



City of Franklin  
109 Third Ave South  
Franklin, TN 37064

Date: January 13, 2014

RE: Emergency Building at the Ag Center  
ATTN: Brad Wilson

Humerick Environmental Construction, Inc. is submitting the following proposal for the City of Franklin Emergency Building at the Ag Center in Williamson County.

**Proposal includes the following:**

- Strip and Excavate Pad ( 50' x 60' ) and Drive ( 120' x 18' ) area down 10".
- Place Geo Fabric in Pad & Drive and Install 6" surge stone & 4" crusher run & compact.
- Install 2 – 8" Headwalls & 75' of 8" HDP Pipe.
- Excavate 12'x12'x8' for septic tank and also provide granular bedding and backfill.
- Excavate and install 120 linear feet of 3" conduit.
- Build Diversion Dam to channel water away from Archery Range down existing Swale.
- Prep and install 2 pallets of sod.

Price - \$16,497.00

**Option:**

- 120 linear feet 3/4" PVC water service.

Option Price - \$2,392.20

Note: No rock hammering is included in this price.

\$ 18,889.20  
*(Signature)*

Thank you,

*(Handwritten Signature: Tim Humerick)*

**Tim Humerick**  
President

**CITY OF FRANKLIN, TENNESSEE  
CONSTRUCTION SERVICES AGREEMENT  
COF Contract No. 2015-0016**

THIS SERVICES AGREEMENT ("AGREEMENT") is by and between the City of Franklin, Tennessee, hereinafter referenced as CITY, and **HUMERICK ENVIRONMENTAL CONSTRUCTION, INC.** hereinafter referenced as CONTRACTOR, who mutually agree as follows:

**DECLARATIONS**

CITY desires to retain CONTRACTOR to finish work for the location of a temporary fire hall facility station 7 located at the Williamson County Agricultural Complex hereinafter referenced as PROJECT. The PROJECT is described as follows:

1. SCOPE OF SERVICES, CONTRACTOR shall provide services for the PROJECT in accordance with the SCOPE OF SERVICES. The SCOPE OF SERVICES as found in Exhibit A shall be considered as an integral part hereof.
2. CONTRACTOR shall be paid a lump sum of **Eighteen Thousand Eight Hundred Eighty-Nine and 20/100 Dollars (\$18,889.20)**.
3. In event of a conflict between this AGREEMENT and the attached document(s), this AGREEMENT shall supersede conflicting terms and conditions.

EXECUTED THIS 23 DAY OF Jan 2015.

BY: \_\_\_\_\_  
CONTRACTOR'S SIGNATURE  
TITLE: \_\_\_\_\_

BY:   
ERIC S. STUCKEY  
CITY ADMINISTRATOR

Approved as to form:

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney

## **TERMS AND CONDITIONS FOR SERVICES**

### **ARTICLE 1. SERVICES. CONTRACTOR 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 Contractors using the highest standards in the industry:
- 1.2 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.

### **ARTICLE 2. CITY'S RESPONSIBILITIES. CITY, or his authorized representative, will:**

- 2.1 Provide CONTRACTOR with all information regarding the PROJECT, which is available to, or reasonably obtainable by, the CITY.
- 2.2 Ensure right-of-entry onto the PROJECT site for CONTRACTOR's necessary services.
- 2.3 Guarantee to CONTRACTOR that it has the legal capacity to enter into this contract and that sufficient monies are available to fund CONTRACTOR's compensation.

### **ARTICLE 3. GENERAL CONDITIONS.**

- 3.1 CONTRACTOR, 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 CONTRACTOR shall not 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 CONTRACTOR.
- 3.3 Either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof may terminate this AGREEMENT. In the event of termination, the CONTRACTOR shall be paid for services performed to the termination notice date.
- 3.4 Neither CITY nor CONTRACTOR 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 CONTRACTOR from engaging independent Contractors, associates, and subcontractors to assist in the performance of the SERVICES at CONTRACTOR's cost.
- 3.5 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 CONTRACTOR's fee for the services rendered, and in consideration of the promises contained in this AGREEMENT, the CITY and the CONTRACTOR agree to allocate and limit such liabilities in accordance with this paragraph.
- 3.6 INDEMNIFICATION. CONTRACTOR 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 Contractor'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 CONTRACTOR and CITY, they shall be borne by each party in proportion to its own negligence.
  - 3.6.1 SURVIVAL. The terms and conditions of this paragraph shall survive completion of this services agreement.

ARTICLE 4. SCOPE OF SERVICES.

- 4.1 CONTRACTOR shall provide the SERVICES as described in Attachment A, SCOPE OF SERVICES.
- 4.2 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.
- 4.3 ENVIRONMENTAL RESPONSIBILITY.  
CONTRACTOR shall be solely responsible at all times to comply with all federal, state and local environmental regulations.

ARTICLE 5. SCHEDULE.

- 5.1 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.
- 5.2 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.
- 5.3 Should CITY request changes in the scope, extent, or character of the PROJECT, the time of performance of CONTRACTOR's services as indicated in Attachment A shall be adjusted equitably.

ARTICLE 6. INSURANCE.

- 6.1 During the performance of the SERVICES under this AGREEMENT, CONTRACTOR 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 in accordance with statutory requirements and Employer's Liability Insurance with a limit of \$500,000 for each occurrence.
- 6.2 CONTRACTOR shall upon written request 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.
- 6.3 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.

ARTICLE 7. PAYMENT.

- 7.1 CITY will pay CONTRACTOR for services and expenses in accordance with the FEE SCHEDULE proposal submitted for the PROJECT as part of the SCOPE OF SERVICES. CONTRACTOR'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. CONTRACTOR shall be paid in full for all services under this AGREEMENT, including CITY-authorized overruns of the PROJECT budget or unforeseen need for CONTRACTOR's services exceeding the original SCOPE OF SERVICES.

7.2 NO TAXES, NO INTEREST PAYMENTS.

As a tax-exempt entity, the City shall not be responsible for sales or use taxes incurred for products or services. The City shall supply CONTRACTOR with its Sales and Use Tax Exemption Certificate upon CONTRACTOR's request. CONTRACTOR shall bear the burden of providing its suppliers with a copy of the City's tax exemption certificate and shall assume all liability for such taxes, if any, that should be incurred. The City does not agree to pay any interest for late payments, having agreed to pay in a timely manner.

ARTICLE 8. EXTENT OF AGREEMENT:

- 8.1 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.
- 8.2 ENTIRE AGREEMENT. This AGREEMENT, including these terms and conditions, represent the entire AGREEMENT between CITY and CONTRACTOR 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 CONTRACTOR.
- 8.3 PARTIES; NO THIRD PARTY RIGHTS CREATED. CITY and CONTRACTOR 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 CONTRACTOR. Nothing in this AGREEMENT shall be construed to give any rights or benefits to anyone other than the CITY and the CONTRACTOR.
- 8.4 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 CONTRACTOR to limit its liability shall be void and unenforceable.

ARTICLE 9. DISPUTE RESOLUTION, BREACH, SURVIVAL.

- 9.1 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.

9.2 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 10. 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.