



## Meeting Agenda

### Capital Investment Committee

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Thursday, October 22, 2020

3:00 PM

Board Room

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The Capital Investment Committee Meeting will limit physical access in the meeting room due to current limitations on public gatherings. Accommodations have been made to ensure that the public is able to participate in the meeting. The public may participate in the following ways: • Watch the meeting on FranklinTV or the City of Franklin website. • Watch the live stream through the City of Franklin Facebook and YouTube accounts. • Call in to the conference meeting 1-312-626-6799, Meeting ID: 967 9940 6643 Passcode: 772184 . Callers will be unmuted and given an opportunity to comment during the meeting at specific times. • Limited viewing will be available in the lobby of City Hall to watch the live video and make public comment. • The public may email comments and questions prior to 2:30 p.m. on the day of the meeting to [recorder@franklinton.gov](mailto:recorder@franklinton.gov) to be read aloud. • Live comments and those received by email are limited to 2 minutes. • City YouTube: <https://www.youtube.com/user/CityOfFranklin> • City Facebook Live: <https://www.facebook.com/CityOfFranklin> • City website: <https://www.franklinton.gov/franklin-tv>

#### CALL TO ORDER

#### MEETING PROCEDURE CHANGES

1. Consideration Of Resolution 2020-203, A Resolution Declaring That The Capital Investment Committee Shall Meet On October 22, 2020 And Conduct Its Essential Business By Electronic Means Rather Than Being Required To Gather A Quorum Of The Members Physically Present In The Same Location Because It Is Necessary To Protect The Health, Safety, And Welfare Of Tennesseans In Light Of The COVID-19 Outbreak.

Sponsors: Shauna Billingsley

#### APPROVAL OF MINUTES

2. Consideration Of Approval Of Minutes Of The September 24, 2020 Capital Investment Committee Meeting.

#### NEW BUSINESS

3. Consideration Of Draft COF Contract No. 2020-0280, PSA With Hazen And Sawyer, For The Development Of A Distribution System Optimization Study.

Sponsors: Michelle Hatcher

4. Consideration Of Draft Amendment 1 To COF Contract No. 2018-0023 With CDM Smith, Inc. For The Reclaimed Water Model.

Sponsors: Michelle Hatcher

5. Consideration Of Draft COF Contract No. 2020-0275 With Hazen And Sawyer, A Professional Services Agreement For The Development Of A Long Term Raw Water Reservoir Management Plan.

**Sponsors:** Michelle Hatcher

6. Consideration Of Draft Amendment 1 To COF Contract No. 2020-0140, With Revere Control Systems, Inc. To Provide Licensing Services For Trihedral SCADA Software.

**Sponsors:** Michelle Hatcher

7. Consideration Of Draft Amendment 3 To COF Contract No. 2011-0076, With Smith Seckman Reid, Inc. For The Mack Hatcher Northwest Utility Relocation Project In An Amount Not-To-Exceed \$19,980.00

**Sponsors:** Michelle Hatcher, Patricia McNeese

8. Consideration Of COF Contract No. 2020-0273, A Professional Services Agreement With Gresham Smith To Provide Utility Asset Management Consulting Services.

**Sponsors:** Michelle Hatcher

9. Consideration Of Draft Amendment 2 To COF Contract No. 2016-0152, With CDM Smith For Additional Wet Weather Calibration For The Hydraulic Model And Modeling Technical Assistance.

**Sponsors:** Michelle Hatcher

10. Consideration Of COF Contract No. 2020-0112, A Local Agency Project Agreement With The Tennessee Department Of Transportation For The Construction Of SR-96 Bridge Over Harpeth River, LM 10.74 (IA).

**Sponsors:** Paul Holzen, Jonathan Marston, David Diaz

11. Consideration Of COF Contract No. 2020-0265, A Proposal With Tennessee Department Of Transportation Regarding TDOT Road Construction Project SR 6 (Franklin Road) From South Of SR 441 (Moore's Lane) To SR 253 (Concord Road).

**Sponsors:** Paul Holzen, Jonathan Marston, David Diaz

12. Consideration Of Ordinance 2020-27, An Ordinance To Reduce The Speed Limit To Twenty Miles-Per-Hour Upon All Streets In The Clairmonte Subdivision.

**Sponsors:** Paul Holzen, Jonathan Marston, Adam Moser

13. Consideration Of DRAFT Resolution 2020-210, A Resolution To Award The Construction Contract (COF Contract No. 2020-0234) For The McEwen Drive / I-65 Ramp Modifications Project (COF Project No. 2018-011) To Charles Deweese Construction, Inc. In The Amount Of \$867,309.11.

**Sponsors:** Paul Holzen, Jonathan Marston, David Hodnett

14. Consideration Of Draft Amendment 1 To COF Contract No. 2019-0256, A Professional Services Agreement With R. Rhett Turner, MAI For Review Appraisal Services For The McEwen Drive Phase 4 Project At A Cost Increase Of \$1,800.00.

**Sponsors:** Paul Holzen, Jonathan Marston, Sarah Roop

15. Consideration Of Draft COF Contract No. 2020-0247, A Professional Services Agreement With Boozer & Company, P.C. For On-Call Appraisal Services.

**Sponsors:** Paul Holzen, Jonathan Marston, Sarah Roop

16. Consideration Of Draft COF Contract No. 2020-0248, A Professional Services Agreement With Richard L. Maddux & Associates for On-Call Appraisal Services.

**Sponsors:** Paul Holzen, Jonathan Marston, Sarah Roop

17. Consideration Of Draft COF Contract No. 2020-0249, A Professional Services Agreement With R. Rhett Turner, MAI For On-Call Appraisal Services.

**Sponsors:** Paul Holzen, Jonathan Marston, Sarah Roop

18. Capital Projects Dashboard & Status Updates For October 2020.

**Sponsors:** Paul Holzen, Jonathan Marston

## **OTHER BUSINESS**

## **ADJOURN**

Anyone needing accommodations due to disabilities please contact the ADA Coordinator at 615-791-3277 at least 24 hours prior to the meeting.



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**File #: 20-01197**

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**DATE:** September 24, 2020  
**TO:** Capital Investment Committee  
**FROM:** Eric Stuckey, City Administrator  
Shauna Billingsley, City Attorney

**SUBJECT:**

Consideration Of Resolution 2020-203, A Resolution Declaring That The Capital Investment Committee Shall Meet On October 22, 2020 And Conduct Its Essential Business By Electronic Means Rather Than Being Required To Gather A Quorum Of The Members Physically Present In The Same Location Because It Is Necessary To Protect The Health, Safety, And Welfare Of Tennesseans In Light Of The COVID-19 Outbreak.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning conducting the Board of Mayor and Aldermen by electronic means to limit physical contact for the health and safety of all citizens.

**BACKGROUND/STAFF COMMENTS:**

Due to the COVID-19 Outbreak citizens need to limit potential exposure to the virus by limiting contact with others. To support this effort the City of Franklin boards and commissions will meet electronically rather than gathering a quorum physically in the same location to conduct their essential business.

**FINANCIAL IMPACT:**

N/A

**RECOMMENDATION:**

Staff recommends that the Board of Mayor and Aldermen approve Resolution 2020-203.



## RESOLUTION 2020-203

**A RESOLUTION DECLARING THAT THE CAPITAL INVESTMENT COMMITTEE SHALL MEET ON OCTOBER 22, 2020, AND CONDUCT ITS ESSENTIAL BUSINESS BY ELECTRONIC MEANS RATHER THAN BEING REQUIRED TO GATHER A QUORUM OF THE MEMBERS PHYSICALLY PRESENT IN THE SAME LOCATION BECAUSE IT IS NECESSARY TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF TENNESSEANS IN LIGHT OF THE COVID-19 OUTBREAK**

**WHEREAS**, Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory disease that appears to occur through respiratory transmission, presents with similar symptoms to those of influenza, and can lead to serious illness or death, particularly in the case of older adults and persons with serious chronic medical conditions; and

**WHEREAS**, the Centers for Disease Control and Prevention has recommended that all states and territories implement aggressive measures to slow and contain transmission of COVID-19 in the United States; and

**WHEREAS**, on March 12, 2020, pursuant to the authority granted by Tenn. Code Ann. § 58-2-107, the Governor of Tennessee, Bill Lee, issued Executive Order No. 14, declaring a state of emergency to facilitate the response to COVID-19; and

**WHEREAS**, on March 13, 2020, the President of the United States, Donald J. Trump, declared a national state of emergency with respect to COVID-19; and

**WHEREAS**, on March 20, 2020, Mayor Ken Moore issued Executive Order No. 2020-01 Declaring a State of Emergency and Civil Emergency; and

**WHEREAS**, Governor Lee issued Executive Order No. 16, and later issued Executive Order No. 34, Executive Order No. 51, and Executive Order No. 60, allowing electronic meetings while continuing to function openly and transparently; and

**WHEREAS**, Mayor Moore issued Executive Orders No. 2020-03, No. 2020-05, and No. 2020-07, No. 2020-09, No. 2020-11, No. 2020-12, No. 2020-13, No. 2020-14, No. 2020-15, No. 2020-16, and No. 2020-17 continuing the Declaration of a State of Emergency and Civil Emergency; and

**WHEREAS**, the Board of Mayor and Aldermen Capital Investment Committee believe it is in the best interest of the City of Franklin to conduct the October 22, 2020, 3 p.m. Capital Investment Committee meeting by electronic means.

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

The Capital Investment Committee meeting scheduled for October 22, 2020, at 3 p.m. shall be conducted by electronic means rather than requiring a quorum of the members of the Capital Investment Committee to attend in person to protect the health, safety, and welfare of Tennesseans in light of the COVID-19 outbreak. Physical access in the meeting room will be limited. The public can view and participate in the meetings by watching the meeting live or later as a recording on FranklinTV, the City of Franklin website, the City of Franklin's Facebook page, and the City of Franklin's YouTube account. Specific dial-in and website links can be found on the City's website at:

<https://www.franklintn.gov/Home/Components/Calendar/Event/10153/1092>

**IT IS SO RESOLVED AND DONE** on this 22nd day of October, 2020.

**ATTEST:**

By: \_\_\_\_\_  
Eric S. Stuckey  
City Administrator

**CAPITAL INVESTMENT COMMITTEE:**

By: \_\_\_\_\_  
Brandy Blanton  
Chair

Approved as to Form By:  
Shauna R. Billingsley, City Attorney



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**File #: 20-01190**

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**DATE:** September 23, 2020  
**TO:** Capital Investment Committee  
**FROM:** Michelle Hatcher, Director of Water Management

**SUBJECT:**

Consideration Of Draft COF Contract No. 2020-0280, PSA With Hazen And Sawyer, For The Development Of A Distribution System Optimization Study.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning a contract with Hazen and Sawyer to provide technical development of a distribution system optimization study.

**BACKGROUND/STAFF COMMENTS:**

In 2020, the Water Management Department was entered into a Director's Order with the Tennessee Department of Environment and Conservation (TDEC) to optimize and enhance the operation of the water distribution system and water treatment plant. TDEC requires distribution systems to undertake quarterly sampling at specified locations to monitor water quality. From those samples, the City has found several areas in which the water quality could be improved. To form a response to the Director's Order, the City is contracting with Hazen and Sawyer who is also performing the water model of the distribution system, in addition to the raw water reservoir management plan, to holistically approach the system's water quality from source to customer. This contract will provide the additional sampling assistance that is needed to fully characterize the system, in addition to an evaluation of alternatives and proposed recommendations for implementation that will eliminate the water quality concerns.

**FINANCIAL IMPACT:**

This contract is for an amount not-to-exceed of \$81,000.00.

**RECOMMENDATION:**

Staff recommends that COF Contract No. 20-0280 with Hazen and Sawyer for the Development of a Distribution System Optimization Study be recommended for approval by the Board of Mayor and Aldermen.



Hazen and Sawyer  
545 Mainstream Drive, Suite 320  
Nashville, TN 37228 • 615.783.1515

October 15, 2020

Ms. Michelle Hatcher, PE  
Director  
Franklin Water Management Department  
124 Lumber Drive  
Franklin, TN 37064

RE: Proposal for development of a Distribution System Optimization Study

Dear Ms. Hatcher,

Hazen appreciates the opportunity to submit a scope and fee for the development of a Distribution System Optimization Study and related support tasks. The study will provide an evaluation of the existing system and provide recommendations to enhance operational procedures for both the water treatment plant and the distribution system.

Hazen is currently assisting the City with development of a Reservoir Management Plan at the WTP and is also updating the City's distribution system model. Hazen also has local and national expertise regarding the specific requirements of this study, which will contribute to the successful completion and implementation of the optimization study.

The detailed scope of work, estimated fee, and proposed schedule are provided as an attachment to this letter. Please contact me with any questions or for further discussion of our proposal.

Sincerely,  
Hazen and Sawyer

A handwritten signature in blue ink, appearing to read "S. Woodard", is written over a light blue circular stamp.

Scott Woodard, PE  
Vice President

cc: Scott Alpert, PE  
Ryan Dean

SCOPE OF WORK  
City of Franklin  
Distribution System Optimization Study  
10/15/2020

Task 1 – Kick-off and data gathering

Hazen will coordinate a kick-off meeting in conjunction with notice to proceed. In advance of the meeting, Hazen will submit a data request to the City identifying any additional information necessary to perform the work that Hazen does not already possess.

Task 2 – Water quality baseline characterization

Hazen will provide input to identify additional water quality sampling locations and sampling parameters. Hazen will utilize the City's existing water quality data and the new data to analyze water quality trends.

- Treatment system characterization will include the City's treatment facility and associated raw water source and storage reservoir.
- Points of finished water purchase will be characterized. Operational practices and location specific THM/HAA5 trends will be characterized.
- Distribution system will be characterized including critical infrastructure points within the system. THM/HAA5 trends and compliance will be characterized and evaluated.
- Storage facilities will be described and characterized to include drain/fill cycle trends in conjunction with demands. Constraints of existing tanks and operations will be characterized.
- Booster pump stations will be described and characterized to include how each works within the pressure systems within the service area and in conjunction with demand periods.

Task 3 – Distribution system analysis and recommendations

Hazen will utilize the City's calibrated hydraulic distribution system model to develop alternatives to address areas with excessive water age and/or DBPs.

- Water age analysis – Hazen will utilize the distribution system model to evaluate and recommend system improvements to address locations that experience long residence times as indicated by a water age of more than five days under average demand conditions.

Task 4 – Water treatment plant evaluation and recommendations

Hazen will evaluate existing facility infrastructure and operations to identify potential alternatives to optimize treatment to help reduce DBP formation potential. This work will be complementary to Hazen's ongoing project to develop a raw water reservoir management plan. In addition to review of monthly operating data and observation of existing processes and operational practices, Hazen will prepare a testing plan to develop a TOC, DOC, and UV254 profile across the plant as well as DBP formation potential at key locations to help identify potential operational changes, similar to the distribution sampling described above. From this data, Hazen will develop recommendations to optimize treatment to lower TOC while also continuing to provide high quality water to the distribution system.

If requested by the City, Hazen also can complete the following related tasks as part of Supplemental Services:

- Jar testing to evaluate alternative coagulants and/or pH controls to help reduce TOC through the pre-treatment process
- Desktop evaluation of alternative GAC products that may help reduce TOC and/or extend time to break-through. Bench-scale testing (rapid scale small column testing, RSSCT) could be considered if an alternative product seems viable.

## Task 5 – Study report

Hazen will develop a study report in conjunction with the following outline:

1. Introduction
  - a. Director's Order Summary
  - b. Description of area addressed in DO
2. Summary of existing system
  - a. Water Treatment Plant
  - b. Points of finished water purchase
  - c. Distribution System
  - d. Storage tanks
  - e. Booster pump stations
3. Recommended system improvements
  - a. WTP
  - b. Distribution system
  - c. Storage tanks
  - d. Booster pump stations

Hazen will develop the report in draft form and submit to the City for review and comment. Hazen will address City comments and prepare a final report. Hazen will submit the final report to the City electronically for ease of transmittal to TDEC. It is assumed no printed copies of the final report will be produced.

## Task 6 – Regulatory coordination

Hazen will support the City and provide coordination with TDEC during development and submittal of the report. Hazen will also provide support services following submittal of the study report to TDEC to answer questions or address comments received from TDEC. It is assumed that two virtual TDEC meetings will be conducted during the study – one during development and one in conjunction with submittal of the report to present the conclusions and recommendations. Support following submittal will be provided on an as-needed basis.

## Task 7 – Supplemental support services

Hazen will provide additional support services on an as-needed basis in support of developing information and response to address the various requirements associated with the April 30, 2020 Director's Order. These services could include development of the Corrective Action Plan after submittal and approval of the Study, additional as-needed services identified in Task 5, or other services related to the Order. An as-needed \$10,000 budget is established for these services.

## Task 8 – Project Management

Project management time will be utilized to manage scope, schedule and budget within the constraints defined in this scope of work document. Management activities will include coordination



with City and Hazen staff, schedule adherence, budget management and other appropriate activities to assure the project is delivered efficiently and accurately.

**ESTIMATED FEE**

The fee is estimated to be \$81,000 and will be billed based on standard rates under our existing Master Services Agreement.

**SCHEDULE**

Hazen understands that time is of the essence for this project. The final report will be completed and submitted to TDEC by January 18, 2021. (180 days from TDEC approval, which was received on July 22, 2020). Following submittal of the report to TDEC, the schedule will be determined on an as-needed basis to support TDEC comments and questions.

**CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2020-0280**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **HAZEN AND SAWYER** 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:

**DEVELOPMENT OF A DISTRIBUTION SYSTEM OPTIMIZATION STUDY**

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 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 Amount of Eighty-One Thousand Dollars (\$81,000.00).

**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 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](http://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: \_\_\_\_\_  
Dr. Ken Moore  
Mayor  
Date: \_\_\_\_\_

Approved as to Form;

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney



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**File #: 20-01277**

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**DATE:** October 12, 2020  
**TO:** Capital Investment Committee  
**FROM:** Michelle Hatcher, Director of Water Management

**SUBJECT:**

Consideration Of Draft Amendment 1 To COF Contract No. 2018-0023 With CDM Smith, Inc. For The Reclaimed Water Model.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the first amendment to the contract with CDM Smith, Inc for the reclaimed water model.

**BACKGROUND/STAFF COMMENTS:**

In 2018, CDM Smith created a reclaimed water model that simulated conditions of the reclaimed water system around the City. The purpose of the model was to determine existing system limits and propose upgrades to increase system performance. The model has identified several projects that will help provide demand seen in various parts of town. As the Water Department works through those upgrades, this amendment will allow for additional calibrations as needed and other support for model as City staff work to take over future efforts.

**FINANCIAL IMPACT:**

This amendment is for an amount not-to-exceed of \$20,000.00.

**RECOMMENDATION:**

Staff recommends that Amendment 1 to COF Contract No. 2018-0023 with CDM Smith for Reclaimed Water Model Technical Assistance be recommended for approval by the Board of Mayor and Aldermen.



210 25<sup>th</sup> Avenue North  
Suite 1102  
Nashville, TN 37203  
tel: 615-320-3161

October 15, 2020

Mr. Brian Goodwin, PE  
City of Franklin Public Works  
124 Lumber Drive  
Franklin, Tennessee 37064

Subject: Amendment #1  
Reclaimed Water System Model and Master Plan Update

Dear Mr. Goodwin:

CDM Smith has been pleased to support the City of Franklin on the Reclaimed Water System Model and Master Plan Update project to date and appreciates the opportunity to continue to support the City in the future. As requested, CDM Smith is submitting the following scope of work to provide additional services for the Reclaimed Water System Model, including design support for the pump station provided by others and technical support for City staff to run the Reclaimed Water System model in the future.

### Scope of Work

CDM Smith will provide support to the City for the following items:

#### **Task 1 – Reclaimed Water System Model On-Call Assistance**

CDM Smith staff will provide on-call assistance to support the on-going maintenance and updates to the City's Reclaimed Water System Model. Evaluations may include, but not be limited to, system performance post improvements, modified demand scenarios, future development evaluations and/or other similar modeling exercises.

#### **Task 2 – Redwing Pump Station Design Support**

CDM Smith will provide on-call support for the City's contractors performing design work within the reclaimed system, specifically including the pump station design at the Redwing Pump Station. CDM Smith's efforts will include, but not be limited to, pump curve development, evaluation of various pump station demand alternatives, evaluation of various pump configurations, and evaluation of system performance improvements.





October 15, 2020

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### Key Team Members

Key local team members that have been supporting the City on the base contract will continue to provide support for this Amendment. Dave Mason, PE, PMP will serve as Project Manager. Jordan Wilson, PhD, PE will provide support for the Reclaimed Water System Model. Our lead Technical Specialist for Pumps is Carl Frizzell, PhD, PE. Zack Daniel will serve as the Client Service Leader

### Schedule

It is anticipated that the amended scope and associated fees for service will be executed over the next calendar year on an as-needed basis. This schedule may be extended by the City if the funds within this amendment are not used within the year.

### Budget

The original contract COF 2018-0023 had a not-to-exceed upper limit of \$195,500. CDM Smith proposes to complete the amended scope for work for an additional \$20,000, bringing the total not-to-exceed upper limit of the amended contract to \$215,000. An estimated breakdown of cost by task is provided for informational purposes below. Franklin will not hold CDM Smith to individual task budgets. CDM Smith can carry over and shift hours and costs as necessary between tasks.

| Task Name                                                | Hours      | Cost (\$)       |
|----------------------------------------------------------|------------|-----------------|
| Task 1 – Reclaimed Water System Model On-Call Assistance | 64         | \$10,000        |
| Task 2 – Redwing Pump Station Design Support             | 61         | \$10,000        |
| <b>Total not to exceed:</b>                              | <b>125</b> | <b>\$20,000</b> |

### Billing

CDM Smith will bill the project on a monthly basis (unless no work is completed within a month) on a time and materials basis, according to the attached billing rate table. The rates will be applied to the remainder of the existing contract and work completed under the amendment beginning at the date of the notice to proceed from the City of Franklin. For each monthly invoice, CDM Smith will submit a monthly progress report and update on project status and deliverables. Billing Rate escalation may be requested on an annual basis; the escalation of the billing rates shall never exceed 3% per category, per year.



October 15, 2020

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Thank you again for this opportunity to work with you and the City of Franklin staff on this project. Please feel free to call me or Zack if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "DM", with a long horizontal flourish extending to the right.

David Mason, PE, PMP  
Project Manager

Enclosure

cc: Zack Daniel, CDM Smith



October 15, 2020

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**CDM Smith Labor Billing Rates:**

| <b>Labor Category</b>       | <b>Billing Rates<br/>(\$/hour)</b> |
|-----------------------------|------------------------------------|
| Officer                     | \$225                              |
| Senior Technical Specialist | \$220                              |
| Project Manager             | \$215                              |
| Technical Specialist        | \$190                              |
| Senior Engineer/Scientist   | \$165                              |
| Engineer/Scientist          | \$145                              |
| Junior Engineer/Scientist   | \$120                              |
| Contract Admin              | \$110                              |
| Admin/Clerical              | \$100                              |



**AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR RECLAIMED WATER MODEL  
COF Contract No. 2018-0023**

**THIS AMENDMENT** is made and entered into on this the [REDACTED] day of [REDACTED], 2020, by and between the **City of Franklin, Tennessee** ("City") and CDM SMITH.

**WITNESSETH:**

**WHEREAS**, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled RECLAIMED WATER MODEL TECHNICAL SERVICES, dated the 13th day of March 2018; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of ONE HUNDER NINETY-FIVE THOUSAND FIVE HUNDRED DOLLARS (\$195,500.00), as authorized by the City Engineer and as detailed in the fee Schedule; and

**WHEREAS**, the City and Consultant realize the need for additional design work for the Project due to circumstances beyond the control of the Consultant; and

**WHEREAS**, the Consultant has provided a Proposal for an increase in engineering services, as described in Exhibit A dated October 15, 2020, in the amount of TWENTY THOUSAND DOLLARS, (\$20,000.00); and

**WHEREAS**, the City has reviewed the Proposal and desires to enter into an agreement for the Project as proposed.

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

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. Consultant's Responsibilities and Duties. Consultant agrees to perform the work as proposed in their October 13, 2020, letter of proposal (**Exhibit A**) which includes the Scope of Services for this Amendment, all of which shall be considered as an integral part hereof.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the work as described in Exhibit A an amount not to exceed SEVENTEEN THOUSAND, TWO HUNDERED AND FIFTEEN DOLLARS AND FIFTY-NINE CENTS, (\$17,215.59).

The City reserves the right to issue any payments jointly to the Consultant and Sub-Consultant when the City receives information that the Consultant has not paid its Sub-Consultant.

4. Waiver. Neither party's failure nor delay to exercise any of its rights or powers under this Amendment will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.

5. Severability. If any term or provision of the Amendment is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Amendment will not be affected.

6. Precedence. In the event of conflict between this Amendment and the provisions of the previous Agreement(s), or any other contract, agreement or other document to which this Amendment may accompany or incorporate by reference, the provisions of this Amendment will, to the extent of such conflict (or to the extent the Agreement is silent), take precedence unless such document expressly states that it is amending this Amendment.

7. Entire Agreement. The Amendment between the parties supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Amendment. The terms and conditions of this Amendment may not be changed except by an amendment expressly referencing this Amendment by section number and signed by an authorized representative of each party.

8. Additions/Modifications. If seeking any addition or modification to the Amendment, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Amendment, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Amendment or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Amendment; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.

9. Breach. Upon deliberate breach of the Amendment by either party, the non-breaching party shall be entitled to terminate the Amendment without

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.

10. Survival. This Amendment shall survive the completion of or any termination of the original contract, revised contract, or agreement or other document to which it may accompany or incorporate by reference.

All other provisions of the Agreement dated March 13, 2018, are unchanged and remain in full force and effect.

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

**The CITY OF FRANKLIN, TENNESSEE**

**CDM SMITH**

By: \_\_\_\_\_

**Dr. Ken Moore**

Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
**Eric S. Stuckey**

City Administrator

Date: \_\_\_\_\_

**Approved as to form:**

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney



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**File #: 20-01191**

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**DATE:** September 23, 2020  
**TO:** Capital Investment Committee  
**FROM:** Michelle Hatcher, Director of Water Management

**SUBJECT:**

Consideration Of Draft COF Contract No. 2020-0275 With Hazen And Sawyer, A Professional Services Agreement For The Development Of A Long Term Raw Water Reservoir Management Plan.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning a professional services agreement with Hazen and Sawyer for the development of a long term raw water management plan.

**BACKGROUND/STAFF COMMENTS:**

Seasonal variations each year create varying water quality characteristics for the Harpeth River. Instances like warmer and colder weather, drought or excessive rainfall, and baseline river flow all affect the water quality in the river. As these fluctuations occur, the characteristics of the raw water held within the reservoir at the Water Treatment Plant (WTP) fluctuate also. As these changing conditions occur, operation of the facility changes to pretreat the water prior to the membranes to ensure optimal operation. A small professional services agreement was approved in the summer of 2019 to allow for the data gathering of baseline characteristics to provide guidance for the development of this long term plan.

The City has asked Hazen to assist with preparing a management plan for the long term maintenance of the reservoir to manage bacterial development, assist with chemical dosing, and provide pretreatment guidelines for the management of the raw water during the seasonal fluctuations. This scope will develop the plan for additional sampling and data collection and review of the data and then provide the decision making ability to implement the changes necessary for pretreatment, in addition to jar testing the recommendations to ensure optimal operation.

**FINANCIAL IMPACT:**

This scope will be performed for a not-to-exceed hourly fee of \$160,000.00 and is budgeted in the WTP operations budget (421-82560-52103).

**RECOMMENDATION:**

Staff recommends that COF Contract No. 2020-0275 with Hazen and Sawyer for the Development of the Long Term Reservoir Management Plan be recommended for approval by the Board of Mayor and Aldermen.

**CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2020-0275**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **HAZEN AND SAWYER** 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:

**INSERT PROJECT NAME AND DESCRIPTION**

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 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 Amount of One Hundred Sixty Thousand Dollars (\$160,000.00).

**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](http://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: \_\_\_\_\_  
Dr. Ken Moore  
Mayor  
Date: \_\_\_\_\_

Approved as to Form;

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney





Hazen and Sawyer  
545 Mainstream Drive, Suite 320  
Nashville, TN 37228 • 615.783.1515

January 17, 2020

City of Franklin, Tennessee  
Ms. Michelle Hatcher, PE  
Water Management Director  
124 Lumber Drive  
Franklin, TN 37064

**Re: Long Term Raw Water Management Plan**

Dear Michelle:

Hazen is pleased to submit this proposal to assist the City in developing a comprehensive plan for the maintenance and enhancement of its raw water supply. The plan will provide a more consistent and higher quality raw water to its water treatment plant and will give specific attention to optimizing operations of its new membrane filtration system.

The City has suggested the work be completed in two phases. The first phase consisted of data-collection, evaluation, and initial recommendations, which were summarized in the technical memorandum, “Raw Water Reservoir Management – Phase 1”. The second phase, as described herein, is a more comprehensive and long-term Water Resources Reservoir Monitoring and Management Plan that will serve as a framework for the City to identify and prioritize water resource management needs and objectives. The second phase includes the following scope of work.

**Task B1 – Source Water Monitoring Plan Development**

- A. Hazen will develop a Source Water Monitoring Plan that will consist of the necessary monitoring metrics, monitoring stations, frequency of monitoring, equipment calibration, sampling Standard Operating Procedures (SOPs), and a heightened-alert monitoring plan that will be invoked when elevated cyanobacteria/growth is observed. Plan will include recommendations for equipment and training needed to implement the monitoring plan.
- B. Hazen will provide a template for logging monitoring data to efficiently convert data into information that can drive management decisions.
- C. Hazen will train the necessary personnel on the cyanobacteria/algae quantification methods and interpretation of results.
- D. Hazen will attend one (1) review meeting with the City. The review meeting will consist of Hazen giving a presentation that summarizes the Source Water Monitoring Plan and the SOPs contained therein, which consists of sampling protocol, equipment maintenance, phytoplankton quantification, routine monitoring, heightened monitoring, and post-algaecide treatment monitoring.
- E. Deliverable(s):

- a. Source Water Monitoring Plan
- b. A PowerPoint presentation at the review meeting that will summarize monitoring plan and SOPs.
- c. Supporting documents, such as an Excel document containing the data template needed for the monitoring to be included as an appendix to the Plan.

## **Task B2 – Source Water Management Plan and Implementation**

- A. Hazen will develop a Source Water Management Plan for algaecide treatment based on the knowledge gathered from historical data review and the follow-up site assessment. Hazen will provide recommendations that will link the appropriate algae prevention and control strategies (e.g., algaecide product and dose) with the outlined targeted treatment area.
- B. Hazen will perform post-treatment monitoring and evaluation, including:
  - a. A second algae sampling assessment of the reservoir to compare against the findings of Phase 1. Hazen will provide microscope-based cyanobacteria and algae enumeration to drive the management plan during the first season. This will provide additional insight as well as aid in aid in treatment decisions.
  - b. Review of performance of the recommended algaecide treatment through post-treatment water quality monitoring (e.g., review of data from the multi-parameter probe discussed in the Phase 1 presentation, if installed) to determine if any changes are needed in the algaecide treatment approach.
- C. Hazen will provide on-call support for the first algal growth season (2020) to further optimize the management plan and continue to train staff on decisions associated with algaecide treatments.
- D. Hazen will provide any necessary updates to the Source Water Management Plan following the 2020 algal growth season.
- E. Hazen will attend one (1) review meeting with the City.
- F. Assumption(s):
  - a. OWNER will provide access to a boat and captain for the sampling event.
- G. Deliverable(s):
  - a. Source Water Management Plan
  - b. A PowerPoint presentation at the review meeting that will summarize the source water management evaluation.
  - c. Updates to the Source Water Management Plan following the post-treatment evaluation.
  - d. Supporting documents, such as Excel document containing a template for algaecide records and post-treatment monitoring to be included as an appendix to the Technical Memorandum.

## **Task B3 – Pre-treatment Testing and Optimization**

During Phase 1, Hazen completed an initial round of bench-scale testing to evaluate current coagulant and sodium permanganate dosing. This initial round also included sampling to profile total, colloidal, and dissolved manganese and aluminum across the treatment plant. For Phase 2, Hazen proposed to complete the following:

- A. Hazen will perform a second round of bench scale testing to evaluate:
  - a. Effectiveness of alternative coagulant products (ACH, alum, ferric sulfate) including the two recommended by the current coagulant supplier
  - b. Impact of pH on carry-over aluminum
  - c. Impact of pre-oxidants on algal (cyanobacterial) cells
- B. Hazen will complete a second manganese profile through the plant to confirm findings from the initial study.
- C. Hazen will develop a jar-testing protocol for coagulant evaluation and permanganate dosing for City staff to use on a daily basis for process control.
- D. Hazen will provide short-term and long-term recommendations for optimizing pre-treatment at the plant.
- E. Deliverable(s):
  - a. A PowerPoint presentation at a review meeting that will summarize the results of this task.
  - b. A Technical Memorandum summarizing the results of this task.

#### **Task B4 – Project Administration**

- A. Hazen will manage the efforts of project team members by assigning manpower, delegating responsibilities, reviewing work progress, monitoring budget and schedule, and directing the progress of the work. This work will include the following:
  - a. Provide monthly invoicing and schedule updates.
  - b. Plan and perform project quality control and quality assurance.

Hazen proposes to perform this Phase 2 scope of work for a not-to-exceed fee of \$160,000 based on our standard hourly rates. Hazen will begin work immediately upon notice to proceed and the evaluation will be completed within 365 days of notice to proceed.

We appreciate the opportunity to assist the City of Franklin with this important project.

Sincerely,



Scott Woodard, PE  
Vice President

cc: Brian Goodwin, PE, Assistant Director, Franklin WMD  
Scott Alpert, PhD, PE  
Liz Crafton, PhD



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**File #: 20-0958**

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**DATE:** September 17, 2020  
**TO:** Capital Investment Committee  
**FROM:** Michelle Hatcher, Director of Water Management

**SUBJECT:**

Consideration Of Draft Amendment 1 To COF Contract No. 2020-0140, With Revere Control Systems, Inc. To Provide Licensing Services For Trihedral SCADA Software.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning an amendment to the professional services agreement with Revere Control Systems, Inc. for licensing services related to the Trihedral software used for SCADA.

**BACKGROUND/STAFF COMMENTS:**

In 2018 the SCADA upgrades for the wastewater collection and water distribution were complete, along with the upgrades to the Water Treatment Plant. All of those upgrades utilized the same SCADA platform, VT SCADA, manufactured by Trihedral. As part of those upgrades, each project purchased a minimal amount of licenses, which allowed for limited viewing of the system staff. This updated licensing quote will provide licensing for multiple users, allowing all associated employees the ability to view the data instantaneously. This updated quote will also allow the software upgrades pushed out by Trihedral to upgrade the City's SCADA platform to ensure we're receiving the most optimal programming that is available.

**FINANCIAL IMPACT:**

This amendment is for a cost of \$17,215.59 and is budgeted for in the sewer collections operating fund (431-83550-52212), water distribution operating fund (421-83550-52102), and the water treatment plant operating fund (421-83550-52103).

**RECOMMENDATION:**

Staff recommends that Amendment 1 to COF Contract No. 2020-0140 with Revere Control Systems, Inc. for Licensing Services for Trihedral SCADA Software be recommended for approval by the Board of Mayor and Aldermen.

**VTSCADA Licenses  
Franklin Public Utilities**

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October 13, 2020

Franklin Public Works  
Franklin, TN 37064

Ref: Franklin Public Works PSA #2  
COF Contract Number: 2020-0140

Subj: VTSCADA Licenses

Michelle Hatcher:

Thank you for this opportunity to quote furnishing VTSCADA licenses per the attached quote from Trihedral. Per Attachment A, paragraph 8.a, we will furnish these licenses at cost plus 10%.

|                       |                    |
|-----------------------|--------------------|
| Trihedral Quote ..... | \$ 15,650.54       |
| 10%.....              | \$ <u>1,565.05</u> |
| Total .....           | \$ 17,215.59       |

Current terms and conditions apply.

Sincerely,

*David Abel*

David Abel  
Municipal Project Manager  
Revere Control Systems, Inc.  
Phone: 615-604-1579  
[dabel@reverecontrol.com](mailto:dabel@reverecontrol.com)

## Quotation

Quote Number Q18420  
Terms Net 30 Days  
Date 07-14-2020  
Sales Person Alan Hudson  
Valid Until 08-13-2020  
Tax Info. HST# 10538 9035  
VAT# 717 1513 55  
Tax ID# 26-0449423

### Bill To

Michelle Hatcher  
City of Franklin - TN  
109 3rd Avenue South  
Franklin, TN 37064  
USA

### Ship To

Michelle Hatcher  
City of Franklin - TN  
109 3rd Avenue South  
Franklin, TN 37064  
USA

### S/N 52050, 52051 - Franklin, TN - Water Distribution & Collection

| # | Qty. | Product                                       | Unit Price   | Ext. Price    |
|---|------|-----------------------------------------------|--------------|---------------|
| 1 | 1    | ~*~VTScada 10K Dual Server Premium~*~ Renewal | \$ 30,595.00 | \$ 30,595.00  |
| 1 | 2    | VTScada 10K - Development Runtime             |              |               |
| 2 | 1    | VTScada 10K - Thin Client - Unlimited         |              |               |
| 3 | 2    | VTScada 10K - Alarm Notification              |              |               |
| 4 | -1   | Bundle Discount                               |              |               |
| 2 | -1   | Existing Bundle Value Discount                | \$ 21,416.50 | \$ -21,416.50 |

Current SupportPlus Expiry Date: January 19, 2019  
Proposed SupportPlus Expiry Date: January 19, 2021  
Bundle Value for Renewals: \$30,595.00  
Future Annual SupportPlus Renewals: \$4,589.25

### Group Totals

Subtotal: \$ 9,178.50  
Total: \$ 9,178.50

### S/N 51905 - Franklin, TN - Laptop

| # | Qty. | Product                                    | Unit Price  | Ext. Price   |
|---|------|--------------------------------------------|-------------|--------------|
| 1 | 1    | VTScada 10K - Runtime - Renewal            | \$ 4,095.00 | \$ 4,095.00  |
| 2 | 1    | VTScada 10K - Alarm Notification - Renewal | \$ 2,095.00 | \$ 2,095.00  |
| 3 | -1   | Existing License Value Discount            | \$ 4,333.00 | \$ -4,333.00 |

Current SupportPlus Expiry Date: January 19, 2019  
Proposed SupportPlus Expiry Date: January 19, 2021  
License Value for Renewals: \$6,190.00  
Future Annual SupportPlus Renewals: \$928.50

### Group Totals

Subtotal: \$ 1,857.00  
Total: \$ 1,857.00

### S/N 52122 - Franklin, TN, WTP

| # | Qty. | Product                                    | Unit Price  | Ext. Price   |
|---|------|--------------------------------------------|-------------|--------------|
| 1 | 1    | VTScada 5K - Development Runtime - Renewal | \$ 6,595.00 | \$ 6,595.00  |
| 2 | 1    | VTScada 5K - Alarm Notification - Renewal  | \$ 2,095.00 | \$ 2,095.00  |
| 3 | -1   | Existing License Value Discount            | \$ 6,626.03 | \$ -6,626.03 |

Current SupportPlus Expiry Date: June 13, 2019  
Proposed SupportPlus Expiry Date: January 19, 2021  
License Value for Renewals: \$8,690.00  
Future Annual SupportPlus Renewals: \$1,303.50

Group Totals

Subtotal: \$ 2,063.97  
Total: \$ 2,063.97

**S/N 52123 - Franklin, TN, WTP**

| # | Qty. | Product                                   | Unit Price  | Ext. Price   |
|---|------|-------------------------------------------|-------------|--------------|
| 1 | 1    | VTScada 5K - Runtime - Renewal            | \$ 3,395.00 | \$ 3,395.00  |
| 2 | 1    | VTScada 5K - Alarm Notification - Renewal | \$ 2,095.00 | \$ 2,095.00  |
| 3 | -1   | Existing License Value Discount           | \$ 4,186.03 | \$ -4,186.03 |

Current SupportPlus Expiry Date: June 13, 2019  
Proposed SupportPlus Expiry Date: January 19, 2021  
License Value for Renewals: \$5,490.00  
Future Annual SupportPlus Renewals: \$823.50

Group Totals

Subtotal: \$ 1,303.97  
Total: \$ 1,303.97

**Optional 24/7 Emergency Support**

| # | Qty. | Product                                      | Unit Price  | Ext. Price  |
|---|------|----------------------------------------------|-------------|-------------|
| 1 | 1    | 24/7 Emergency Support - Prorated @ 6 Months | \$ 1,247.10 | \$ 1,247.10 |

With the addition of 24/7 Emergency Support to your existing SupportPlus Service, help is always available. This service is intended for emergency issues directly associated with VTScada software. It does not cover application specific issues, over the phone training or advanced system design. It cannot replace training or the services of engineers, consultants or integrators.

Emergency Support can only be added to a valid SupportPlus contract and cannot be purchased as a standalone service. The cost of the service is 5% of the calculated software value with a minimum of \$1,300.00 per year.

24/7 support is limited to those licenses on which support has been purchased. Licenses comprised of distributed sub-systems affect system loads in a variety of ways and as such require support to be purchased on all connected components.

Group Totals

Subtotal: \$ 1,247.10  
Total: \$ 1,247.10

Quotation Totals

Currency: US Dollar  
Subtotal: \$ 15,650.54  
Total: \$ 15,650.54

**Notes**

This quote shall be governed exclusively by the VTScada Software License Agreement (Standard Conditions) FL, VSLASCFL v1.2 2018-06-08, and the VTScada Software Standard Support Services Agreement (SC) FL, VSSSSASCFL v. 1.2 2019-02-26, attached.

**Quotation Accepted By**

Quote Number          Q18420

Print Name              \_\_\_\_\_

Title                     \_\_\_\_\_

Signature               \_\_\_\_\_

Date                      \_\_\_\_\_



**AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR VT SCADA PROJECT  
COF Contract No. 2020-0140**

**THIS AMENDMENT** is made and entered into on this the [REDACTED] day of [REDACTED], 2014, by and between the **City of Franklin, Tennessee** ("City") and REVERE CONTROL SYSTEMS, INC.

**WITNESSETH:**

**WHEREAS**, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled SCADA SUPPORT, dated the 9th day of June 2020; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of THIRTY-ONE THOUSAND DOLLARS (\$31,000.00), as authorized by the City Engineer and as detailed in the fee Schedule; and

**WHEREAS**, the City and Consultant realize the need for additional design work for the Project due to circumstances beyond the control of the Consultant; and

**WHEREAS**, the Consultant has provided a Proposal for an increase in engineering services, as described in Exhibit A dated October 13, 2020, in the amount of SEVENTEEN THOUSAND, TWO HUNDRED AND FIFTEEN DOLLARS AND FIFTY-NINE CENTS, (\$17,215.59); and

**WHEREAS**, the City has reviewed the Proposal and desires to enter into an agreement for the Project as proposed.

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

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. Consultant's Responsibilities and Duties. Consultant agrees to perform the work as proposed in their October 13, 2020, letter of proposal (**Exhibit A**) which includes the Scope of Services for this Amendment, all of which shall be considered as an integral part hereof.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the work as described in Exhibit A an amount not to exceed SEVENTEEN THOUSAND, TWO HUNDRED AND FIFTEEN DOLLARS AND FIFTY-NINE CENTS, (\$17,215.59).

The City reserves the right to issue any payments jointly to the Consultant and Sub-Consultant when the City receives information that the Consultant has not paid its Sub-Consultant.

4. Waiver. Neither party's failure nor delay to exercise any of its rights or powers under this Amendment will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.

5. Severability. If any term or provision of the Amendment is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Amendment will not be affected.

6. Precedence. In the event of conflict between this Amendment and the provisions of the previous Agreement(s), or any other contract, agreement or other document to which this Amendment may accompany or incorporate by reference, the provisions of this Amendment will, to the extent of such conflict (or to the extent the Agreement is silent), take precedence unless such document expressly states that it is amending this Amendment.

7. Entire Agreement. The Amendment between the parties supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Amendment. The terms and conditions of this Amendment may not be changed except by an amendment expressly referencing this Amendment by section number and signed by an authorized representative of each party.

8. Additions/Modifications. If seeking any addition or modification to the Amendment, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Amendment, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Amendment or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Amendment; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.

9. Breach. Upon deliberate breach of the Amendment by either party, the non-breaching party shall be entitled to terminate the Amendment without

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.

10. Survival. This Amendment shall survive the completion of or any termination of the original contract, revised contract, or agreement or other document to which it may accompany or incorporate by reference.

All other provisions of the Agreement dated June 9, 2020, are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

**The CITY OF FRANKLIN, TENNESSEE**

**REVERE CONTROL SYSTEMS,  
INC.**

By: \_\_\_\_\_  
**Dr. Ken Moore**  
Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
**Eric S. Stuckey**  
City Administrator  
Date: \_\_\_\_\_

**Approved as to form:**

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney



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**File #: 20-01279**

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**DATE:** October 14, 2020  
**TO:** Capital Investment Committee  
**FROM:** Michelle Hatcher, Director of Water Management  
Patricia McNeese, Utilities Engineer

**SUBJECT:**

Consideration Of Draft Amendment 3 To COF Contract No. 2011-0076, With Smith Seckman Reid, Inc. For The Mack Hatcher Northwest Utility Relocation Project In An Amount Not-To-Exceed \$19,980.00

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the Amendment #3 for COF Contract No. 2011-0076 with Smith Seckman Reid, Inc. for the Mack Hatcher Northwest Utility Relocation Project.

**BACKGROUND/STAFF COMMENTS:**

The extension of the Mack Hatcher Parkway from Hillsboro Road to Highway 96 West is a Tennessee Department of Transportation (TDOT) project that started construction in early 2019 although the project has been on the radar for quite some time. Several of the City of Franklin's (COF) utilities have required relocation as a result of this TDOT project. Smith Seckman Reid, Inc. (SSR) entered into a professional services agreement with the COF in May 2011 to provide engineering design for the utility relocations. Since that time, two (2) amendments have been necessary as there have been some issues to arise due to revisions in the Mack Hatcher plans. The current amendment is a result of the existing contract amount being depleted but additional design and construction administration is still required for the project.

**FINANCIAL IMPACT:**

The Amendment 3 to the COF Contract No. 2011-0076 amount is \$19,980.00. The current contract is funded from the Water Access account and is not included in the current budget.

**RECOMMENDATION:**

Staff recommends that Amendment 3 for COF Contract No. 2011-0076 with Smith Seckman Reid, Inc. for the Mack Hatcher Northwest Utility Relocation Project be recommended for approval by the Board of Mayor and Aldermen.

**DRAFT AMENDMENT NO. 3 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR MACK HATCHER PARKWAY EXTENSION WATER AND SANITARY  
SEWER RELOCATIONS PROJECT  
COF Contract No. 2011-0076**

**THIS AMENDMENT** is made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the **City of Franklin, Tennessee** ("City") and **Smith Seckman Reid, Inc.** ("Consultant").

**WITNESSETH:**

**WHEREAS**, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled Mack Hatcher Parkway Extension Water and Sanitary Sewer Relocations Project (COF Contract No. 2011-0076), dated the 10th day of May 2011; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$85,000.00), as authorized by the City Engineer and as detailed in the fee schedule; and

**WHEREAS**, on June 11, 2017, the Board of Mayor and Aldermen approved an Amendment 1 to the Professional Services Agreement with the Consultant for additional design work in an amount not to exceed THIRTY-FIVE THOUSAND FOUR HUNDRED AND NO/DOLLARS (\$35,400.00); and

**WHEREAS**, on May 8, 2018, the Board of Mayor and Aldermen approved an Amendment 2 to the Professional Services Agreement with the Consultant for additional design work in an amount not to exceed SEVEN THOUSAND EIGHT HUNDRED FIFTY AND NO/DOLLARS (\$7,850.00); and

**WHEREAS**, the City and Consultant realize the need for additional design work for the Project due to other utility placement across the 24-inch water line on Del Rio Pike, additional construction administration support, and preparation of record drawings; and

**WHEREAS**, the Consultant has provided a proposal for an increase in engineering services, as described in Exhibit A dated August 28, 2020, in the amount not to exceed **NINETEEN THOUSAND NINE HUNDRED EIGHTY AND NO/DOLLARS (\$19,980.00)**; and

**WHEREAS**, the City has reviewed the Proposal and desires to enter into an agreement for the Project as proposed.

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

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. Consultant's Responsibilities and Duties. Consultant agrees to perform the work as proposed in their August 28, 2020 letter of proposal (**Exhibit A**) which includes the Scope of Services for this Amendment, all of which shall be considered as an integral part hereof.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the work as described in Exhibit A an amount not to exceed **NINETEEN THOUSAND NINE HUNDRED EIGHTY AND NO/DOLLARS (\$19,980.00)**.

The City reserves the right to issue any payments jointly to the Consultant and Sub-Consultant when the City receives information that the Consultant has not paid its Sub-Consultant.

4. Waiver. Neither party's failure nor delay to exercise any of its rights or powers under this Amendment will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.
5. Severability. If any term or provision of the Amendment is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Amendment will not be affected.
6. Precedence. In the event of conflict between this Amendment and the provisions of the previous Agreement(s), or any other contract, agreement or other document to which this Amendment may accompany or incorporate by reference, the provisions of this Amendment will, to the extent of such conflict (or to the extent the Agreement is silent), take precedence unless such document expressly states that it is amending this Amendment.
7. Entire Agreement. The Amendment between the parties supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Amendment. The terms and conditions of this Amendment may not be changed except by an amendment expressly referencing this Amendment by section number and signed by an authorized representative of each party.
8. Additions/Modifications. If seeking any addition or modification to the Amendment, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Amendment, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order,

acknowledgement, or other writings specifically refer to the Amendment or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Amendment; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.

9. Breach. Upon deliberate breach of the Amendment by either party, the non-breaching party shall be entitled to terminate the Amendment without 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.

10. Survival. This Amendment shall survive the completion of or any termination of the original contract, revised contract, or agreement or other document to which it may accompany or incorporate by reference.

All other provisions of the Agreement dated May 10, 2011, Amendment 1 dated June 11, 2017, and Amendment 2 dated May 8, 2018, are unchanged and remain in full force and effect.

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

**The CITY OF FRANKLIN, TENNESSEE**

**Smith Seckman Reid, Inc**

By: \_\_\_\_\_  
**Dr. Ken Moore**  
Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
**Eric S. Stuckey**  
City Administrator  
Date: \_\_\_\_\_

**Approved as to form:**

\_\_\_\_\_  
Maricruz Fincher, Staff Attorney



August 28, 2020

Ms. Patricia McNeese, P.E.  
City of Franklin Water Management Department  
124 Lumber Drive  
Franklin, TN 37064

RE: **CITY OF FRANKLIN, TENNESSEE**  
**Mack Hatcher Parkway Water and Sewer**  
**TDOT State Project No. 94092-2226-14**  
**Amendment No. 3**  
**SSR No. 17-41-009.0**

Dear Ms. McNeese:

As requested, please find a detailed breakdown of estimated hours to continue providing Construction Administration (CA) Services through the remaining construction period. Per my previous emails and letter we have exhausted our fee ceiling and were currently providing CA support under our original Design and Bidding budgeted fee. SSR also provided additional design services to relocate the City's 24-inch DIP Water Line along Del Rio Pike in May of 2020. Due to this effort we are currently \$3,910.00 over budget. I have attached the backup invoices for your use.

On July 21, 2020 we respectfully requested a fee increase of \$20,000 to our existing Professional Services Agreement to see out the project. Our services include site visits, progress meeting attendance, response to contractor RFIs, preparation of record drawings and other construction phase related tasks as necessary. A breakdown can be seen below:

| <b>FEE INCREASE</b>                                             |             |              |              |
|-----------------------------------------------------------------|-------------|--------------|--------------|
| <b>Position</b>                                                 | <b>Rate</b> | <b>Hours</b> | <b>Total</b> |
| <b><i>CA Support - Progress Meetings, RFIs, Site Visits</i></b> |             |              |              |
| Principal                                                       | \$ 210.00   | 2            | \$ 420.00    |
| Senior Project Manager                                          | \$ 180.00   | 30           | \$ 5,400.00  |
| Senior Designer II                                              | \$ 140.00   | 7            | \$ 980.00    |
| Engineer Intern                                                 | \$ 95.00    | 3            | \$ 285.00    |
| Clerical                                                        | \$ 75.00    | 3            | \$ 225.00    |
| <b><i>Record Drawings</i></b>                                   |             |              |              |
| Senior Project Manager                                          | \$ 180.00   | 5            | \$ 900.00    |
| Senior Designer II                                              | \$ 140.00   | 45           | \$ 6,300.00  |
| Clerical                                                        | \$ 75.00    | 3            | \$ 225.00    |
| <b><i>Contract Closeout</i></b>                                 |             |              |              |
| Senior Project Manager                                          | \$ 180.00   | 5            | \$ 900.00    |
| Engineer Intern                                                 | \$ 95.00    | 3            | \$ 285.00    |
| Clerical                                                        | \$ 75.00    | 2            | \$ 150.00    |



|                           |                     |
|---------------------------|---------------------|
| FEE INCREASE              | \$ 16,070.00        |
| OVER BUDGET               | \$ 3,910.00         |
| <b>TOTAL FEE INCREASE</b> | <b>\$ 19,980.00</b> |

Please let me know if you require any additional information. We propose to provide the CA Services described above and in our letter dated July 21, 2020 on an hourly basis with a not to exceed limit of **\$20,000.00**. The amended total fee ceiling will not be exceeded without prior approval by the City.

If the City is in agreement with the terms of this proposal, we will then execute a formal amendment (Amendment No. 3) to our existing agreement. If you have any questions or concerns regarding this request, please do not hesitate to contact me at (615) 429-2244 or [pfonda@ssr-inc.com](mailto:pfonda@ssr-inc.com).

Sincerely,  
**SMITH SECKMAN REID, INC.**



Paolo M. Fonda, P.E.

Attachments

Cc: ATJ, File (1)



City of Franklin  
109 Third Avenue South  
Franklin, TN. 37064

**Project :** Mack Hatcher Pkwy Water & Sewer Upd

Water and Sewer plans update for the TDOT Mack Hatcher project

**Invoice Date :** 6/1/2020  
**Invoice # :** 000  
**Project #:** 17410090  
**Invoice Group :** \*\*  
**Client Code :** C08700

**\*\*\*\*\* Client Information \*\*\*\*\***

**Client Project #:** 2011-0076  
**Contact Name:** Paul Holzen

---

**For Professional Services Rendered through: 5/29/2020**

| <b>Labor Based on Fixed Rates</b> | <b>Hours</b> | <b>Rate</b> | <b>Dollars</b>  |
|-----------------------------------|--------------|-------------|-----------------|
| SENIOR ENGINEER                   | 7.00         | 150.00      | 1,050.00        |
| SENIOR DESIGNER                   | 13.00        | 130.00      | 1,690.00        |
| <b>Total Labor</b>                | <b>20.00</b> |             | <b>2,740.00</b> |

Project Fee : 43,250.00  
Prior Billings: 40,670.00  
Total Available : 2,580.00

**\*\*\*Maximum Fee Exceeded - Total this Invoice** 2,580.00  
**Amount Due This Invoice \*\*** \$2,580.00

**\$160 Over Budget**

Total Billings 43,250.00  
Less: Total Amount Paid 36,940.00  
**Total Amount Outstanding** 6,310.00

---

Fonda, Paolo M.

Please Remit All Payments To:  
Smith Seckman Reid, Inc.  
2995 Sidco Drive / Nashville, TN 37204  
615-383-1113  
For billing inquiries e-mail opsaccounting@ssr-inc.com



City of Franklin  
109 Third Avenue South  
Franklin, TN. 37064

**Project :** Mack Hatcher Pkwy Water & Sewer Upd

Water and Sewer plans update for the TDOT Mack Hatcher project

**Invoice Date :** 6/29/2020  
**Invoice # :** 000  
**Project #:** 17410090  
**Invoice Group :** \*\*  
**Client Code :** C08700

**\*\*\*\*\* Client Information \*\*\*\*\***

**Client Project #:** 2011-0076  
**Contact Name:** Paul Holzen

---

**For Professional Services Rendered through: 6/26/2020**

| <b>Labor Based on Fixed Rates</b> | <u>Hours</u> | <u>Rate</u> | <u>Dollars</u> |
|-----------------------------------|--------------|-------------|----------------|
| SENIOR ENGINEER                   | 12.00        | 150.00      | 1,800.00       |
| <b>Total Labor</b>                | 12.00        |             | 1,800.00       |

|                   |           |                                          |
|-------------------|-----------|------------------------------------------|
| Project Fee :     | 43,250.00 | <b>+ \$160 = \$1,960<br/>Over Budget</b> |
| Prior Billings:   | 43,250.00 |                                          |
| Total Available : | 0.00      |                                          |

|                                   |                           |                      |
|-----------------------------------|---------------------------|----------------------|
| <b>***Maximum Fee Exceeded -</b>  | <b>Total this Invoice</b> | 0.00                 |
| <b>Amount Due This Invoice **</b> |                           | <u><u>\$0.00</u></u> |

|                                 |                 |
|---------------------------------|-----------------|
| Total Billings                  | 43,250.00       |
| Less: Total Amount Paid         | 40,670.00       |
| <b>Total Amount Outstanding</b> | <u>2,580.00</u> |

---

Fonda, Paolo M.

Please Remit All Payments To:  
Smith Seckman Reid, Inc.  
2995 Sidco Drive / Nashville, TN 37204  
615-383-1113  
For billing inquiries e-mail opsaccounting@ssr-inc.com



City of Franklin  
109 Third Avenue South  
Franklin, TN. 37064

**Project :** Mack Hatcher Pkwy Water & Sewer Upd

Water and Sewer plans update for the TDOT Mack Hatcher project

**Invoice Date :** 8/3/2020  
**Invoice # :** 000  
**Project #:** 17410090  
**Invoice Group :** \*\*  
**Client Code :** C08700

**\*\*\*\*\* Client Information \*\*\*\*\***

**Client Project #:** 2011-0076  
**Contact Name:** Paul Holzen

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**For Professional Services Rendered through: 7/31/2020**

| <b>Labor Based on Fixed Rates</b> | <u>Hours</u> | <u>Rate</u> | <u>Dollars</u> |
|-----------------------------------|--------------|-------------|----------------|
| SENIOR ENGINEER                   | 13.00        | 150.00      | 1,950.00       |
| <b>Total Labor</b>                | 13.00        |             | 1,950.00       |

Project Fee : 43,250.00  
Prior Billings: 43,250.00  
Total Available : 0.00

**+ \$1,960 = \$3,910  
Over Budget**

**\*\*\*Maximum Fee Exceeded - Total this Invoice** 0.00  
**Amount Due This Invoice \*\*** \$0.00

Total Billings 43,250.00  
Less: Total Amount Paid 43,250.00  

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Total Amount Outstanding 0

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Fonda, Paolo M.

Please Remit All Payments To:  
Smith Seckman Reid, Inc.  
2995 Sidco Drive / Nashville, TN 37204  
615-383-1113  
For billing inquiries e-mail opsaccounting@ssr-inc.com



July 21, 2020

Ms. Patricia McNeese, P.E.  
City of Franklin Water Management Department  
124 Lumber Drive  
Franklin, TN 37064

RE: **CITY OF FRANKLIN, TENNESSEE**  
**Mack Hatcher Parkway Water and Sewer**  
**TDOT State Project No. 94092-2226-14**  
**Amendment No. 3**  
**SSR No. 17-41-009.0**

Dear Ms. McNeese:

As discussed, we are pleased to provide a proposal for Construction Administration Services for the City's water and sewer infrastructure as part of TDOT's S.R. 397 Mack Hatcher Parkway project. This design was originally completed in May of 2012 and then updated again in August of 2017. The TDOT project was let in 2018 and construction started in 2019.

SSR is currently providing Construction Administration (CA) support under our original Design and Bidding budgeted fee. These services include site visits, progress meeting attendance, response to contractor RFI's, preparation of record drawings and other construction phase related tasks as necessary. In addition, SSR provided design services to relocate the City's 24-inch DIP Water Line along Del Rio Pike in May of 2020. We worked closely with the City to update Sheet U5-7, submitted plans to TDEC and provided an easement exhibit / description to the City for property acquisition. It was our intent to use the remaining design and bidding funds for CA, but due to the effort described above we have now exhausted our fee ceiling. Per our letters dated May 12, 2017 and January 3, 2018 a separate proposal would be provided to the City at the appropriate time for Construction Administration Services.

We are respectfully requesting a fee increase to our existing Professional Services Agreement to continue providing CA Services through the remaining construction period. We propose to provide the CA Services described above on an hourly basis with a not to exceed limit of \$20,000.00. The amended total fee ceiling will not be exceeded without prior approval by the City. Our updated hourly rate schedule to our 2017 rates is included as an attachment to this letter.

If the City is in agreement with the terms of this proposal, we will then execute a formal amendment (Amendment No. 3) to our existing agreement. If you have any questions or concerns regarding this request, please do not hesitate to contact me at (615) 429-2244 or [pfonda@ssr-inc.com](mailto:pfonda@ssr-inc.com).

Sincerely,  
**SMITH SECKMAN REID, INC.**

A handwritten signature in black ink, appearing to read "Paolo Fonda", written over a white background.

Paolo M. Fonda, P.E.

Attachment

Cc: ATJ, File (1)

# Hourly Rates

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*Smith Seckman Reid, Inc.*

| <b><u>Position</u></b> | <b><u>Proposed Rate</u></b> |
|------------------------|-----------------------------|
| Principal              | \$ 210.00                   |
| Senior Project Manager | \$ 180.00                   |
| Project Manager II     | \$ 180.00                   |
| Project Manager I      | \$ 160.00                   |
| Senior Engineer II     | \$ 180.00                   |
| Senior Engineer I      | \$ 160.00                   |
| Engineer II            | \$ 135.00                   |
| Engineer I             | \$ 120.00                   |
| Engineer Intern II     | \$ 100.00                   |
| Engineer Intern I      | \$ 95.00                    |
| Senior Designer II     | \$ 140.00                   |
| Senior Designer I      | \$ 120.00                   |
| Designer II            | \$ 95.00                    |
| Designer I             | \$ 80.00                    |
| Clerical               | \$ 75.00                    |



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**File #: 20-01214**

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**DATE:** September 30, 2020  
**TO:** Capital Investment Committee  
**FROM:** Michelle Hatcher, Director of Water Management

**SUBJECT:**

Consideration Of COF Contract No. 2020-0273, A Professional Services Agreement With Gresham Smith To Provide Utility Asset Management Consulting Services.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning a proposal to provide utility asset management consulting services for the collection, distribution, and reclaimed water system.

**BACKGROUND/STAFF COMMENTS:**

The WMD operates and maintains the wastewater collection, potable water distribution, and reclaimed water distribution systems in the service areas. In order to effectively manage repair and replacement to the miles of mains, the City has asked Gresham Smith to provide technical assistance to quantitatively characterize these. The Department will use the historical data that's been collected from the CCTV, SL-RAT, manhole inspection form, and from visual observation and compare that to the criticality, redundant, and reliability of each asset to numerically rank them. Ranking assets will provide prioritization of critical infrastructure and streamline budgeting for repair and replacement.

This contract and the model will cover assets for the wastewater collection system, potable water distribution system, and reclaimed water distribution system.

**FINANCIAL IMPACT:**

The total not-to exceed fee for this contract is \$120,000.00 and is budgeted in the sewer collections operating fund (431-82560-52212), water distribution operating fund (421-82560-52102), and the reclaimed distribution operating fund (441-82560-52321).

**RECOMMENDATION:**

Staff recommends that COF Contract No. 2020-0273 with Gresham Smith for Utility Asset Management Consulting Services be recommended for approval by the Board of Mayor and Aldermen.

**CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2020-0273**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **GRESHAM SMITH** 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:

**Utility Asset Management Consulting Services**

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 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 Amount of Not to Exceed One Hundred Twenty Thousand Dollars (\$120,000.00).

**The Board of Mayor and Aldermen Approved this Agreement on the \_\_\_\_\_ Day of \_\_\_\_\_ 202\_\_.**



## **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 claims, judgments, losses, damages, and expenses to the extent such claims, 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 claims, 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. The City shall retain an ownership and property interest therein whether or not the Project is completed.
- 7.1.1 **USE OF DATA SYSTEMS:** The City maintains all rights to data systems and data (including derivative or hidden data) created and used by Consultant through information supplied to the Consultant by the City.
- 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.

#### **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: \_\_\_\_\_  
Dr. Ken Moore  
Mayor  
Date: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Maricruz R. Fincher, Staff Attorney



January 23, 2020

Ms. Michelle Hatcher, P.E., Director  
City of Franklin Water Management Department  
124 Lumber Drive  
Franklin, Tennessee 37064

**Subject: Proposal for Providing Utility Asset Management  
Consulting Services  
Franklin, TN**

Dear Ms. Hatcher:

Thank you for the opportunity to provide this proposal for providing asset management consulting services to the City of Franklin. As we have discussed during recent meetings, Gresham Smith ("Engineer") will provide professional and technical services to develop asset management tools and procedures for the City of Franklin ("Owner") as described herein. Our proposed scope of services, schedule and compensation for the Project are presented in the following paragraphs.

**1. Scope of Services**

**a. General**

Engineer understands Owner seeks to develop tools and procedures to enable enhanced assessment of asset data and prioritization of improvements to the existing sewer, potable water, and reclaimed water systems ("Project"). Engineer will assist Owner with development of said tools and procedures by performing the tasks described in the following paragraphs.

**b. Task 1 - Project Planning, Initiation, and Coordination**

Engineer will:

- i. Prepare a Project Plan consisting of a detailed master Project Schedule with deliverable dates and other milestones and a Project-specific plan for quality management;

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222 Second Avenue South  
Suite 1400  
Nashville, TN 37201  
615.770.8100  
GreshamSmith.com



- ii. Schedule and conduct a Project kickoff meeting and initial workshop (Workshop #1) with Owner. The kick-off portion of the meeting will enable Engineer to review with Owner the detailed master Project Schedule and establish lines of communication and processes for data transfer, decision making, and training. Invitees will include Engineer's project manager and task manager(s), and Owner's staff as directed. The workshop portion of the meeting will consist of discussion of the each of the following:
- Existing sewer asset data, data gaps, i.e. missing asset attributes, and how the data gaps will be filled for the purposes of the Project;
  - Existing attributes, scoring, and "Fatal Flaw Analysis," which is the screening of attributes to determine whether or not the sewer infrastructure satisfies the criteria required for each rehabilitation methodology. The criteria will be applied to the database to determine if an exclusive method applies, which would remove those sewer segments from further analysis.
  - Acceptable sewer asset rehabilitation methods (e.g. point repairs, CIPP lining, replacement, etc.) to include in the decision model;
  - Evaluation criteria (e.g. obvious leaks, collapsed pipe segments, structural failures, sags, offset joints, sensitive location, depth, material, shape), advantages and disadvantages of available rehabilitation methods, and weighting criteria; and
  - Pertinent probability of failure and consequence of failure factors to be used for risk assessment.

The combination kickoff meeting/Workshop #1 is expected to take at least two hours but no more than four hours to complete.

- iii. Provide written recommendations and training of Owner's staff in best practices for sewer asset data collection, storage, formatting and management with the goal of improving data quality and reducing data gaps. Unless otherwise requested, training will consist of up to eight hours of on-site "classroom" meetings/instruction and up to eight hours of on-site "field" training, during which Engineer's designated staff will accompany Owner's staff on field visits to evaluate, critique, and provide recommendations for visual inspections of assets (e.g. manholes) and data collection methodologies;
- iv. Maintain open and continuous communication throughout the life of the Project; coordinate all activities and tasks with designated representative(s) of Owner; keep key staff informed using informal communication via telephone and email as well as team meetings;



- v. Participate in periodic progress review meetings and/or teleconferences with Owner to present work completed, receive input from Owner's staff, arrange subsequent meetings and review and adjust the Project schedule as required;
- vi. Prior to each meeting and workshop, prepare and distribute an agenda; within three days following, prepare and distribute to attendees a draft meeting summary for review and comment; and once approved, publish the meeting summary for recordkeeping.

Task 1 deliverables will include the Project Schedule, which will be updated monthly as the Project progresses to indicate status of tasks and overall percent complete, written recommendations (e.g., memoranda) regarding data collection and management, and meeting summaries for all meetings and workshops.

c. Task 2 – Preliminary Pairwise Model

Based upon the decisions and direction from the initial workshop, Engineer will develop a draft Pairwise decision model. The asset attributes collected in the field will be used to develop the criteria in the pairwise comparison. In pairwise comparison, each criterion (e.g., age) is compared individually to all other criterion (e.g., age vs. material of construction, age vs. depth), which results in many paired comparisons. These are factored together to create an overall priority factor for each pair. This process also allows for creation of priority factors for methods (lining, point repair or replacement). These priority factors, for both criteria and methods, are applied together for critical decision making applied to each asset based on the condition assessment.

Working closely with Owner's designated staff and with their input, Engineer will assign a ranking value to each pair of criteria to signify the magnitude of relative difference. The magnitude of difference in importance within pairwise comparisons will be assigned based on the numerical listing in Table 1-1.

Once ranking values have been determined for all pairs, the magnitude of differences will be compared to create a priority factor for each criterion. This signifies its relative importance across the criteria list. To facilitate the pairwise comparison process, Engineer typically develops a matrix within the Stella® software for quick calculations. The matrix rows will be compared to the columns, and the numerical rankings will be determined and assigned accordingly. The same process of pairwise comparison will then be repeated to develop priority factors for the methods as compared against the other methods (lining, repair or replace).

**Table 1-1: Pairwise Comparison Value System  
Franklin Utility Asset Management Consulting Services**

| Ranking Value | Significance              |
|---------------|---------------------------|
| 9             | Absolutely more important |
| 7             | Strongly more important   |
| 5             | Moderately more important |
| 3             | Weakly more important     |
| 2             | Slightly more important   |
| 1             | Equally important         |
| 1/2           | Slightly less important   |
| 1/3           | Weakly less important     |
| 1/5           | Moderately less important |
| 1/7           | Strongly less important   |
| 1/9           | Absolutely less important |

With priority factors established for both for criteria and methods, the priority factor of the criterion being analyzed will be applied to the priority factor of each of the replacement methods and all results summed by criterion. The method with the greatest overall factor will be designated the preferred method for an asset exhibiting those criteria. The basis of the preferred method selection will be the result of all the decisions (made by Owner and Engineer, working together) leading up to that selection, as captured within the pairwise comparisons.

Engineer will schedule and conduct a progress meeting/review workshop (Workshop #2) to present the draft model, demonstrate functionality, seek input, answer questions, and suggest changes to weighting factors as necessary to address issues such as lack of adequate distribution of scores (this is typically an iterative process). The expected duration of Workshop #2 is expected to be between 2 and 4 hours.

d. Task 3 – Final Pairwise Model and Narrative

Based on the decisions and direction from Workshop #2, Engineer will:

- i. Revise the pairwise model and prepare a draft narrative describing the functionality of the model and how to make revisions to handle changes in criteria, weighting, etc. for subsequent use by Owner.



- ii. Participate in a final review meeting with Owner to present the final model and written narrative, demonstrate the tool, and discuss methods to add or modify the tool as assets are added to the system, attributes change, etc.

The Task 3 deliverables will include the final Pairwise model in Microsoft Excel format and the accompanying written narrative in both Microsoft Word and Adobe Portable Digital Format (PDF).

- e. Task 4 – Assistance with Potable Water and Reclaimed Water Systems Asset Condition Assessment Data Collection Program

Engineer will:

- Review existing asset data to be provided by Owner;
- Schedule and conduct a workshop (Workshop #3) with Owner, approximately 60 minutes in duration, to discuss existing potable and reclaimed water system asset data, data gaps, pairwise comparison criteria, risk factors, and processes and procedures for collecting data collection going forward for the purposes of future analysis; and
- Provide written recommendations regarding best practices for asset data collection, storage, formatting and management with the goal of improving data quality and reducing data gaps going forward.

Task 4 deliverables will include written recommendations (e.g., memoranda) regarding data collection and management, and meeting summaries for all meetings and workshops.

Engineer's Task 4 scope of services will be considered complete upon delivery by Engineer of the Task 4 final deliverable(s) as described herein to Owner.

## 2. Schedule

Engineer estimates the services described herein can be completed in general accordance with the durations by task/deliverable presented in Table 2-1.

The anticipated durations listed in Table 2-1 assume no more than two weeks for Owner's review of each draft deliverable.



**Table 2-1: Estimated Task Durations  
Franklin Utility Asset Management Consulting Services**

| Task/Deliverable                                                                                        | Anticipated Duration<br>(Weeks) |
|---------------------------------------------------------------------------------------------------------|---------------------------------|
| Task 1 - Project Planning, Initiation, Workshop #1, and Training                                        | 4                               |
| Task 2 – Preliminary Pairwise Decision Model                                                            | 4                               |
| Task 3 – Final Pairwise Decision Model and Narrative                                                    | 8                               |
| Task 4 – Assistance with Potable and Reclaimed Water Asset Condition Assessment Data Collection Program | 6                               |
| Total Anticipated Duration of Project Tasks                                                             | 22                              |

### 3. Compensation

Engineer will provide the services described in Paragraph 1 in accordance with the compensation provisions of the Agreement and the personnel hourly rates by labor classification presented in Attachment 1. The total not-to-exceed fee for these Basic Services, including all labor, reimbursable expenses and travel (including mileage at the prevailing federal reimbursement rate) is \$120,000.00. Table 3-1 breaks down the proposed compensation by Project task.

**Table 3-1: Estimated Fee by Task  
Franklin Utility Asset Management Consulting Services**

| Task                                                                                                    | Estimated Fee |
|---------------------------------------------------------------------------------------------------------|---------------|
| Task 1 - Project Planning, Initiation, Workshop #1, and Training                                        | \$32,000      |
| Task 2 – Preliminary Pairwise Decision Model                                                            | \$23,000      |
| Task 3 – Final Pairwise Decision Model and Narrative                                                    | \$50,000      |
| Task 4 – Assistance with Potable and Reclaimed Water Asset Condition Assessment Data Collection Program | \$15,000      |
| Total Not-to-Exceed Fee                                                                                 | \$120,000     |



Ms. Michelle Hatcher, P.E  
January 23, 2020  
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#### 4. Qualifications and Exclusions

- a. Engineer shall be entitled to reasonably rely upon the information and data provided by Owner or obtained from generally accepted sources within the industry without independent verification except and to the extent Engineer knows or in the exercise of reasonable care should know the document or information is inaccurate or incomplete.
- b. The proposed schedule is contingent upon timely receipt of information from Owner. In the event Engineer is delayed in performance of services by any act or negligence of Owner or any agent therefor, or by Acts of God, strikes, lockouts, accidents, or other events beyond the control of Engineer, Engineer and Owner agree that Engineer's compensation and the work schedule for the affected task(s) may be equitably adjusted. In the event delays to the Project are encountered for any reason, Engineer and Owner agree to undertake reasonable steps to mitigate the effect of such delays.
- c. Payments to Engineer will be in accordance with the Compensation provisions of the Agreement.
- d. Engineer shall provide professional services and complete the scope of services described herein in accordance with the Standard of Care.
- e. Tasks and services not specifically included in the scope of services presented herein shall be considered "Additional Services." If Additional Services are requested by Owner, Engineer will prepare a separate scope of services and fee proposal in a form suitable for supporting an amendment to the Agreement for providing the requested Additional Services. Engineer will not commence work on Additional Services prior to receipt of Owner's written authorization.

Once again, thank you for the opportunity to work with you and your team on this project. Should you have any questions or require additional information, please do not hesitate to contact me at 615/770-8540.

Sincerely,  
**Gresham Smith**

Craig Parker, P.E.  
Project Executive

Copies: Brian Goodwin, P.E., Assistant Director, Franklin Water Management Department  
Brittany Bishop, P.E., Project Manager, Gresham Smith

Attachment 1 – 2020-21 Compensation Schedule

**Gresham  
Smith**

Ms. Michelle Hatcher, P.E  
January 23, 2020  
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**Attachment 1**  
**2020-21 Compensation Schedule**

| Code | Personnel Classification                                 | Hourly Rate |
|------|----------------------------------------------------------|-------------|
| P9   | Project Executive                                        | \$250       |
| P8   | Senior Water Resources Engineer                          | \$225       |
| P7   | Senior Project Manager                                   | \$200       |
| P6   | Senior Project Engineer                                  | \$175       |
| P5   | Project Manager/Engineer; GIS Specialist                 | \$150       |
| P4   | Staff Engineer                                           | \$125       |
| P3   | Senior Engineering Intern/Staff Professional             | \$115       |
| P2   | Engineering Intern                                       | \$105       |
| P1   | Staff Intern                                             | \$95        |
| T4   | Senior Designer                                          | \$150       |
| T3   | Designer                                                 | \$125       |
| T2   | Senior Technician                                        | \$100       |
| T1   | Technician                                               | \$75        |
| S3   | Project Analyst; Project Management Assistant            | \$150       |
| S2   | Sr. Administrative Professional                          | \$90        |
| S1   | Administrative Professional; Document Control Specialist | \$70        |

Reimbursable expenses, including 3<sup>rd</sup> party printing and copying charges, and project related travel expenses, shall be invoiced at cost with no mark-up. Automobile mileage will be invoiced at the prevailing federal reimbursement rate. Subconsultant fees, if any, will be invoiced at cost plus five percent.



January 23, 2020

Ms. Michelle Hatcher, P.E., Director  
City of Franklin Water Management Department  
124 Lumber Drive  
Franklin, Tennessee 37064

**Subject: Proposal for Providing Utility Asset Management  
Consulting Services  
Franklin, TN**

Dear Ms. Hatcher:

Thank you for the opportunity to provide this proposal for providing asset management consulting services to the City of Franklin. As we have discussed during recent meetings, Gresham Smith ("Engineer") will provide professional and technical services to develop asset management tools and procedures for the City of Franklin ("Owner") as described herein. Our proposed scope of services, schedule and compensation for the Project are presented in the following paragraphs.

**1. Scope of Services**

**a. General**

Engineer understands Owner seeks to develop tools and procedures to enable enhanced assessment of asset data and prioritization of improvements to the existing sewer, potable water, and reclaimed water systems ("Project"). Engineer will assist Owner with development of said tools and procedures by performing the tasks described in the following paragraphs.

**b. Task 1 - Project Planning, Initiation, and Coordination**

Engineer will:

- i. Prepare a Project Plan consisting of a detailed master Project Schedule with deliverable dates and other milestones and a Project-specific plan for quality management;

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222 Second Avenue South  
Suite 1400  
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615.770.8100  
GreshamSmith.com



- ii. Schedule and conduct a Project kickoff meeting and initial workshop (Workshop #1) with Owner. The kick-off portion of the meeting will enable Engineer to review with Owner the detailed master Project Schedule and establish lines of communication and processes for data transfer, decision making, and training. Invitees will include Engineer's project manager and task manager(s), and Owner's staff as directed. The workshop portion of the meeting will consist of discussion of the each of the following:
- Existing sewer asset data, data gaps, i.e. missing asset attributes, and how the data gaps will be filled for the purposes of the Project;
  - Existing attributes, scoring, and "Fatal Flaw Analysis," which is the screening of attributes to determine whether or not the sewer infrastructure satisfies the criteria required for each rehabilitation methodology. The criteria will be applied to the database to determine if an exclusive method applies, which would remove those sewer segments from further analysis.
  - Acceptable sewer asset rehabilitation methods (e.g. point repairs, CIPP lining, replacement, etc.) to include in the decision model;
  - Evaluation criteria (e.g. obvious leaks, collapsed pipe segments, structural failures, sags, offset joints, sensitive location, depth, material, shape), advantages and disadvantages of available rehabilitation methods, and weighting criteria; and
  - Pertinent probability of failure and consequence of failure factors to be used for risk assessment.

The combination kickoff meeting/Workshop #1 is expected to take at least two hours but no more than four hours to complete.

- iii. Provide written recommendations and training of Owner's staff in best practices for sewer asset data collection, storage, formatting and management with the goal of improving data quality and reducing data gaps. Unless otherwise requested, training will consist of up to eight hours of on-site "classroom" meetings/instruction and up to eight hours of on-site "field" training, during which Engineer's designated staff will accompany Owner's staff on field visits to evaluate, critique, and provide recommendations for visual inspections of assets (e.g. manholes) and data collection methodologies;
- iv. Maintain open and continuous communication throughout the life of the Project; coordinate all activities and tasks with designated representative(s) of Owner; keep key staff informed using informal communication via telephone and email as well as team meetings;



- v. Participate in periodic progress review meetings and/or teleconferences with Owner to present work completed, receive input from Owner's staff, arrange subsequent meetings and review and adjust the Project schedule as required;
- vi. Prior to each meeting and workshop, prepare and distribute an agenda; within three days following, prepare and distribute to attendees a draft meeting summary for review and comment; and once approved, publish the meeting summary for recordkeeping.

Task 1 deliverables will include the Project Schedule, which will be updated monthly as the Project progresses to indicate status of tasks and overall percent complete, written recommendations (e.g., memoranda) regarding data collection and management, and meeting summaries for all meetings and workshops.

c. Task 2 – Preliminary Pairwise Model

Based upon the decisions and direction from the initial workshop, Engineer will develop a draft Pairwise decision model. The asset attributes collected in the field will be used to develop the criteria in the pairwise comparison. In pairwise comparison, each criterion (e.g., age) is compared individually to all other criterion (e.g., age vs. material of construction, age vs. depth), which results in many paired comparisons. These are factored together to create an overall priority factor for each pair. This process also allows for creation of priority factors for methods (lining, point repair or replacement). These priority factors, for both criteria and methods, are applied together for critical decision making applied to each asset based on the condition assessment.

Working closely with Owner's designated staff and with their input, Engineer will assign a ranking value to each pair of criteria to signify the magnitude of relative difference. The magnitude of difference in importance within pairwise comparisons will be assigned based on the numerical listing in Table 1-1.

Once ranking values have been determined for all pairs, the magnitude of differences will be compared to create a priority factor for each criterion. This signifies its relative importance across the criteria list. To facilitate the pairwise comparison process, Engineer typically develops a matrix within the Stella® software for quick calculations. The matrix rows will be compared to the columns, and the numerical rankings will be determined and assigned accordingly. The same process of pairwise comparison will then be repeated to develop priority factors for the methods as compared against the other methods (lining, repair or replace).



**Table 1-1: Pairwise Comparison Value System  
Franklin Utility Asset Management Consulting Services**

| Ranking Value | Significance              |
|---------------|---------------------------|
| 9             | Absolutely more important |
| 7             | Strongly more important   |
| 5             | Moderately more important |
| 3             | Weakly more important     |
| 2             | Slightly more important   |
| 1             | Equally important         |
| 1/2           | Slightly less important   |
| 1/3           | Weakly less important     |
| 1/5           | Moderately less important |
| 1/7           | Strongly less important   |
| 1/9           | Absolutely less important |

With priority factors established for both for criteria and methods, the priority factor of the criterion being analyzed will be applied to the priority factor of each of the replacement methods and all results summed by criterion. The method with the greatest overall factor will be designated the preferred method for an asset exhibiting those criteria. The basis of the preferred method selection will be the result of all the decisions (made by Owner and Engineer, working together) leading up to that selection, as captured within the pairwise comparisons.

Engineer will schedule and conduct a progress meeting/review workshop (Workshop #2) to present the draft model, demonstrate functionality, seek input, answer questions, and suggest changes to weighting factors as necessary to address issues such as lack of adequate distribution of scores (this is typically an iterative process). The expected duration of Workshop #2 is expected to be between 2 and 4 hours.

d. Task 3 – Final Pairwise Model and Narrative

Based on the decisions and direction from Workshop #2, Engineer will:

- i. Revise the pairwise model and prepare a draft narrative describing the functionality of the model and how to make revisions to handle changes in criteria, weighting, etc. for subsequent use by Owner.



- ii. Participate in a final review meeting with Owner to present the final model and written narrative, demonstrate the tool, and discuss methods to add or modify the tool as assets are added to the system, attributes change, etc.

The Task 3 deliverables will include the final Pairwise model in Microsoft Excel format and the accompanying written narrative in both Microsoft Word and Adobe Portable Digital Format (PDF).

- e. Task 4 – Assistance with Potable Water and Reclaimed Water Systems Asset Condition Assessment Data Collection Program

Engineer will:

- Review existing asset data to be provided by Owner;
- Schedule and conduct a workshop (Workshop #3) with Owner, approximately 60 minutes in duration, to discuss existing potable and reclaimed water system asset data, data gaps, pairwise comparison criteria, risk factors, and processes and procedures for collecting data collection going forward for the purposes of future analysis; and
- Provide written recommendations regarding best practices for asset data collection, storage, formatting and management with the goal of improving data quality and reducing data gaps going forward.

Task 4 deliverables will include written recommendations (e.g., memoranda) regarding data collection and management, and meeting summaries for all meetings and workshops.

Engineer's Task 4 scope of services will be considered complete upon delivery by Engineer of the Task 4 final deliverable(s) as described herein to Owner.

## 2. Schedule

Engineer estimates the services described herein can be completed in general accordance with the durations by task/deliverable presented in Table 2-1.

The anticipated durations listed in Table 2-1 assume no more than two weeks for Owner's review of each draft deliverable.





**Table 2-1: Estimated Task Durations**  
**Franklin Utility Asset Management Consulting Services**

| Task/Deliverable                                                                                        | Anticipated Duration<br>(Weeks) |
|---------------------------------------------------------------------------------------------------------|---------------------------------|
| Task 1 - Project Planning, Initiation, Workshop #1, and Training                                        | 4                               |
| Task 2 – Preliminary Pairwise Decision Model                                                            | 4                               |
| Task 3 – Final Pairwise Decision Model and Narrative                                                    | 8                               |
| Task 4 – Assistance with Potable and Reclaimed Water Asset Condition Assessment Data Collection Program | 6                               |
| Total Anticipated Duration of Project Tasks                                                             | 22                              |

### 3. Compensation

Engineer will provide the services described in Paragraph 1 in accordance with the compensation provisions of the Agreement and the personnel hourly rates by labor classification presented in Attachment 1. The total not-to-exceed fee for these Basic Services, including all labor, reimbursable expenses and travel (including mileage at the prevailing federal reimbursement rate) is \$120,000.00. Table 3-1 breaks down the proposed compensation by Project task.

**Table 3-1: Estimated Fee by Task**  
**Franklin Utility Asset Management Consulting Services**

| Task                                                                                                    | Estimated Fee |
|---------------------------------------------------------------------------------------------------------|---------------|
| Task 1 - Project Planning, Initiation, Workshop #1, and Training                                        | \$32,000      |
| Task 2 – Preliminary Pairwise Decision Model                                                            | \$23,000      |
| Task 3 – Final Pairwise Decision Model and Narrative                                                    | \$50,000      |
| Task 4 – Assistance with Potable and Reclaimed Water Asset Condition Assessment Data Collection Program | \$15,000      |
| Total Not-to-Exceed Fee                                                                                 | \$120,000     |



#### 4. Qualifications and Exclusions

- a. Engineer shall be entitled to reasonably rely upon the information and data provided by Owner or obtained from generally accepted sources within the industry without independent verification except and to the extent Engineer knows or in the exercise of reasonable care should know the document or information is inaccurate or incomplete.
- b. The proposed schedule is contingent upon timely receipt of information from Owner. In the event Engineer is delayed in performance of services by any act or negligence of Owner or any agent therefor, or by Acts of God, strikes, lockouts, accidents, or other events beyond the control of Engineer, Engineer and Owner agree that Engineer's compensation and the work schedule for the affected task(s) may be equitably adjusted. In the event delays to the Project are encountered for any reason, Engineer and Owner agree to undertake reasonable steps to mitigate the effect of such delays.
- c. Payments to Engineer will be in accordance with the Compensation provisions of the Agreement.
- d. Engineer shall provide professional services and complete the scope of services described herein in accordance with the Standard of Care.
- e. Tasks and services not specifically included in the scope of services presented herein shall be considered "Additional Services." If Additional Services are requested by Owner, Engineer will prepare a separate scope of services and fee proposal in a form suitable for supporting an amendment to the Agreement for providing the requested Additional Services. Engineer will not commence work on Additional Services prior to receipt of Owner's written authorization.

Once again, thank you for the opportunity to work with you and your team on this project. Should you have any questions or require additional information, please do not hesitate to contact me at 615/770-8540.

Sincerely,  
**Gresham Smith**

Craig Parker, P.E.  
Project Executive

Copies: Brian Goodwin, P.E., Assistant Director, Franklin Water Management Department  
Brittany Bishop, P.E., Project Manager, Gresham Smith

Attachment 1 – 2020-21 Compensation Schedule

**Gresham  
Smith**





**Attachment 1**  
**2020-21 Compensation Schedule**

| Code | Personnel Classification                                 | Hourly Rate |
|------|----------------------------------------------------------|-------------|
| P9   | Project Executive                                        | \$250       |
| P8   | Senior Water Resources Engineer                          | \$225       |
| P7   | Senior Project Manager                                   | \$200       |
| P6   | Senior Project Engineer                                  | \$175       |
| P5   | Project Manager/Engineer; GIS Specialist                 | \$150       |
| P4   | Staff Engineer                                           | \$125       |
| P3   | Senior Engineering Intern/Staff Professional             | \$115       |
| P2   | Engineering Intern                                       | \$105       |
| P1   | Staff Intern                                             | \$95        |
| T4   | Senior Designer                                          | \$150       |
| T3   | Designer                                                 | \$125       |
| T2   | Senior Technician                                        | \$100       |
| T1   | Technician                                               | \$75        |
| S3   | Project Analyst; Project Management Assistant            | \$150       |
| S2   | Sr. Administrative Professional                          | \$90        |
| S1   | Administrative Professional; Document Control Specialist | \$70        |

Reimbursable expenses, including 3<sup>rd</sup> party printing and copying charges, and project related travel expenses, shall be invoiced at cost with no mark-up. Automobile mileage will be invoiced at the prevailing federal reimbursement rate. Subconsultant fees, if any, will be invoiced at cost plus five percent.



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**File #: 20-01218**

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**DATE:** October 1, 2020  
**TO:** Capital Investment Committee  
**FROM:** Michelle Hatcher, Director of Water Management

**SUBJECT:**

Consideration Of Draft Amendment 2 To COF Contract No. 2016-0152, With CDM Smith For Additional Wet Weather Calibration For The Hydraulic Model And Modeling Technical Assistance.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning an amendment to CDM Smith for the recalibration of the hydraulic sewer collection system model.

**BACKGROUND/STAFF COMMENTS:**

In 2016 the Board approved COF Contract # 2016-0152 with CDM Smith for the Sanitary Sewer System Model Assistance - Phase 2. This included the development of the Capacity Tool which the Water Management Department (WMD) uses for simulations of wastewater flows and downstream impacts to the collection system as new developments and connections are made. To keep this tool current with the demand that is seen on the wastewater system, in addition to the impacts wet weather can have on the collection system, the WMD places additional flow monitors in the collection system every two years during the wet weather months to collect data on flow, depth, velocity, and surge volumes. This data is then used to recalibrate the hydraulic model to simulate existing conditions as observed in the collection system. As developments or other large wastewater contributors are connected, the Department can see where vulnerable areas are in the system that need to be upsized or addressed through another type of capital project.

**FINANCIAL IMPACT:**

This work will be performed for an amount not-to-exceed of \$70,000.00.

**RECOMMENDATION:**

Staff recommends that Amendment 2 to COF Contract No. 2016-0152 with CDM Smith for Additional Wet Weather Calibration for the Hydraulic Model and Modeling Technical Assistance be recommended for approval by the Board of Mayor and Aldermen.



210 25<sup>th</sup> Avenue North  
Suite 1102  
Nashville, TN 37203  
tel: 615-320-3161

October 15, 2020

Mr. Brian Goodwin, PE  
City of Franklin Public Works  
124 Lumber Drive  
Franklin, Tennessee 37064

Subject: Amendment #1  
Phase II Sanitary Sewer System Model Assistance

Dear Mr. Goodwin:

CDM Smith has been pleased to support the City of Franklin on the Phase II Sanitary Sewer System Model Assistance to date and appreciates the opportunity to continue to support the City in the future. As requested, CDM Smith is submitting the following scope of work to provide continuing services for the Sanitary Sewer System Model, including re-calibration of the existing sanitary sewer model based on the monitoring performed by the City.

### **Scope of Work**

CDM Smith will provide support to the City for the following items:

#### **Task 1 – Sanitary Sewer Model and Capacity Tool On-Call Assistance**

CDM Smith staff will provide on-call assistance to support the on-going maintenance and updates to the City's Sanitary Sewer Model and Sanitary Sewer Capacity Tool. This assistance generally includes support for annual dry and wet weather monitoring efforts performed by the City as well as technical support related to the Capacity Tool inputs and updates performed by the City.

#### **Task 2 – Sanitary Sewer Model Calibration**

CDM Smith will perform a re-calibration of the City's Sanitary Sewer Model based on the dry and wet weather sampling performed by the City. It is understood that the City has captured data from 31 flow monitors within the past year. This data will be relied upon to perform the model calibration. Additional flow monitoring is not included in this contract. The following is a summary of anticipated tasks for the calibration effort:



October 15, 2020

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- **Data Collection** - Data download and quality assessment. Key data metrics evaluated (calibration events, rain volumes, meter quality, peaking factor).
- **Model Version Upgrade** - Import of previous version of model into new SWMM version and related testing/updates.
- **SSOAP Analysis** - Use of SSOAP platform to assess RDII and develop diurnal curves. DWF values also are a result of this analysis.
- **Sewershed Updates** - Update of tributary areas to model via updated pipe network, aerials, and correspondence.
- **Calibration and Verification** - Model Calibration, or "the estimation and adjustment of model parameters and constants to improve the agreement between model output and a data set" and Verification, "demonstration that a model within its domain of applicability possesses a satisfactory range of accuracy consistent with the intended application of the model." Assessment of RDII/linear foot of sewer, time-varying groundwater, and other key metrics of capacity evaluation.
- **Model Infrastructure Updates** - As-needed updates to model pipe and manhole network based on system information provided by the City.
- **Design Storm Runs** - Application of design storms to calibrated model and output QC, potential surcharging and overflow identification.
- **Memorandum Development and Correspondence** - Documentation of process and products, model handoff to City, training for model use.
- **Project Management and Meetings** - General project management activities including scope/schedule/budget monitoring, progress meetings and monthly invoicing.

### Key Team Members

Key local team members that have been supporting the City on the base contract will continue to provide support for this Amendment. Dave Mason, PE, PMP will serve as Project Manager. Aaron Rogge, PE will provide support for the Sanitary Sewer Model and Capacity Tool. Zack Daniel, PE will continue as the Client Service Leader.

### Schedule

The model calibration work will be completed during Quarter 1 of 2021. It is anticipated that the on-call services will be executed over the next calendar year on an as-needed basis through



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December 31, 2021. This schedule may be extended by the City if the funds within this amendment are not used within the year.

### Budget

The original contract COF 2016-0152 had a not-to-exceed upper limit of \$145,000. CDM Smith proposes to complete the amended scope for work for an additional \$70,000, bringing the total not-to-exceed upper limit of the amended contract to \$215,000. An estimated breakdown of cost by task is provided for informational purposes below. Franklin will not hold CDM Smith to individual task budgets. CDM Smith can carry over and shift hours and costs as necessary between tasks.

| Task Name                                                          | Hours      | Cost (\$)       |
|--------------------------------------------------------------------|------------|-----------------|
| Task 1 – Sanitary Sewer Model and Capacity Tool On-Call Assistance | 140        | \$20,000        |
| Task 2 – Sanitary Sewer Model Calibration                          | 352        | \$50,000        |
| <b>Total not to exceed:</b>                                        | <b>492</b> | <b>\$70,000</b> |

### Billing

CDM Smith will bill the project on a monthly basis (unless no work is completed within a month) on a time and materials basis, according to the attached billing rate table. The rates will be applied to the remainder of the existing contract and work completed under the amendment beginning at the date of the notice to proceed from the City of Franklin. For each monthly invoice, CDM Smith will submit a monthly progress report and update on project status and deliverables. Billing Rate escalation may be requested on an annual basis; the escalation of the billing rates shall never exceed 3% per category, per year.

Thank you again for this opportunity to work with you and the City of Franklin staff on this project. Please feel free to call me or Zack if you have any questions or concerns.





October 15, 2020  
Page 4

Sincerely,

A handwritten signature in blue ink, appearing to read "DAM", with a long horizontal stroke extending to the right.

David Mason, PE, PMP  
Project Manager

Enclosure

cc: Zack Daniel, CDM Smith



October 15, 2020

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**CDM Smith Labor Billing Rates:**

| <b>Labor Category</b>       | <b>Billing Rates<br/>(\$/hour)</b> |
|-----------------------------|------------------------------------|
| Officer                     | \$225                              |
| Senior Technical Specialist | \$220                              |
| Project Manager             | \$215                              |
| Technical Specialist        | \$190                              |
| Senior Engineer/Scientist   | \$165                              |
| Engineer/Scientist          | \$145                              |
| Junior Engineer/Scientist   | \$120                              |
| Contract Admin              | \$110                              |
| Admin/Clerical              | \$100                              |

**AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR PHASE II SANITARY SEWER SYSTEM MODEL  
ASSISTANCE  
COF Contract No. 2016-0152**

**THIS AMENDMENT** is made and entered into on this the [REDACTED] day of [REDACTED], 2020, by and between the **City of Franklin, Tennessee** ("City") and CDM SMITH.

**WITNESSETH:**

**WHEREAS**, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled SANITARY SEWER SYSTEM MODEL ASSISTANCE - PHASE 2, dated the 13th day of September 2016; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of ONE HUNDER FORTY-FIVE THOUSAND DOLLARS (\$145,000.00), as authorized by the City Engineer and as detailed in the fee Schedule; and

**WHEREAS**, the City and Consultant realize the need for additional design work for the Project due to circumstances beyond the control of the Consultant; and

**WHEREAS**, the Consultant has provided a Proposal for an increase in engineering services, as described in Exhibit A dated October 15, 2020, in the amount of SEVENTY THOUSAND DOLLARS, (\$70,000.00); and

**WHEREAS**, the City has reviewed the Proposal and desires to enter into an agreement for the Project as proposed.

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

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. Consultant's Responsibilities and Duties. Consultant agrees to perform the work as proposed in their October 13, 2020, letter of proposal (**Exhibit A**) which includes the Scope of Services for this Amendment, all of which shall be considered as an integral part hereof.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the work as described in Exhibit A an amount not to exceed SEVENTY THOUSAND DOLLARS, (\$70,000.00).

The City reserves the right to issue any payments jointly to the Consultant and Sub-Consultant when the City receives information that the Consultant has not paid its Sub-Consultant.

4. Waiver. Neither party's failure nor delay to exercise any of its rights or powers under this Amendment will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.

5. Severability. If any term or provision of the Amendment is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Amendment will not be affected.

6. Precedence. In the event of conflict between this Amendment and the provisions of the previous Agreement(s), or any other contract, agreement or other document to which this Amendment may accompany or incorporate by reference, the provisions of this Amendment will, to the extent of such conflict (or to the extent the Agreement is silent), take precedence unless such document expressly states that it is amending this Amendment.

7. Entire Agreement. The Amendment between the parties supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Amendment. The terms and conditions of this Amendment may not be changed except by an amendment expressly referencing this Amendment by section number and signed by an authorized representative of each party.

8. Additions/Modifications. If seeking any addition or modification to the Amendment, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Amendment, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Amendment or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Amendment; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.

9. Breach. Upon deliberate breach of the Amendment by either party, the non-breaching party shall be entitled to terminate the Amendment without

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.

10. Survival. This Amendment shall survive the completion of or any termination of the original contract, revised contract, or agreement or other document to which it may accompany or incorporate by reference.

All other provisions of the Agreement dated September 13, 2018, are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

The CITY OF FRANKLIN, TENNESSEE

CDM SMITH

By: \_\_\_\_\_

**Dr. Ken Moore**

Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
**Eric S. Stuckey**

City Administrator

Date: \_\_\_\_\_

**Approved as to form:**

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney



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**File #: 20-01020**

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**DATE:** September 25, 2020  
**TO:** Capital Investment Committee  
**FROM:** Eric Stuckey, City Administrator  
Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
David Diaz, Contracts Administrator

**SUBJECT:**

Consideration Of COF Contract No. 2020-0112, A Local Agency Project Agreement With The Tennessee Department Of Transportation For The Construction Of SR-96 Bridge Over Harpeth River, LM 10.74 (IA).

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning a Local Agency Project Agreement (COF Contract No. 2020-0112) between the Tennessee Department of Transportation (TDOT) and the City of Franklin for the reconstruction of the SR-96 (Murfreesboro Road/3rd Avenue South) bridge over the Harpeth River.

**BACKGROUND/STAFF COMMENTS:**

In 2017, the State of Tennessee passed the Improving Manufacturing, Public Roads, and Opportunities for a Vibrant Economy (IMPROVE) Act to provide additional funding for transportation infrastructure projects throughout the state. One of the specific projects included is the reconstruction of the SR-96 (Murfreesboro Road/3rd Avenue South) bridge over the Harpeth River at the eastern entrance to downtown. After a preliminary study, TDOT approached the City with the preliminary concept for the replacement bridge. While TDOT is willing to reconstruct the bridge at no cost to the City, it was unwilling to provide additional amenities that typically accompany such a project, including wider sidewalk, decorative pedestrian railings and decorative lighting.

The approval of this agreement commits the City to funding the construction of these additional amenities. If the City does not wish to commit local funding to the this project, TDOT will still reconstruct the bridge to their current standards.

**FINANCIAL IMPACT:**

TDOT's preliminary estimate for the cost of this project is \$9,310,000, with the City's share being \$593,200 (approximately 6.4% of the project total).

**RECOMMENDATION:**

Staff recommends that COF Contract No. 2020-0112 be recommended for approval by the Board of Mayor and Aldermen.

**Agreement Number: 190208**

**Project Identification Number: 124872.00**

**Federal Project Number: BR-NH-96(60)**

**State Project Number: 94011-3259-94**

**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 Bridge over Harpeth River, LM 10.74 (IA)”

### **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)

|                             | <b>Responsible Party</b> | <b>Funding Provided by Agency or Project.</b> |
|-----------------------------|--------------------------|-----------------------------------------------|
| Environmental Clearance by: | <b>Department</b>        | <b>Project</b>                                |
| Preliminary Engineering by: | <b>Department</b>        | <b>Project</b>                                |
| Right-of-Way by:            | <b>Department</b>        | <b>Project</b>                                |
| Utility Coordination by:    | <b>Department</b>        | <b>Project</b>                                |
| Construction by:            | <b>Department</b>        | <b>Project</b>                                |

- 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 **N/A**. 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:

| <b>Amount</b>            |   | <b>Open to Public and Vehicular Traffic</b> |
|--------------------------|---|---------------------------------------------|
| \$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: \_\_\_\_\_ Date \_\_\_\_\_ By: \_\_\_\_\_ Date \_\_\_\_\_  
**Ken Moore** **Clay Bright**  
**Mayor** **Commissioner**

APPROVED AS TO  
FORM AND LEGALITY

APPROVED AS TO  
FORM AND LEGALITY

By: \_\_\_\_\_ Date \_\_\_\_\_ By: \_\_\_\_\_ Date \_\_\_\_\_  
**Shauna Billingsley** **John Reinbold**  
**Attorney** **General Counsel**

**SR-96 Bridge over Harpeth River Bridge Replacement****Cost Breakdown for City of Franklin****Railing (Included in Appurtenances)**

- Previous Cost estimate (total/local): \$199,800 / \$59,940
- TDOT Standard Concrete Parapet with Structural Tubing: \$189.17/ft (\$85,126.50 total)
- Standard Concrete Classic Parapet Rail: \$328.49/ft (**\$147,820.50** total)
- Cost of Non-Participating items: **\$62,694**

**Sidewalk (Included in Structures)**

- Previous Cost estimate (total/local): \$3,590,000 / \$360,000
- TDOT Bridge with 6' sidewalks (\$2,758,500.00 total structure cost)
- Franklin Bridge with 10' sidewalks (**\$3,118,500.00** total structure cost)
- Cost of Non-Participating items: **\$360,000**

**Bridge Lighting**

- Previous Cost estimate (total/local): \$70,000 / \$52,500
- TDOT Standard Light Poles & Fixtures: \$4,100/each (\$32,800 total)
- Franklin Decorative Light Poles & Fixtures: \$8,300/each (**\$66,400** total)
- Cost of Non-Participating items: **\$33,600**

**Other Items and Contingency**

- Non-Participating Railing, Sidewalk, and Lighting items total \$456,300
- 10% of cost for Other Items plus 20% of cost for Contingency: **\$136,900**

**Total Project Cost**

- Previous Cost estimate (total/local): \$9,551,000 / \$646,900
- Total Project Construction Estimate: \$7,020,000
- Total Project Cost including PE, ROW, and Utilities: **\$9,310,000**
- Estimated Cost to Franklin: **\$593,200**

# COST ESTIMATE SUMMARY

|                              |                                          |  |  |                                                                                     |
|------------------------------|------------------------------------------|--|--|-------------------------------------------------------------------------------------|
| <b>Route:</b>                | <b>SR-96</b>                             |  |  |  |
| <b>Description:</b>          | <b>Replace Bridge over Harpeth River</b> |  |  |                                                                                     |
| <b>Project Type of Work:</b> | <b>Widen</b>                             |  |  |                                                                                     |
| <b>County:</b>               |                                          |  |  |                                                                                     |
| <b>Length:</b>               | <b>0.13 Miles</b>                        |  |  |                                                                                     |
| <b>Date:</b>                 | <b>July 13, 2020</b>                     |  |  |                                                                                     |
| <b>Estimate Type:</b>        | <b>Concept</b>                           |  |  |                                                                                     |

| DESCRIPTION                                                      | LOCAL<br>9%      | STATE<br>91%       | FEDERAL<br>0% | TOTAL               |
|------------------------------------------------------------------|------------------|--------------------|---------------|---------------------|
| <b>Construction Items</b>                                        |                  |                    |               |                     |
| Removal Items                                                    | \$0              | \$36,500           | \$0           | \$36,500            |
| Asphalt Paving                                                   | \$0              | \$153,000          | \$0           | \$153,000           |
| Drainage                                                         | \$0              | \$43,900           | \$0           | \$43,900            |
| Appurtenances                                                    | \$62,700         | \$181,300          | \$0           | \$244,000           |
| Structures                                                       | \$360,000        | \$3,230,000        | \$0           | \$3,590,000         |
| Fencing                                                          | \$0              | \$0                | \$0           | \$0                 |
| Signalization & Lighting                                         | \$33,600         | \$42,800           | \$0           | \$76,400            |
| Railroad Crossing                                                | \$0              | \$350,000          | \$0           | \$350,000           |
| Earthwork                                                        | \$0              | \$160,000          | \$0           | \$160,000           |
| Clearing and Grubbing                                            | \$0              | \$61,000           | \$0           | \$61,000            |
| Seeding & Sodding                                                | \$0              | \$3,100            | \$0           | \$3,100             |
| Rip-Rap or Slope Protection                                      | \$0              | \$31,900           | \$0           | \$31,900            |
| Guardrail                                                        | \$0              | \$18,200           | \$0           | \$18,200            |
| Signing                                                          | \$0              | \$4,800            | \$0           | \$4,800             |
| Pavement Markings                                                | \$0              | \$5,600            | \$0           | \$5,600             |
| Maintenance of Traffic                                           | \$0              | \$142,000          | \$0           | \$142,000           |
| Mobilization 5%                                                  | \$0              | \$246,000          | \$0           | \$246,000           |
| Other Items 10%                                                  | \$45,600         | \$471,400          | \$0           | \$517,000           |
| Const. Contingency 20%                                           | \$91,300         | \$327,700          | \$0           | \$419,000           |
| Const. Eng. & Inspec. 15%                                        | \$0              | \$915,000          | \$0           | \$915,000           |
| Construction Estimate                                            | \$593,200        | \$6,426,800        | \$0           | \$7,020,000         |
| <b>Interchanges &amp; Unique Intersections</b>                   |                  |                    |               |                     |
| Roundabouts                                                      | \$0              | \$0                | \$0           | \$0                 |
| Interchanges                                                     | \$0              | \$0                | \$0           | \$0                 |
| <b>Right-of-Way &amp; Utilities</b>                              |                  |                    |               |                     |
|                                                                  | LOCAL<br>0%      | STATE<br>100%      | FEDERAL<br>0% | TOTAL               |
| Right-of-Way                                                     | \$0              | \$688,000          | \$0           | \$688,000           |
| Utilities                                                        | \$0              | \$895,000          | \$0           | \$895,000           |
| <b>Preliminary &amp; Construction Engineering and Inspection</b> |                  |                    |               |                     |
| Prelim. Eng. 10%                                                 | \$0              | \$702,000          | \$0           | \$702,000           |
| <b>Total Project Cost (2020)</b>                                 | <b>\$593,200</b> | <b>\$8,711,800</b> | <b>\$0</b>    | <b>\$ 9,310,000</b> |

Local cost share includes upgrade cost of lighting and bridge parapet and additional 8 feet of bridge width for sidewalk. Cost updated from 2019 cost estimate with current per unit costs.

# PAY ITEM SUMMARY

| TDOT PAY ITEM                                         | TDOT DESCRIPTION                                      | UNIT | TOOL QUANTITIES | ADDITIONAL QUANTITIES | TOOL QUANTITIES + ADDITIONAL QUANTITIES | Statewide UNIT COST | TOTAL COST                           |
|-------------------------------------------------------|-------------------------------------------------------|------|-----------------|-----------------------|-----------------------------------------|---------------------|--------------------------------------|
|                                                       |                                                       |      |                 |                       |                                         |                     | <-- Unit Cost Trends with Quantities |
| <b>Pavement Removal</b>                               |                                                       |      |                 |                       |                                         |                     |                                      |
| 202-03.01                                             | REMOVAL OF ASPHALT PAVEMENT                           | SY   | 0               | 622                   | 622                                     | \$ 33.89            | \$ 21,079.58                         |
| 415-01.02                                             | COLD PLANING BITUMINOUS PAVEMENT                      | SY   | 2452            |                       | 2452                                    | \$ 6.29             | \$ 15,416.75                         |
| PAVEMENT REMOVAL TOTAL (ROUNDED)                      |                                                       |      |                 |                       |                                         |                     | \$ 36,500                            |
| <b>Asphalt Roads</b>                                  |                                                       |      |                 |                       |                                         |                     |                                      |
| 303-01                                                | MINERAL AGGREGATE, TYPE A BASE, GRADING D             | TON  | 2025            |                       | 2025                                    | \$ 30.25            | \$ 61,245.86                         |
| 307-02.01                                             | ASPHALT CONCRETE MIX (PG70-22) (BPMB-HM) GRADING A    | TON  | 229             |                       | 229                                     | \$ 99.41            | \$ 22,769.79                         |
| 307-01.21                                             | AGGREGATE (BPMB-HM) GRADING A-S MIX                   | TON  | 154             |                       | 154                                     | \$ 97.57            | \$ 14,991.44                         |
| 307-02.08                                             | ASPHALT CONCRETE MIX (PG70-22) (BPMB-HM) GRADING B-M2 | TON  | 129             |                       | 129                                     | \$ 141.23           | \$ 18,163.29                         |
| 402-01                                                | BITUMINOUS MATERIAL FOR PRIME COAT (PC)               | TON  | 2               |                       | 2                                       | \$ 570.81           | \$ 899.97                            |
| 402-02                                                | AGGREGATE FOR COVER MATERIAL (PC)                     | TON  | 6               |                       | 6                                       | \$ 73.62            | \$ 418.93                            |
| 403-01                                                | BITUMINOUS MATERIAL FOR TACK COAT (TC)                | TON  | 2               |                       | 2                                       | \$ 657.80           | \$ 1,169.42                          |
| 411-02.10                                             | ACS MIX(PG70-22) GRADING D                            | TON  | 258             |                       | 258                                     | \$ 130.21           | \$ 33,600.73                         |
| PAVING TOTAL (ROUNDED)                                |                                                       |      |                 |                       |                                         |                     | \$ 153,300                           |
| <b>Concrete Roads</b>                                 |                                                       |      |                 |                       |                                         |                     |                                      |
| CONCRETE RAMPS AND ROADWAYS TOTAL (ROUNDED)           |                                                       |      |                 |                       |                                         |                     | \$ -                                 |
| <b>Drainage</b>                                       |                                                       |      |                 |                       |                                         |                     |                                      |
| 607-05.02                                             | 24" CONCRETE PIPE CULVERT (CLASS III)                 | LF   | 398             |                       | 398                                     | \$ 75.01            | \$ 29,847.86                         |
| 611-07.01                                             | CLASS A CONCRETE (PIPE ENDWALLS)                      | CY   | 3               |                       | 3                                       | \$ 1,338.21         | \$ 3,447.23                          |
| 611-07.02                                             | STEEL BAR REINFORCEMENT (PIPE ENDWALLS)               | LB   | 245             |                       | 245                                     | \$ 2.87             | \$ 702.58                            |
| 710-02                                                | Aggregate Underdrains (with pipe)                     | LF   | 1373            |                       | 1373                                    | \$ 6.07             | \$ 8,332.90                          |
| DRAINAGE TOTAL (ROUNDED)                              |                                                       |      |                 |                       |                                         |                     | \$ 43,900                            |
| <b>Appurtenances</b>                                  |                                                       |      |                 |                       |                                         |                     |                                      |
| 701-01.02                                             | CONCRETE SIDEWALK (6")                                | SF   |                 | 2000                  | 2000                                    | \$ 5.82             | \$ 11,640.00                         |
| 702-03                                                | CONCRETE COMBINED CURB & GUTTER                       | CY   | 19              | 177                   | 196                                     | \$ 432.38           | \$ 84,746.48                         |
| 620-05                                                | Concrete Parapet with Structural Tubing               | LF   |                 |                       | 0                                       | \$ 189.17           | \$ -                                 |
| 620-05.02                                             | Standard Concrete Classic Parapet Rail                | LF   |                 | 450                   | 450                                     | \$ 328.49           | \$ 147,820.50                        |
| ROADWAY AND PAVEMENT APPURTENANCES TOTAL (ROUNDED)    |                                                       |      |                 |                       |                                         |                     | \$ 244,300                           |
| <b>Earthwork &amp; Mineral</b>                        |                                                       |      |                 |                       |                                         |                     |                                      |
| 105-01                                                | CONSTRUCTION STAKES, LINES AND GRADES                 | LS   | 1               |                       | 1                                       | \$ 69,912.26        | \$ 69,912.26                         |
| 203-01                                                | ROAD & DRAINAGE EXCAVATION (UNCLASSIFIED)             | CY   | 9225            | -7380                 | 1845                                    | \$ 18.80            | \$ 34,687.02                         |
| 203-02.01                                             | BORROW EXCAVATION (GRADED SOLID ROCK)                 | TON  | 768             |                       | 768                                     | \$ 32.33            | \$ 24,817.48                         |
| 203-03                                                | BORROW EXCAVATION (UNCLASSIFIED)                      | CY   | 2072            |                       | 2072                                    | \$ 14.71            | \$ 30,481.64                         |
| EARTHWORK & MINERAL TOTAL (ROUNDED)                   |                                                       |      |                 |                       |                                         |                     | \$ 159,900                           |
| <b>Structures</b>                                     |                                                       |      |                 |                       |                                         |                     |                                      |
| N/A                                                   | Removal of Bridge                                     | SF   | 16074           |                       | 16074                                   | \$ 20.00            | \$ 321,480.00                        |
| N/A                                                   | New Bridge (Steel Girder):                            | SF   | 15593           |                       | 15593                                   | \$ 200.00           | \$ 3,118,500.00                      |
| 604-07.01                                             | RETAINING WALL                                        | SF   | 0               | 2000                  | 2000                                    | \$ 75.00            | \$ 150,000.00                        |
| STRUCTURES TOTAL (ROUNDED)                            |                                                       |      |                 |                       |                                         |                     | \$ 3,590,000                         |
| <b>Interchanges and Unique Intersections</b>          |                                                       |      |                 |                       |                                         |                     |                                      |
| INTERCHANGES AND UNIQUE INTERSECTIONS TOTAL (ROUNDED) |                                                       |      |                 |                       |                                         |                     | \$ -                                 |
| <b>Lighting &amp; Signalization</b>                   |                                                       |      |                 |                       |                                         |                     |                                      |
| N/A                                                   | Standard Light Poles & Fixtures                       | EA   |                 |                       | 0                                       | \$ 4,100.00         | \$ -                                 |
|                                                       | Decorative Light Poles & Fixtures                     | EA   |                 | 8                     | 8                                       | \$ 8,300.00         | \$ 66,400.00                         |
| 730-26.08                                             | FLASHING WARNING BEACON (YELLOW)                      | EA   |                 | 2                     | 2                                       | \$ 5,000.00         | \$ 10,000.00                         |
| LIGHTING & SIGNALIZATION TOTAL (ROUNDED)              |                                                       |      |                 |                       |                                         |                     | \$ 76,400                            |
| <b>Guardrail</b>                                      |                                                       |      |                 |                       |                                         |                     |                                      |
| 705-01.01                                             | GUARDRAIL AT BRIDGE ENDS                              | LF   | 100             | 60                    | 160                                     | \$ 66.52            | \$ 10,642.94                         |
| 705-06.20                                             | Tangent Energy Absorbing Term Mash TL-3               | EA   | 5               | -3                    | 2                                       | \$ 2,626.00         | \$ 5,252.00                          |
| 705-04.09                                             | EARTH PAD FOR TYPE 38 GR END TREATMENT                | EA   | 5               | -3                    | 2                                       | \$ 1,122.29         | \$ 2,244.58                          |
| GUARDRAIL TOTAL (ROUNDED)                             |                                                       |      |                 |                       |                                         |                     | \$ 18,200                            |
| <b>Seeding and Sodding</b>                            |                                                       |      |                 |                       |                                         |                     |                                      |
| 801-01                                                | SEEDING (WITH MULCH)                                  | UNIT | 53              |                       | 53                                      | \$ 27.26            | \$ 1,457.32                          |
| 801-01.07                                             | TEMPORARY SEEDING (WITH MULCH)                        | UNIT | 40              |                       | 40                                      | \$ 22.31            | \$ 894.52                            |
| 801-02                                                | SEEDING (WITHOUT MULCH)                               | UNIT | 40              |                       | 40                                      | \$ 17.70            | \$ 709.68                            |
| SODDING TOTAL (ROUNDED)                               |                                                       |      |                 |                       |                                         |                     | \$ 3,100                             |
| <b>Maintenance of Traffic</b>                         |                                                       |      |                 |                       |                                         |                     |                                      |
| N/A                                                   | Traffic Control                                       | LS   | 1               |                       | 1                                       |                     | \$ 97,271.52                         |
| 712-01                                                | TRAFFIC CONTROL                                       | LS   |                 | 2                     | 2                                       | \$ 21,717.03        | \$ 43,434.06                         |
| 712-02.02                                             | INTERCONNECTED PORTABLE BARRIER RAIL                  | LF   | 34              |                       | 34                                      | \$ 30.18            | \$ 1,035.78                          |
| MAINTENANCE OF TRAFFIC TOTAL (ROUNDED)                |                                                       |      |                 |                       |                                         |                     | \$ 141,800                           |
| <b>Signs</b>                                          |                                                       |      |                 |                       |                                         |                     |                                      |
| Not Listed                                            | Signs (Construction)                                  | LS   | 1               |                       | 1                                       | \$ -                | \$ 4,800                             |
| SIGNING TOTAL (ROUNDED)                               |                                                       |      |                 |                       |                                         |                     | \$ 4,800                             |
| <b>Pavement Markings</b>                              |                                                       |      |                 |                       |                                         |                     |                                      |
| 716-02.06                                             | Plastic Pavement Marking (Turn Lane Arrow)            | EA   |                 | 3                     | 3                                       | \$ 138.38           | \$ 415.14                            |
| 716-02.13                                             | Plastic Pavement Marking (Cross-Walk)                 | SF   |                 | 300                   | 300                                     | \$ 10.97            | \$ 3,291.00                          |
| 716-04.17                                             | Plastic Pavement Marking (Yield Symbol)               | EA   |                 | 12                    | 12                                      | \$ 22.00            | \$ 264.00                            |
| 716-13.06                                             | Spray Thermo P.M. (40 mil 4")                         | LM   | 1.5             | -0.5                  | 1.0                                     | \$ 1,654.23         | \$ 1,627.76                          |
| PAVEMENT MARKINGS TOTAL (ROUNDED)                     |                                                       |      |                 |                       |                                         |                     | \$ 5,600                             |
| <b>Fencing</b>                                        |                                                       |      |                 |                       |                                         |                     |                                      |
| FENCE TOTAL (ROUNDED)                                 |                                                       |      |                 |                       |                                         |                     | \$ -                                 |
| <b>Rip-Rap</b>                                        |                                                       |      |                 |                       |                                         |                     |                                      |
| 709-05.05                                             | Machined Rip-Rap (Class A-3)                          | TON  | 800             |                       | 800                                     | \$ 39.85            | \$ 31,880.00                         |
| RIP-RAP & SLOPE PROTECTION TOTAL (ROUNDED)            |                                                       |      |                 |                       |                                         |                     | \$ 31,900.00                         |
| <b>Clearing and Grubbing</b>                          |                                                       |      |                 |                       |                                         |                     |                                      |
| 201-01                                                | Clearing and Grubbing                                 | LS   |                 | 1                     | 1                                       | \$ 60,931.51        | \$ 60,931.51                         |
| CLEAR AND GRUBBING TOTAL (ROUNDED)                    |                                                       |      |                 |                       |                                         |                     | \$ 61,000.00                         |
| <b>Railroad At-Grade Crossing</b>                     |                                                       |      |                 |                       |                                         |                     |                                      |
| 720-03-01                                             | Railroad Crossing Signal System                       | LS   |                 | 1                     | 1                                       | \$ 350,000.00       | \$ 350,000.00                        |
| RAILROAD CROSSING OR SEPARATION TOTAL (ROUNDED)       |                                                       |      |                 |                       |                                         |                     | \$ 350,000.00                        |
| <b>Utilities</b>                                      |                                                       |      |                 |                       |                                         |                     |                                      |
| N/A                                                   | Underground Gas                                       | LM   | 0               | 0.25                  | 0.25                                    | \$ 1,210,000        | \$ 302,500                           |
| N/A                                                   | Underground Water                                     | LM   | 0               | 0.25                  | 0.25                                    | \$ 700,000          | \$ 175,000                           |
| N/A                                                   | Underground Sewer                                     | LM   | 0               | 0.25                  | 0.25                                    | \$ 1,670,000        | \$ 417,500                           |
| UTILITIES TOTAL (ROUNDED)                             |                                                       |      |                 |                       |                                         |                     | \$ 895,000.00                        |



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**File #: 20-01192**

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**DATE:** October 8, 2020  
**TO:** Capital Investment Committee  
**FROM:** Eric Stuckey, City Administrator  
Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
David Diaz, Contracts Administrator

**SUBJECT:**

Consideration Of COF Contract No. 2020-0265, A Proposal With Tennessee Department Of Transportation Regarding TDOT Road Construction Project SR 6 (Franklin Road) From South Of SR 441 (Moores Lane) To SR 253 (Concord Road).

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning an agreement between the Tennessee Department of Transportation (TDOT) and the City of Franklin about the use and maintenance of the right-of-way and roadway for the portion of Franklin Road (SR-6/US-31) that is currently under construction from Cumberland Park Drive to Concord Road (SR-253).

**BACKGROUND/STAFF COMMENTS:**

The section of Franklin Road (SR-6/US-31), from Cumberland Park Drive to Concord Road (SR-253), is currently being widened by contractors for TDOT. This work began in 2017 and is anticipated to be complete in April 2022. The section of the project from Cumberland Park Drive to Moores Lane (SR-441), a distance of approximately 1,500 feet, is within the city limits of Franklin. The BOMA agreed to participate in this joint project with TDOT and the City of Brentwood with the approval of Resolution 2008-09 and COF Contract No. 2011-0190 (TDOT Agreement No. 050013). This commitment allowed for the full build-out of the intersection of Franklin Road and Moores Lane. The City of Franklin's participation consisted of financing some City-requested design modifications and the acquisition of right-of-way and easements needed to construct the project.

This agreement/proposal with TDOT (COF Contract No. 2020-0265) explicitly states the responsibilities of both the City and TDOT with regard to the long-term use and maintenance of the right-of-way and actual Franklin Road facility, which is currently under construction. This agreement/proposal is standard TDOT documentation and is consistent with other joint projects being constructed in the state.

**FINANCIAL IMPACT:**

There is no direct financial impact with the approval of this agreement. Future maintenance costs are unknown at this time.

**RECOMMENDATION:**



Staff recommends that COF Contract No. 2020-0265 be recommended for approval to the Board of Mayor and Aldermen.

**PROPOSAL**  
**OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF TENNESSEE**  
**TO THE CITY OF FRANKLIN, TENNESSEE:**

The DEPARTMENT OF TRANSPORTATION of the State of Tennessee, hereinafter "DEPARTMENT", proposes to construct a project in the City of Franklin, Tennessee, hereinafter "CITY", designated as Federal Project No. NH/STP-M--6(83), State Project No. 94004-2230-14, that is described as "SR 6 (US 31) FRANKLIN ROAD FROM SOUTH OF SR 441 (MOORES LANE) TO SR 253 (CONCORD ROAD)", provided the CITY agrees to cooperate with the DEPARTMENT as set forth in this proposal, so that the general highway program may be carried out in accordance with the intent of the General Assembly of the State.

Accordingly, the parties agree as follows:

1. That in the event any civil actions in inverse condemnation or for damages are instituted by reason of the DEPARTMENT, or its contractor, going upon the highway right-of-way and easements, and constructing said project in accordance with the plans and as necessary to make the completed project functional, it will notify in writing the Attorney General of the State, whose address is 425 Fifth Avenue North, Nashville, Tennessee, 37243, of the institution of each civil action, the complaint and all subsequent pleadings, within ten (10) days after the service of each of the same, under penalty of defending such actions and paying any judgments which result therefrom at its own expense.
2. The CITY will close or otherwise modify any of its roads, or other public ways if indicated on the project plans, as provided by law.
3. The CITY will transfer or cause to be transferred to the DEPARTMENT, without cost to the DEPARTMENT, all land owned by the CITY or by any of its instrumentalities as required

for right-of-way or easement purposes, provided such land is being used or dedicated for road or other public way purposes.

4. Where privately, publicly or cooperatively owned utility lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned facilities such as fire and police signal systems and street lighting systems are located within the right-of-way of any road or other public way owned by the CITY or any of its instrumentalities, the CITY agrees that it will take any action necessary to require the removal or adjustment of any of the above-described facilities as would conflict with the construction of the project. But the foregoing may not be a duty of the CITY since it shall become operative only after the DEPARTMENT has been unsuccessful in its efforts to provide for said removals or adjustments for the benefit of the CITY.

The foregoing does not apply to those utility facilities which are owned by the CITY or one of its instrumentalities, it being understood that the CITY has the duty to relocate or adjust such facilities, if required, provided the CITY is notified to do so by the DEPARTMENT with detailed advice as to this duty of the CITY.

5. The CITY will maintain any frontage road to be constructed as part of the project;

6. After the project is completed and open to traffic, the CITY will accept jurisdiction and maintenance such parts of any existing DEPARTMENT highway to be replaced by the project, as shown on the attached map.

7. The CITY will make no changes or alter any segment of a road on its road system that lies within the limits of the right-of-way acquired for any interchange to be constructed as part of the project and will not permit the installation or relocation of any utility facilities within the right-of-way of any such a segment of one of its roads without first obtaining the approval of the



## DEPARTMENT.

8. No provision hereof shall be construed as changing the maintenance responsibility of the CITY for such part of the project as may presently be on its highway, street, road or bridge system.

9. It is understood and agreed between the DEPARTMENT and the CITY that all traffic control signs for the control of traffic on a street under the jurisdiction of the CITY and located within the DEPARTMENT's right-of-way shall be maintained and replaced by the CITY.

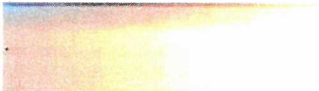
10. When traffic control devices for the direction or warning of traffic, lighting of roadways or signing, or any of them, which are operated or function by the use of electric current are constructed or installed as part of the project, they will be furnished with electricity and maintained by the CITY.

11. If, as a result of acquisition and use of right-of-way for the project, any building and/or structure improvements become in violation of a CITY setback line or building and/or structure requirement, including, but not limited to, on-premise signs, the CITY agrees to waive enforcement of the CITY setback line or building and/or structure requirement and take other proper governmental action as necessary to accomplish such waiver.

12. If, as a result of acquisition and use of right-of-way for the project, any real property retained by any property owner shall become in violation of a CITY zoning regulation or requirement, the CITY agrees to waive enforcement of the CITY zoning regulation or requirement and take other proper governmental action as necessary to accomplish such waiver.

13. The CITY will not authorize encroachments of any kind upon the right-of-way, nor will the CITY authorize use of the easements for the project in any manner which affects the DEPARTMENT's use thereof.

14. The CITY will obtain the approval of the DEPARTMENT before authorizing parking



on the right-of-way and easements for the project.

15. The CITY will not install or maintain any device for the purpose of regulating the movement of traffic on the roadway except as warranted and in conformity with the Manual on Uniform Traffic Control Devices.

16. If the project is classified as full access control (i.e. a project which has no intersecting streets at grade), then the DEPARTMENT will maintain the completed project. If the project is not classified as full access control, then the DEPARTMENT will maintain the pavement from curb to curb where curbs exist, or will maintain the full width of the roadway where no curbs exist. The CITY agrees to maintain all other parts of non-access control projects; provided, however, that any retaining walls, box culverts, or other like structures constructed as part of the project that support the structural integrity or stability of the roadway surface shall be maintained by the DEPARTMENT.

17. If a sidewalk is constructed as a component of this project, the CITY shall be responsible for maintenance of the sidewalk and shall assume all liability for third-party claims for damages arising from its use of the sidewalk or premises beyond the DEPARTMENT'S maintenance responsibilities as set forth in section 16 of this Proposal.

18. When said project is completed, the CITY thereafter will not permit any additional median crossovers, the cutting of the pavement, curbs, gutters and sidewalks, by any person, firm, corporation, or governmental agency, without first obtaining the approval of the DEPARTMENT.

19. The DEPARTMENT will acquire the right-of-way and easements, construct the project and defend any inverse condemnation for damage or civil actions of which the Attorney General has received the notice and pleadings provided for herein; provided, however, that if the project is being constructed pursuant to a contract administered by the DEPARTMENT's Local



Programs Development Office, the terms of that contract shall control in the event of a conflict with this Proposal..

20. The project plans hereinbefore identified by number and description are incorporated herein by reference and shall be considered a part of this proposal, including any revisions or amendments thereto, provided a copy of each is furnished the CITY.

21. The acceptance of this proposal shall be evidenced by the passage of a resolution or by other proper governmental action, which shall incorporate this proposal verbatim or make reference thereto.

IN WITNESS WHEREOF, the DEPARTMENT has caused this proposal to be executed by its duly authorized official on this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

THE CITY OF \_\_\_\_\_, TENNESSEE

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

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

STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
PAUL DEGGES  
COMMISSIONER

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

APPROVED AS TO FORM AND LEGALITY:

BY: \_\_\_\_\_  
JOHN REINBOLD  
GENERAL COUNSEL

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



**Index of Sheets (R.O.W.)**

| SHEET NO. | DESCRIPTION      |
|-----------|------------------|
| 1         | TITLE SHEET      |
| 2         | PROPOSED LAYOUTS |
| 3         | PROPOSED LAYOUTS |
| 4         | PROPOSED LAYOUTS |
| 5         | PROPOSED LAYOUTS |
| 6         | PROPOSED LAYOUTS |
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**STATE OF TENNESSEE**  
**DEPARTMENT OF TRANSPORTATION**  
**BUREAU OF ENGINEERING**

**WILLIAMSON COUNTY**  
S.R. 6 (U.S. 31), FRANKLIN ROAD  
FROM SOUTH OF S.R. 441 (MOORE'S LANE)  
TO S.R. 253 (CONCORD ROAD)  
RIGHT-OF-WAY

STATE HIGHWAY NO. 6 F.A.H.S. NO. 6

**BENTWOOD**

**FRANKLIN**

SCALE: 1" = 2000'

R.O.W. LENGTH: 2.591 MILES

**Index of Sheets (R.O.W.)**

BEGIN R.O.W. PROJECT NO. NH/STP-M-61831  
S.R. 6 (FRANKLIN ROAD) STA. 84+97.62  
TODD UTILITIES S.P. 94004-2230-14  
BENTWOOD R.O.W. S.P. 94004-2232-54  
N 59627.5823  
E 1121213.5238

**END R.O.W. PROJECT NO. NH/STP-M-61831**  
S.R. 6 (FRANKLIN ROAD) STA. 221+81.99  
TODD UTILITIES S.P. 94004-2230-14  
BENTWOOD R.O.W. S.P. 94004-2232-54  
N 59627.5823  
E 1121213.5238

**CITY OF BRENTWOOD TO ACQUIRE R.O.W. IN CITY LIMITS**

**CITY OF FRANKLIN TO ACQUIRE R.O.W. IN CITY LIMITS**

**NO EXCLUSIONS**

**NO EQUATIONS**

**R.O.W. PLANS**

**APPROVED:** *[Signature]*  
**DATE:** 10/1/2014  
**CHIEF ENGINEER**

**APPROVED:** *[Signature]*  
**DATE:** 10/1/2014  
**JOHN SCHERER, COMMISSIONER**

**U.S. DEPARTMENT OF TRANSPORTATION**  
**FEDERAL HIGHWAY ADMINISTRATION**

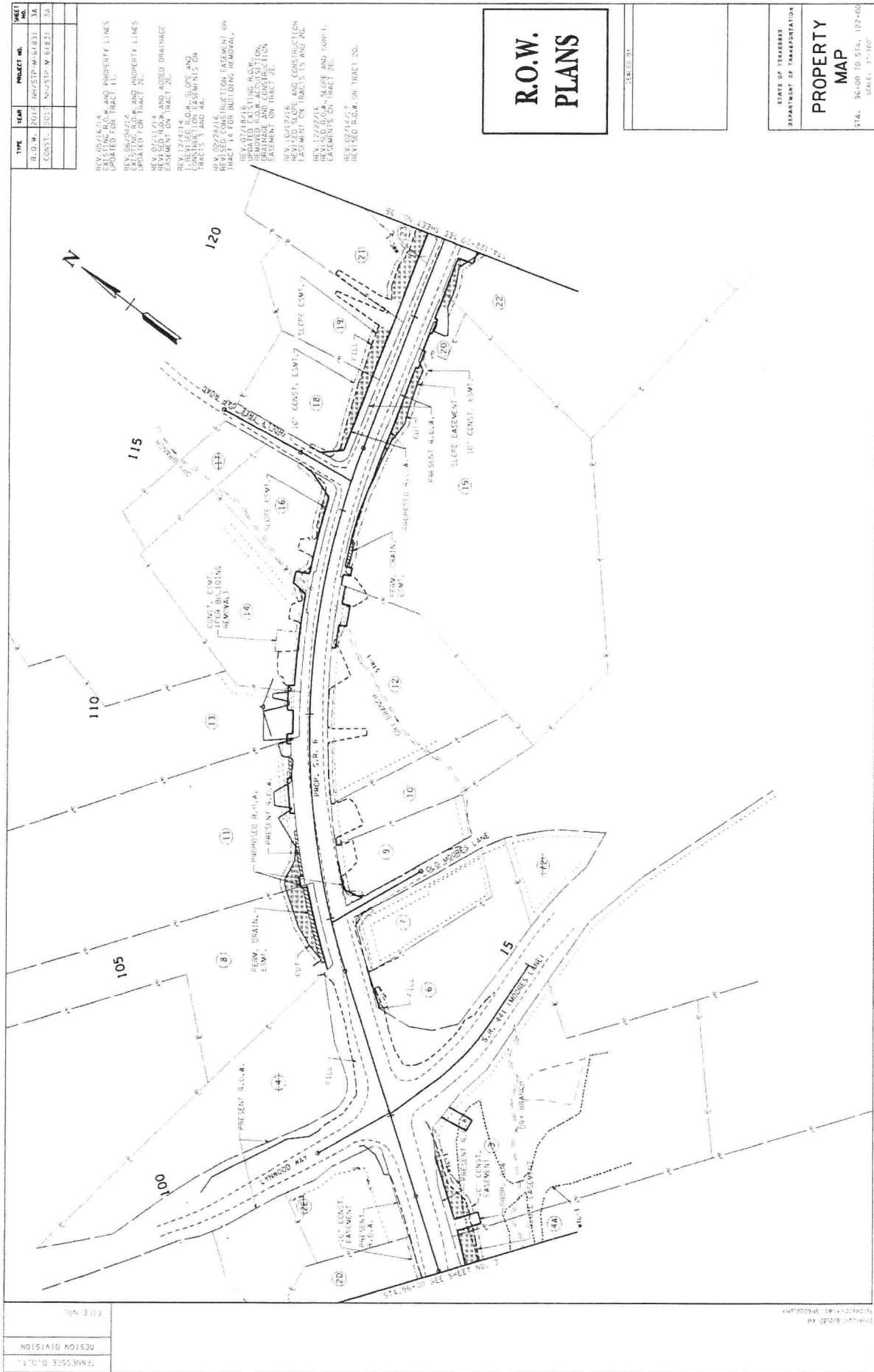
**APPROVED:** \_\_\_\_\_  
**DIVISION ADMINISTRATOR**

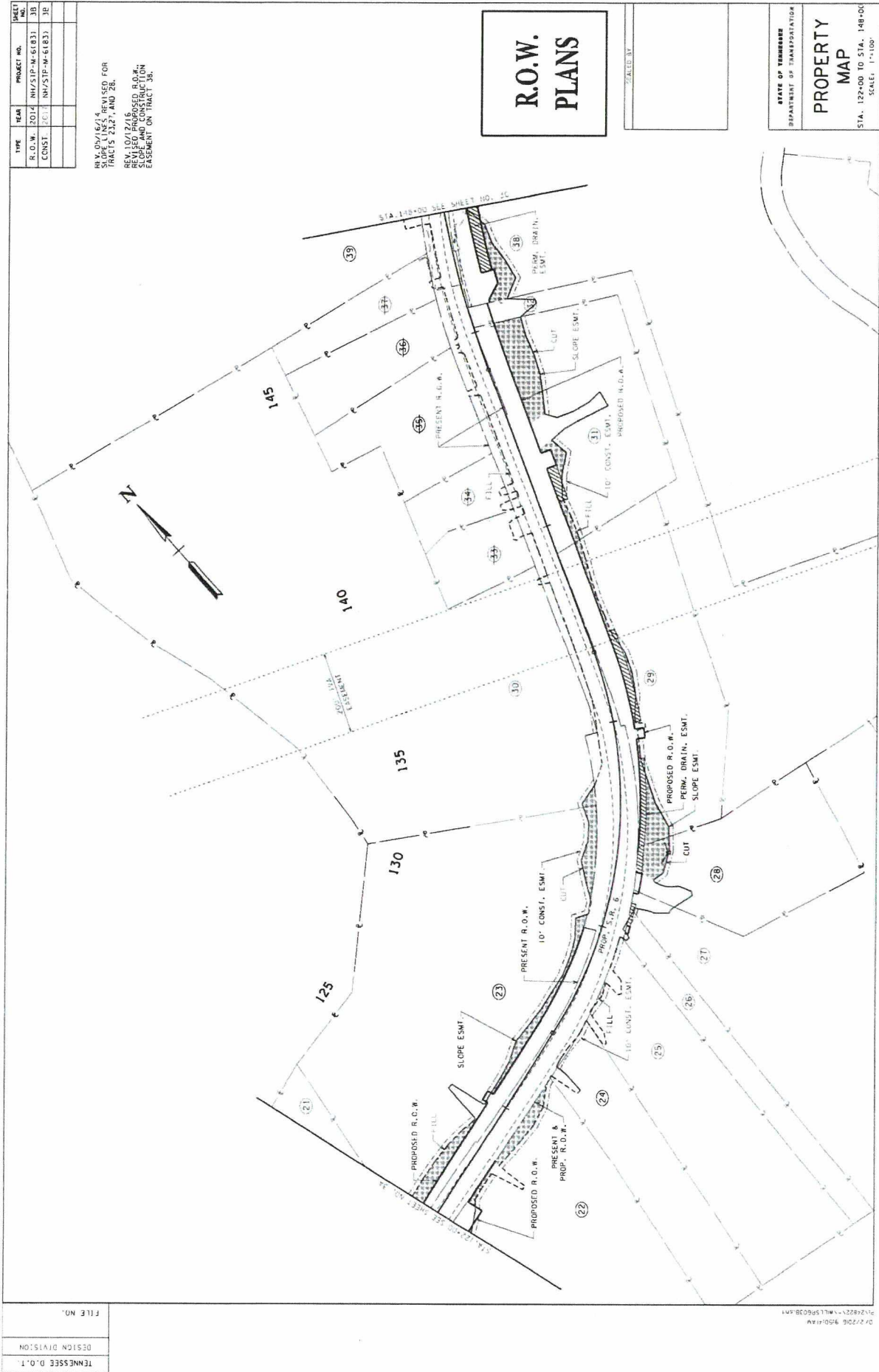
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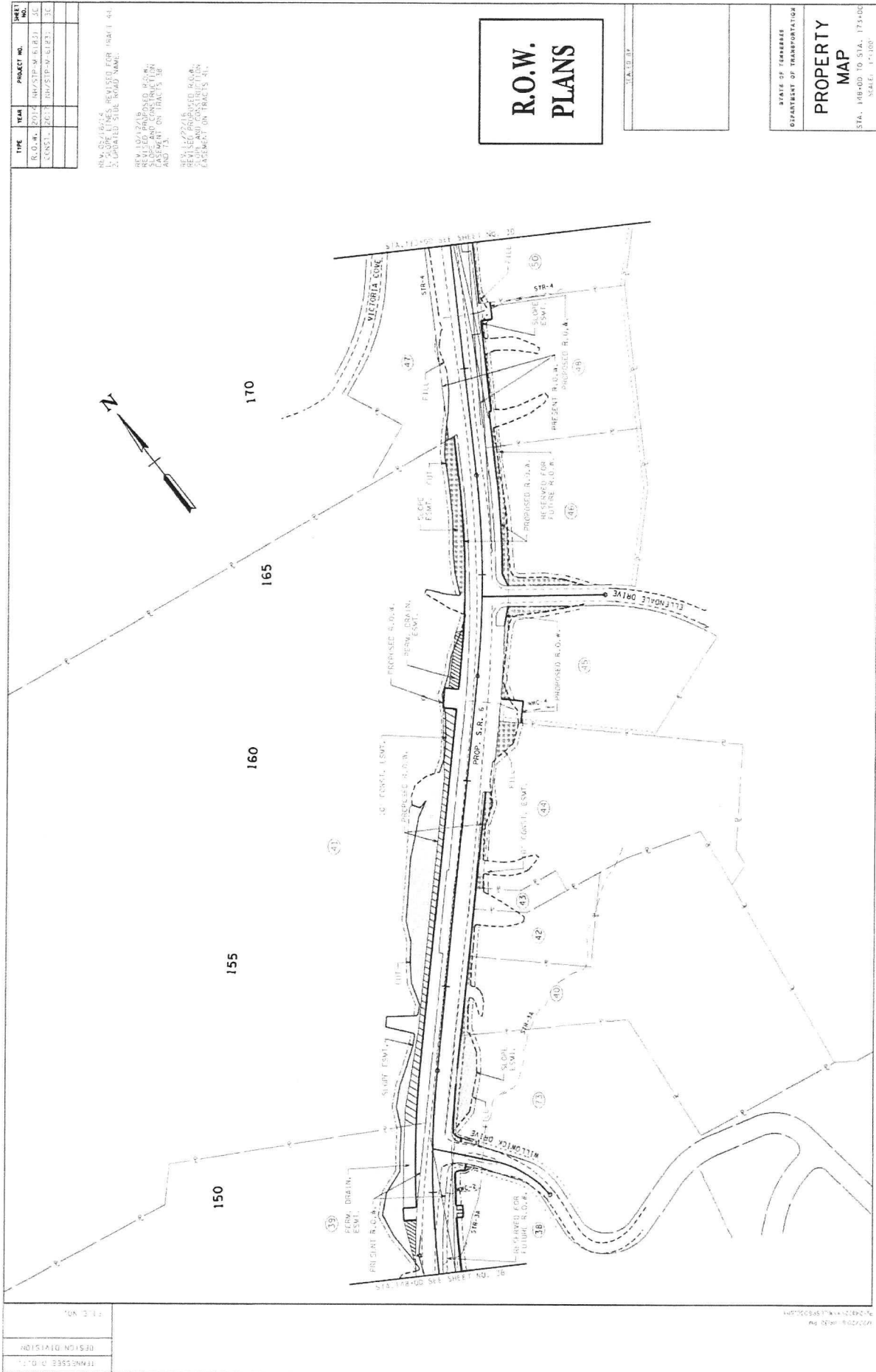
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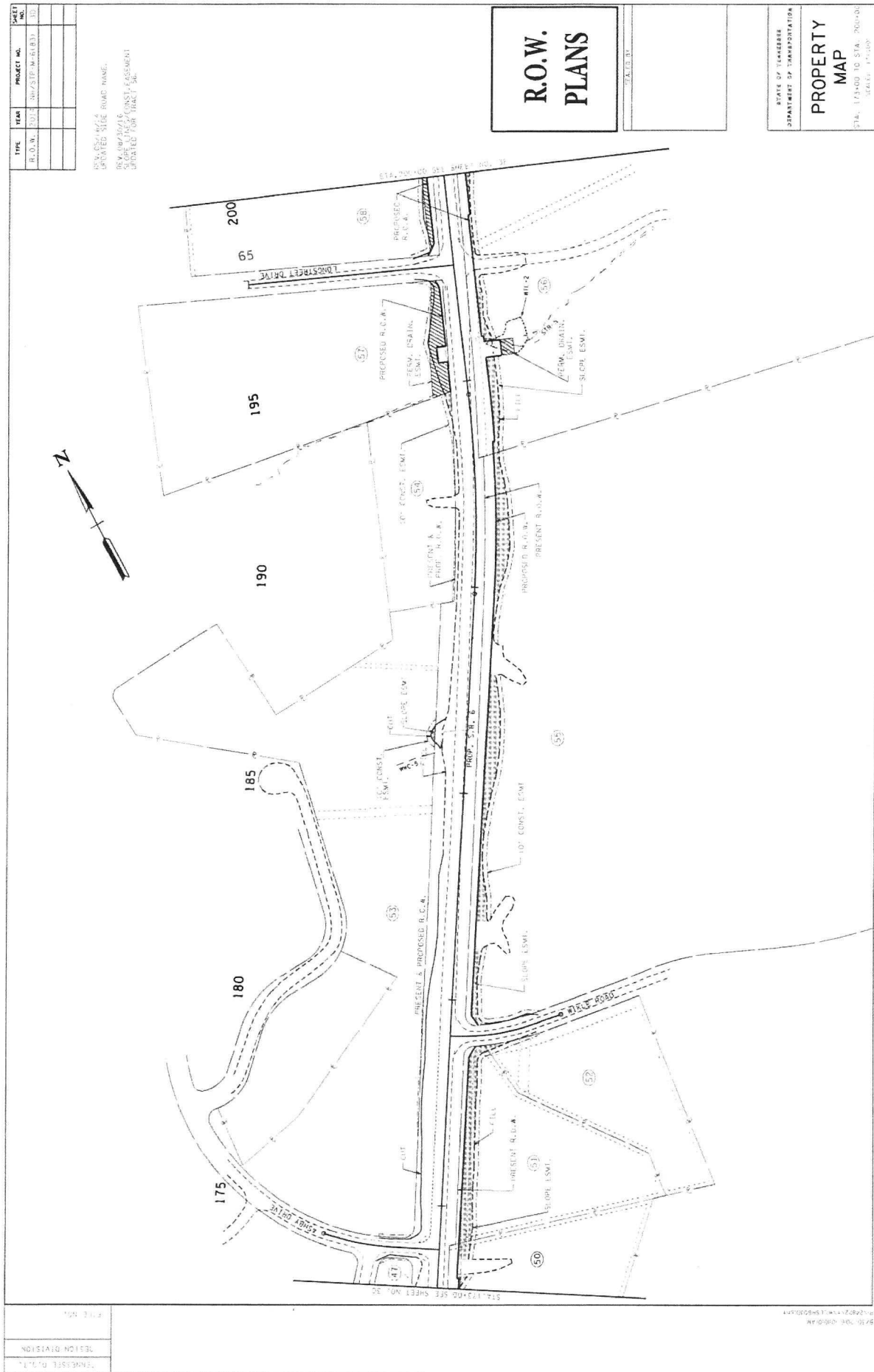


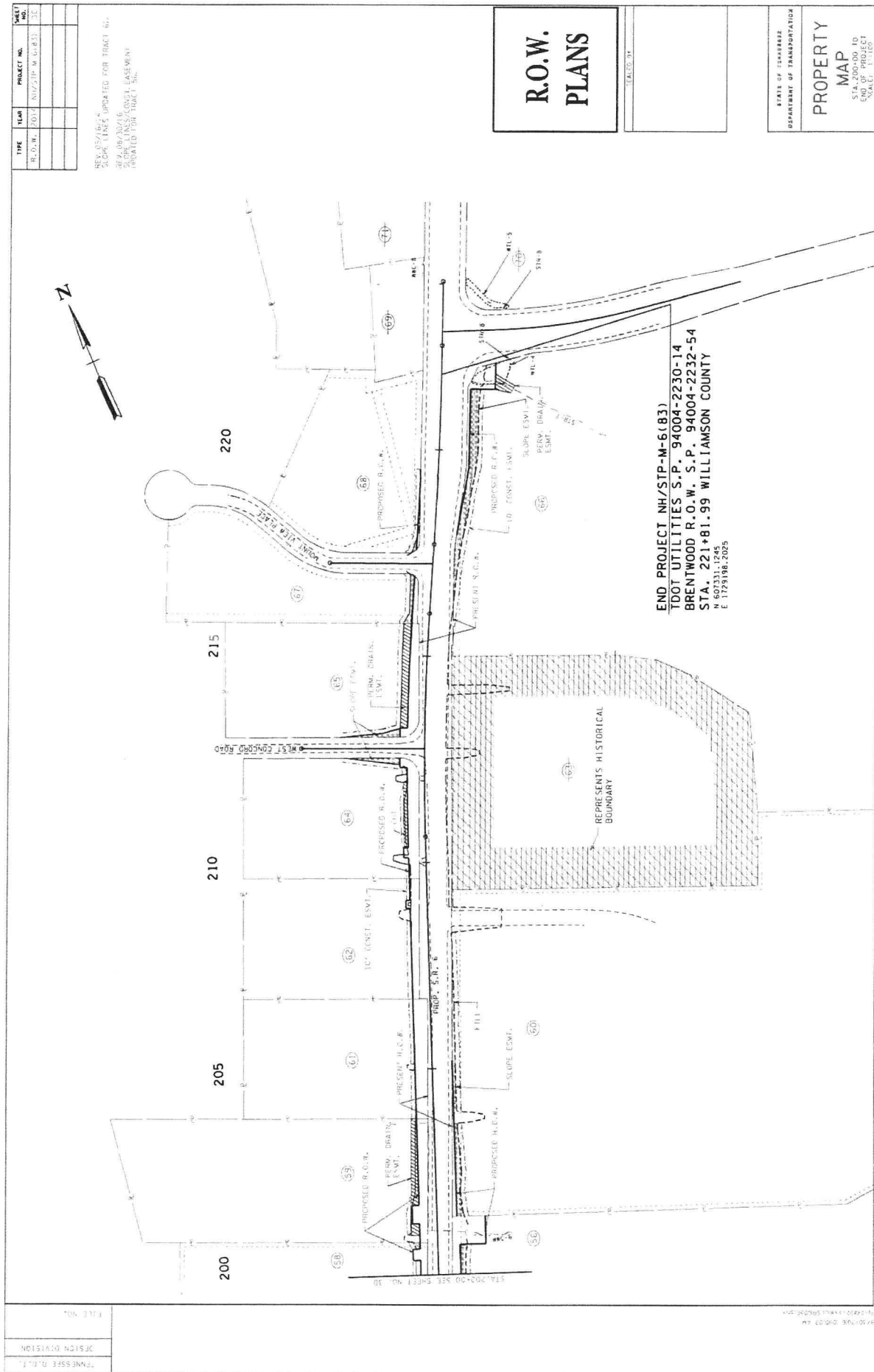
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DESIGN DIVISION  
FRANKLIN, D.C.  
FILE NO.

| R.O.W. ACQUISITION TABLE |                                                 |                |            |                         |                  |        |                           |       |                      |       |                        |       |        |
|--------------------------|-------------------------------------------------|----------------|------------|-------------------------|------------------|--------|---------------------------|-------|----------------------|-------|------------------------|-------|--------|
| TRACT NO.                | PROPERTY OWNERS                                 | COUNTY RECORDS |            |                         | TOTAL AREA ACRES |        | AREA TO BE ACQUIRED ACRES |       | AREA REMAINING ACRES |       | EASEMENT (SQUARE FEET) |       |        |
|                          |                                                 | TAX MAP NO.    | PARCEL NO. | DEED DOCUMENT REFERENCE | LEFT             | RIGHT  | LEFT                      | RIGHT | LEFT                 | RIGHT | PERM. DRAINAGE         | SLOPE | CONST. |
| 1                        | NOT USED                                        |                |            | BK. PAGE                |                  |        |                           |       |                      |       |                        |       |        |
| 2                        | GATEWAY VILLAGE RESIDENTIAL, LLC                | 553            | 17-09      | 9687                    | 0.169            | 0.169  |                           |       | 0.169                |       |                        |       |        |
| 3                        | CITY OF FRANKLIN, IN                            |                | 52.00      | 4576                    | 6.000            | 6.000  |                           |       | 5.857                |       |                        |       |        |
| 4                        | NOVOCORPORATION, LLC                            |                | 47-09      | 3954                    | 3.960            | 3.960  |                           |       | 3.960                |       |                        |       |        |
| 5                        | NOT USED                                        |                |            |                         |                  |        |                           |       |                      |       |                        |       |        |
| 6                        | M.A.B. INVESTMENT PROPERTIES, INC.              | 36             | 52.01      | 1388                    | 1.838            | 1.838  |                           |       | 1.831                |       |                        |       |        |
| 7                        | DAVID R. WATSON & WIFE, ANNITA H. WATSON        | 36             | 52.01      | 2179                    | 833              | 833    |                           |       | 1.000                |       |                        |       |        |
| 8                        | WILLIAM A. KING & WIFE, JOANN KING              | 36             | 44.00      | 681                     | 3.802            | 3.802  |                           |       | 1.879                |       |                        |       |        |
| 9                        | TRI STAR ENERGY, LLC                            | 36             | 62.00      | 4364                    | 0.954            | 0.954  |                           |       | 0.932                |       |                        |       |        |
| 10                       | KENNEDY PROPERTIES, LLC                         | 36             | 63.00      | 3366                    | 754              | 1.260  |                           |       | 1.260                |       |                        |       |        |
| 11                       | VASTLAND WATERFORD PLACE, LLC                   | 36             | 43.00      | 3527                    | 1.68             | 1.68   |                           |       | 1.281                |       |                        |       |        |
| 12                       | DANNA B. OWEN, QUALIFIED MARITAL TRUST & OTHERS | 36             | 63.01      | 2447                    | 76               | 6.137  |                           |       | 6.108                |       |                        |       |        |
| 13                       | WILLIAM A. KING & WIFE, JOANN KING              | 36             | 37.00      | 487                     | 802              | 8.431  |                           |       | 8.372                |       |                        |       |        |
| 14                       | WILLIAM A. KING & WIFE, JOANN KING              | 36             | 34.00      | 557                     | 846              | 2.535  |                           |       | 2.448                |       |                        |       |        |
| 15                       | DANNA B. OWEN, MARITAL TRUST                    | 36             | 33.00      | 2143                    | 458              | 9.347  |                           |       | 9.191                |       |                        |       |        |
| 16                       | DANNA B. OWEN, MARITAL TRUST                    | 36             | 33.00      | 1955                    | 217              | 1.262  |                           |       | 1.130                |       |                        |       |        |
| 17                       | DANNA B. OWEN, MARITAL TRUST                    | 36             | 33.00      | 1955                    | 217              | 0.846  |                           |       | 0.846                |       |                        |       |        |
| 18                       | NGU, LLC                                        | 36             | 84.00      | 3639                    | 718              | 1.364  |                           |       | 1.259                |       |                        |       |        |
| 19                       | ELOS J. WOODALL                                 | 36             | 83.00      | 2629                    | 483              | 1.329  |                           |       | 1.259                |       |                        |       |        |
| 20                       | SOUTHERN CENTRAL BELL COMPANY                   | 36             | 84.01      | 434                     | 397              | 0.222  |                           |       | 0.222                |       |                        |       |        |
| 21                       | DANNA B. OWEN                                   | 36             | 82.00      | 972                     | 476              | 1.980  |                           |       | 1.888                |       |                        |       |        |
| 22                       | GASTON ALEXANDER & WIFE, PAMELA ALEXANDER       | 36             | 85.00      | 4765                    | 207              | 7.004  |                           |       | 6.904                |       |                        |       |        |
| 23                       | CONNIE HARRISON                                 | 36             | 81.01      | 4177                    | 904              | 10.005 |                           |       | 9.403                |       |                        |       |        |
| 24                       | TROY D. HEITHCOCK & WIFE, MARGARET F. HEITHCOCK | 36             | 68.00      | 222                     | 446              | 2.393  |                           |       | 2.393                |       |                        |       |        |
| 25                       | WILLIAM W. HAZELGAN & WIFE, MINNIE LOUISE SMITH | 36             | 68.00      | 4564                    | 229              | 4.297  |                           |       | 4.297                |       |                        |       |        |
| 26                       | JOSEPH GRUBBS & WIFE, CATHERINE GRUBBS          | 36             | 69.01      | 4206                    | 655              | 12.688 |                           |       | 12.688               |       |                        |       |        |
| 27                       | DONALD J. HERRON, JR.                           | 36             | 69.00      | 4207                    | 486              | 2.902  |                           |       | 2.898                |       |                        |       |        |
| 28                       | HASSAN MANSOUR                                  | 36             | 70.00      | 6934                    | 680              | 4.411  |                           |       | 3.876                |       |                        |       |        |
| 29                       | HASSAN MANSOUR & ANGEL ARAB                     | 36             | 70.00      | 6934                    | 680              | 4.411  |                           |       | 3.876                |       |                        |       |        |
| 30                       | TSAM FRANKLIN, LLC                              | 36             | 81.00      | 4601                    | 255              | 18.941 |                           |       | 18.941               |       |                        |       |        |
| 31                       | JAMES D. FREEMAN & WIFE, MARGARET ANN FREEMAN   | 36             | 72.01      | 1092                    | 521              | 0.841  |                           |       | 0.841                |       |                        |       |        |
| 32                       | WELLS FARGO                                     | 36             | 72.01      | 1092                    | 521              | 0.841  |                           |       | 0.841                |       |                        |       |        |
| 33                       | HELEN BELLE BARNETTE-COKER REV. LIVING TRUST    | 36             | 67.00      | 4027                    | 743              | 0.699  |                           |       | 0.699                |       |                        |       |        |
| 34                       | MARGARET FREED                                  | 36             | 67.00      | 4027                    | 743              | 0.699  |                           |       | 0.699                |       |                        |       |        |
| 35                       | PROFFER FURNEY                                  | 36             | 67.00      | 4027                    | 743              | 0.699  |                           |       | 0.699                |       |                        |       |        |
| 36                       | WILLOW CREEK HOMEOWNERS ASSOCIATION             | 36             | 77.00      | 1994                    | 775              | 0.669  |                           |       | 0.669                |       |                        |       |        |
| 37                       | EQUITY TRUST COMPANY                            | 36-A           | 1.00       | 1185                    | 90               | 24.193 |                           |       | 23.692               |       |                        |       |        |
| 38                       | WILLOW CREEK HOMEOWNERS ASSOCIATION             | 36-A           | 1.00       | 1185                    | 90               | 24.193 |                           |       | 23.692               |       |                        |       |        |
| 39                       | JENKINS                                         | 36             | 76.00      | 6127                    | 32               | 14.175 |                           |       | 14.087               |       |                        |       |        |
| 40                       | MARK C. INGRAM & BARBARA INGRAM                 | 36             | 73.01      | 1373                    | 165              | 6.659  |                           |       | 6.655                |       |                        |       |        |
| 41                       | M. J. REALTY                                    | 36             | 75.00      | 3081                    | 212              | 45.966 |                           |       | 45.246               |       |                        |       |        |
| 42                       | M. J. REALTY                                    | 36             | 73.00      | 431                     | 273              | 1.019  |                           |       | 0.954                |       |                        |       |        |
| 43                       | MARK C. INGRAM                                  | 36             | 74.01      | 3712                    | 822              | 0.275  |                           |       | 0.273                |       |                        |       |        |
| 44                       | SARIEL D. JONES & WIFE, CORINNE STACEY JONES    | 36             | 74.00      | 3872                    | 130              | 4.953  |                           |       | 4.669                |       |                        |       |        |
| 45                       | ROY WILLIAM OAKS & WIFE, LORRIE M. OAKS         | 36-C           | 1.00       | 1007                    | 618              | 3.058  |                           |       | 2.968                |       |                        |       |        |
| 46                       | ROY WILLIAM OAKS & WIFE, LORRIE M. OAKS         | 36-A           | 12.00      | 1379                    | 723              | 3.000  |                           |       | 2.873                |       |                        |       |        |
| 47                       | TENNESSEE STONEHENGE, INC.                      | 36-B           | 6.00       | 275                     | 470              | 52.000 |                           |       | 52.000               |       |                        |       |        |
| 48                       | JAMES HAROLD CLARKE & WIFE, ANN L. CLARKE       | 36-A           | 13.00      | 688                     | 862              | 3.001  |                           |       | 2.829                |       |                        |       |        |
| 49                       | NOT USED                                        |                |            |                         |                  |        |                           |       |                      |       |                        |       |        |
| 50                       | CHRISTOPHER D. WILSON & WIFE, DEBRA VAN DERVEER | 36-A           | 14.00      | 1908                    | 578              | 3.055  |                           |       | 2.969                |       |                        |       |        |

FOOTNOTE  
(1) ON WORKING ROOM AND EROSION CONTROL DEVICES

STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION

RIGHT-OF-WAY  
ACQUISITION  
TABLE

PLANS

R.O.W.

REVISED R.O.W. CN TRACT 2C.  
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FOOTNOTE

(1) FOR WORKING ROOM AND EROSION CONTROL DEVICES

R.O.W.  
PLANS

TOTAL 37

STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATIONRIGHT-OF-WAY  
ACQUISITION  
TABLE



| R.O.W. ACQUISITION TABLE |                                               |                |            |                         |                  |        |         |                           |       |       |                      |        |                        |       |            |  |
|--------------------------|-----------------------------------------------|----------------|------------|-------------------------|------------------|--------|---------|---------------------------|-------|-------|----------------------|--------|------------------------|-------|------------|--|
| TRACT NO.                | PROPERTY OWNERS                               | COUNTY RECORDS |            |                         | TOTAL AREA ACRES |        |         | AREA TO BE ACQUIRED ACRES |       |       | AREA REMAINING ACRES |        | EASEMENT (SQUARE FEET) |       |            |  |
|                          |                                               | TAX MAP NO.    | PARCEL NO. | DEED DOCUMENT REFERENCE | LEFT             | RIGHT  | TOTAL   | LEFT                      | RIGHT | TOTAL | LEFT                 | RIGHT  | PERM. DRAINAGE         | SLOPE | CONST. (I) |  |
| 51                       | DONALD HUDGINS                                | 36             | 101.03     | 3466                    | 315              |        | 3,039   | 3,039                     |       |       | 3,039                |        |                        |       |            |  |
| 52                       | MICHELLE EDGEMORTH & WIFE, KIMBERLY EDGEMORTH | 36             | 101.04     | 5007                    | 787              |        | 2,702   | 2,702                     |       |       | 2,702                |        |                        |       |            |  |
| 53                       | TENNESSEE STONEHENGE, INC                     | 36D-B          | 1.00       | 276                     | 470              | 10,509 | 10,509  |                           |       |       | 10,509               | 10,509 |                        |       |            |  |
| 54                       | LEE D CHAPMAN                                 | 36D-C          | 9.01       | 1245                    | 795              | 2,107  |         |                           |       |       | 2,107                |        |                        |       |            |  |
| 55                       | BAPTIST CHILDRENS HOME                        | 36             | 101.01     | 1700                    | 387              |        | 56,968  | 56,968                    |       |       |                      |        |                        |       |            |  |
| 56                       | RENUANT FELLOWSHIP                            | 36             | 101.01     | 3415                    | 287              |        | 39,969  | 39,969                    |       |       |                      |        |                        |       |            |  |
| 57                       | PRESBYTERIAN CHURCH, TRUSTEES OF COVENANT     | 36D-A          | 5.00       | 5434                    | 530              | 0,068  |         |                           |       |       |                      |        |                        |       |            |  |
| 58                       | KEVIN A MARCY & WIFE, PAMELA J MARCY          | 28M-A          | 5.00       | 5434                    | 530              | 3,719  |         |                           |       |       |                      |        |                        |       |            |  |
| 59                       | WILL L BURGHEIT, JR.                          | 28M-A          | 49.00      | 2052                    | 569              | 5,028  |         |                           |       |       |                      |        |                        |       |            |  |
| 60                       | FELLOWSHIP BIBLE CHURCH                       | 28             | 49.00      | 2052                    | 569              |        | 39,463  | 39,463                    |       |       |                      |        |                        |       |            |  |
| 61                       | EDWARD L MOORE & WIFE, SUREE MOORE            | 28M-A          | 3.00       | 284                     | 35               | 2,991  |         |                           |       |       |                      |        |                        |       |            |  |
| 62                       | MARTHA BLUYEAU                                | 28M-A          | 2.00       | 4525                    | 483              | 2,867  |         |                           |       |       |                      |        |                        |       |            |  |
| 63                       | JENNIFER B BUNAP, TRUSTEE                     | 28             | 48.00      | 5181                    | 376              |        | 9,972   | 9,972                     |       |       |                      |        |                        |       |            |  |
| 64                       | NELSON PALACIOS                               | 28M-A          | 1.00       | 3963                    | 524              | 2,857  |         |                           |       |       |                      |        |                        |       |            |  |
| 65                       | WALLACE L. CLARK & WIFE, ELIZABETH E. CLARK   | 28M-A          | 18.00      | 155                     | 477              | 2,999  |         |                           |       |       |                      |        |                        |       |            |  |
| 66                       | FELLOWSHIP BIBLE CHURCH OF WILLIAMSON COUNTY  | 28             | 47.00      | 3819                    | 599              |        | 47,068  | 47,068                    |       |       |                      |        |                        |       |            |  |
| 67                       | MELVIND LAW, JR.                              | 28M-B          | 1.00       | 3185                    | 288              | 2,605  |         |                           |       |       |                      |        |                        |       |            |  |
| 68                       | MOE LYLE & WIFE, NAKOMI LYLE                  | 28M-B          | 1.00       | 4094                    | 635              | 2,884  |         |                           |       |       |                      |        |                        |       |            |  |
| 69                       | STEPHEN HENRIEY & WIFE, ANNE HENRIEY          | 28M-B          | 1.00       | 4094                    | 635              | 2,884  |         |                           |       |       |                      |        |                        |       |            |  |
| 70                       | HARBORVIEW TOWN LP                            | 28             | 34.00      | 1197                    | 498              |        | 271,406 | 271,406                   |       |       |                      |        |                        |       |            |  |
| 71                       | OWEN CHAPEL CHURCH OF CHRIST                  | 28M-B          | 12.00      | N/A                     | N/A              | 1,502  |         |                           |       |       |                      |        |                        |       |            |  |
| 72                       | WILLOWICK HOMEOWNERS ASSOCIATION              | 36             | 55.01      | N/A                     | N/A              | N/A    |         |                           |       |       |                      |        |                        |       |            |  |
| 73                       | WILLOWICK HOMEOWNERS ASSOCIATION              | 36M-A          | 1.00       | 1186                    | 90               | 0,749  |         |                           |       |       |                      |        |                        |       |            |  |
| 74                       | FRANKLIN FUNERAL HOME LLC                     | 53             | 74.01      | 6625                    | 33               | 8,014  |         |                           |       |       |                      |        |                        |       |            |  |
| 75                       | BCC INVESTMENTS LLC                           | 53             | 74.01      | 6625                    | 33               | 8,070  |         |                           |       |       |                      |        |                        |       |            |  |
| 76                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 77                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 78                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 79                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 80                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 81                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 82                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 83                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 84                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 85                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 86                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 87                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 88                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 89                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 90                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 91                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 92                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 93                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 94                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 95                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 96                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 97                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 98                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 99                       | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 100                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 101                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 102                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 103                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 104                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 105                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 106                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 107                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 108                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 109                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 110                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 111                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 112                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 113                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 114                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 115                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 116                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 117                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 118                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 119                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 120                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 121                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 122                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 123                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 124                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 125                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 126                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 127                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 128                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 129                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 130                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 131                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 132                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 133                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 134                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 135                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 136                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 137                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 138                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 139                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 140                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 141                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 142                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 143                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 144                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 145                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 146                      | CARDEN COMMONS LLC                            | 53             | 31.01      | 50                      | 46               | 0,958  |         |                           |       |       |                      |        |                        |       |            |  |
| 147                      | CARDEN COMMONS LLC                            |                |            |                         |                  |        |         |                           |       |       |                      |        |                        |       |            |  |





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**File #: 20-01212**

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**DATE:** October 8, 2020  
**TO:** Capital Investment Committee  
**FROM:** Eric Stuckey, City Administrator  
Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
Adam Moser, Traffic Engineer

**SUBJECT:**

Consideration Of Ordinance 2020-27, An Ordinance To Reduce The Speed Limit To Twenty Miles-Per-Hour Upon All Streets In The Clairmonte Subdivision.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning an ordinance to reduce the speed limit to 20 mph on all streets within the Clairmonte Subdivision

**BACKGROUND/STAFF COMMENTS:**

The purpose of this ordinance is for a posted speed limit reduction for all streets in the Clairmonte subdivision. This request came from the Clairmonte Homeowners Association (HOA) for traffic calming in their subdivision. The streets were not through streets and did not qualify for our Neighborhood Traffic Calming Program, so a request in reduction of posted speed limit was requested by the HOA. Our Street Standards do allow for 20 mph speed limits on residential neighborhood (local) streets. The HOA successfully petitioned all residents within the neighborhood for the reduction from 25 mph to 20 mph.

**FINANCIAL IMPACT:**

Cost of changing the speed limit signs is minimal and can be performed by City staff.

**RECOMMENDATION:**

Staff recommends that Ordinance 2020-27 be recommended for approval by the Board of Mayor and Aldermen.

**ORDINANCE 2020-27**

**AN ORDINANCE TO REDUCE THE SPEED LIMIT ON CLAIRMONTE CIRCLE, CLAIRMONTE DRIVE, CLAIRMONTE LANE, AND KELLY COURT, LOCATED WITHIN THE CLAIRMONTE SUBDIVISION, TO TWENTY MILES PER HOUR (20 MPH).**

**WHEREAS**, Clairmonte Circle, Clairmonte Drive, Clairmonte Lane, and Kelly Court are all classified as Local Streets in the City's Major Thoroughfare Plan; and

**WHEREAS**, the current speed limit of Clairmonte Circle, Clairmonte Drive, Clairmonte Lane, and Kelly Court is set at twenty-five miles per hour (25 mph); and

**WHEREAS**, Clairmonte Circle, Clairmonte Drive, Clairmonte Lane, and Kelly Court street boundaries are all contained within the Clairmonte Subdivision; and

**WHEREAS**, the Clairmonte Subdivision Homeowners Association (HOA) has requested a speed limit reduction to twenty miles per hour (20 mph); and

**WHEREAS**, the Clairmonte Subdivision Homeowners Association (HOA) has successfully petitioned its property owners in support of the twenty miles per hour (20 mph) speed limit on said streets; and

**WHEREAS**, Engineering Department Staff has completed an engineering evaluation examining existing speed limit, roadway access points, pedestrian activity, and roadway geometry along Clairmonte Circle, Clairmonte Drive, Clairmonte Lane, and Kelly Court; and

**WHEREAS**, engineering principles/judgment related to pedestrian safety within the neighborhood support reducing the speed limit from twenty-five miles per hour (25 mph) to twenty miles per hour (20 mph).

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

**SECTION I:** That the speed limit on Clairmonte Circle, Clairmonte Drive, Clairmonte Lane and Kelly Court be decreased from twenty-five miles per hour (25 mph) to twenty miles per hour (20 mph) for both directions of travel and for the full extent of the roadways.

**SECTION II:** That the penalty for failure to obey the provisions of this Ordinance shall be as indicated in the Franklin Municipal Code and/or the Tennessee Code Annotated.

**SECTION III:** BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the health, safety and welfare of the citizens of Franklin requiring it.

**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

PASSED FIRST READING

PASSED SECOND AND FINAL READING

**DATE:** SEPT 11, 2020

**TO:** Paul Holzen, Director of Engineering

**FROM:** Adam Moser, Traffic Engineer

**SUBJECT:** Speed Limit Reduction Request Memo – Clairmonte Subdivision

## Purpose

The purpose of this memo is to summarize a request and study for posted speed limit reduction in the Clairmonte subdivision. This summary stemmed from a request by the Clairmonte Homeowners Association (HOA) for traffic calming in their subdivision.

## Background & Study Results

The current speed limit of these local streets is 25 miles per hour (mph). The HOA reported that speeds were in excess of the 25 mph speed limit for vehicles traveling within their subdivision and wanted to pursue traffic calming devices. One of the major criteria of the Neighborhood Traffic Calming Program (NTCP) is that any local street that is requested for traffic calming study must be a through street or connected to a major traffic generator, such as a park, large business, etc. The roads that were requested in the Clairmonte subdivision include:

- Clairmont Circle
- Clairmont Drive
- Clairmont Lane
- Kelly Court

All of these streets are cul-de-sacs that terminate within the neighborhood. None of the streets are through streets. Once the HOA was advised that the streets do not meet the criteria of the NTCP, it was asked if a speed limit reduction, similar to what is shown in Ladd Park (20 mph), was possible. The City of Franklin Street Standards do allow for 20 mph speed limits in residential neighborhoods.

It was advised to the HOA that it was possible to reduce the speed limit to 20 mph through an ordinance approved by the Board and with property owner majority support. Engineering prepared a petition for each street and directed the HOA to collect majority (> 50%) signatures along each street requested, and that ALL streets within the subdivision must be requested and successfully petitioned. The reason ALL streets within a 'closed' neighborhood must be requested is to help eliminate any 'per street' enforcement confusion in any particular neighborhood by the COF Police Department. The signed petitions are attached to this memo.

## **Recommendations and Next Steps**

Engineering staff visited the neighborhood and observed children playing as well as people walking and biking in the street. There are no sidewalks within this neighborhood. All walking and biking are on the local street network shared by vehicles. While Engineering staff did a cursory review, specific speed studies were not performed on any of the streets requested, since a speed study would likely not reveal a need to reduce the speed limit from the local street ordinance of 25 mph and per engineering practice for setting speed limits.

Since City Street Standards do allow for a speed limit to 20 mph, and since pedestrians share the roadway with vehicles (i.e. no sidewalk), this request was acceptable to Engineering staff to take this request to the Board in the form of an ordinance.

It should be mentioned, and as expected, per various engineering studies, slower vehicle speeds do result in less severe injuries for pedestrians vs vehicle accidents. For example, results from an American Automobile Association (AAA) study show that the average risk of severe injury for a pedestrian struck by a vehicle reaches 10% at an impact speed of 16 mph, 25% at 23 mph, and 50% at 31 mph. The average risk of death for a pedestrian reaches 10% at an impact speed of 23 mph, 25% at 32 mph, and 50% at 42 mph. The study also reports that risk of severe injury or death vary significantly by age. For example, the average risk of severe injury or death for a 70-year old pedestrian struck by a car traveling at 25 mph is similar to the risk for a 30-year-old pedestrian struck at 35 mph. This study data helps support a lower speed limit within a neighborhood that does not have sidewalks for pedestrian activity.

# NEIGHBORHOOD SPEED LIMIT REDUCTION PETITION FORM

Name of neighborhood and requesting organization: Clairmonte HOA

Contact person: Mike Fallos Telephone: 615-483-8973

Street for Speed Limit Reduction: Clairmonte Drive; from Hwy 96 to Clairmonte Lane

Request Statement: Request to reduce speed limit from 25 mph to 20 mph

SIGNATURES:

53% - Pass

Property Owner Name

Address

Telephone No.

1. Kristyn Rogers 1116 Clairmonte Dr. 615 710 9790
2. Glenn Eicheldinger 1101 Clairmonte Dr. 615 975 1130
3. Bob Gannon 1107 Clairmonte Dr. 615-463-5035
4. HEATHER BELL 1109 CLAIRMONTE DR 615 969-3605
5. Melanie Broadbent 1114 Clairmonte Dr. 615-306-9079
6. Bill Clark 1113 Clairmonte Dr. 615-428-0995
7. Gregg Dean 1119 Clairmonte Dr. 615-599-5597
8. Butcher Thomas 1200 Clairmonte Dr. 615-477-3388
9. Danna Dargatzis 1110 Clairmonte Dr. 615.336.9957
- 10. Janice Cardenas 1306 Clairmonte Ln 615-407-5109
11. \_\_\_\_\_
12. \_\_\_\_\_
13. \_\_\_\_\_
14. \_\_\_\_\_
15. \_\_\_\_\_

Should  
be on  
Clairmonte  
Lane  
sheet



# NEIGHBORHOOD SPEED LIMIT REDUCTION PETITION FORM

Name of neighborhood and requesting organization: Clairmonte HOA

Contact person: Mike Fallos Telephone: 615-483-8973

Street for Speed Limit Reduction: Kelly Court; from Clairmonte Drive to End

Request Statement: Request to reduce speed limit from 25 mph to 20 mph

SIGNATURES:

60% - Pass

Property Owner Name

Address

Telephone No.

1. Ricky Brown 1201 Kelly Ct. Franklin 615-943-1196
2. Dana Davis 1209 Kelly Ct Franklin 615-791-9148
3. Cynthia D. R... 1221 Kelly Ct. 615-599-0741
4. N. AMRATHA 1229 KELLY CT 615-480-7108
5. Virgil True 1237 Kelly Ct 615-599-7436
6. Cindy Williams 1238 Kelly Ct. 615-300-8316
7. KEN GILG 1230 Kelly 615-429-1610
- \* 8. Eric Welch 1224 Kelly 615-519-2752
9. Carol Young 1202 Kelly 615-483-5043
10. Larry Simon 1211 Kelly Ct 615-948-2637
11. Basem Khalil 1223 Kelly Ct 201 989 6506
12. MMA 1225 Kelly Ct 404 225 5525
13. TISRA FADE LT 1228 Kelly Ct. 615-364-0471
14. JOE HOMERSICK 1235 Kelly Ct. 814. 381. 4906
15. Sammi L. Suddard 1219 Kelly Ct 615-791-0995

|     |                  |                |              |
|-----|------------------|----------------|--------------|
| 16. | John Bay         | 1236 Kelly Ct. | 615 944 6255 |
| 17. |                  | 1212 Kelly Ct  | 615-807-0177 |
| 18. | Brandon Weisfara | 1227 Kelly Ct  | 615 499 2435 |
| 19. | MSL              | 1240 Kelly Ct  | 615.497.2898 |
| 20. | Matt Jenkins     | 1218 Kelly Ct. | 614-804-7769 |
| 21. |                  |                |              |
| 22. |                  |                |              |
| 23. |                  |                |              |
| 24. |                  |                |              |
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| 30. |                  |                |              |
| 31. |                  |                |              |
| 32. |                  |                |              |



# NEIGHBORHOOD SPEED LIMIT REDUCTION PETITION FORM

Name of neighborhood and requesting organization: Clairmonte HOA

Contact person: Mike Fallos Telephone: 615-483-8973

Street for Speed Limit Reduction: Clairmonte Circle; from Clairmonte Drive to End

Request Statement: Request to reduce speed limit from 25 mph to 20 mph

SIGNATURES:

54% - Passes

| Property Owner Name            | Address                    | Telephone No.       |
|--------------------------------|----------------------------|---------------------|
| 1. <u>C. J. Miller</u>         | <u>1408 CLAIRMONTE CIR</u> | <u>615-260-6553</u> |
| 2. <u>Patricia Fletcher</u>    | <u>1412 Clairmonte Cir</u> | <u>615-533-5281</u> |
| 3. <u>Margaret Christie</u>    | <u>1413 Clairmonte Cir</u> | <u>202-322-1774</u> |
| 4. <u>Marie P. Savarino</u>    | <u>1415 Clairmonte Cir</u> | <u>615-4306746</u>  |
| 5. <u>[Signature]</u>          | <u>1417 Clairmonte Cir</u> | <u>6783155397</u>   |
| 6. <u>Paul King</u>            | <u>1425 CLAIRMONTE CIR</u> | <u>731-217-7322</u> |
| 7. <u>[Signature]</u>          | <u>1420 CLAIRMONTE</u>     | <u>615-788-1375</u> |
| 8. <u>Fayden Felder</u>        | <u>1410 Clairmonte</u>     | <u>615-595-0313</u> |
| 9. <u>Laura Rota</u>           | <u>1407 Clairmonte Cir</u> | <u>954-740-0648</u> |
| 10. <u>Garry Fox</u>           | <u>1406 CLAIRMONTE CIR</u> | <u>478-7473445</u>  |
| 11. <u>David [Signature]</u>   | <u>1402 Clairmonte</u>     | <u>931-212-8383</u> |
| 12. <u>Michael [Signature]</u> | <u>1405 Clairmonte Cir</u> | <u>615-483-8973</u> |
| 13. <u>[Signature]</u>         | <u>1414 Clairmonte Cir</u> | <u>615-419-0466</u> |
| 14. <u>Barbara Lopez</u>       | <u>1409 Clairmonte Cir</u> | <u>615-566-7454</u> |
| 15. _____                      | _____                      | _____               |

# NEIGHBORHOOD SPEED LIMIT REDUCTION PETITION FORM

Name of neighborhood and requesting organization: Clairmonte HOA

Contact person: Mike Fallos Telephone: 615-483-8973

Street for Speed Limit Reduction: Clairmonte Lane; from Clairmonte Drive to Clairmonte Circle

Request Statement: Request to reduce speed limit from 25 mph to 20 mph

SIGNATURES:

57% - Passes

Property Owner Name

Address

Telephone No.

1. Lance Burch 1316 Clairmonte 931-334-5790
2. Jack Zahut 1314 Clairmonte (615) 969-9051
3. Chunhan Wang 1308 Clairmonte Ln 615-573-5752
4. Stan Muggie 1302 Clairmonte Lane 615-591-5313
5. Bob Galy 1311 Clairmonte Ln 615-856-3382
6. AB 1300 Clairmonte 615-937-3463
7. See Clairmonte Drive Line 1 &
8. Bob 1312 Clairmonte Ln 703 915 2777
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_



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**File #: 20-01264**

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**DATE:** October 9, 2020  
**TO:** Capital Investment Committee  
**FROM:** Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
David Hodnett, Staff Engineer

**SUBJECT:**

Consideration Of DRAFT Resolution 2020-210, A Resolution To Award The Construction Contract (COF Contract No. 2020-0234) For The McEwen Drive / I-65 Ramp Modifications Project (COF Project No. 2018-011) To Charles Deweese Construction, Inc. In The Amount Of \$867,309.11.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning Resolution 2020-210.

**BACKGROUND/STAFF COMMENTS:**

In August 2019, the BOMA approved Resolution 2019-68 to adopt a list of projects for the fiscal years (FYs) 2019-2028 Capital Investment Program (CIP). Included in that list of adopted projects is the McEwen Drive Interchange Modifications. This project is also known as the McEwen Drive / I-65 Ramp Modifications. This project generally consists of modifications to the McEwen Drive interchange and to West McEwen Drive itself to allow for the opening of a second left-turn lane for westbound motorists turning from McEwen Drive onto southbound I-65. The project also includes the addition of two (2) new traffic signals. One signal will control the eastbound right-turn movement from McEwen Drive onto southbound I-65 entrance ramp to accommodate the additional left-turn lane. The second signal will control northbound right-turns from the I-65 exit ramp onto eastbound East McEwen Drive.

Following a typical advertisement period, City staff received and opened construction bids on October 8, 2020. Only one (1) bid was submitted. However, the single bid is well below the original staff estimate. After tabulation and careful review of the submitted bid, staff recommends award of the construction contract (COF Contract No. 2020-0234) to the sole bidder, Charles Deweese Construction, Inc.

**FINANCIAL IMPACT:**

At the time of adoption of Resolution 2019-68, the preliminary cost of the McEwen Drive Interchange Modifications project was estimated at \$1,000,000.00. The cost of design was \$77,725.80. Right-of-way and easement acquisition is \$32,010.00. The construction bid is \$867,309.11. The total project cost, thru construction is anticipated to be \$977,044.91. Staff does anticipate some additional costs to be incurred for testing and supplemental inspection during construction.

Staff anticipates coding project expenses to the Capital Projects Fund (310), with the Finance Department ultimately determining the most appropriate and available source of funding.

**RECOMMENDATION:**

Staff recommends that Resolution 2020-210 be recommended for approval by the Board of Mayor and Aldermen.

**RESOLUTION 2020-210**

**A RESOLUTION TO AWARD THE CONSTRUCTION CONTRACT (COF CONTRACT NO. 2020-0234)  
FOR THE MCEWEN DRIVE / I-65 RAMP MODIFICATIONS PROJECT (COF PROJECT NO. 2018-011)  
TO CHARLES DEWEESE CONSTRUCTION, INC. IN THE AMOUNT OF \$867,309.11**

**WHEREAS**, on August 13, 2019, the City of Franklin Board of Mayor and Aldermen (BOMA) approved Resolution 2019-68 to adopt the project list for the FY 2019-2028 Capital Investment Program (CIP); and

**WHEREAS**, said Resolution 2019-68 included, as an adopted project, the McEwen Drive Interchange Modifications; and

**WHEREAS**, the McEwen Drive Interchange Modifications, as adopted via Resolution 2019-68, is also known as the McEwen Drive / I-65 Ramp Modifications Project; and

**WHEREAS**, on October 8, 2020, sealed bids for the construction of the McEwen Drive / I-65 Ramp Modifications Project (COF Project No. 2018-011) were received by the City of Franklin Engineering Department at City Hall, 109 3rd Avenue South, Franklin, Tennessee 37064 and were opened and read aloud in a live, publicly accessible, virtual bid opening using Cisco Webex technology; and

**WHEREAS**, after careful review and tabulation of the submitted bid, City staff recommends award of the contract (COF Contract No. 2020-0234 for construction of the McEwen Drive / I-65 Ramp Modifications Project (COF Project No. 2018-011) to the sole bidder, Charles Deweese Construction, Inc., in the bid amount of Eight Hundred Sixty-Seven Thousand Three Hundred Nine and 11/100 Dollars (\$867,309.11).

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

Approval is granted to award the contract (COF Contract No. 2020-0234) for the construction of the McEwen Drive / I-65 Ramp Modifications Project (COF Project No. 2018-011) to Charles Deweese Construction, Inc., in the bid amount of Eight Hundred Sixty-Seven Thousand Three Hundred Nine and 11/100 Dollars (\$867,309.11).

**IT IS SO RESOLVED AND DONE** on this \_\_\_\_ day of \_\_\_\_\_, 2020.

*(Signatures on Following Page)*

**ATTEST:**

By: \_\_\_\_\_  
**Eric S. Stuckey**  
City Administrator

**CITY OF FRANKLIN, TENNESSEE:**

By: \_\_\_\_\_  
**Dr. Ken Moore**  
Mayor

**Approved as to form:**

By: \_\_\_\_\_  
**Shauna R. Billingsley**  
City Attorney



**McEwen Drive / I-65 Ramp Modifications**  
**COF Contract No. 2020-0234**

**BID OPENING - Apparent Bid Results (UNOFFICIAL)**  
**October 8, 2020 @ 2:00 PM (CDT)**

| NAME                               | BASE BID     |
|------------------------------------|--------------|
| Charles Deweese Construction, Inc. | \$867,309.20 |
| Sessions Paving Company            | No Bid       |





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**File #: 20-01278**

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**DATE:** October 13, 2020  
**TO:** Capital Investment Committee  
**FROM:** Eric Stuckey, City Administrator  
Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
Sarah Roop, Right of Way Agent

**SUBJECT:**

Consideration Of Draft Amendment 1 To COF Contract No. 2019-0256, A Professional Services Agreement With R. Rhett Turner, MAI For Review Appraisal Services For The McEwen Drive Phase 4 Project At A Cost Increase Of \$1,800.00.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning Amendment No. 1 to the Professional Services Agreement (PSA) with R. Rhett Turner, MAI.

**BACKGROUND/STAFF COMMENTS:**

On September 10, 2019, The BOMA approved PSA COF No. 2019-0256 in an amount not to exceed \$51,400.00. The intent of this PSA was to provide review appraisals for property acquisitions associated with the East McEwen Drive Phase 4 Improvements Project. During the appraisal process, staff and the consultant realized the need for additional services to allow for the appropriate appraisal of two commercial properties. This Amendment No. 1 provides these additional services.

**FINANCIAL IMPACT:**

The total cost of Amendment No. 1 (COF Contract No. 2019-0256) is \$1,800.00. With the approval of Amendment No. 1, the total ceiling of this contract will become \$53,200.00. Expenses for this project have been programmed to be paid from the Capital Project Fund. This corresponds to a general ledger (GL) code of 312-89420-43100.

**RECOMMENDATION:**

Staff recommends that Amendment 1 to COF Contract No. 2019-0256 with R. Rhett Turner, MAI in the amount of \$1,800.00 be recommended for approval by the Board of Mayor and Aldermen.



**AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR MCEWEN DRIVE PHASE 4 APPRAISAL SERVICES  
PROJECT  
COF Contract No. 2019-0256**

**THIS AMENDMENT** is made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **City of Franklin, Tennessee** ("City") and R. RHETT TURNER, MAI ("Consultant").

**WITNESSETH:**

**WHEREAS**, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled MCEWEN DRIVE PHASE 4 REVIEW APPRAISAL SERVICES, dated the 10th day of September 2019; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of SEVENTY-ONE THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$51,400.00), as authorized by the City Engineer and as detailed in the fee Schedule; and

**WHEREAS**, the City and Consultant realize the need for additional appraisal services for the Project due to circumstances beyond the control of the Consultant; and

**WHEREAS**, the Consultant has provided a Proposal for an increase in review appraisal services, as described in Exhibit A dated September 30, 2020, in the amount of **ONE THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$1,800.00)**; and

**WHEREAS**, the City has reviewed the Proposal and desires to enter into an agreement for the Project as proposed.

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

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. Consultant's Responsibilities and Duties. Consultant agrees to perform the work as proposed in their September 30, 2020, letter of proposal (Attachment A) which includes the Scope of Services for this Amendment, all of which shall be considered as an integral part hereof.

3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the work as described in Exhibit A an amount not to exceed **ONE THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$1,800.00).**

The City reserves the right to issue any payments jointly to the Consultant and Sub-Consultant when the City receives information that the Consultant has not paid its Sub-Consultant.

4. Waiver. Neither party's failure nor delay to exercise any of its rights or powers under this Amendment will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.

5. Severability. If any term or provision of the Amendment is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Amendment will not be affected.

6. Precedence. In the event of conflict between this Amendment and the provisions of the previous Agreement(s), or any other contract, agreement or other document to which this Amendment may accompany or incorporate by reference, the provisions of this Amendment will, to the extent of such conflict (or to the extent the Agreement is silent), take precedence unless such document expressly states that it is amending this Amendment.

7. Entire Agreement. The Amendment between the parties supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Amendment. The terms and conditions of this Amendment may not be changed except by an amendment expressly referencing this Amendment by section number and signed by an authorized representative of each party.

8. Additions/Modifications. If seeking any addition or modification to the Amendment, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Amendment, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Amendment or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Amendment; and (c) such purchase order, acknowledgement, or other writings are signed,

with specific material clauses separately initialed, by authorized representatives of both parties.

9. Breach. Upon deliberate breach of the Amendment by either party, the non-breaching party shall be entitled to terminate the Amendment without 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.

10. Survival. This Amendment shall survive the completion of or any termination of the original contract, revised contract, or agreement or other document to which it may accompany or incorporate by reference.

All other provisions of the Agreement dated September 10, 2019, are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

**The CITY OF FRANKLIN, TENNESSEE**

**R. RHETT TURNER, MAI**

By: \_\_\_\_\_

By: \_\_\_\_\_

**Dr. Ken Moore**

Print: \_\_\_\_\_

Mayor

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
**Eric S. Stuckey**

City Administrator

Date: \_\_\_\_\_

**Approved as to form:**

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney

# R. Rhett Turner, MAI, SR/WA

P.O. Box 2191 Mt. Juliet, TN 37121 | 615-812-7698 | RRT2244@gmail.com

September 30, 2020

Ms. Sarah Roop, Right of Way Agent  
Engineering Department City of Franklin  
109 Third Avenue South, Suite 142  
Franklin, TN 37064

RE: Proposal for Real Estate Appraisal Reviews and Form 2s  
East McEwen Drive Phase 4  
State Project Number 94LPLM-F3-096  
Federal Project Number STP-M-9305(31)  
TDOT PIN 125418.00  
From 1,750 FT East of Cool Springs Blvd to Wilson Pike (S.R. 253)  
Franklin, Williamson County, Tennessee  
Tracts 1 & 2

Dear Ms. Roop:

I am pleased to submit the revised fee schedule for the appraisal reviews and Form 2s for above noted project and specified tracts. The appraisal review reports report will be in compliance with the Tennessee Department of Transportation (TDOT) Guidelines for Appraisers, the Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Foundation and the Appraisal Institute's Standards of Professional Appraisal Practice and Code of Professional Ethics. The Form 2 will be in compliance with TDOT Right of Way standard operating procedures.

The appraisal review and Form 2 revised fee schedule is based on the change in the scope of work required to complete the review and administrative processes. This change in the scope of work was identified after the project review process began. The tracts were initially identified as residential tracts; however, the tracts were determined to commercial tracts with a City approved development plan. The revised fees for tracts 1 and 2 are listed below:

| Tract   | Initial Fee | Increase | Total Revised Fee |
|---------|-------------|----------|-------------------|
| Tract 1 | \$2,600     | \$1,000  | \$3,600           |
| Tract 2 | \$2,800     | \$800    | \$3,600           |

## R. Rhett Turner, MAI, SR/WA

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P.O. Box 2191 Mt. Juliet, TN 37121 | 615-812-7698 | RRT2244@gmail.com

Thank you for the opportunity to work with the City of Franklin on this project. Prompt attention to the contracting process will assist me in expediting this project. If you have any questions please feel free to contact me anytime.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R. Rhett Turner", with a stylized flourish at the end.

**R. Rhett Turner, MAI, SR/WA**



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**File #: 20-01281**

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**DATE:** October 14, 2020  
**TO:** Capital Investment Committee  
**FROM:** Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
Sarah Roop, Right of Way Agent

**SUBJECT:**

Consideration Of Draft COF Contract No. 2020-0247, A Professional Services Agreement With Boozer & Company, P.C. For On-Call Appraisal Services.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning COF Contract No. 2020-0247 with Boozer & Company, P.C. for on-call appraisal services.

**BACKGROUND/STAFF COMMENTS:**

There is often a need to obtain an appraisal and/or review appraisal for the acquisition of property associated with capital projects. This PSA (COF Contract No. 2020-0247), along with COF Contract Nos. 2020-0248 and 2020-0249, allows for the quick selection of a qualified consultant to perform the needed appraisal or review appraisal. This on-call contract may be utilized by any City Department needing an TDOT-style appraisal for a City project.

**FINANCIAL IMPACT:**

Funding will be allocated as needed for individual work orders. In most cases, staff anticipates utilizing already established capital project funding for specific capital projects.

**RECOMMENDATION:**

Staff recommends that COF Contract No. 2020-0247 with Boozer & Company, P.C be recommended for approval by the Board of Mayor and Aldermen.

**CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2020-0247**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **BOOZER & COMPANY, P.C.** 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 APPRAISAL SERVICES**

1. SCOPE OF SERVICES. Consultant shall provide appraisal services 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. Individual work orders shall be issued by the City Engineer and approved by the City Administrator and shall be subject to all terms of this agreement.
5. This Agreement shall terminate no later than three (3) years from the date of execution.

**The Board of Mayor and Aldermen Approved this Agreement on the \_\_\_\_\_  
Day of \_\_\_\_\_ 202\_\_.**

## **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](http://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:**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Signature)*

Name: \_\_\_\_\_

Name: Dr. Ken Moore

Title: \_\_\_\_\_

Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved as to Form:**

\_\_\_\_\_  
Maricruz R. Fincher, Staff Attorney

**COF CONTRACT NO. 2020-0247  
ATTACHMENT A  
SCOPE OF SERVICES**

- I. **Boozer & Company, P.C.** ("Consultant") is pleased to provide this proposal for on-call appraisal services to the **City of Franklin, Tennessee** ("City"). It is anticipated that this contract will be in effect for a three (3) 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. Individual work orders shall be issued by the City Engineer and approved by the City Administrator. Work Orders will include 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)*

**BOOZER &  
COMPANY, P.C.***Professional Real Estate Appraisers & Consultants*

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September 14, 2020

Ms. Sarah Roop  
 Right of Way Agent  
 City of Franklin  
 109 3<sup>rd</sup> Avenue South  
 Franklin, TN 37064

**RE: Fee Schedule for On Call Appraisal Services Contract**

Dear Ms. Roop,

Per your request, I respectfully submit the following fee schedule for the On-Call Appraisal Services contract with the City of Franklin.

The "task proposal", or scope of work, for each project shall be determined on a case-by-case basis, along with an agreed upon completion date. The fee schedule for the various tasks will be as follows:

| <b>Task</b>                                                             | <b>Hourly Rate</b> |
|-------------------------------------------------------------------------|--------------------|
| • Real Estate Appraisals:                                               | \$250              |
| • Real Estate Appraisal Reviews:                                        | \$250              |
| • Condemnation (Expert Witness Testimony, Depositions, Trial Prep, etc. | \$300              |

Thank you for allowing *Boozer & Company, P.C.* the opportunity to submit this fee schedule. If you have any questions, please feel free to contact me at 615-591-4422 ext. 203. I look forward to working with you in the future.

Sincerely,



Ted A. Boozer, MAI, CG-973  
 State Certified General Real Estate Appraiser



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**File #: 20-01282**

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**DATE:** October 14, 2020  
**TO:** Capital Investment Committee  
**FROM:** Eric Stuckey, City Administrator  
Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
Sarah Roop, Right of Way Agent

**SUBJECT:**

Consideration Of Draft COF Contract No. 2020-0248, A Professional Services Agreement With Richard L. Maddux & Associates for On-Call Appraisal Services.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning COF Contract No. 2020-0248 with Richard L. Maddux & Associates for on-call appraisal services.

**BACKGROUND/STAFF COMMENTS:**

There is often a need to obtain an appraisal and/or review appraisal for the acquisition of property associated with capital projects. This PSA (COF Contract No. 2020-0248), along with COF Contract Nos. 2020-0247 and 2020-0249, allows for the quick selection of a qualified consultant to perform the needed appraisal or review appraisal. This on-call contract may be utilized by any City Department needing an TDOT-style appraisal for a City project.

**FINANCIAL IMPACT:**

Funding will be allocated as needed for individual work orders. In most cases, staff anticipates utilizing already established capital project funding for specific capital projects.

**RECOMMENDATION:**

Staff recommends that COF Contract No. 2020-0248 with Richard L. Maddux & Associates be recommended for approval by the Board of Mayor and Aldermen.

**CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2020-0248**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **RICHARD L. MADDUX & ASSOCIATES** 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 APPRAISAL SERVICES**

1. SCOPE OF SERVICES. Consultant shall provide appraisal services 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.
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5. This Agreement shall terminate no later than three (3) years from the date of execution.

**The Board of Mayor and Aldermen Approved this Agreement on the \_\_\_\_\_  
Day of \_\_\_\_\_ 202\_\_.**

## **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.

Law approved template 10.01.15

- 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](http://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:**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Signature)*

Name: \_\_\_\_\_

Name: Dr. Ken Moore

Title: \_\_\_\_\_

Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved as to Form:**

\_\_\_\_\_  
Maricruz R. Fincher, Staff Attorney

**COF CONTRACT NO. 2020-0248  
ATTACHMENT A  
SCOPE OF SERVICES**

- I. **Richard L. Maddux & Associates** ("Consultant") is pleased to provide this proposal for on-call appraisal services to the **City of Franklin, Tennessee** ("City"). It is anticipated that this contract will be in effect for a three (3) 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. Individual work orders shall be issued by the City Engineer and approved by the City Administrator. Work Orders will include 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)*



**Richard L. Maddux and Associates**

**Appraisers • Consultants**

416 Cross Creek Court

Franklin, Tennessee 37064

Phone: (615) 383-3263 • Fax: (615) 383-3264

**Richard L. Maddux, SRA**



October 13, 2020

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

Subject: Fee Schedule for On-Call Contract

Dear Mr. Holzen,

Thank you for considering me for an On-Call Contract with the City of Franklin for real estate appraisal services. My hourly fees would be as follows:

Appraisal Services (Appraisals and Appraisal Reviews) - \$250.00 per hour

Court Testimony in Condemnation proceedings - \$275.00 per hour

I am looking forward to working with your office, and with the City of Franklin, in the years to come.

Sincerely,

A handwritten signature in blue ink that reads "Richard L. Maddux".

Richard L. Maddux, SRA

Richard L. Maddux & Associates



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**File #: 20-01284**

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**DATE:** October 14, 2020  
**TO:** Capital Investment Committee  
**FROM:** Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering  
Sarah Roop, Right of Way Agent

**SUBJECT:**

Consideration Of Draft COF Contract No. 2020-0249, A Professional Services Agreement With R. Rhett Turner, MAI For On-Call Appraisal Services.

**PURPOSE:**

The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning COF Contract No. 2020-0249 with R. Rhett Turner, MAI for on-call appraisal services.

**BACKGROUND/STAFF COMMENTS:**

There is often a need to obtain an appraisal and/or review appraisal for the acquisition of property associated with capital projects. This PSA (COF Contract No. 2020-0249), along with COF Contract Nos. 2020-0247 and 2020-0248, allows for the quick selection of a qualified consultant to perform the needed appraisal or review appraisal. This on-call contract may be utilized by any City Department needing an TDOT-style appraisal for a City project.

**FINANCIAL IMPACT:**

Funding will be allocated as needed for individual work orders. In most cases, staff anticipates utilizing already established capital project funding for specific capital projects.

**RECOMMENDATION:**

Staff recommends that COF Contract No. 2020-0249 with R. Rhett Turner, MAI be recommended for approval by the Board of Mayor and Aldermen.

**CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2020-0249**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **R. RHETT TURNER, MAI** 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 APPRAISAL SERVICES**

1. SCOPE OF SERVICES. Consultant shall provide appraisal services 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 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. Individual work orders shall be issued by the City Engineer and approved by the City Administrator and shall be subject to all terms of this agreement.
5. This Agreement shall terminate no later than three (3) years from the date of execution.

**The Board of Mayor and Aldermen Approved this Agreement on the \_\_\_\_\_  
Day of \_\_\_\_\_ 202\_\_.**

## **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](http://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:**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Signature)*

Name: \_\_\_\_\_

Name: Dr. Ken Moore

Title: \_\_\_\_\_

Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved as to Form:**

\_\_\_\_\_  
Maricruz R. Fincher, Staff Attorney

**COF CONTRACT NO. 2020-0249  
ATTACHMENT A  
SCOPE OF SERVICES**

- I. **R. Rhett Turner, MAI** ("Consultant") is pleased to provide this proposal for on-call appraisal services to the **City of Franklin, Tennessee** ("City"). It is anticipated that this contract will be in effect for a three (3) 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. Individual work orders shall be issued by the City Engineer and approved by the City Administrator. Work Orders will include 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)*

# R. Rhett Turner, MAI, SR/WA

P.O. Box 2191 Mt. Juliet, TN 37121 | 615-812-7698 | RRT2244@gmail.com

September 30, 2020

Ms. Sarah Roop, Right of Way Agent  
Engineering Department City of Franklin  
109 Third Avenue South, Suite 142  
Franklin, TN 37064

RE: Hourly Rate Fee Schedule for Real Estate Appraisals,  
Appraisal Reviews and Form 2s and  
Administrative Functions

Dear Ms. Roop:

I am pleased to submit the hourly fee schedule for real estate appraisals, real estate appraisal reviews, Form 2s and administrative functions for the City of Franklin acquisitions and condemnations. The appraisal reports and appraisal review reports report will be in compliance with the Tennessee Department of Transportation (TDOT) Guidelines for Appraisers, the Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Foundation and the Appraisal Institute's Standards of Professional Appraisal Practice and Code of Professional Ethics, unless other provisions are made prior to starting the assignment(s). This change would be a prior agreement between the engineering staff of the City of Franklin and me as needed and supported by specific assignment factors. The Form 2 will be in compliance with TDOT Right of Way standard operating procedures.

The fees are listed below:

| Function                            | Acquisition Hourly Fee | Condemnation Hourly Fee |
|-------------------------------------|------------------------|-------------------------|
| Real Estate Appraisals              | \$250.00/hour          | \$300.00/hour           |
| Real Estate Appraisal Reviews       | \$250.00/hour          | \$300.00/hour           |
| Form 2 and Administrative Functions | \$250.00/hour          | \$300.00/hour           |

The term acquisition refers to a scope of work other than any and all condemnation related activities.

## R. Rhett Turner, MAI, SR/WA

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P.O. Box 2191 Mt. Juliet, TN 37121 | 615-812-7698 | RRT2244@gmail.com

Thank you for the opportunity to work with the City of Franklin on future projects and various assignments. Prompt attention to the contracting process will assist me in expediting future project assignments. If you have any questions please feel free to contact me anytime.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R. Rhett Turner", with a stylized flourish at the end.

**R. Rhett Turner, MAI, SR/WA**





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**File #: 20-01266**

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**DATE:** October 9, 2020  
**TO:** Capital Investment Committee  
**FROM:** Paul Holzen, Director of Engineering  
Jonathan Marston, Asst. Director of Engineering

**SUBJECT:**  
Capital Projects Dashboard & Status Updates For October 2020.

**PURPOSE:**  
The purpose of this memorandum is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the status of some of the City's transportation, stormwater, and parks capital projects.

**BACKGROUND/STAFF COMMENTS:**  
To access the live dashboard for the City of Franklin Capital Investment Projects, please go to the following City webpage:

[COF Dashboard Link](#)

Manually locate the dashboard following the instructions below:

1. Go to the City of Franklin's main website at: <https://www.franklinton.gov/>,
2. Hover your mouse over "Our City",
3. Click on "City Projects",
4. Click on "Capital Projects Dashboard".

**FINANCIAL IMPACT:**  
N/A

**RECOMMENDATION:**  
None.



City of Franklin Capital Improvement Projects



- Type
- ☒ All
  - ☐ Facilities
  - ☐ Parks
  - ☐ Stormwater
  - ☐ Transportation
  - ☐ Water Management

- Phase
- ☒ All
  - ☐ Design
  - ☐ ROW
  - ☐ Construction

- Project Status
- ☒ All
  - ☐ Active
  - ☐ Completed

Dollars Spent To Date  
**\$701,949**

Project Budget  
**\$19,634,800**

**Design** ROW Construction

Current Projects

**30**

- 1 - East McEwen Drive Phase 5 Extension
- 2 - Fire Station No. 7 (Goose Creek Area)
- 3 - Municipal Services Complex Improvements
- 4 - Southeast Municipal Complex (Park)
- 5 - Lockwood Glen Park
- 6 - Bicentennial Park
- 7 - Harlinsdale Farm Bridge & Greenway
- 8 - East Flank Circle Resurfacing
- 9 - 100-Block Battle Avenue Drainage Improvements
- 10 - Watson Branch (Maplewood) Culvert Rehabilitation
- 11 - Liberty-Mallory Intersection Improvements
- 12 - East McEwen Drive Roundabout Improvements
- 13 - SR-96 West Multi-Use Trail
- 14 - Westhaven Boulevard Traffic Signal
- 15 - Jordan Road Improvements
- 16 - Old Peytonsville Road & Long Lane Bridge & Connector
- 17 - West Main Street Bridge Widening
- 18 - Columbia Avenue Widening & Improvements
- 19 - Franklin Road Improvements & Streetscape
- 20 - 5th Avenue Parking Lot
- 21 - McEwen Drive Interchange Improvements
- 22 - East McEwen Drive Phase 4 Improvements
- 23 - Henpeck Lane Sanitary Sewer Improvements
- 24 - Water Reclamation Facility Modifications

