

**CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2019-0313**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is by and between the City of Franklin, Tennessee, hereinafter referenced as City, and **WINDROW PHILLIPS GROUP** hereinafter referenced as Consultant, who mutually agree as follows:

**DECLARATIONS.** City desires to retain Consultant to provide lobbying and advisory services, and to represent the City’s interests before the Tennessee General Assembly and the administrative branch of government in connection with City’s intent for services, hereinafter referenced as Services. The Services are described as follows:

**Lobbying and Advisory Services (“Services”)**

1. SCOPE OF SERVICES. Consultant shall arrange for and provide lobbying services on specific legislative matters; track relevant legislation; monitor regulatory changes; interface with policy makers on behalf of the City; assist in writing, amending and/or defeating legislation of behalf of the City; provide reports throughout the legislative session; and serve as a source of information and as a legislative liaison, even during off-term.
2. Consultant shall be paid for Services in the Not-to-Exceed Amount of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00) monthly effective September 1, 2019, through June 30, 2020, plus any lobbyist registration fees.

**[Remainder of page left intentionally blank.]**

## **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.

### **ARTICLE 2. GENERAL CONDITIONS.**

- 2.1 Consultant shall be responsible for the acts or omissions of any party involved in concurrent or subsequent phases of the Services acting upon written instruction issued by the Consultant.
- 2.2 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 2.3 **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.
  - 2.3.1 **SURVIVAL.** The terms and conditions of this paragraph shall survive completion of this Agreement.

### **ARTICLE 3. TERMINATION.**

Either party may terminate performance under this Agreement in whole or in part, for the convenience of the party by giving thirty (30) day written notice to the other party. In such case, the Consultant shall be paid only for the work that is complete at the time of termination.

### **ARTICLE 4. SCOPE OF SERVICES.**

Consultant shall provide the Services as described in the Scope of Services. By mutual agreement, this Agreement 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.

### **ARTICLE 5. SCHEDULE.**

**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.

### **ARTICLE 6. INSURANCE.**

During the performance of the Services under this Agreement, Consultant shall maintain a \$2,000,000.00 insurance policy and shall provide a copy of the certificate to the City upon execution of this Agreement.

### **ARTICLE 7. PAYMENT.**

Consultant shall provide monthly invoices for Services. Payment is due within 30 (thirty) days of invoice.



**ARTICLE 8. MISCELLANEOUS PROVISIONS**

- 8.1 **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with this Agreement and the Services, City and Consultant shall not discriminate against any employee or applicant for employment because of race, color, sex, national origin, disability or marital status. City and Consultant will take affirmative action to ensure that the contractor used for the Services 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.
- 8.2 **TITLE VI – CIVIL RIGHTS ACT OF 1964.** City and 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.
- 8.3 **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 City and Consultant.
- 8.4 **WARRANTIES/LIMITATION OF LIABILITY/WAIVER.** City reserves all rights afforded to local governments under law for all general and implied warranties. 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 9. EXTENT OF AGREEMENT:**

- 9.1 **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.
- 9.2 **ENTIRE AGREEMENT.** This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant for the Services 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 10. DISPUTE RESOLUTION, BREACH.**

- 10.1 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 this Agreement. No arbitration or mediation shall be binding.
- 10.2 **BREACH.** Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement 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 11. SURVIVAL.**

The provisions contained in this Professional Services Agreement shall survive the completion of or any termination of the Agreement, contract, 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.

CITY OF FRANKLIN, TENNESSEE

By: \_\_\_\_\_  
Dr. Ken Moore  
Mayor

ATTEST:

By: \_\_\_\_\_  
Eric S. Stuckey  
City Administrator

Approved as to Form:

By: \_\_\_\_\_  
Maricruz R. Fincher, Staff Attorney

WINDROW PHILLIPS

By:   
Anna Durham Windrow  
Principal