

**AMENDMENT NO. 4 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR ADDITIONAL SURVEY AND DESIGN SERVICES  
COF CONTRACT NO 2010-0152**

**THIS AMENDMENT** is made and entered into on this the \_\_\_ day of \_\_\_\_\_, 2012, by and between the **City of Franklin, Tennessee** ("City") and **Alfred Benesch & Company** ("Consultant").

**WITNESSETH:**

**WHEREAS**, the City and the Consultant entered into a Professional Services Agreement ("Agreement") entitled Professional Services Agreement COF Contract No. 2010-0152 dated October 28, 2010; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of \$180,000.00 as authorized by the City Engineer and as detailed in the Fee Schedule; and

**WHEREAS**, the City has approved Amendments to COF Contract No 2010-0152 on three (3) different occasions; Amendment No 1 (12/13/2011) at no cost; Amendment No 2 (03/13/2012) to allow for permits, review fees, etc. as reimbursable pass through costs; and Amendment No 3 (04/24/2012) additional design services at a cost of \$10,400; and

**WHEREAS**, the City has negotiated with the Consultant an increase in the design services, as described in Exhibit A - Proposal For Engineering Services; Milcrofton Waterline Relocation Design, of the Agreement in the amount of **Fifteen Thousand Nine Hundred Sixty-Three and No/100 Dollars (\$15,963.00)**

**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 services as provided for in Exhibit A - Proposal For Engineering Services; Milcrofton Waterline Relocation Design.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the additional Professional Services required in an amount not to exceed **Fifteen Thousand Nine Hundred Sixty-Three and No/100 Dollars (\$15,963.00)**

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

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 October 28, 2010, Amendment No 1 dated December 13, 2011, Amendment No 2 dated March 13, 2012, and Amendment No 3 dated April 24, 2012, are unchanged and remain in full force and effect.

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

**CITY OF FRANKLIN, TENNESSEE**

**Alfred Benesch & Company**

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

**Dr. Ken Moore**

Mayor

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

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

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

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

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

**Attest:**

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

City Administrator/Recorder

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

**Approved as to form:**

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

# Exhibit A



Alfred Benesch & Company  
109 Westpark Drive, Suite 440  
Brentwood, Tennessee 37027  
www.benesch.com  
P 615-370-6079  
F 615-627-4066

July 11, 2012

Mr. Paul Holzen, P.E.  
Engineering Director  
City of Franklin  
109 Third Avenue South  
Franklin, Tennessee 37064

**Subject: Proposal for Engineering Services  
Milcrofton Waterline Relocation Design  
SR-252 (Wilson Pike) & McEwen Drive Intersection Improvement  
City of Franklin, Tennessee**

Dear Mr. Holzen:

*Alfred Benesch & Company* is pleased to have the opportunity to submit the professional services proposal to provide the engineering services for the relocation of the Milcrofton waterline on the subject project. Hethcoat & Davis will be a sub consultant to Benesch and will provide the design for the Milcrofton waterline. Please see the attached letter from Keith Davis with more specific information about their scope of services. Benesch will revise the existing roadway plans to reflect the relocated waterline and permanent easement for the new line. Benesch will also provide the property descriptions and exhibits for the City to utilize in obtaining the easements for Milcrofton.

The Scope of Work and cost plus fixed fee will be as follows:

- Waterline design services – (see attached scope)  
Hethcoat & Davis, Inc.                      \$5,288.00
  
- Preparation and Coordination with TDOT for Crossing Permit – (see attached scope)  
Hethcoat & Davis, Inc.                      \$1,000.00
  
- Waterline Bid Phase Services – (see attached scope)  
Hethcoat & Davis, Inc.                      \$5,050.00



- Coordination of Waterline Design  
Alfred Benesch and Company \$1,050.00
- Roadway plans revisions, easement descriptions and exhibits (Approx. 7 tracts)  
Alfred Benesch and Company \$3,575.00
- Supplement Total \$15,963.00

If you have any questions or need any additional information, please feel free to contact me at 615.370.6079. We look forward to assisting the City of Franklin on this important project.

Sincerely,

Thomas M. Clinard, P.E.  
Vice President  
Tennessee Division Manager

Copy: Sammie McCoy, ABC  
FILE



Hethcoat & Davis, Inc.

**H & D**

Engineers & Planners

July 2, 2012

Mr. Sammie E. McCoy, PE CPESC  
Alfred Benesch & Co.  
109 Westpark Drive  
Suite 440  
Brentwood, TN 37027

**Re: 12" Milcrofton U.D. Water Line Relocation  
Design, Permit and Bid Phase Services  
Roadway Widening - McEwen Drive @ Wilson Pike  
Franklin, TN**

Dear Sammie:

Thank you for giving Hethcoat & Davis the opportunity to provide professional services for the existing Milcrofton Utility District (MUD) water line relocation related to the proposed roadway widening improvements at the referenced project.

The project effort will consist of relocation of approximately 1,000 LF of 12-inch water line from the intersection of Wilson Pike and McEwen Drive going south and approximately 400 LF of 2-inch water line from the same intersection proceeding north. Based on our discussion, relocation of these water lines will be required to avoid the new roadway improvements. MUD has indicated they will require the new water line to be relocated into exclusive easements to be located at the back of the proposed right-of-way. The 2-inch line will be relocated as a new 2-inch PVC water line and the 12-inch line will utilize ductile iron pipe. Design would also include a new casing pipe across McEwen Drive (State Route 252) from the railroad bridge to the new east right-of-way. It is our understanding based upon the proposed bridge improvements that the existing 12-inch water line on the bridge will remain and there are to be no changes at this location.

Due to funding sources, we understand that the City desires to bid the water line relocation separately from the roadway improvements. H&D will assist the City in the bid phase process in obtaining competitive bids for the work.

We have identified the following probable scope of services for our efforts:

- Prepare Engineer's Opinion of Cost.
- Prepare estimated quantities of utility to be relocated to be included in the bid package.
- Preparation of drawing(s) showing all water line improvements to be made to accomplish the relocation. (The quantity of drawings is estimated at two).
- Coordination with MUD technical specifications and standard details.
- Obtain permit approval from TDEC, Division of Water Supply.
- Prepare and submit and obtain road crossing permit from TDOT for the cased water line crossing of S.R. 252.
- Coordination of documents with City of Franklin, MUD and Alfred Benesch Co. where applicable.



Hethcoat & Davis, Inc.

**H & D**

Engineers & Planners

- Prepare Contract Bid Documents for Section 0 for the Standard EJCDC documents. This will include bid advertisement, Information for Bidders, Bid Form, Bid Bond, Construction Contract, Performance and Payment Bonds, Standard and Supplemental General Conditions.
- Prepare Contract Bid Documents for Section 1. This will include technical specifications related to Project Scope, Measurement and Payment, Change Orders, Submittal data, Transportation and Storage of Materials, and Project Closeout.
- Issue Bid Advertisement and Distribute Contract Documents to bidders.
- Solicit potential bidders and distribute Invitations to potential qualified bidders.
- Verify license and capability of bidders.
- Answer RFI's from bidders and if necessary, issue one (1) addendum.
- Attend and conduct the bid opening.
- Prepare tabulation of bids and recommendation of low bid.
- Prepare contract award and Conformed Documents for successful bidder.

We assume that all electronic base maps, surveys, topographic data and any other site specific information necessary to perform this design will be available through Alfred Benesch & Co. No construction phase services are included in this effort at this time. If this becomes necessary, we can perform those services at normal hourly rates. As we discussed, Alfred Benesch Co. will prepare the water line easement exhibits based on our design alignment.

Hethcoat & Davis, Inc. proposes to provide the scope of services identified and will make every effort to devote the manpower and resources necessary to insure timely completion of the design in an acceptable timeframe. Based on the anticipated scope of services, we recommend a budget of \$5,288.00 for completion of the design tasks; \$1,000.00 for preparation and coordination with TDOT for highway crossing; and \$5,050.00 for bid phase services. We estimate an additional \$100.00 should be included for reimbursable services related to mileage and reproduction costs. H&D will charge a non-refundable plan fee to each bid holder.

If acceptable, we propose to bill monthly on an hourly basis using the hourly breakdown as the basis of invoicing. Exhibit A, General Provisions of A-E Agreement and Exhibit B, Hourly Rate Schedule are attached and hereby made part of this agreement.

If this proposal is acceptable, please indicate by executing this document in the space designated below. Retain one copy for your files and return one executed copy to us for our files.

We sincerely appreciate the opportunity to work with you and the City of Franklin and to present this proposal for providing professional services. If you should have any questions or require additional information, please call.

Hethcoat & Davis, Inc.

Keith Davis, PE  
Secretary

Accepted:  
Alfred Benesch & Co.

\_\_\_\_\_  
(Name & Title)

\_\_\_\_\_  
(Date)



## MEMORANDUM

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12 July 2012

TO: The Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator  
David Parker, P.E., City Engineer  
Paul Holzen, P.E., Director of Engineering  
Tom Ingram, P.E., Engineering Supervisor  
Jonathan Marston, P.E., Staff Engineer II

SUBJECT: SR 252 (Wilson Pike) & McEwen Drive Intersection Improvements  
City of Franklin Contract #: COF 2010-0152  
Amendment No. 4

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider approval of Amendment No. 4 for the Professional Services Agreement (PSA) for SR 252 (Wilson Pike) & McEwen Drive Intersection Improvements Project

### **Background**

The BOMA approved the PSA for the above referenced project with Clinard Engineering Associates, LLC on October 28, 2010 in an amount not to exceed \$180,000.00. Subsequently, the following amendments to this contract have been approved:

- Amendment 1 – 12/13/2011 – Transfer of existing contract from Clinard Engineering Associates, LLC to Alfred Benesch & Company – No Cost
- Amendment 2 – 03/13/2012 – Allows for reimbursable items such as permits & review fees to be passed through the consultant – Mandatory Fee Costs
- Amendment 3 – 04/24/2012 – Design services for sanitary sewer relocation, ITS conduit addition & design of shared access driveway - \$10,400

Amendment 4 is meant to cover several additional items, related to the relocation of Milcrofton Utility District water mains, which are outside the scope of the original agreement. All items included with this proposed amendment are listed in the attached Exhibit A.

### **Financial Impact**

The cost, as negotiated with Alfred Benesch & Company, for the additional services is an amount not to exceed \$15,963.00.





HISTORIC  
FRANKLIN  
TENNESSEE

# MEMORANDUM

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## **Recommendation**

Staff recommends approval of Amendment No. 4 to the Professional Services Agreement with Alfred Benesch & Company (COF Contract No. 2010-0152) for an amount not to exceed \$15,963.00. This approval would be contingent on City Engineer and City Attorney review and approval of the Professional Services Agreement and Scope of Services.