fill in the following information & return this form with the site plan per directions below. Incomplete forms will result in the request being returned until all of the information is included. Refer to the attached memo for fees and additional information.

MUST SUBMIT A LOCATION MAP (FOR EX: GOOGLE MAP)

Email Application to: availability@franklin.tn.gov

For additional information or questions please call: 615-794-4554

Date Submitted: 01/14/2019

106H C 04600

Details

OBJECTID
31119

Shape
N/A

PARCEL_TYP
1

CALC_ACRE
N/A

GISLINK
106H C 04600

Irsn
231240

parcel_id
106H C 04600 00010106H

county
094

CITY
000

neighborho
533

property_T
102500

ADDRESS
1261 LEWISBURG PK

owner1
OWENS JERRY

owner2
OWENS LUCY

own_street



0 50 100m



106H C 04600

own_street
717 GLASS LN

own_city
FRANKLIN

own_state
TN

own_zip
37064

pxfer_date
8/2/2017, 7:00:00 PM

deed_book
7148

deed_page
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1440000

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deed_pG
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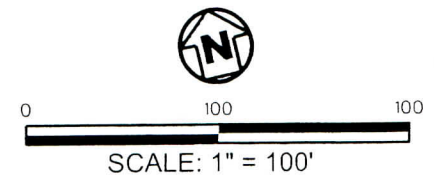


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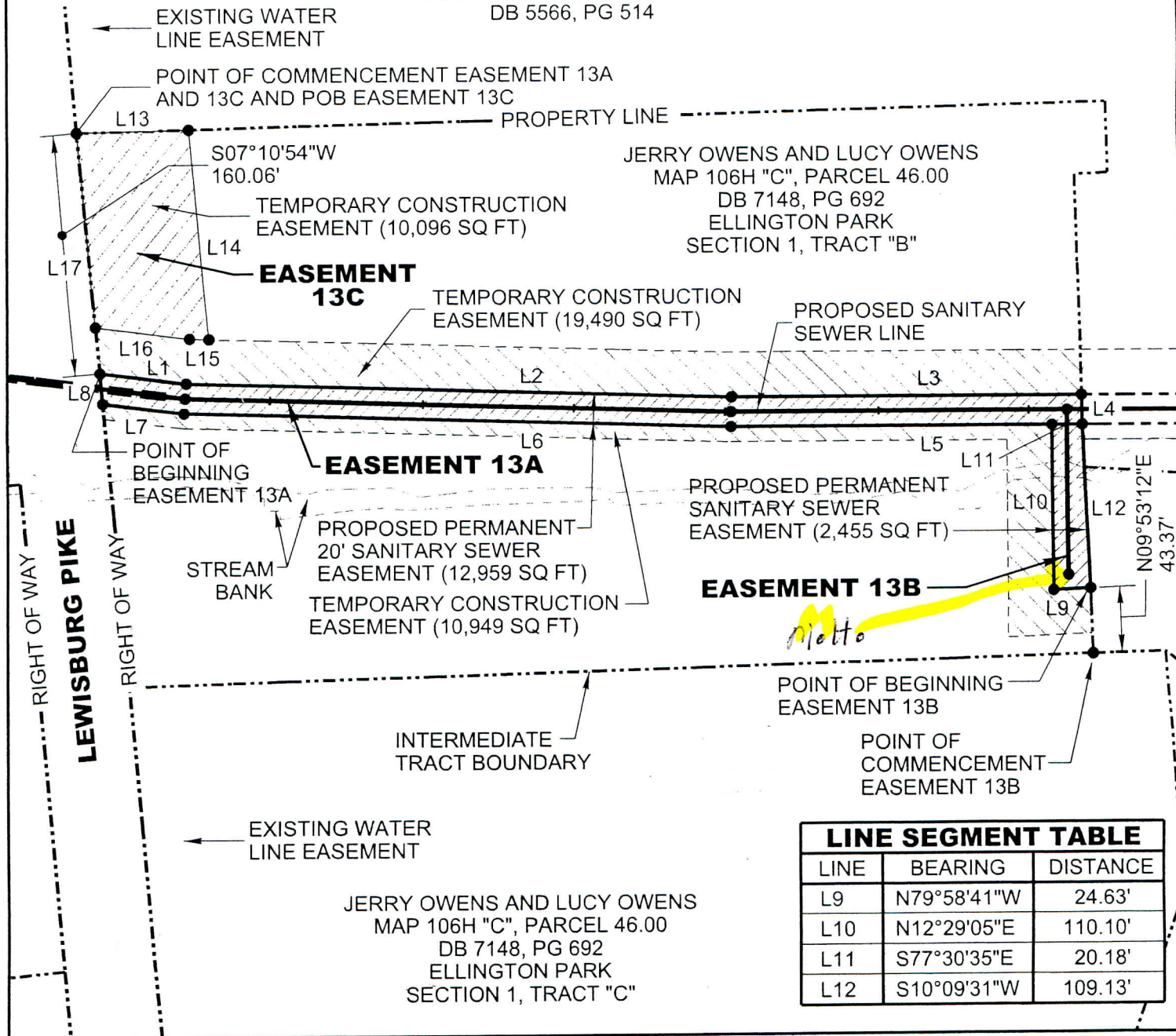


LINE SEGMENT TABLE		
LINE	BEARING	DISTANCE
L1	S70°26'59"E	58.29'
L2	S75°48'13"E	359.38'
L3	S77°30'35"E	230.97'
L4	S10°55'34"W	20.01'
L5	N77°30'35"W	231.81'
L6	N75°48'13"W	360.62'
L7	N70°26'59"W	54.84'
L8	N07°10'54"E	20.48'

LINE SEGMENT TABLE		
LINE	BEARING	DISTANCE
L13	S78°57'26"E	75.00'
L14	S07°10'54"W	139.48'
L15	N75°48'13"W	12.94'
L16	N70°26'59"W	63.46'
L17	N07°10'54"E	129.36'



SIMON DOBIE AND
KATHERINE DOBIE
MAP 106H "C", PARCEL 47.00
DB 5566, PG 514



LINE SEGMENT TABLE		
LINE	BEARING	DISTANCE
L9	N79°58'41"W	24.63'
L10	N12°29'05"E	110.10'
L11	S77°30'35"E	20.18'
L12	S10°09'31"W	109.13'

EXHIBIT 1, PAGE 1 OF 3

REVISION #4 - 8/20/2018

HETHCOAT DAVIS
ENGINEERS PLANNERS

278 FRANKLIN ROAD, SUITE 200 • 300 VESTAVIA PARKWAY, SUITE 2300
BRENTWOOD, TN 37027 BIRMINGHAM, AL 35216

**MAP SHOWING
DEDICATION OF EASEMENT**

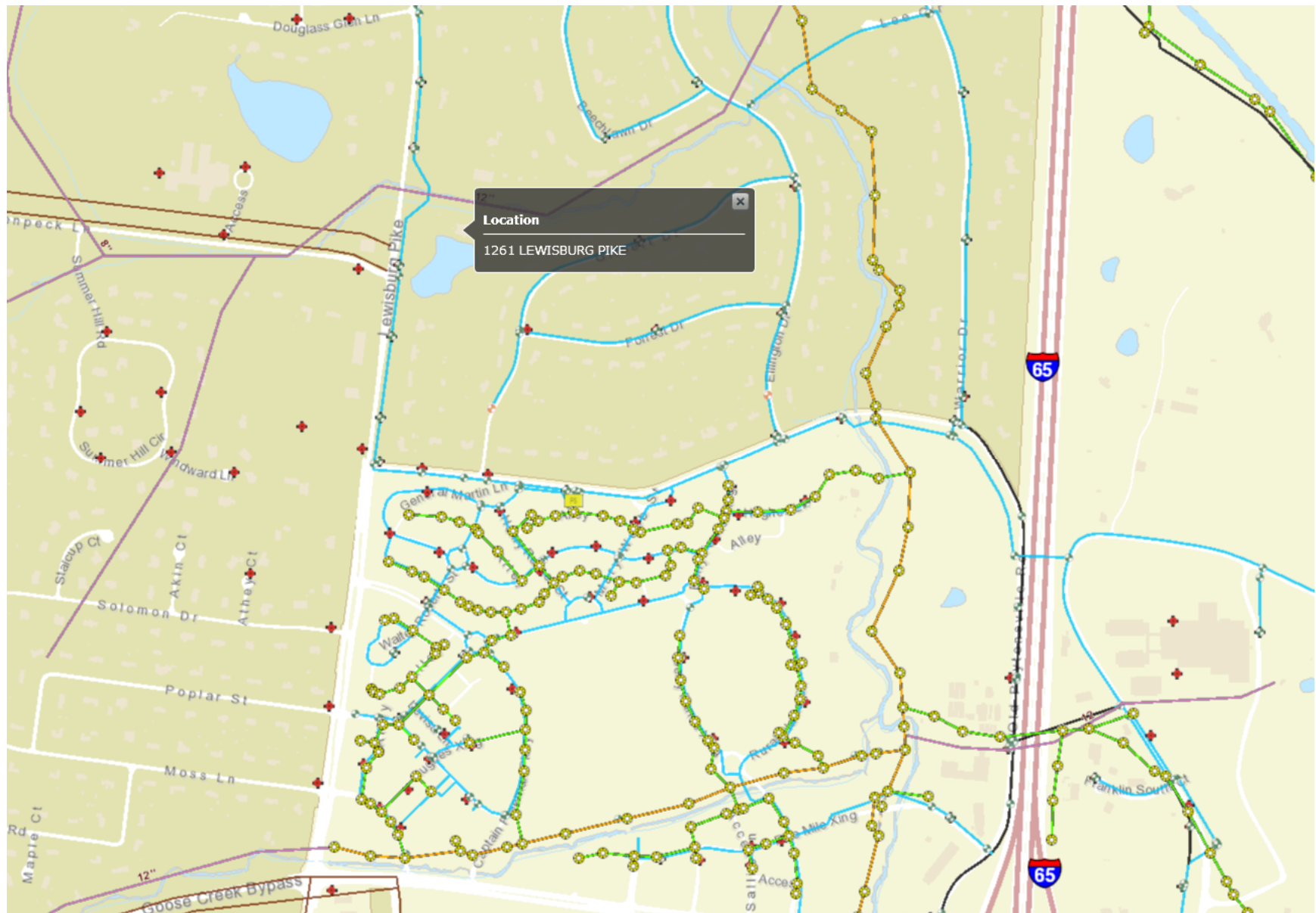
TO: CITY OF FRANKLIN
FROM: JERRY OWENS AND LUCY OWENS
FOR: HENPECK LANE SEWER



HISTORIC
FRANKLIN

EASEMENT NO. 13
MAP NO. 106H "C"
PARCEL NO. 46.00

H&D PROJECT NO
1082-05



Michelle Hatcher

From: Scott Andrews
Sent: Tuesday, March 19, 2019 1:24 PM
To: Michelle Hatcher
Subject: FW: Emergency Septic Repair Letter

Scott Andrews

Utilities Engineer
City Of Franklin, Water Management Department
Contact info:
Office (615) 794-4554
Fax (615) 790-1340
124 Lumber Dr.
Franklin, Tennessee 37064

From: Darlene Morton <darlenemorton57@gmail.com>
Sent: Tuesday, March 19, 2019 12:03 PM
To: Scott Andrews <scott.andrews@franklin.tn.gov>; Darlene Morton <darlenemorton57@gmail.com>
Subject: Emergency Septic Repair Letter

ATTENTION COF staff: This email originated from outside the City of Franklin. Please use discretion when clicking on attachments & links from unknown senders or suspicious emails.

Mr. Andrews,

Regarding 1357 Ascot Lane, Franklin, TN 37064, we are having a septic system that is in need of repair. We were told the field lines are clogged up and we would need a permit for the repair.

In speaking with someone from the City of Franklin, "Mr. Kelby" I was told that I need see if city sewer was available to us. We live in the Redwing Meadows Subdivision and there is a Water Substation (according to Mr. Kelby approximately 700 ft from our home) and he cannot issue a permit without a letter from the county, needless to say, it has been a very unproductive day for me, I have had to miss a scheduled conference, due to being transferred to every water department within

the City and County of Franklin and Williamson County and I still do not have what I need to repair my septic system.

I was told by someone that the Water Substation was inaccessible for my address and I will need a letter stating this from the City of Franklin. I would greatly appreciate any help you may provide. Needless to say in the last 24 hours, with water backing up in sinks and toilets, having a Plumber, Benjamin Plumbing and Septic Service, Anglin Septic Service, LLC, at my home, it's been very frustrating and expensive.

Thank you in advance for any help you may provide. You may email the letter to my email address so I may schedule the septic repair.

Darlene Morton, HOMEOWNER

1357 Ascot Lane

Franklin, TN 37064

615-943-0439 Cell

darlenemorton57@gmail.com

This message has been prepared on resources owned by the City of Franklin, Tennessee. It is subject to the City's Policy for the Use of Computers, Internet and Email. Messages that are received or created by any City staff member may be a public record subject to Tennessee Open Records Act, T.C.A. §10-7-503, et seq., and the rules of the Open Records Commission. DO NOT COPY OR FORWARD TO UNAUTHORIZED PERSONS. This message may contain confidential information and is intended only for the use of the specific individual(s) to which it is addressed. If you are not an intended recipient of this message, you are hereby notified that any unauthorized use, dissemination or copying of this email or any information it contains is strictly prohibited. If you have received this message in error, please delete it and immediately notify the sender by reply email.



Request for Water and/or Sewer Availability & Associated Costs

Please fill in the following information & return this form with the site plan per directions below. Incomplete forms will result in the request being returned until all of the information is included. Refer to the attached memo for fees and additional information.

Type of Availability Requested:		CHECK ALL THAT APPLY: ☐ Water ☒ Sewer	
Project Name & Subdivision, Section, Lot #		Septic REPAIR- REDWING MEADOWS	
Map & Parcel(s) #			
Property Address:		1357 ASCOT LN, FRANKLIN TN 37064	
City Project # (If Applicable)			
# of Dwelling Units (If Residential)			
Applicant's Name & Company		Darlene MORTON	
Applicant's Address		1357 ASCOT LANE, FRANKLIN TN 37064	
Applicant's Email & Phone #		darlemorton57@gmail.com 615-943-0439	
Anticipated Water Meter Size(s) (see chart on pg. 3).			
Water District:			
Sewage Flow Calculations: Use the City of Franklin projected flow examples sheet -pg.4			
use additional sheets as necessary			
Anticipated sewage flows: Information Required for Sewer Service			
If County is requiring this request please indicate if you are requesting an approval or denial:		☒ DENY my Request ☐ APPROVE my request *approval or denial is approved by BOMA, indication here is not a guarantee for approval or denial*	

MUST SUBMIT A LOCATION MAP (FOR EX: GOOGLE MAP)

Email Application to: availability@franklintn.gov

For additional information or questions please call: 615-794-4554

Date Submitted: _____



HISTORIC
FRANKLIN
TENNESSEE

March 18, 2019

Ms. Darlene Morton
1357 Ascot Lane
Franklin, TN 37064

Subject: **SANITARY SEWER AVAILABILITY DENIAL**

ADDRESS: 1357 Ascot Lane
MAP & PARCEL(S): 089O --- 01200
COF # N/A
Domestic Water Meter Size(s): N/A

Dear Ms. Morton,

The City of Franklin's Water Management Department has denied your request for sanitary sewer availability. On March 28, 2019, the Board of Mayor and Aldermen will follow the Water Management Department's recommendation for denial and issue the final denial. In the interests of protecting public health, please use this letter for your purposes of obtaining the necessary permits through the County to make the necessary repairs to your septic system based upon their standards and requirements.

Should you have any questions concerning this matter, please feel free to call.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Michelle Hatcher', is written over a light blue circular background.

Michelle M. Hatcher, P.E.
Director of Water Management

cc: Eric Stuckey, City Administrator
Mark Hilty, Assistant City Administrator for Public Works
Jimmy Wiseman, P.E., Assistant Director of Engineering
Building & Neighborhood Services Department

March 2019 Capital Projects Status Report

(Transportation, Stormwater, and Parks)

Transportation

Mack Hatcher Parkway Northwest Extension (SR-96 West to Hillsboro Road)	
Project Mngr:	Project Managed by TDOT (COF Liason: Abby Gambill)
Schedule:	DESIGN: Start – August 14, 2007, End– October 2018 (Re-Design); ROW: Start – December 2009, End – November 2018; CONSTRUCTION: Bid Date – December 7, 2018 <i>*Denotes Estimated Date</i>
Cost:	DESIGN: \$3,502,501; ROW: \$13,397,520 (Provided by TDOT); CONSTRUCTION: \$45,122,600 (Provided by TDOT) <i>Note: City of Franklin Funding Commitment of \$5,000,000</i>
Status Update:	Bids for construction were opened on December 7, 2018. TDOT has awarded the contract to Eutaw Construction Company, Inc. Construction activities have begun.

SR-96 West Multi-Use Trail (Vera Valley Drive to 5TH Avenue North)	
Project Mngr:	David Hodnett
Schedule:	DESIGN: Start- November 2016, End – May 2019*; ROW: Start – April 2018, End – June 2019*; CONSTRUCTION: Start – September 2019*, End – December 2020* <i>*Denotes Estimated Date</i>
Cost:	DESIGN: \$167,538; ROW: \$600,000 (Estimated); CONSTRUCTION: TBD
Status Update:	Designer is working to obtain approval of plans through TDOT. ROW/Easement acquisitions, except for 1 condemnation, have been given to closing attorney. Staff is working toward obtaining all TDOT approvals by June 2019.

Westhaven Boulevard Traffic Signal	
Project Mngr:	Adam Moser
Schedule:	DESIGN: Start- October 2018, End – June 2019*; ROW: Start – July 2019*, End – August 2019*; CONSTRUCTION: Bid – September 2019*, Start – April 2020*, End – July 2020* <i>*Denotes Estimated Date</i>
Cost:	TOTAL: \$500,000 (Estimated)
Status Update:	Survey is complete. Designer has begun work on plans.

Transportation (continued)

Franklin Road Corridor (Streetscape) Improvements (Harpeth River Bridge to Harpeth Industrial Court)	
Project Mngr:	William Banks
Schedule:	DESIGN: Start- January 2015, End – May 2019*; ROW: Start – April 2018, End – June 2019*; CONSTRUCTION: Start – August 2019*, End – May 2021* <i>*Denotes Estimated Date</i>
Cost:	TOTAL: \$14,300,000 (Estimated)
Status Update:	Final design updates and ROW acquisition are ongoing. A utility coordination meeting was held on February 26 th .

East McEwen Drive Roundabout Modifications	
Project Mngr:	David Hodnett
Schedule:	DESIGN: Start – March 2017, End– February 2019; ROW: Start – November 2018, End – March 2019*; CONSTRUCTION: Start – June 2019*, End – April 2020* <i>*Denotes Estimated Date</i>
Cost:	DESIGN: \$154,405; ROW: \$350,000 (Estimated); CONSTRUCTION: \$1,250,000 (Estimated)
Status Update:	Project is currently out for construction bids. The bid opening was held on Monday, March 11 th .

East McEwen Drive Phase 4 Improvements (Cool Springs Boulevard to Wilson Pike)	
Project Mngr:	David Hodnett
Schedule:	ENVIRONMENTAL: Start – June 2017, End – November 2018; DESIGN: Start – April 2015, End – June 2019; ROW: Start – July 2019*, End – March 2020*; CONSTRUCTION: Bid – April 2020*, Start – May 2020*; End – April 2023* <i>*Denotes Estimated Date</i>
Cost:	ENVIRONMENTAL: \$125,018; DESIGN: \$1,210,000 (Preliminary - \$497,000; Final - \$713,000); ROW: TBD; CONSTRUCTION: TBD
Status Update:	Final NEPA document was approved in November 2018. Designer is working on finals plans, which include proposed utility relocations. Right-of-way process is anticipated to begin in Summer 2019.

Transportation (continued)

Columbia Avenue Widening & Improvements (Mack Hatcher Parkway to Downs Boulevard)	
Project Mngr:	William Banks
Schedule:	ENVIRONMENTAL: Start - February 9, 2016, End – February 2018; DESIGN: Start – January 2019, End – December 2019*; ROW: Start– March 2020*, End – October 2021*; CONSTRUCTION: Start – February 2022*, End – March 2024* <i>*Denotes Estimated Date</i>
Cost:	ENVIRONMENTAL: \$927,668; DESIGN: \$750,000; ROW: TBD; CONSTRUCTION: TBD
Status Update:	A PSA for final design was approved by BOMA in January 2019. Designer began working on plans, which are anticipated to be complete around the end of 2019.

Intersection Improvements at Mallory Lane and Liberty Pike	
Project Mngr:	David Hodnett
Schedule:	DESIGN: Start – February 14, 2017, End – TBD; ROW: TBD CONSTRUCTION: TBD
Cost:	DESIGN: \$229,965; ROW: TBD; CONSTRUCTION: TBD
Status Update:	Based upon feedback from the public meeting, the designer has developed several design alternatives that will be presented to the March 26 th BOMA work session.

Stormwater

Jordan Branch of Spencer Creek (Cool Springs East) Stream Restoration	
Project Mngr:	Jeff Willoughby
Schedule:	DESIGN: Start – May 26, 2015, End – June/July 2018; ROW/Easement Acquisition – ROW: May 2018; CONST. (Phase 1): Bid – March 2019*, Start – April 2019*, End – Oct. 2019*; CONST. (Phase 2): Bid – August 2019*, Start – Oct. 2019*, End – March 2020* <i>*Denotes Estimated Dates</i>
Cost:	DESIGN: \$113,445; CONSTRUCTION: \$750,000 (Estimated)
Status Update:	This project has been advertised for bids twice, with no responses. Staff has broken this project into 2 phases. The first phase, for tree removal only, is scheduled for a bid opening on April 1 ST at 10:00 AM.

Stormwater (continued)

Carnton Lane Culvert Replacement	
Project Mngr:	David Hodnett
Schedule:	DESIGN: Start- September 9, 2016, End- July 2017; ROW: November 2017; CONSTRUCTION Start- October 8, 2018; Construction End – January 7, 2019 (Original Contract) <i>*Denotes Estimated Dates</i>
Cost:	DESIGN: \$18,580; CONSTRUCTION: \$256,225
Status Update:	Work began in October 2018. Construction of project was complete, except for asphalt paving, in January 2019. Paving will occur as permits.

Parks

Southeast Municipal Complex (Park)	
Project Mngr:	David Hodnett
Schedule:	PLANNING: Start – June 2017, End – August 2018
Cost:	PLANNING: \$396,046; DESIGN: 1,900,000 (<i>Estimated</i>); CONSTRUCTION: TBD
Status Update:	Staff is negotiating PSAs to design Phase 1 of the park, including the access bridge across the Harpeth River.

Southeast Municipal Complex (Lockwood Parcel)	
Project Mngr:	David Hodnett
Schedule:	DESIGN: TBD; CONSTRUCTION: TBD
Cost:	DESIGN: \$310,158; ROW: \$500,000; CONSTRUCTION: TBD
Status Update:	The purchase of the property was completed by the City. A PSA for the design of necessary improvements to the Robinson Lake dam will be presented to the Board at an upcoming meeting.

Parks (continued)

Reconstruction of Tennis Courts at Jim Warren Park	
Project Mngr:	David Hodnett
Schedule:	DESIGN: Start – June 2018, End – January 2019; CONSTRUCTION: Bid – February 2019, Start – April 2019*, End - July 2019* <i>*Denotes Estimated Dates</i>
Cost:	DESIGN: \$74,575; CONSTRUCTION: \$854,321 (<i>Bid Price + \$75,000 Project Contingency</i>)
Status Update:	Bid were opened on February 21 st . A resolution to award the construction contract to Sessions Paving Co. was approved on March 12 th .



HISTORIC
FRANKLIN
TENNESSEE

DATE: March 25, 2019

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Mark Hilty, Assistant City Administrator for Public Works
Michelle Hatcher, Director of Water Management
Patricia McNeese, Utilities Engineer II

SUBJECT: Water and Sewer Projects Status Report

Purpose

The purpose of this memo is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the status of some of the City's water and sewer projects.

Project Status

- A. Spencer Creek Basin - South Prong Interceptor Upgrade
Project Description: Replacement of approximately 3,827 linear feet of 36 inch sanitary sewer line and 836 linear feet of 8 inch sanitary sewer line along South Prong from east of Mallory Lane to north of Cool Springs Boulevard
Key Dates: Design Start - April 23, 2013; Design Completion - February 2017*;
Easement Acquisition - TBD; Construction - Not Funded
*Denotes Estimated Date
Cost: Design - \$337,000.00; Easement - Not Funded; Construction - Not Funded
Funding Source: Design - Sewer Fund; Easements - TBD; Construction - TBD
Status Update: Plans are complete but will not be submitted to TDEC for approval until the project is closer to bid. Easement documents have been prepared and submitted to City Staff for review. The project will not be constructed until funding is available from the Water Management Department budget.
- B. Spencer Creek at Franklin Road Sewer
Project Description: Replacement and relocation of approximately 1,462 linear feet of 36 inch sanitary sewer line, 717 linear feet of 12 inch sanitary sewer line and 362 linear feet of 8 inch sanitary sewer line along Spencer Creek from CSX Railroad to northwest of Franklin Road and south of the First United Methodist Church



Key Dates: Design Start - March 11, 2014; Design Completion - June 2015; Easement Acquisition Start - September 2015; Easement Acquisition Completion – April 2019*; Bid Date: June 2019*; Construction Start - September 2019*; Construction Completion – May 2020*

*Denotes Estimated Date

Cost: Design - \$40,000.00; Construction - TBD

Funding Source: Design - Sewer Fund

Status Update: The plans are 100% complete. Three of the four easements required have been obtained; the last easement is still in negotiation. The project will be bid once the easement has been obtained.

C. Bobby Drive Water Line Improvement Project

Project Description: Replacement of 6,650 linear feet of 6 inch water line from Hillsboro Road to Bradley Drive along Bobby Drive

Key Dates: Design Start - May 12, 2015; Design Completion - April 2016; Easement Acquisition Start - June 2016; Easement Acquisition Completion – February 2019*; Construction - To be completed in-house by Water Management Department staff

*Denotes Estimated Date

Cost: Design - \$80,313.00; Easements - TBD; Construction - TBD (Materials Only)

Funding Source: Design and Easements - Water Operating Fund

Status Update: Phase 1 has been completed. The first phase of Phase 2 has started. Only 1 easement remains to be obtained.

D. Old Carters Creek Water Line Improvements

Project Description: Replacement of 2,100 linear feet of 8 inch water line along Old Carters Creek Pike from intersection of Old Carters Creek Pike and Carters Creek Pike to 164 Old Carters Creek Pike then along Hatcher Spring Creek to Carters Creek Pike then east to the water line in Bradford Drive

Key Dates: Design Start - May 12, 2015; Design Completion - July 2017; Easement Acquisition Start - August 2017; Easement Acquisition Completion – July 2019*; Construction - to be completed in-house by Water Management Department staff

*Denotes Estimated Date

Cost: Design - \$101,278.00; Easements - TBD; Construction - TBD (Materials Only)

Funding Source: Design and Easements - Water Operating Fund

Status Update: This project will be constructed in two phases with the entire job being designed now. The Water Management Department plans to begin Phase 1 at the start of the new fiscal year.

E. Henpeck Lane Sanitary Sewer Project

Project Description: Installation of 3,665 linear feet of 12 inch sanitary sewer line along a tributary of Five Mile Creek from Ellington Drive to Henpeck Lane



Key Dates: Design Start - July 2017; Design Completion - August 2018*; ROW/Easement Start - February 2018*; ROW/Easement End - December 2018*; Construction Start – June 2019*; Construction End – March 2020*;

*Denotes Estimated Dates

Cost: Design - \$176,000; ROW/Easement/Contracts - \$200,000; Construction - est. \$2,000,000

Status Update: Bids were released on March 21, 2019 and will be opened and read aloud to the public on April 26, 2019 at 2:00 pm. The project will begin in July 2019.

F. Water Reclamation Facility Modifications Project

Project Description: Extensive upgrades to the existing sanitary sewer treatment plant, including new headworks structures, equalization basin, odor control systems, biological nutrient removal basin splitter box, improvements to the reclaimed water pump station, onsite piping improvements, two-channel ultraviolet disinfection system, alum storage and feed system and a new solids treatment facility

Key Dates: Design Start - February 12, 2013; Design Completion - May 2018; Construction Start - November 2018; Construction End - October 2021;

*Denotes Estimated Dates

Cost: Design - \$ 7,806,980.00; Construction - \$132,890,000.00

Status Update: Office trailers have been set up at the Facility. The temporary construction entrance off of Mack Hatcher is complete. Work onsite to isolate on-going processes continues.

G. Holiday Court Pump Station Project

Project Description: Upgrade of the existing pump station at the end of Holiday Court and the 6 inch force main

Key Dates: Design Start - January 10, 2017; Design Completion - December 2017; Easement Acquisition Start - April 2018; Easement Acquisition Complete – February 2019*; Bid Date – April 2019; Construction Start - June 2019*; Construction End – December 2019*

*Denotes Estimated Dates

Cost: Design - \$89,569.00; Easements - \$18,000.00; Construction - est. \$564,000.00

Status Update: Working with the consultant on the bid documents.

H. Church Street Water and Sewer Improvements

Project Description: Installation of a water line from Columbia Avenue to 3rd Avenue South; replacement of sanitary sewer lines from 3rd Avenue South to 5th Avenue South

Key Dates: Design Start – March 2019*; Design Completion – May 2019; Bid Date – TBD; Construction Start – TBD; Construction End – TBD

*Denoted Estimated Date

Cost: Design – TBD; Construction - TBD

Status Update: Survey has been completed. Design consultant to be determined.