



HISTORIC
FRANKLIN
TENNESSEE

ITEM #25
BOMA
10/12/2010

MEMORANDUM

Memorandum

TO: Board Of Mayor and Aldermen
FROM: Eric Stuckey, City Administrator
DATE: October 6, 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:

- a) Approval of a Professional Services Agreement with Environmental Resources Management (ERM) in the maximum amount of \$6,000 for the purpose of conducting a Phase I Study of the "Hill" property where the Water Department Offices, Equipment and Material Storage Area, and Fleet Division are presently located.

CITY OF FRANKLIN, TENNESSEE
PROFESSIONAL SERVICES AGREEMENT
COF Contract No 2010-0149

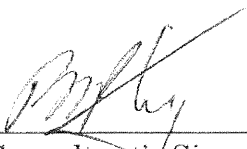
THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and ENVIRONMENTAL RESOURCES MANAGEMENT (ERM) hereinafter referenced as Consultant, who mutually agree as follows:

DECLARATIONS. City desires to retain Consultant to provide engineering, related technical, and other services in connection with City's project hereinafter referenced as Project. The Project is described as follows:


Phase 1 Environmental Site Assessment for
Water Services Department – Fleet Maintenance Facilities

1. **SCOPE OF SERVICES.** Consultant shall provide engineering and related technical services for the Project in accordance with the SCOPE OF SERVICES. The SCOPE OF SERVICES as found in Attachment A shall be considered as an integral part hereof.
2. Consultant shall be paid based on a time and expense basis for the work as described in the SCOPE OF SERVICES with a maximum payment amount of Six Thousand and No/100 Dollars (\$6,000.00).
3. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.

The City Administrator on behalf of the Board of Mayor and Aldermen Approved this Agreement on the 22 Day of Sept. 2010.

BY: 

Consultant's Signature
TITLE: Principal
Date: 22 September 2010

BY: 

Eric S. Stuckey
City Administrator
Date: 9-22-10

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

ARTICLE 1. SERVICES. Consultant will:

- 1.1 Act for City in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with standards of competent consultants using the standards in the industry;
- 1.2 Consider all reports to be confidential and distribute copies of the same only to those persons specifically designated by the City.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

ARTICLE 2. CITY'S RESPONSIBILITIES. City, or its authorized representative, will:

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

ARTICLE 3. GENERAL CONDITIONS.

- 3.1 Consultant, by the performance of services covered hereunder, does not in any way assume, abridge or abrogate any of those duties, responsibilities or authorities customarily vested in other professionals or agencies participating in the Project.
- 3.2 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the PROJECT acting upon written instruction issued by the Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party. However, nothing in this Article shall prevent Consultant from

engaging independent consultants, associates, and subcontractors to assist in the performance of the Services at Consultant's cost.

3.4 ALLOCATION OF RISK AND LIABILITY; GENERAL. Considering the potential liabilities that may exist during the performance of the services of this Agreement, the relative benefits and risks of the Project, and the Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this paragraph.

3.5 INDEMNIFICATION. Consultant agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses to the extent such judgments, losses, damages, or expenses are caused by Consultant's negligent act, error or omission in the performance of the services of this Agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.

3.5.1 SURVIVAL. The terms and conditions of this paragraph shall survive completion of this services agreement.

3.6 LIMITATIONS OF RESPONSIBILITY. Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, SCOPE OF SERVICES; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, SCOPE OF SERVICES.

ARTICLE 4. TERMINATION BY THE CITY. The City may terminate this Agreement in accordance with the following terms and conditions:

4.1 Termination for Convenience. The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such termination becomes effective. The Consultant shall also terminate

outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

- (1) The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.
- (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
- (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
 - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;
 - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

ARTICLE 5. SCOPE OF SERVICES. Consultant shall provide the Services as described in Attachment A, SCOPE OF SERVICES.

5.1 By mutual agreement, this contract and scope can be amended by the parties. The scope and fee for any additional tasks or services under such amendment shall be mutually negotiated and agreed to in writing prior to beginning such additional tasks or services.

5.2 **ENVIRONMENTAL RESPONSIBILITY.**

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

ARTICLE 6. SCHEDULE.

6.1 **TIME OF THE ESSENCE.** The parties agree that TIME IS OF THE ESSENCE with respect to the parties' performance of all provisions of the Agreement.

6.2 **FORCE MAJEURE.** Neither party will be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control, and performance times will be considered extended for a period of time equivalent to the time lost because of such delay plus a reasonable period of time to allow the parties to recommence performance of their respective obligations hereunder. Should a circumstance of force majeure last more than ninety (90) days, either party may by written notice to the other terminate this Agreement. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, tornadoes, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of either party.

6.3 Should City request changes in the scope, extent, or character of the Project, the time of performance of Consultant's services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 7. USE OF DOCUMENTS, DATA.

- 7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.
- 7.1.1 USE OF DATA SYSTEMS: Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.
- 7.1.2 DISCLOSURE OF DOCUMENTS/DATA. City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.
- 7.2 City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to the Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.
- 7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or

of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, SCOPE OF SERVICES. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.

- 7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.
- 7.5 When transferring documents in electronic media format, Consultant makes no representations as to long term compatibility, usability, or readability, of documents resulting from the use of software application packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's Consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.

ARTICLE 8. INSURANCE.

- 8.1 During the performance of the Services under this Agreement, Consultant shall maintain the following minimum insurance:
- a) General Liability Insurance with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
 - b) Automobile Liability Insurance with a combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident.

- c) Workers' Compensation Insurance Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
 - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to City.
- 8.4 No insurance, of whatever kind or type is to be considered as in any way limiting other parties' responsibility for damages resulting from their activities in the execution of the Project. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

ARTICLE 9. PAYMENT.

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope Of Services. Consultant's invoices will be presented at the completion of the work or monthly and will be payable upon receipt. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date. City shall give prompt written notice of any disputed amount and shall pay the remaining amount.
- 9.2 Consultant shall be paid in full for all services under this Agreement, including City-authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope Of Services.
- 9.3 TRAVEL; EXPENSES
The City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope Of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed in the per diem reimbursement rates on the "CONUS" website developed by the United States General Services Administration, located at www.gsa.gov [click on 'per diem rates' under the 'etools' category].

ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 EQUAL EMPLOYMENT OPPORTUNITY. In connection with this Agreement and the Project, the City and the Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. The City and Consultant will take affirmative action to ensure that contractor used for the Project does not discriminate against any employee and employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.1.1 The Consultant shall insert the foregoing provision in all contracts relating to this Project.

10.2 TITLE VI – CIVIL RIGHTS ACT OF 1964. The City and the Consultant shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), 49 C.F.R., Part 21, and related statutes and regulations.

10.2.1 The Consultant shall insert the foregoing provision in all contracts relating to this Project.

10.3 NO THIRD PARTY RIGHTS CREATED. City and Consultant each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to their successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement. The Services provided for in this Agreement are for the sole use and benefit of City and Consultant. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

10.4 WARRANTIES/LIMITATION OF LIABILITY/WAIVER. The City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Consultant to limit its liability shall be void and unenforceable.

ARTICLE 11. EXTENT OF AGREEMENT:

11.1 APPLICABLE LAW/CHOICE OF FORUM AND VENUE. This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum and venue shall be

exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

- 11.2 ENTIRE AGREEMENT. This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for this Project and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only by written instrument signed by City and Consultant.

ARTICLE 12. DISPUTE RESOLUTION, BREACH.

- 12.1 If a dispute should arise relating to the performance of or payment for the services under this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. No arbitration or mediation shall be required as a condition precedent to filing any legal claim arising out of or relating to the Contract. No arbitration or mediation shall be binding.
- 12.2 BREACH. Upon deliberate breach of the Contract by either party, the non-breaching party shall be entitled to terminate the Contract with 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.

ARTICLE 13. SURVIVAL.

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Contract, agreement or other document to which it may accompany or incorporate by reference or which subsequently may be modified, unless expressly excepted from this Article upon consent of both parties.

Attachment A

Environmental
Resources
Management

7106 Crossroads Blvd
Suite 228
Brentwood, TN 37027
(615) 373-3550
(615) 373-2892 (fax)
<http://www.erm.com>

23 August 2010

Mr. Vernon Gerth
Assistant City Administrator for
Community and Economic Development
City of Franklin
Franklin, Tennessee



RE: Proposal to Conduct Phase I Environmental Site Assessment and
a Limited Compliance Review of the Water Service Dept-Fleet
Maintenance Property and Operation
ERM Proposal #BNA10081000

Dear Gerth:

Environmental Resources Management (ERM) is pleased to present this proposal to the City of Franklin to conduct a Phase I Environmental Site Assessment (ESA) with a Limited Environmental Compliance Review of Water Service Department Fleet Maintenance Property located on Hillsboro Road in Franklin, Tennessee.

Based on preliminary information obtained during a site walkover by ERM and the City of Franklin on 18 August 2010, the property is comprised of approximately 4 acres with a 25,000 square foot building on the property. Administrative and vehicle fleet maintenance services are currently conducted at the facility.

A sewage treatment plant was formerly located on the property. The property was also used as a solid waste transfer station (domestic trash) and a storage and refueling area for the transit authority (fuel storage tanks reportedly removed).

1.0 ERM APPROACH

ERM will conduct the Phase I Environmental Assessment in conformance with the American Society for Testing Materials (ASTM) E 1527-05 "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process" and the standards for conducting all appropriate inquiry pursuant to 40 CFR Part 312 ("AAI Standard"). A Phase I assessment, as defined by ASTM Standard E 1527-05, is not intended to be a formal survey for lead-based paint, lead in

drinking water, asbestos-containing materials ("ACM"), mold, urea formaldehyde insulation, ozone-depleting chemicals or radon.

It is understood that use of the ASTM E1527-05 standard of practice is intended for the purpose of providing consistency in the due diligence scope and approach rather than as a basis for establishing one of the CERCLA innocent purchaser protections. ERM will conduct the Phase I ESAs in general conformance with the ASTM E 1527-05 standard practice.

Concurrent with the performance of the Phase I ESA, ERM will conduct a limited compliance review of the environmental activities conducted at the facility. The purpose of the compliance review is to review existing environmental practices of the operations conducted at the facility that may potentially impact any transaction concerning the property.

2.0 SCOPE OF WORK

ERM will seek to identify conditions indicative of releases and threatened releases of hazardous substances and petroleum products at, in, on or under the subject properties through gathering information regarding: (1) current and past property uses and occupancies; (2) current and past uses of hazardous substances and petroleum products; (3) waste management and disposal activities; (4) current and past corrective actions and response activities at the subject properties; (5) engineering controls at the subject properties, (6) institutional controls at the subject properties; and (7) properties adjoining or located nearby the subject properties.

ERM will obtain this information, as available, through:

- Interviews with past and present owners, operators, and occupants;
- Review of historical sources of information;
- Review of federal, state, tribal, and local government records as available;
- Visual inspections of the facility and adjoining properties;
- Commonly known or reasonably ascertainable information about the properties, and

- The degree of obviousness of the presence of contamination and the ability to detect the contamination by conducting an appropriate investigation.

2.1 AAI TASKS

Task 1 User and Site/Owner Provided Information

As per ASTM E1527-05, the User (City of Franklin) is asked to provide information regarding the site as to:

- Whether there are environmental cleanup liens against the subject property;
- The User's specialized knowledge of the subject property and adjoining properties or any other relevant expertise of the User;
- The relationship of the purchase price to the value of the property if the property was not contaminated;
- Commonly known or reasonably ascertainable information about the property; and
- The degree of obviousness of the presence or likely presence of contamination and the ability to detect the contamination by conducting appropriate investigation.

The AAI Standard defines this information as the "additional inquiries." To the extent the User chooses not to provide ERM with information regarding an additional inquiry, ERM will identify the absence of such information as a data gap in its report. To the extent the User has performed the additional inquiry itself and has provided that information to ERM, ERM will rely on the thoroughness and reliability of the information. Certain of these inquiries, i.e., commonly known information, obviousness of contamination must be performed by both User and ERM. To the extent User wants ERM to perform any additional inquiry that can be performed by either ERM or User, i.e., environmental liens, the User can note who will perform these tasks on the User questionnaire included with this proposal.

Also attached is the ASTM 1527-05 Site Owner/Operator questionnaire that a Site Owner/Operator is requested to complete as part of the process. It is similar to the User questionnaire, but it also addresses site specific issues regarding tanks and other structures/operations at a property. Since the City of Franklin is also the Site Owner/Owner operator, the City is the applicable entity to complete the questionnaire.

Task 2 Pre-Visit Preparations

ERM will contact the site representatives, as designated by you, for the facility to discuss general conditions and any previously identified areas of concern prior to our site visits. These will include, but not be limited to, such areas as: prior environmental reports; availability of site plans drawings, etc.; site history; permits; previous assessments; ages and construction details of building(s); discharge points; underground and aboveground storage tanks, tank closure reports; and a schedule for the site visits. In addition to the pre-visit verbal information requests, specific environmental operational documents will be requested to be made available to ERM during the site visits. These additional documents may include: new operating permits, registrations and licenses; new monitoring data and reports; recent regulatory agency visit records, inspections and correspondence; solid and hazardous waste manifests; annual hazardous waste generation reports; air emission data; revised spill prevention plans, draft or final consent orders; Notices of Violation; tank monitoring and/or closure reports; or other pertinent documents.

Task 3 Interviews

As part of the Phase I process, ERM will need to interview someone with historical knowledge of the facility. This could include the property owner, operators and or current occupant of the subject property. ERM will look to the City of Franklin to identify this individual or individuals prior to visiting the site.

As specified by AAI, ERM will need to have access to the following individuals during the interview process:

- Current and past facility managers;
- Past owners, occupants, or operators with knowledge of the subject property; and

- Employees of current and past occupants.

Task 4 Visual Site Inspection

ERM will conduct a site visit of the subject property to observe current conditions and note areas of potential concern. During the site visit, the property and site building will be traversed, including a visual survey of the perimeter site perimeter. Observations will be made for the presence or evidence of releases or threatened releases of hazardous substances and petroleum products and areas where hazardous substances and petroleum products have been used, stored, treated, handled, or disposed. These include:

- areas of dead, distressed, or dying vegetation, if vegetated;
- seeps;
- oil slicks or discoloration on surface soils;
- discernible chemical odors;
- hazardous substances and hazardous substance containers;
- solid or liquid waste disposal or storage areas;
- recent soil disturbances such as grading or filling, etc.;
- presence of equipment containing PCBs, their status, and condition;
- wastewater discharges and outfalls;
- presence and history of any underground or aboveground storage tanks;
- waste disposal and waste disposal practices;
- presence and use of pits, sumps, and floor drains; and
- presence of wetlands, standing water, and/or saturated soil conditions.

Interior areas that will be inspected include areas where liquid-filled electrical and hydraulic equipment are present; sanitary, storm, cooling and process wastewater discharge streams; air emissions from process equipment, boilers, furnaces, and back-up power systems; CFCs; chemical and material handling and storage practices; waste handling, storage; and disposal activities; and general operating practices.

Testing for the presence of radon gas, lead in drinking water, lead-based paint, PCBs, mold, asbestos, including among others, is not within the scope of this Phase I ESA.

During the site visit, ERM will observe and evaluate adjacent properties and the local area for their potential to environmentally impact the subject property. ERM will document the current condition of the subject property, adjacent properties, and local area with photographs. ERM will not physically visit adjacent properties.

ERM will document any limitations to the site reconnaissance. This will include areas on the subject property that ERM could not access and limitations associated with observing adjacent properties. These limitations may be determined to be data gaps under AAI.

Task 5 *Review of Federal, State, Tribal and Local Government Requirements*

ERM will conduct a regulatory review using reasonably ascertainable environmental databases for the geographical area in question. The ERM report will contain a map showing the locations of off-site environmental concerns within a radius specified by ASTM Standard E 1527-05.

ERM will seek, as necessary and appropriate, additional information from governmental agencies either by in-person visits or by telephone. This additional information could include outstanding issues on environmental conditions at the site and neighboring properties, local geology and hydrogeology, wetlands, floodplains, or other environmentally sensitive areas, existing ground water monitoring data, and knowledge of any environmental problem areas. The names of agency contacts will be identified in the final reports.

Task 6 *Review of Historical Sources of Information*

The ASTM standard E 1527-05 requires an identification of all obvious uses of the subject property from the present back to the first developed use or to 1940, whichever is earlier. Only those standard historical sources considered necessary and reasonably ascertainable will be reviewed. Standard historical sources include:

- Aerial Photographs;

- Fire Insurance Maps;
- Property Tax Files (User provided information);
- Recorded Land Title Records (User provided information);
- USGS Topographic Maps;
- Local Street Directories;
- Building Department Records; and
- Zoning/Land use Records.

As applicable and appropriate, ERM will complete a review of reasonably-ascertainable information to assist in determining past land uses, with an emphasis on uses or activities that might have included the generation, storage, treatment, or disposal of potentially hazardous materials. ERM will conduct interviews with personnel familiar with the history of the properties and adjacent land uses, including reviews focusing on historical and current uses of hazardous materials.

Task 7 Data Gaps

ERM will identify any data gaps that were encountered while completing the Phase I ESA. The report for this site will identify and comment on the significance of data gaps that affect ERM's ability to identify conditions indicative of a release or threatened release of hazardous substances or petroleum products and will document the sources of information that were consulted to address the data gap. To the extent that User performs one of the additional inquiries and does not provide that information to ERM or if User does not perform an additional inquiry it is required to perform, ERM will identify that as a data gap.

2.2 LIMITED ENVIRONMENTAL COMPLIANCE REVIEW TASKS

The environmental compliance portion of the reviews will be performed concurrently and will address the following areas:

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- **Environmental management** - the systems and procedures in place for the management of environmental issues at the site.
 - **Emissions to air** - emissions to air (both point-source and fugitive) from the facility, focusing on process authorization and abatement measures.
 - **Water supply** - sources and information relating to water treatment and quality, including abstraction licensing.
 - **Waste water** - surface water and effluent discharges, drainage arrangements, permitting/consents and effluent control procedures.
 - **Chemical handling and storage** - labeling, handling and storage of liquid and solid hazardous raw materials and products.
 - **Bulk chemical storage** - location of above-ground and underground storage vessels and tanks and their associated piping, including details of installation and containment and results of integrity testing.
 - **Emergency plans** - approach to emergency planning and control.
 - **Waste management** - hazardous and non-hazardous waste storage, handling and disposal, including review of waste documentation. Assessment of packaging waste management.
 - **Environmental noise and vibration** - impacts on neighbors and compliance with any boundary noise limits. (Workplace noise is not addressed within this scope of work).
 - **Polychlorinated biphenyls** - presence, use and condition of electrical and hydraulic equipment potentially containing PCBs. (Sampling of equipment for PCBs is not included within this scope of work).
 - **Ozone-depleting substances** - presence and types of CFCs and HCFCs, including Halon.
 - **Asbestos** - presence and condition of visible potentially asbestos-containing materials on-site. (Sampling of asbestos is not included within this scope of work).
 - **Soil and groundwater contamination** - evidence for actual or potential soil and ground water contamination; findings are coupled with desk study results detailing site history and groundwater sensitivity and vulnerability.
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ERM will bring to your attention any significant concerns as well as any environmental compliance issues, observed during the site visit. This information will be presented to you via oral progress reports within 48 hours of the site visit.

2.3 *REPORT OF FINDINGS*

ERM will provide an initial verbal or email debrief within 48 hours following the site visit.

ERM will prepare a Report of Findings that details the salient findings of and their relative implications for risk management. Upon receipt of one consolidated set of comments and with your approval, ERM will submit the final report in electronic form. If requested, ERM will provide up to two hardcopies of each report.

3.0 *SCHEDULE*

ERM can begin work on the assessment immediately upon receiving written authorization to proceed. It is anticipated that the Phase I site visit and verbal/email report can be completed within two weeks of authorization to proceed. The draft written report will follow within approximately two weeks of the site visits.

4.0 *PERSONNEL*

Mr. Ed Ossi of ERM's Brentwood, Tennessee office will serve as Project Manager and conduct the Phase I Site visit. Mr. Phil Patey also of ERM's Brentwood office will serve as the Principal in Charge and will provide logistical support and overall quality assurance.

5.0 *BUSINESS TERMS*

The Estimated Probable Cost to conduct the services described above is \$6,000.

The Estimated Probable Cost is based on our current understanding of site conditions and should be reflective of the scope of work to be conducted. It is expected that the services described herein can be accomplished for the estimated probable costs. However, to avoid misunderstanding, it is emphasized that the Estimated Probable Cost is an estimated maximum which we fully expect will cover the services herein described, but no guarantee is made or implied. All work to be performed on this project

will be conducted on a time and expense basis with only those costs incurred being billed. If the scope of work changes or if it becomes apparent during the course of this project that these funds will not be sufficient for project completion, a request for additional funds will be provided along with supporting rationale.

ERM understands that the City of Franklin requires that a PROFESSIONAL SERVICES AGREEMENT ("Agreement") be executed between the City of Franklin and ERM prior to initiating any work and that the City will prepare and provide the document for signature to ERM.

6.0 PROPOSAL ACCEPTANCE

If this proposal is acceptable, you may indicate your agreement signing a copy of the Proposal Acceptance Agreement page provided and by returning it to the undersigned. Upon receipt of the acceptance copy, ERM will commence the performance of the services described in this proposal. If you choose to fax your acceptance, please also send an acceptance copy with your original signature by mail.

ERM greatly appreciates the opportunity to assist the City of Franklin with their environmental due diligence assessment of this property. Please feel free to contact us with any questions concerning our proposal.

Regards,



Phil D. Patey, PG
Principal



Edward J. Ossi
Project Manager