

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF HEALTH  
AND  
CITY OF FRANKLIN STORMWATER**

This Contract, by and between the State of Tennessee, Department of Health, hereinafter referred to as the "State" and City of Franklin Stormwater, hereinafter referred to as the "Procuring Party," is for the provision of laboratory testing services to comply with the Environmental Protection Agency's N.P.D.E.S permitting requirements as requested, as further defined in the "SCOPE OF SERVICES."

Procuring Party Federal Employer Identification or Edison Registration ID # 265002302

**A. SCOPE OF SERVICES:**

- A.1. a. Provide laboratory testing for metals, organic chemicals, inorganic chemicals, and bacteriological pollutants as requested and within the realm of their capabilities.  
b. Provide an annual listing of costs as per Exhibit 1, Cost of Analytical Services Standard Method for Analysis of Wastewater.  
c. Report test results to the Procuring Party.
- A.2. The Procuring Party shall:
- a. Provide for the collection of samples.  
b. Provide collection vessels.  
c. Transport samples to the State Laboratory.

**B. CONTRACT PERIOD:**

This Contract shall be effective for the period beginning July 1, 2011, and ending on June 30, 2014.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. The Procuring Party shall make monthly payments to the State upon receipt of an invoice for laboratory tests performed during the invoicing period. Each payment shall be made within thirty (30) days of the date on the invoice. The total of said payments shall not exceed Six Thousand Dollars (\$6,000) per year for the contract term.

It is the Procuring Party's duty to remit such funds contingent upon:

- a. Receipt of an invoice from the State requesting the payment.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the

Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

- D.3. Termination for Convenience. The Contract may be terminated by either party by giving written notice to the other, at least Ninety (90) days before the effective date of termination. Said termination shall not be deemed a Breach of Contract by the State. Should the State exercise this provision, the State shall have no liability to the Procuring Party. Should either the State or the Procuring Party exercise this provision, the Procuring Party shall be required to compensate the State for satisfactory, authorized services completed as of the termination date and shall have no liability to the State except for those units of service which can be effectively used by the Procuring Party. The final decision, as to what these units of service are, shall be determined by the State. In the event of disagreement, the Procuring Party may file a claim with the Tennessee Claims Commission in order to seek redress.

Upon such termination, the Procuring Party shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- D.4. Termination for Cause. If either party fails to properly perform or fulfill its obligations under this Contract in a timely or proper manner or violates any terms of this Contract, the other party shall have the right to immediately terminate the Contract. The Procuring Party shall compensate the State for completed services.
- D.5. Subcontracting. Neither the Procuring Party nor the State shall assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the other. If such subcontracts are approved, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings).
- D.6. Conflicts of Interest. The Procuring Party warrants that no amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Procuring Party in connection with any work contemplated or performed relative to this Contract other than as required by section A. of this Contract.
- D.7. Nondiscrimination. The State and the Procuring Party hereby agree, warrant, and assure that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the State or the Procuring Party on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law.
- D.8. Records. The Procuring Party shall maintain documentation for its transactions with the State under this Contract. The books, records, and documents of the Procuring Party, insofar as they relate to work performed or money paid under this Contract, shall be maintained for a period of three (3) full years from the final date of this Contract and shall be subject to audit, at any reasonable time and upon reasonable notice, by the state agency, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

- D.10. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.11. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.12. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.13. State and Federal Compliance. The Procuring Party and the State shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.14. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Procuring Party agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Procuring Party acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.15. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.16. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.17. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Dr. Bob Read, Environmental Laboratory Director  
 Department of Health  
 630 Hart Lane  
 Nashville, TN 37247-0801  
 Email address: [Bob.Read@state.tn.us](mailto:Bob.Read@state.tn.us)  
 Telephone #: (615) 262-6300  
 Fax #: (615) 262-6393

The Procuring Party:

Eric Stuckey, City Administrator  
 City of Franklin  
 109 3<sup>rd</sup> Ave S.  
 Franklin, TN 37064  
 Email address: [eric.stuckey@franklintn.gov](mailto:eric.stuckey@franklintn.gov)  
 Telephone #: (615) 791-3218  
 FAX #: (615) 791-3293

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Procuring Party by the State or acquired by the Procuring Party on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Procuring Party to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Procuring Party's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Procuring Party of this Contract; previously possessed by the Procuring Party without written obligations to the State to protect it; acquired by the Procuring Party without written restrictions against disclosure from a third party which, to the Procuring Party's knowledge, is free to disclose the information; independently developed by the Procuring Party without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Procuring Party to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Procuring Party due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.4. HIPAA Compliance. The State and Procuring Party shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Procuring Party warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.

- b. Procuring Party warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
- c. The State and the Procuring Party will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Procuring Party in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.5. State Furnished Property. The Procuring Party shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Procuring Party's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Procuring Party shall be responsible to the State for the residual value of the property at the time of loss.

**IN WITNESS WHEREOF,**

**CITY OF FRANKLIN:**

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**ERIC STUCKEY, City Administrator**

**DATE**

**DEPARTMENT OF HEALTH:**

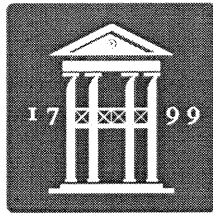
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**Susan R. Cooper, MSN, RN, Commissioner**

**DATE**

ENGINEERING DEPARTMENT

Eric J. Gardner, P.E.  
Director



Dr. Ken Moore  
Mayor

Eric S. Stuckey  
City Administrator

March 9, 2011

HISTORIC  
FRANKLIN  
TENNESSEE

Mr. Bob Read, PhD  
Environmental Lab Director  
Manager Radiochemistry Laboratory  
Tennessee Department of Health  
Laboratory Services  
630 Hart Lane  
Nashville, TN 37243

RE: Contract between the State of Tennessee Dept of Health and City of Franklin Stormwater

Dear Mr Read,

The City of Franklin City Administrator, Eric Stuckey, has signed the contract referenced above. Five copies with original signatures have been provided as requested. Please return at least one copy to me. Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Crystal Bishop', is written over a faint, illegible printed name.

Crystal Bishop, CMS4S  
Stormwater Management Coordinator

Enclosure: Contract with Signatures (5 copies)



**CONTRACT**

(state revenue contract with a federal or Tennessee local or quasi-governmental entity)

<b>Begin Date</b> July 1, 2011	<b>End Date</b> June 30, 2014	<b>Agency Tracking #</b> 34308-04712	<b>Edison ID</b>
<b>Procuring Party Legal Entity Name</b> City of Franklin – Stormwater			<b>Procuring Party Registration ID</b>
<b>Service Caption</b> To perform laboratory tests on storm water samples for microbiological, organic and inorganic results as needed REVENUE			<b>FEIN or SSN</b> 265002302
<b>Agency Contact &amp; Telephone #</b> John M. Webb, Director of Financial Management, 741-9419		OCR USE - RV	