



HISTORIC  
FRANKLIN  
TENNESSEE


ITEM #15  
BOMA  
12/13/2011

## MEMORANDUM

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November 7, 2011

**TO:** Board of Mayor and Aldermen

**FROM:** Eric Stuckey, City Administrator   
David Parker, City Engineer/CIP Executive  
Paul Holzen, Interim Director of Engineering

**SUBJECT:** **Amendment No. 1 to the Professional Services Agreement with Smith Seckman Reid, Inc (SSR) for Resident inspection Services for ARRA Funded Clean Water Projects COF Contracts No. 2010-0004**

### Purpose

The purpose of this memorandum is to provide information to the Board of Mayor and Aldermen (BOMA) for the consideration of Amendment No. 1 to the Professional Services Agreement (PSA) with SSR to provide additional on-site inspection and engineering services for the construction and installation of the Downs Boulevard water line project.

### Background

A Professional Services Agreement was awarded to SSR by the Board of Mayor and Aldermen on January 26, 2010, for design and construction services for the Downs Boulevard water line project. The purpose of this project was to provide increased water pressure in the Downs Boulevard area and to provide the ability to fill the existing water tank on Carter's Creek Pike. The original project completion date (May 15, 2011) was extended by an additional 111 work days due to many different factors, such as weather delays, issues concerning a previously unknown dumping site and contractor delays. On-site resident project representative (RPR) services were provided by SSR throughout the construction of the water line.

### Financial Impact

The cost as negotiated with SSR for the additional services is an amount not to exceed \$22,000. Based on the extended period of time that this project has taken, this request for additional services appears to be appropriate.

### Recommendation

Staff recommends approval of the Amendment to the Professional Services Agreement with SSR (COF Contract No. 2010-0004) for an amount not to exceed \$22,000.

**AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR RESIDENT INSPECTION SERVICES COF CONTRACT NO  
2010-0004**

THIS AMENDMENT is made and entered into on this the 13<sup>th</sup> day of December, 2011, 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 Professional Services Agreement COF Contract No. 2010-0004 dated January 26, 2010 ; and

WHEREAS, said Agreement stipulated that the Consultant would be paid a fee of \$163,000.00 based on monthly billing for hours actually worked at a billing rate of \$60.00 per hour per inspector assigned and approved by City Project Manager; and

WHEREAS, the Projects original completion date was May 15, 2011 and has been delayed due to weather delays, issues concerning an unknown dumping site and contractor delays adding an addition 111 work days to complete the construction; and

WHEREAS, the City has negotiated with the Consultant an increase in the resident inspection services as described in Exhibit A - Downs Boulevard Water Line RPR of the Agreement in the amount of **Twenty-Two Thousand and No/Dollars (\$22,000.00)**.

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 Resident Inspection Services as provided for in the Agreement dated January 26, 2010.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the additional Resident Inspection Services required for the added construction work in an amount not to exceed **Twenty-Two Thousand and No/100 Dollars (\$22,000.00)**.

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 January 26, 2010, 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



2995 Sidco Drive  
Nashville, TN 37204  
(615) 383-1113  
Fax (615) 386-8469  
www.ssr-inc.com

October 24, 2011

Mr. David Parker, P.E., ACA, Public Works  
City of Franklin  
Box 305, City Hall  
Franklin, Tennessee 37065

RE: Downs Boulevard Water Line RPR; SSR No. 10-41-020.0  
EXHIBIT A

Dear Mr. Parker:

The Down's Boulevard 24" Water Line was put into service two weeks ago. The original completion date for the water line was May 15, 2011. Due to weather delays, City-initiated project additions, issues concerning a previously unknown dumping site along the route of the pipeline, and contractor delays, the project construction schedule was delayed. SSR has provided on-site resident project representative (RPR) services throughout the construction of this line, and our representative's time has been divided equally between the water line and the reclaimed distribution line that parallels the water pipe.

We are requesting additional fee to cover the cost of the resident project representative's time on the water line project for the additional 111 work days required to complete the construction. At our rates proposed in our fee proposal dated September 7, 2007, this amounts to an additional \$21,225.00. If we can answer any questions, or if you would like to discuss this request, please give me a call.

Sincerely,

SMITH SECKMAN REID, INC.

Bo Butler, P.E.

Attachments

cc: KGD, PMF, EWH - SSR

Dallas

Denver

Fort Lauderdale

Hernando

Houston

Knoxville

Memphis

Nashville

Phoenix

Sarasota

EXHIBIT A