

**AMENDMENT NO. 3 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR ADDITIONAL DESIGN SERVICES  
2012-0014**

**THIS AMENDMENT** is made and entered into on this the \_\_\_ day of \_\_\_\_\_, 2012, by and between the **City of Franklin, Tennessee** ("City") and **Smith Seckman Reid, Inc (SSR)** ("Consultant").

**WITNESSETH:**

**WHEREAS**, the City and the Consultant entered into a Professional Services Agreement ("Agreement") entitled **HILLSBORO ROAD WATER LINE RELOCATION SSR PROJECT NUMBER 05-41-043.0** dated December 13, 2005; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a lump sum fee of \$128,000; and

**WHEREAS**, on October 13, 2009 the Board of Mayor and Alderman approved unanimously Amendment 1 to the Professional Services Agreement with Smith Seckman Reid, Inc. (SSR) for Design and Construction Administration Services for the Hillsboro Road Water Line Project in an Amount Not to Exceed \$15,250; and

**WHEREAS**, on February 28, 2012 the Board of Mayor and Alderman approved unanimously an Amendment 2 to the Professional Services Agreement with Smith Seckman Reid, Inc (SSR) for additional design and utility coordination in an Amount Not to Exceed \$19,800; and

**WHEREAS**, the City has negotiated with the Consultant an increase in the services, as described in Attachment A - Hillsboro Road Water Line Relocation Additional Fee Request in the amount of **Sixteen Thousand Five Hundred Fifty Dollars and No/100 Dollars (\$16,550.00)**.

**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 additional Design Services as described in **Attachment A**.

3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the additional Services required in an amount not to exceed **Sixteen Thousand Five Hundred Fifty Dollars and No/100 Dollars (\$16,550.00)**.

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 December 13, 2005, Amendment 1 October 13, 2009 and Amendment No 2 Dated February 28, 2012 are unchanged and remain in full force and effect.

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

**CITY OF FRANKLIN, TENNESSEE**

**SMITH SECKMAN REID, INC  
(SSR)**

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

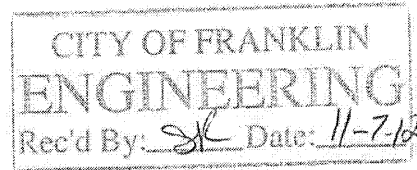
By: \_\_\_\_\_  
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Date: \_\_\_\_\_

**Attest:**

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

**Approved as to form:**

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



November 5, 2012

Attachment A  
Page 1 of 2

Mr. William Banks  
City of Franklin, Tennessee  
109 Third Avenue South  
Franklin, TN 37064

RE: **CITY OF FRANKLIN, TENNESSEE**  
**Hillsboro Road Water Line Relocation**  
**Additional Fee Request**  
**SSR No. 05-41-043.0**

Dear Mr. Banks:

Beginning in 2005 Smith Seckman Reid, Inc. has worked with the City to provide design services for the water improvements along Hillsboro Road from S.R. 96 to Mack Hatcher Parkway. Over the past year we have continued our design effort and completed the water line improvements from Five Points to Independence Square. Unfortunately separating the Hillsboro Road project into phases has depleted our design fee.

As discussed in our kickoff meeting on October 24, 2012 the 18" DIP water line from Independence Square to Mack Hatcher Parkway has been divided into two projects at the request of the City. The State portion was designed and submitted to TDOT on May 23, 2012. The City portion was put on hold in order to complete a 100% design set for the entire Hillsboro Road project from S.R. 96 to Independence Square.

The City of Franklin has also instructed SSR to combine a portion of the water line work from the TDOT Mack Hatcher Parkway project with the proposed Hillsboro Road project from Independence Square to Mack Hatcher. In order to do this, SSR will need to merge a portion of the water line work from both projects, coordinate connection points and transfer our design work from 36" x 24" sheets to 34" x 22" sheets to meet TDOT requirements.

We are now respectfully requesting an increase in our fee to see this project through final design and combine the City and State projects. We estimate that approximately **\$16,550.00** will be needed to complete the design phase, combine the projects, and transfer the work to 34" x 22" sheets. This fee was calculated based on 90 designer hours

and 40 senior engineer hours. The new lump sum fee of \$179,560.00 will not be exceeded without prior approval by the City.

As discussed throughout this project, construction coordination will be very important in the installation of this water line as well as all the utilities along Hillsboro Road. When it appears the project is moving forward with construction and if requested by the City, Smith Seckman Reid can provide a new proposal for limited Construction Administration Services for the water line work from Independence Square to Mack Hatcher Parkway.

As always we appreciate the opportunity to serve the City of Franklin, Tennessee. If the City is in agreement with the terms of this fee increase, we will execute a formal amendment to our original contract and commence work immediately. If you have any questions or concerns regarding this request, please do not hesitate to call me at (615)460-0543.

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



Paolo M. Fonda, P.E.

Cc: JHB, ATJ, File (1)



HISTORIC  
FRANKLIN  
TENNESSEE

ITEM #6  
CIC  
02-7-13

## MEMORANDUM

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February 2, 2013

**TO:** Board of Mayor and Aldermen

**FROM:** Eric Stuckey, City Administrator  
David Parker, City Engineer/CIP Executive  
Paul Holzen, Director of Engineering  
William G. Banks, Staff Engineer I

**SUBJECT:** **Consideration of Amendment No. 3 to the Professional Services Agreement (COF Contract No. 2012-0014) with Smith Seckman Reid, Inc. (SSR) for Additional Design Services for the Hillsboro Road Improvements Project (Waterline Design) in an Amount Not to Exceed \$16,550.00**

### Purpose

The purpose of this memorandum is to bring forward to the Board of Mayor and Aldermen (BOMA) a proposal from Smith Seckman Reid, Inc. (SSR) for additional engineering design services for the Hillsboro Road Improvements Project.

### Background

The Hillsboro Road Improvements Project has been under design since 2005. BOMA awarded to SSR a Professional Services Agreement (PSA) for the Hillsboro Road Project's waterline relocation design on December 13, 2005, in the amount of \$127,960.00. Amendment No. 1 was approved by BOMA on October 13, 2009, for an additional \$15,250.00, which increased the total contract amount to \$143,210.00. This was required because of the great deal of coordination with utility companies, and the subsequent design modifications. Amendment #2 was approved by BOMA on February 28, 2012, for an additional \$19,800.00. Total contract amount after Amendment #2 was \$163,010.00.

Amendment No. 3 allows for the design of the State funded section of the Hillsboro Road Improvements Project (Independence Square to Mack Hatcher Pkwy) to be fully completed. Since the design plans were split into two separate projects, additional fees are necessary for a second set of plans.

See Exhibit A for additional information.

### Financial Impact

Amendment No. 3 to the Professional Services Agreement (COF Contract No. 2012-0014) with SSR at a not-to-exceed cost of Sixteen Thousand Five Hundred Fifty and No/100 dollars (\$16,550.00). The new contract total becomes \$179,560.00 (\$163,010.00 + \$16,550.00).

### Recommendation

After review of the Amendment No. 3 proposal, staff recommends approval.