



HISTORIC  
FRANKLIN  
TENNESSEE

ITEM #5  
CIC  
6/25/14

## MEMORANDUM

June 25, 2014

**TO:** Board of Mayor and Aldermen

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

**SUBJECT:** **Consideration of Amendment No. 1 to the Professional Services Agreement with Smith Seckman Reid, Inc. (SSR) (COF Contract No. 2012-0189) for Limited Construction Engineering and Inspection Services on the Hillsboro Road Improvements Project.**

### 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) to modify their existing Professional Services Agreement for the Hillsboro Road Improvements Project.

### Background

On January 22, 2013, the Board of Mayor and Aldermen approved a Professional Services Agreement with SSR for Limited Construction Engineering and Inspection Services for the new Sanitary Sewer and Water Line utilities on the Hillsboro Road Improvements Project, SR96W to Independence Square (Phase I).

This Amendment #1 includes fees for the following:

1. Additional work was performed by SSR to coordinate water line and sanitary sewer plan field changes made during construction of Phase I with the upcoming Hillsboro Road Phase II Project. During construction it was deemed advantageous to redesign the new 18" water line to be installed on west side of Hillsboro Road to reduce the traffic control impacts in the area. Because of these changes, the current PSA fees were exhausted. Additional fees are needed to cover the completion of the As-Built documents for Phase I.
2. Because of changes during Phase 1, the City has asked SSR to add 1,200LF of 6-inch DIP water line to the east side of the Hillsboro Road Phase II Project.
3. See the attached proposal (Exhibit A) for additional explanation.

### Financial Impact

The original Professional Services Agreement (COF Contract No. 2012-0189) with Smith Seckman Reid, Inc. (SSR) was at a not-to-exceed cost of Ten Thousand and No/100 dollars (\$10,000.00).

Amendment No. 1 to the Professional Services Agreement (COF Contract No. 2012-0189) with Smith Seckman Reid, Inc. (SSR) is in the amount of Five Thousand Five Hundred Seventy and No/100 dollars (\$5,570.00). This creates a new not-to-exceed total contract cost of Fifteen Thousand Five Hundred Seventy and No/100 dollars (\$15,570.00). All costs will be paid for out the Capital Improvement Budget for Hillsboro Road.

### Recommendation

After review of the Amendment No. 1 proposal, staff recommends approval.

**AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR HILLSBORO ROAD IMPROVEMENTS PROJECT  
COF Contract No. 2012-0189**

THIS AMENDMENT is made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2014, 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 Hillsboro Road Improvements Project (Phase 1) ("Project") SR96W to Independence Square - Construction Engineering and Inspection Services (COF Contract No 2012-0189), dated the 22<sup>nd</sup> day of January 2013; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), 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 and inspection 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 May 21, 2014, in the amount of FIVE THOUSAND FIVE HUNDRED SEVENTY AND NO/100 DOLLARS (\$5,570.00); 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 May 21, 2014, 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 FIVE THOUSAND FIVE HUNDRED SEVENTY AND NO/100 DOLLARS (\$5,570.00).

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 January 22, 2013, 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:**

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



EXHIBIT A  
Page 1 of 1  
COF Contract No 2012-0189  
Amendment No. 1

May 21, 2014

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

RE: **CITY OF FRANKLIN, TENNESSEE**  
**Hillsboro Road Water and Sewer – SR 96 to Independence Square**  
**Additional Services**  
**SSR No. 12-41-010.0 / COF Contract No 2012-0189**

Dear Mr. Banks:

Per our discussion at the Hillsboro Road Utility Coordination meeting on May 19, 2014 the City of Franklin would like to add approximately 1,200 LF of 6-inch DIP water line to the east side of Hillsboro Road to eliminate eight (8) water service crossings. In addition, we are nearing the fee ceiling for our contract amount and have yet to receive final As-Built markups from the contractor. Our original scope estimated the water and sewer construction at 120 days. This timeframe has been greatly exceeded. Construction of the sewer is near completion and the water line is 100% complete. In order to provide As-Built documents to the City and complete the design of the 6-inch water line we are respectfully requesting a fee increase of \$5,570.00 to our original contract amount of \$10,000.00. Based on our hourly rates we provided to the City in October of 2012, we anticipate it will take approximately twenty-seven (27) design hours to complete the As-Built Drawings and ten (10) design hours to complete the new water line. We have also budgeted ten (10) senior engineer hours to review all documents.

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 dark ink that reads "Paolo Fonda". The signature is written in a cursive style.

Paolo M. Fonda, P.E.

Cc: JHB, File (1)