

**AMENDMENT NO. 3 TO
PROFESSIONAL ENGINEERING SERVICES
FOR THE HILLSBORO ROAD SPOT IMPROVEMENTS
PROJECT 2012-0115**

THIS AMENDMENT is made and entered into on this the ___ day of _____, 2013, 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 Spot Improvements Project dated the 11th Day of April 2006; and

WHEREAS, said Agreement stipulated that the Consultant would be paid a not to exceed fee of \$22,000 as authorized by the City Engineer and as detailed in the fee Schedule; and

WHEREAS, On October 13, 2009 the Board of Mayor and Alderman approved unanimously an Amendment No 1 to the Professional Services Agreement with Smith Seckman Reid, Inc (SSR) for additional design in an Amount Not to Exceed \$32,400; and

WHEREAS, On July 24, 2012 the Board of Mayor and Alderman approved unanimously an Amendment No 2 to the Professional Services Agreement with Smith Seckman Reid, Inc (SSR) for additional design and utility coordination in an Amount Not to Exceed \$14,750.00; and

WHEREAS, the City has negotiated with the Consultant an increase in the services, as described in Attachment A - Hillsboro Road Spot Improvements Independence Square to Mack Hatcher Parkway in the amount of **Fifteen Thousand Five Hundred Dollars and No/100 Dollars (\$15,500.00)**.

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 **Fifteen Thousand Five Hundred and No/100 Dollars (\$15,500.00)**.

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 April 11, 2006, Amendment 1 October 13, 2009 and Amendment No 2 Dated July 24, 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: _____

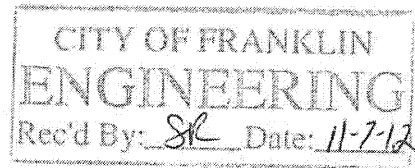
By: _____
Print: _____
Title: _____
Date: _____

Attest:

Eric S. Stuckey
City Administrator/Recorder
Date: _____

Approved as to form:

Shauna R. Billingsley, City Attorney



Attachment A
Page 1 of 2

November 5, 2012

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

RE: **CITY OF FRANKLIN, TENNESSEE**
Hillsboro Road Spot Improvements
Independence Square to Mack Hatcher Parkway
Additional Fee Request
SSR No. 05-41-043.1

Dear Mr. Banks:

Beginning in 2005 Smith Seckman Reid, Inc. has worked with the City to provide design services for the sewer improvements along Hillsboro Road from S.R. 96 to Mack Hatcher Parkway. Since that time the project has expanded in size to include sewer around the 3rd Avenue project, split into smaller construction projects numerous times and been modified to accommodate other utilities.

As discussed in our kickoff meeting on October 24, 2012 the gravity sewer work from Independence Square to Mack Hatcher Parkway has been divided into two projects at the request of the City. The State portion starts at Mack Hatcher Parkway and terminates just south of Claude Yates Drive. The City portion starts at Franklin High School and extends to just north of Del Rio Pike. It was thought that the TDOT Mack Hatcher Parkway project would be constructed first, enabling a portion of Hillsboro Road to be constructed with this project. This State project is now on hold.

The City of Franklin has instructed SSR to combine the sewer that was originally part of 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 all the sewer work from both projects, coordinate inverts and transfer our design work from 36" x 24" sheets to 34" x 22" sheets as requested.

We are respectfully requesting an increase in our fee to combine the projects, rework the inverts as necessary, transfer all work to 34" x 22" sheets and see this project through final design. We estimate that approximately **\$15,500.00** will be needed to complete the work described above. This fee was calculated based on 80 designer hours and 40 senior

Mr. William Banks
November 5, 2012
Page 2 of 2

Attachment A
Page 1 of 2

engineer hours. The new lump sum fee of \$84,650.00 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 the gravity sewer lines 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 gravity sewer 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.

A handwritten signature in black ink, appearing to read "Paolo Fonda". The signature is written in a cursive style with a large initial "P" and "F".

Paolo M. Fonda, P.E.

Cc: JHB, ATJ, File (1)



HISTORIC
FRANKLIN
TENNESSEE

ITEM #5
CIC
02-7-13

MEMORANDUM

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. 2012-0115) with Smith Seckman Reid, Inc. (SSR) for Additional Design Services for the Hillsboro Road Spot Improvements Project in an Amount Not to Exceed \$15,500.00.**

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 Spot Improvements Design Contract (sanitary sewer), part of the overall Hillsboro Road Improvements Project.

Background

The Hillsboro Road Improvements Project has been under design since 2005. BOMA awarded SSR a Professional Services Agreement (PSA) for the Project's sanitary sewer relocation design on April 11, 2006, in the amount of \$22,000. Amendment No. 1 was approved by BOMA on October 13, 2009, for an additional \$32,400, which increased the total contract amount to \$54,400. 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 July 24, 2012, for an additional \$14,750.00 (required for project coordination and redesigns).

This 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.

Financial Impact

Amendment No. 3 to the Professional Services Agreement (COF Contract No. 2012-0115) with SSR at a not-to-exceed cost of Fifteen Thousand Five Hundred and No/100 dollars (\$15,500.00). New contract total becomes \$84,650.00 (\$69,150.00 + \$15,500.00).

Recommendation

Approval of Amendment No. 3 to the Professional Services Agreement (COF Contract No. 2012-0115) with Smith Seckman Reid, Inc. (SSR) for Additional Design Services for the Hillsboro Road Spot Improvements Project in an Amount Not to Exceed \$15,500 is recommended.