

**AMENDMENT NO. 2 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR MACK HATCHER PARKWAY EXTENSION WATER AND SANITARY  
SEWER RELOCATIONS PROJECT  
COF Contract No. 2011-0076**

**THIS AMENDMENT** is made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the **City of Franklin, Tennessee** ("City") and **Smith Seckman Reid, Inc.** ("Consultant").

**WITNESSETH:**

**WHEREAS**, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled Mack Hatcher Parkway Extension Water and Sanitary Sewer Relocations Project (COF Contract No. 2011-0076), dated the 10th day of May 2011; and

**WHEREAS**, said Agreement stipulated that the Consultant would be paid a not to exceed fee of EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$85,000.00), as authorized by the City Engineer and as detailed in the fee schedule; and

**WHEREAS**, on June 11, 2017, the Board of Mayor and Aldermen approved an Amendment 1 to the Professional Services Agreement with the Consultant for additional design work in an amount not to exceed THIRTY-FIVE THOUSAND FOUR HUNDRED AND NO/DOLLARS (\$35,400.00); and

**WHEREAS**, the City and Consultant realize the need for additional design work for the Project due to other utility placement in close proximity of the sanitary sewer during the widening of Hillsboro Road; and

**WHEREAS**, the Consultant has provided a proposal for an increase in engineering services, as described in Exhibit A dated January 3, 2018, in the amount not to exceed **SEVEN THOUSAND EIGHT HUNDRED FIFTY AND NO/DOLLARS (\$7,850.00)**; 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 January 3, 2018, 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 **SEVEN THOUSAND EIGHT HUNDRED FIFTY AND NO/DOLLARS (\$7,850.00)**.

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 May 10, 2011, and Amendment 1 dated June 11, 2017, are unchanged and remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment.

**The CITY OF FRANKLIN, TENNESSEE**

**Smith Seckman Reid, Inc.**

By: \_\_\_\_\_

**Dr. Ken Moore**

Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
**Eric S. Stuckey**

City Administrator

Date: \_\_\_\_\_

**Approved as to form:**

\_\_\_\_\_  
Tiffani M. Pope, Staff Attorney



January 3, 2018

Ms. Patricia McNeese, P.E.  
City of Franklin Water Management Department  
124 Lumber Drive  
Franklin, TN 37064

RE: **CITY OF FRANKLIN, TENNESSEE**  
**Hillsboro Road / Mack Hatcher Parkway Sewer**  
**Fee Proposal**  
**SSR No. 17-41-031.0**

Dear Ms. McNeese:

As you requested, we are pleased to provide a proposal for engineering services in conjunction with the design of the Hillsboro Road / Mack Hatcher Parkway Sewer. This work will consist of designing approximately 575 linear feet of 8" PVC gravity sewer and approximately three (3) 4' diameter manholes. Our services will also include one (1) review meeting with the City Water Management Department, the preparation of four (4) easement descriptions and exhibits for construction and TDEC plans submittal. It is assumed that the project will be constructed according to the City's state approved specifications for sewer construction and specifications are not required. We propose to provide all the services described above for a lump sum fee of **\$7,850.00**. Reimbursable expenses related to travel, printing, postage/shipping, permits and other appropriate project related charges are included in the fee above. Bidding and Construction Administration services are not included under this proposal. If requested, an amendment to the agreement can be made for these services.

We appreciate the opportunity to continue to work with the City of Franklin. If the City is in agreement with the terms of this proposal, we will then execute a formal agreement with the City. If you have any questions or concerns regarding this proposal, please do not hesitate to call me at (615)460-0543.

Sincerely,  
**SMITH SECKMAN REID, INC.**

A handwritten signature in black ink, appearing to read "Paolo Fonda", is written over a faint, larger signature.

Paolo M. Fonda, P.E.

Cc: ATJ, File (1)