

**AMENDMENT NO. 1 TO
PROFESSIONAL SERVICES AGREEMENT
FOR HILLSBORO ROAD IMPROVEMENTS PROJECT (PHASE 2)
INDEPENDENCE SQUARE TO MACK HATCHER PARKWAY-
CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES
COF Contract No. 2014-0160**

THIS AMENDMENT is made and entered into on this the ____ day of _____, 2018, by and between the **City of Franklin, Tennessee** ("City") and **GRESHAM SMITH AND PARTNERS** ("Consultant").

WITNESSETH:

WHEREAS, City and Consultant entered into a Professional Services Agreement ("Agreement") entitled Hillsboro Road Improvements Project (Phase 2) Independence Square to Mack Hatcher Parkway-Construction Engineering and Inspection Services, dated the 9th day of September 2014; and

WHEREAS, said Agreement stipulated that the Consultant would be paid a not to exceed fee of Nine Hundred Fifty-Six Thousand Eight Hundred Three and No/100 Dollars (\$956,803.00), as authorized by the City Engineer and as detailed in the fee Schedule; and

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

WHEREAS, the Consultant has provided a Proposal, dated April 17, 2018 and as described in Attachment A, for an increase in construction engineering and inspection services in the amount not-to-exceed **Eighty-Four Thousand and No/100 Dollars (\$84,000.00)**; and

WHEREAS, the City has reviewed the Proposal and desires to enter into an agreement for the additional services 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 April 17, 2018 letter of proposal ("Attachment 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 Attachment A in an amount not-to-exceed **Eighty-Four Thousand and No/100 Dollars (\$84,000.00)**.

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 September 9, 2014, are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

The CITY OF FRANKLIN, TENNESSEE

GRESHAM SMITH AND PARTNERS

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



G R E S H A M
S M I T H A N D
P A R T N E R S

April 17, 2018

Mr. Paul Holzen, P.E.
Director of Engineering
City of Franklin
109 3rd Avenue South
P.O. Box 305
Franklin, Tennessee 37065-0305

Subject: **Request for Contract Fee Supplement**
 CEI Services-Widening of Hillsboro Road (Phase 2)
 City of Franklin, Tennessee
 GS&P Project No. 41293.00

Dear Paul:

Gresham, Smith and Partners is pleased to continue our teaming relationship with the City of Franklin by providing onsite CEI services for the Hillsboro Road Phase 2 widening project, from Independence Square to near Mack Hatcher Parkway. Our initial contract with the City for this work was executed on September 30, 2014 and our work began in January 2016. This agreement included an assumed 14-month construction duration with one additional month for project closeout.

As you know, project completion by the contractor has been extended beyond their original contract date, which has resulted in GS&P incurring extended hours and expenses providing our construction inspection and coordination services. In addition, we expended additional CEI budget for our geotechnical subconsultant to provide soil borings and specialized geotechnical services for the unanticipated sinkholes found at Claude Yates Drive and additional core sampling of the existing asphalt.

We exceeded our not-to-exceed contract amount at the end of February 2018 with our invoice dated March 8, 2018. In order to provide our services for the remaining construction tasks, we are respectfully requesting an additional contract supplement to cover our costs incurred for the services provided in March, and for an anticipated duration through July 2018.

The following is a breakdown of our fee supplement request:

Design Services For The Built Environment



Mr. Paul Holzen, P.E.
April 17, 2018
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March 2018 Services (not billed)

Project Manager	4	hrs	
Construction Manager	128	hrs	
Sen Inspector	5	hrs	
Total including expenses			\$15,000

April 2018 Services (anticipated, not billed)

Project Manager	6	hrs	
Construction Manager	128	hrs	
Sen Inspector	0	hrs	
Total including expenses			\$15,000

May 2018 Services (anticipated, not billed)

Project Manager	4	hrs	
Construction Manager	128	hrs	
Sen Inspector (asphalt plant)	40	hrs	
Total including expenses			\$18,000

June Services (anticipated, not billed)

Project Manager	4	hrs	
Construction Manager	80	hrs	
Sen Inspector	0	hrs	
Total including expenses			\$10,000

July Services (anticipated, not billed)

Project Manager	4	hrs	
Construction Manager	80	hrs	
Sen Inspector	0	hrs	
Total including expenses			\$10,000

Additional GEOTEK fees (anticipated, not billed)

Total including expenses	<u>\$6,000</u>
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Subtotal estimated billing \$74,000

Contingency

Total including expenses	<u>\$10,000</u>
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Total supplement request **\$84,000.00**

This request is based on our assumption of the work remaining, which includes one month following final completion for closing out the project and submitting final records to the City. At this time the contractor is expecting to complete the project by June 1, 2018. Our monthly invoices include actual work hours performed and expenses incurred. Any fee balance remaining in our contract at project completion will not be billed, and our account can be closed.



Mr. Paul Holzen, P.E.
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Please let us know if you have any questions or need any additional information.

Sincerely,

Gresham, Smith and Partners

A blue ink signature of Mr. Robin Lovett, consisting of a large, stylized 'R' followed by a series of loops and a long horizontal stroke.

Mr. Robin Lovett, P.E.
Project Manager

A blue ink signature of Mr. Jody Vance, featuring a large, stylized 'J' followed by a series of loops and a long horizontal stroke.

Mr. Jody Vance, P.E.
Operations Manager

LR

Copy Jody Vance – GS&P