



HISTORIC  
FRANKLIN  
TENNESSEE

ITEM #29  
BOMA  
07/27/2010

## MEMORANDUM

---

### Memorandum

TO: Board Of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator

DATE: July 15, 2010

RE: Items approved by City Administrator  
On behalf of the Board of Mayor and Aldermen

Through the authority granted by the Board of Mayor and Aldermen, the following items of action were approved by me on your behalf:

- Approval of Amendment No. 10 to the Professional Services Agreement with E.G.&G. for the Franklin Corridor and Connector Streets Economic Development Project Segment One – Hillsboro Road for a cost analysis from E.G.&G. for an hourly rate not to exceed a fee of \$1,680.00.
- Change Order No. 1, In The Amount Of \$3,834.32, To Purchase Order No. 2186 For Fencing At Fieldstone Park Ball Fields.
- Professional Service Agreement between the City of Franklin and Environmental Resources Management (ERM) For Environmental Testing At Fieldstone Park Not To Exceed \$9,820. COF Contract No. 2010-0103

**AMENDMENT NO. 10 TO  
PROFESSIONAL SERVICES AGREEMENT  
Franklin Corridor & Connector Streets Economic Development  
Project - Segment One - Hillsboro Road  
COF Contract No 2010-0095**

THIS Amendment is made and entered into on this the 10<sup>th</sup> day of July, 2010, by and between the **City of Franklin, Tennessee** ("CLIENT") and **E. G. & G., Inc.** ("CONSULTANT").

**WITNESSETH:**

**WHEREAS**, CLIENT and CONSULTANT entered into a Professional Services Agreement ("Agreement") entitled City of Franklin, Tennessee Professional Services Agreement, dated the **21<sup>st</sup>** day of **June, 2005**.

**WHEREAS**, CLIENT and CONSULTANT agree to amend the Agreement pursuant to the attached **EXHIBIT A**.

**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 recitals set forth in Exhibit A are incorporated by reference as if fully stated herein.
2. CONSULTANT'S Responsibilities and Duties.
  - a. **SEE ATTACHED EXHIBIT A**
3. CLIENT'S Responsibilities and Duties. CLIENT shall pay CONSULTANT an **Additional Amount for an Hourly Not to Exceed Fee of \$1,680.00, SEE ATTACHED EXHIBIT A.**
4. All other provisions on the Agreement dated June 21, 2005 and the Revised Agreements dated March 14, 2006, July 11, 2006, September 12, 2006, October 24, 2006, November 7, 2006, March 13, 2007, June 19, 2007, August 26, 2008, September 9, 2008, and November 11, 2008 are unchanged and remain in full force and effect.
5. Time of the Essence. The parties agree that **TIME IS OF THE ESSENCE** with respect to the parties' performance of all provisions of the Amendment.
6. Notices. Any notice provided pursuant to the Amendment, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by

facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth below (or set forth in such other document which the Amendment may accompany, or such other address as either party may in the future specify in writing to the other):

In the case of the CLIENT:

City of Franklin  
Attn: David Parker, PE  
City Engineer  
109 Third Ave. South  
P.O. Box 305  
Franklin, TN 37065-0305  
FAX: 615/550-6660  
E-mail: DavidP@franklintn.gov

In the case of CONSULTANT:

E. G. & G., INC.  
Attn: John Grossmann  
President  
388 South main Street, #301  
Akron, Ohio 44311-1044  
FAX: 330-379-2791  
jgrossmann@eggco.com

7. 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.

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

9. 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.

10. 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.

11. Applicable Law; Choice of Forum/Venue. The Amendment constitutes the entire agreement relative to the specific issues addressed by the Amendment, subject to paragraph 4 of this Amendment, and is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The choice of forum and venue shall be exclusively in the Courts of Williamson County, Tennessee.

12. 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.

13. 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.

IN WITNESS WHEREOF, the parties have executed this Amendment.

The CITY OF FRANKLIN, TENNESSEE

E.G. & G., INC.

By: Eric S. Stuckey  
Eric S. Stuckey, City Administrator

By: John Grossmann  
John Grossmann, President

Date: 6-29-10

Date: 7/6/10

Approved as to form:

Kristen L. Corn  
Kristen L. Corn, Staff Attorney

Exhibit A

**E. G. & G., Inc.**

Landscape Architecture • Planning • Engineering

June 24, 2010

Mr. William Banks  
City of Franklin  
P. O. Box 305  
Franklin, Tennessee 37064

Re: Hillsboro Road Streetscape Costs

Dear William:

In follow up to your request to prepare a cost analysis related to the streetscape items associated with the Hillsboro Road Project, E. G. & G., Inc. offers to perform this work for an hourly not to exceed fee of \$1,680.

The cost analysis will compare the cost of enhancement items that create value versus more standard engineered methods and materials.

Please advise if this proposal is acceptable, and we will commence with preparation of the cost analysis.

Thanks you.

Sincerely,



Paul J. Roszak, ASLA  
Associate Principal

pjr/njm

Maury Fence Company of Tennessee, Inc.  
 2634 Leah Drive  
 Columbia, Tennessee 38401

Office: 931-381-2980  
 615-373-3471  
 Fax: 931-381-2986

**QUOTE**

Quote Date
July 13, 2010
Quote Number
7870

Willie Hurd, Owner

Quoted to:

CITY OF FRANKLIN  
 PURCHASE DEPT PO BOX 305  
 109 THIRD AVENUE S SUITE 107  
 FRANKLIN TN 37064

Phone: 615-550-8882  
 Fax: 615-550-8814

Site of Installation:  
 FIELDSTONE PARK  
 CONTACT: BRIAN WILCOX

Rock Clause:

TERMS: INVOICE IS DUE AND PAYABLE UPON RECEIPT.  
 Service charge of 1.5% (minimum .50¢) will be charged on any account 30 days after invoice date.

Quantity	Description	Unit Price	Extension
	CITY USED OWN LABOR TO TAKE DOWN & SET ASIDE DAMAGED FENCE ON FIELD NOS. 1 & 2 (MARCH 20 \$PECS TO BE REMOVED BY CONTRACTOR) FENCE INTACT ON FIELD NOS. 3 & 4		-743.88
	ADDITIONAL FENCE @ JOB SITE MADE NECESSARY BY MAY 1-2 RAIN BETWEEN FIELD NOS. 2 & 3 (REPLACEMENT FENCE SHOULD COME UP TO THE EXISTING CONCRETE SIDEWALK		1,540.00
	BETWEEN FIELD NOS. 1 & 4 (REPLACEMENT FENCE SHOULD COME UP TO THE EXISTING CONCRETE SIDEWALK)		1,528.00
	BETWEEN FIELD NOS. 3 & 4 (REPLACEMENT FENCE SHOULD LEAVE A GAP THAT IS APPROXIMATELY THE SAME AS THE WIDTH OF THE EXISTING CONCRETE SIDEWALK		
	BETWEEN FIELD NOS. 2 & 3 AND BETWEEN FIELD NOS. 1 & 4)		1,512.00

Subtotal 3,834.32  
 Sales Tax  
 Total 3,834.32

Owner agrees to furnish and point out to the Company the property lines upon which the fence is to be located, and further agrees to hold Maury Fence Company harmless from any loss, which might suffer as a result of the fence being placed on the property line erroneously established by Owner.

Owner agrees to pay for the work done in the total sum of \$3,834.32 in cash net upon completion of the work. This is a valid and binding contract and is not subject to cancellation by the Owner without the written consent of the Company, and if Company consents to cancellation it is hereby agreed that the Owner will pay first to the Company the amount of expenses and labor already incurred and such damages as the nature of the case may require. If it becomes necessary to employ an attorney to enforce any provisions of this contract, Owner agrees to pay a reasonable attorney fee.

This contract is not binding upon Maury Fence Company until accepted by it in writing, and Owner agrees that when it is so accepted it becomes a valid and binding contract. Owner agrees to be responsible for any and all attorney's fee or court costs pursuant to this contract.

This contract contains the entire agreement between the parties. Both parties certify that they have read and understand it and that there are no verbal agreements other than those which have been reduced to writing and included in this contract.

The title to the said property is to remain in the Maury Fence Company until paid for.

July 13, 2010

Signed: Willie Hurd  
 MAURY FENCE COMPANY

Eric S. Stucky  
 CUSTOMER City Administrator  
 CUSTOMER



HISTORIC  
FRANKLIN  
TENNESSEE

## MEMORANDUM

---

July 19, 2010

**TO:** Board of Mayor and Aldermen

**FROM:** Eric Stuckey, City Administrator  
Vernon Gerth, ACA Community & Economic Development  
David Parker, City Engineer/CIP Executive  
Lisa R. Clayton, Parks Director

**SUBJECT:** **Professional Service Agreement between the City of Franklin and Environmental Resources Management (ERM) for Environmental Soil Testing at Fieldstone Park. COF Contract No. 2010-0103**

### Purpose

The purpose of this memo is to provide the information required of the Board of Mayor and Aldermen (BOMA) to make an informed decision as to whether or not to enter into a Professional Service Agreement with Environmental Resources Management (ERM) to collect surficial soil samples in the infield areas of four baseball fields at Fieldstone Park prior to restoring the infields to their original state pre-flood.

### Background

Environmental Resources Management-Southeast, Inc. (ERM) is pleased to provide the City of Franklin with this proposal to collect surficial soil samples in the infield areas of four baseball fields for the purpose of characterizing the soil chemistry following the inundation of the fields during a recent flooding event. The proposal was developed in response to a request from the City of Franklin in order to support a FEMA grant application to restore the fields. ERM's understanding of the project will be that surficial soil samples will be collected in the infield areas and analyzed for RCRA metals, polynuclear aromatics and herbicide/pesticides to determine if the recent flooding event adversely impacted the infields.

### Financial Impact

The total cost to the consultant shall be paid a **Not To Exceed Fee of \$9,820.00** for the Work Tasks as described in the scope of services located within the professional service agreement. This fee shall be reimbursed through the FEMA Public Assistance Grant. FEMA only reimburses 75% of the eligible expenses, the State will match 12.5% of the City of Franklin's 25% match. Therefore, the City of Franklin must match with 12.5% = \$1,227.50.

### Options

Available options are to either approve or disapprove the approval of the professional service agreement.

### Recommendation

The approval of the proposed professional service agreement to be approved by the City Administrator under his scope of authority for items under \$10,000.00.