

**AMENDMENT NO. 5 TO
PROFESSIONAL SERVICES AGREEMENT
FOR FRANKLIN ROAD CORRIDOR IMPROVEMENTS,
HARPETH RIVER BRIDGE TO HARPETH INDUSTRIAL COURT PROJECT
COF Contract No. 2014-0209**

THIS AMENDMENT is made and entered into on this the ____ day of _____, 2019, by and between the **City of Franklin, Tennessee** ("City") and **CT Consultants, Inc.** ("Consultant").

WITNESSETH:

WHEREAS, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled Franklin Road Corridor Improvements, Harpeth River Bridge to Harpeth Industrial Court ("Project") – Final Plans and Specifications, dated the 14th day of October 2014; and

WHEREAS, said Agreement stipulated that the Consultant would be paid a not-to-exceed fee of One Hundred Thirty-Six Thousand Four Hundred and No/100 Dollars (\$136,400.00), as authorized by the City Engineer and as detailed in the Fee Schedule; and

WHEREAS, on February 9, 2016, the Board of Mayor and Aldermen approved Amendment No. 1 to the Agreement with the Consultant for additional light emitting diode (LED) street lighting design work in the amount of Three Thousand Seven Hundred and No/100 Dollars (\$3,700.00); and

WHEREAS, on June 11, 2017, the Board of Mayor and Aldermen approved Amendment No. 2 to the Agreement with the Consultant for additional design for and coordination with: three (3) new fiber line utilities that now occupy Middle Tennessee Electric Membership Corporation (MTEMC) poles, the addition of two (2) 10-foot x 18-foot box culvert bridge structures at the Harpeth River as recommended by the U.S. Army Corps of Engineers' Franklin Road Feasibility Study, and right-of-way and easement coordination with recently developed water and sanitary sewer plans in the amount of Sixty-Five Thousand Five Hundred Ninety and No/100 Dollars (\$65,590.00); and

WHEREAS, on March 13, 2018, the Board of Mayor and Aldermen approved Amendment No. 3 to the Agreement with the Consultant for additional field surveying for: required MTEMC revisions and updated existing property conditions, additional utility coordination, and a small contingency fund in the amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00); and

WHEREAS, on January 8, 2019, the Board of Mayor and Aldermen approved Amendment No. 4 to the Agreement with the Consultant for additional utility re-design and easement revisions addressing project stakeholder impact concerns in the amount of One Hundred Three Thousand Seven Hundred Forty and No/100 Dollars (\$103,740.00); and

WHEREAS, the City and Consultant realize the need for additional design work for the Project due to circumstances beyond the control of the Consultant; and

WHEREAS, the Consultant has provided a Proposal for an increase in engineering services, as described in Exhibit A, dated September 5, 2019, in the amount of **FIFTY-TWO THOUSAND AND NO/100 DOLLARS (\$52,000.00)**; and

WHEREAS, the City has reviewed the Proposal and desires to enter into an agreement for the Project as proposed.

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 work as proposed in their September 5, 2019, letter of proposal ("Exhibit A") which includes the Scope of Services for this Amendment, all of which shall be considered as an integral part hereof.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the work as described in Exhibit A an amount not to exceed **FIFTY-TWO THOUSAND AND NO/100 DOLLARS (\$52,000.00)**;

The City reserves the right to issue any payments jointly to the Consultant and Sub-Consultant when the City receives information that the Consultant has not paid its Sub-Consultant.

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 October 14, 2014; Amendment 1 dated February 9, 2016; Amendment 2 dated June 11, 2017; Amendment 3 dated March 13, 2018; and Amendment 4 dated January 8, 2019, are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

The CITY OF FRANKLIN, TENNESSEE

CT CONSULTANTS, INC.

By: _____
Dr. Ken Moore
Mayor
Date: _____

By: _____
Print: _____
Title: _____
Date: _____

Attest:

Eric S. Stuckey
City Administrator
Date: _____

Approved as to form:

Maricruz R. Fincher, Staff Attorney



September 5, 2019

Mr. William Banks
City of Franklin, Tennessee
109 3rd Avenue South
Franklin, TN 37064

Re: Proposal for Additional Scope of Work
Franklin Road Corridor Improvements, Harpeth
Bridge to Harpeth Industrial Court, COF Contract
No. 2014-0209

Dear William:

In follow-up to our recent conversations, we are submitting this proposal related to additional services for the Franklin Road project to address the requested changes and to finalize the drawings for construction this year. We recognize that a project of this magnitude The following is a brief summary of items that have already been completed or are required to accomplish this.

1. Multiple revisions to easement documents (i.e. legal descriptions, exhibits, etc.) and the construction drawings have been requested as an outcome of meetings with the property owners, coordination with the TDOT bridge replacement project and/or direction from the City and utility companies. The effected parcels include Tract Nos. 1, 5, 6, 7, 11, 12, 13, 15, 18, 19, 20, 21, 22 and 32.
2. A conceptual design drawing was requested and prepared for the Harpeth River Bridge for coordination between this project and the TDOT bridge replacement project.
3. Additional construction drawing revisions were requested by Engineering and Water Management. Some examples of these revisions include traffic signal revisions, traffic signage, maintenance of traffic, pedestrian accessibility, etc. to stay consistent with current City standards and/or guidance.

The total we are requesting for all of the aforementioned items is **\$52,000** which includes reimbursable expenses.

Again, CT is very pleased to continue our working relationship with the City of Franklin on the Franklin Road Project. Please review the proposal and call me at 615-349-4025 or by email at jgolias@ctconsultants.com to discuss any questions you may have.

Respectfully,

CT Consultants, Inc.



James G. Golias II, P.E.
Regional Manager