

CITY OF FRANKLIN, TENNESSEE  
PROFESSIONAL SERVICES AGREEMENT  
COF Contract No. 2018-0157

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is by and between the City of Franklin, Tennessee, hereinafter referenced as ("City"), and STANTEC CONSULTING SERVICES, INC. hereinafter referenced as ("Consultant"), who mutually agree as follows:

**DECLARATIONS.** City desires to retain Consultant to provide environmental related technical services, and other services in connection with City's project hereinafter referenced as Project. The Project is described as follows:

**2017 MACROINVERTEBRATE STREAM SURVEY SAMPLE SORTING,  
IDENTIFICATION, DATA REDUCTION, AND REPORT**

1. **SCOPE OF SERVICES.** Consultant shall provide environmental related technical services for the Project in accordance with the Scope of Services (Services) as found in Attachment A which shall be considered as an integral part hereof.
2. Consultant shall submit as a part of Attachment A an individual Fee Schedule and a Completion Schedule for the Project based on the detailed Scope of Services.
3. In event of a conflict between this Agreement and the attached document(s), this Agreement shall supersede conflicting terms and conditions.
4. Consultant shall be paid on a monthly basis for work performed based on the Fee Schedule as contained in Attachment A in the Amount Not-to-Exceed **SEVEN THOUSAND SEVEN HUNDRED EIGHTY AND NO/100 DOLLARS (\$7,780.00).**

The City Administrator Approved this Agreement on the 1<sup>ST</sup> day of AUGUST 2018 under the Authority Granted by the Franklin Board of Mayor and Aldermen by Resolution 2012-05.

## **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.
- 1.3 Perform all services under the general direction of a senior professional employee, licensed and/or registered in the State of Tennessee, when appropriate.
- 1.4 Designate, in writing, the sole Project representative to coordinate with City the Services to be provided, including all contact information.
- 1.5 Unless provided for in the Project Scope of Services (Attachment A), Consultant shall perform all Services with his own forces (employees). Should sub-consultants be proposed to be used in the Project, a listing of said sub-consultants with Services to be performed shall be provided. After approval of this Agreement, no substitute for sub-consultants shall be allowed unless approved by City.
- 1.6 Retain pertinent records relating to the services performed for a period of seven (7) years following the completion of the work; during this period the records shall be available for review by City at all reasonable times.

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

- 2.1 Provide Consultant with all information regarding the Project, which is available to, or reasonably obtainable by, the City.
- 2.2 Furnish right-of-entry onto the Project site for Consultant's necessary field studies and surveys. Consultant will endeavor to restore the site to its original condition and shall remain solely liable for all damages, costs and expenses, including reasonable attorneys' fees, for failure to make such restoration.
- 2.3 Designate, in writing, the sole Project representative to coordinate with and direct the Consultant, including all contact information.
- 2.4 Guarantee to Consultant that it has the legal capacity to enter into this contract and that sufficient monies are available to fund Consultant's compensation.

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

- 3.1 Consultant, 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 Consultant shall 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 Consultant.
- 3.3 Neither City nor Consultant may assign or transfer its duties or interest in this Agreement without written consent of the other party.
- 3.4 **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 Consultant's fee for the services rendered, and in consideration of the promises contained in this Agreement, the City and the Consultant agree to allocate and limit such liabilities in accordance with this Article.
- 3.5 **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.
- 3.5.1 **SURVIVAL.** The terms and conditions of this paragraph shall survive completion of this services agreement.
- 3.6 **LIMITATIONS OF RESPONSIBILITY.** Consultant shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project unless specifically undertaken in Attachment A, Scope of Services ; (b) the failure of any contractor, subcontractor, Consultant, or other Project participant, not under contract to Consultant, to fulfill contractual responsibilities to City or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to Consultant in Attachment A, Scope of Services.

**ARTICLE 4. TERMINATION BY THE CITY.** The City may terminate this Agreement in accordance with the following terms and conditions:

- 4.1 **Termination for Convenience.** The City may, when in the interests of the City, terminate performance under this Agreement with the Consultant, in whole or in part, for the convenience of the City. The City shall give written notice of such termination to the Consultant specifying when termination becomes effective. The Consultant shall incur no further obligations in connection with the work so terminated, other than warranties and guarantees for completed work and installed equipment, and the Consultant shall stop work when such termination becomes

effective. The Consultant shall also terminate outstanding orders and subcontracts for the affected work. The Consultant shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Consultant to assign the Consultant's right, title and interest under termination orders or subcontracts to the City or its designee. The Consultant shall transfer title and deliver to the City such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the Consultant has in its possession or control. When terminated for convenience, the Consultant shall be compensated as follows:

- (1) The Consultant shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Consultant fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Consultant the amount the City deems the Consultant is due.
- (2) The City and the Consultant may agree to the compensation, if any, due to the Consultant hereunder.
- (3) Absent agreement to the amount due to the Consultant, the City shall pay the Consultant the following amounts:
  - (a) Contract costs for labor, materials, equipment and other services accepted under this Agreement;
  - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the Consultant's performance, plus a fair and reasonable allowance for direct job site overhead and earned profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it reasonably appears that the Consultant would have not profited or would have sustained a loss if the entire Agreement would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;



The total sum to be paid the Consultant under this Section shall not exceed the total Agreement Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

- 4.2 Termination for Cause. If the Consultant does not perform the work, or any part thereof, in a timely manner, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Agreement, then the City, in addition to any other rights it may have against the Consultant or others, may terminate the performance of the Consultant, in whole or in part at the City's sole option, and assume possession of the Project Plans and materials and may complete the work.

In such case, the Consultant shall not be paid further until the work is complete. After Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the City of completing the work, including all costs and expenses of every nature incurred, has been deducted by the City, such remainder shall belong to the Consultant. Otherwise, the Consultant shall pay and make whole the City for such cost. This obligation for payment shall survive the termination of the Agreement.

In the event the employment of the Consultant is terminated by the City for cause pursuant to this Section and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under this Section and the provisions of Section 4.1 shall apply.

- 4.3 Termination for Non-Appropriation. The City may also terminate this Agreement, in whole or in part, for non-appropriation of sufficient funds to complete or partially complete the Project, regardless of the source of such funds, and such termination shall be on the terms of Section 4.1.
- 4.4 The City's rights under this Section shall be in addition to those contained elsewhere herein or provided by law.

**ARTICLE 5. SCOPE OF SERVICES.** Consultant shall provide the Services as described in Attachment A, Scope of Services.

5.1 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.

5.2 **ENVIRONMENTAL RESPONSIBILITY.**

Where drilling/sampling services are involved, the samples obtained from the Project site are the property of the City. Should any of these samples be recognized by the Consultant to be contaminated, the City shall remove them from the Consultant's custody and transport them to a disposal site, all in accordance with applicable government statutes, ordinances, and regulations. For all other samples, the Consultant shall retain them for a sixty (60)-day period following the submission of the drilling/sampling report unless the City directs otherwise; thereafter, the Consultant shall discard the samples in accordance with all federal, state and local laws.

**ARTICLE 6. SCHEDULE.**

6.1 **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.

6.2 Before executing this Agreement, the Consultant shall have prepared and submitted for approval to the City a Completion Schedule for the Project with milestones for the various stages (tasks) of the Services as outlined in the Scope of Services. The Consultant shall submit and obtain the City's approval for any proposed changes to the logic, durations, sequences, or timing of tasks as approved in the Completion Schedule.

6.3 **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.

- 6.4 Should City request changes in the scope, extent, or character of the Project, the fee and the time of performance of Consultant's Services as indicated in Attachment A shall be adjusted equitably.

#### **ARTICLE 7. USE OF DOCUMENTS, DATA.**

- 7.1 All Documents, including, but not limited to, reports, drawings, specifications, and computer software prepared by Consultant pursuant to this Agreement are instruments of service in respect to the Project. Consultant shall retain an ownership and property interest therein (including the right of reuse at the discretion of the Consultant) whether or not the Project is completed.

7.1.1 **USE OF DATA SYSTEMS:** Ownership, property interests and proprietary rights in data systems used by Consultant do not extend to the data created by or supplied to Consultant by the City; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation.

7.1.2 **DISCLOSURE OF DOCUMENTS/DATA.** City may be required to disclose documents or data under state or federal law. City shall notify Consultant if a request for data or documents has been made and shall give Consultant a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. Consultant waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page as confidential or proprietary. In exchange, Consultant agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Consultant representation that materials supplied by Consultant (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Consultant and Consultant assumes control over that claim.

- 7.2 By execution of this Agreement, Consultant and his sub-consultant(s) grant the City a royalty-free, perpetual, irrevocable, and assignable license to use any and all intellectual property interest Consultant or his sub-consultant(s) possess to any drawings, details, specifications, documents, and other information created before each of their first involvement with the Project and subsequently incorporated into the Project's documents. City-furnished data that may be relied upon by Consultant is limited to the printed copies that are delivered to the

Consultant pursuant to Article 2 of this Agreement. Any copyrighted electronic files furnished by City shall be used by Consultant only for the Project as described herein. City's posting or publication of such documents created by Consultant for City shall constitute fair use and shall not constitute an infringement of Consultant's copyright, if any.

- 7.3 Documents that may be relied upon by City are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Files in electronic media format of text, data, graphics, or of other types that are furnished by Consultant to City are only for convenience of City, unless the delivery of the Project in electronic media format has been dictated in Attachment A, Scope of Services. Any conclusion or information obtained or derived from electronic files provided for convenience will be at the user's sole risk.
- 7.4 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Unless stated otherwise herein, Consultant shall not be responsible to maintain documents stored in electronic media format after acceptance by City.
- 7.5 When transferring documents in electronic media format, Consultant makes no representations as to long term compatibility, usability, or readability, of documents resulting from the use of software application packages, operating systems, or computer hardware differing from that as required of, and used by, Consultant at the beginning of this Project.
- 7.6 City may make and retain copies of Documents for information and reference in connection with use on the Project by the City, or his authorized representative. Such Documents are not intended or represented to be suitable for reuse by City or others on extensions of the Project or on any other project. Any such reuse or modifications without written verification or adaptation by Consultant, as appropriate for the specific purpose intended, will be at City's sole risk and without liability or legal exposure to the Consultant or to Consultant's sub-consultants.
- 7.7 If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- 7.8 Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle Consultant to further compensation at rates to be agreed upon by City and Consultant.



## **ARTICLE 8. INSURANCE.**

- 8.1 During the performance of the Services under this Agreement, Consultant 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 Coverage A in accordance with statutory requirements and Coverage B, Employer's Liability Insurance, with a limit of \$500,000 for each occurrence.
  - d) Professional Liability Insurance with a limit of \$1,000,000 annual aggregate.
- 8.2 Consultant shall add the City an additional insured on all policies unless otherwise prohibited.
- 8.3 Consultant shall, upon execution of this Agreement, furnish City certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days' written notice to City.
- 8.4 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. City agrees to include, or cause to be included, in the Project's construction contract, such requirements for insurance coverage and performance bonds by the Project's construction contractor as City deems adequate to indemnify City, Consultant, and other concerned parties against claims for damages and to insure compliance of work performance and materials with Project requirements.

## **ARTICLE 9. PAYMENT.**

- 9.1 City will pay Consultant for services and expenses in accordance with the Fee Schedule proposal submitted for the Project as part of the Scope of Services. Consultant'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.
- 9.2 Consultant shall be paid in full for all services under this Agreement, including City authorized overruns of the Project budget or unforeseen need for Consultant's services exceeding the original Scope of Services.
- 9.3 **TRAVEL; EXPENSES**  
City shall reimburse reasonable expenses, including travel and meals, when specified in the Scope of Services, but only in accordance with the City's Travel and Expense Policy and Procedures Manual. The maximum amount will be applied as of the date of travel and as listed

in the per diem reimbursement rates on the "CONUS" website developed by the United States General Services Administration, located at [www.gsa.gov](http://www.gsa.gov) [click on 'per diem rates' under the 'etools' category].

#### **ARTICLE 10. MISCELLANEOUS PROVISIONS**

- 10.1 **EQUAL EMPLOYMENT OPPORTUNITY.** In connection with this Agreement and the Project, 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 Project 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.
- 10.1.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.2 **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.
- 10.2.1 Consultant shall insert the foregoing provision in all contracts relating to this Project.
- 10.3 **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.
- 10.4 **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 11. EXTENT OF AGREEMENT:**


- 11.1 **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.
- 11.2 **ENTIRE AGREEMENT.** This Agreement, including these terms and conditions, represent the entire Agreement between City and Consultant 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 Consultant.


#### **ARTICLE 12. DISPUTE RESOLUTION, BREACH.**

- 12.1 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.
- 12.2 **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.

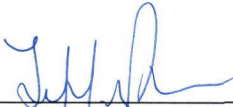
#### **ARTICLE 13. SURVIVAL.**

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.

BY:   
\_\_\_\_\_  
Consultant's Signature  
TITLE: Natural Resources Business Lead  
Date: 7/26/18

BY:   
\_\_\_\_\_  
Eric S. Stuckey  
City Administrator  
Date: 8-1-18

Approved as to Form:

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





Stantec Consulting Services Inc.  
601 Grassmere Park Road Suite 22, Nashville TN 37211-3681

Attachment A  
COF 2018-0157  
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July 2, 2018

**Attention: Mr. Paul Holzen**  
Director/City Engineer  
Engineering Department  
City of Franklin, Tennessee  
109 3rd Avenue South  
Franklin, Tennessee 37065  
Office: (615) 550-6651

**Reference: Proposal for 2017 Macroinvertebrate Stream Survey Sample Sorting and Identification, Data Reduction, and Report, Franklin, Williamson County, Tennessee**

Dear Mr. Holzen,

In response to your request, Stantec is pleased to submit this proposal and scope of services for performing the 2017 Macroinvertebrate Stream Survey Sample Sorting and Identification, Data Reduction, and Reporting for the City of Franklin Engineering Department. This proposal includes proposed scope of work, schedule, estimated costs, and procedures for authorization.

The scope of work included in this letter is intended to follow the requirements found in the *Quality System Standard Operating Procedure for Macroinvertebrate Stream Surveys* (QS-SOP), issued in August 2017 by the Tennessee Department of Environment and Conservation (TDEC) Division of Water Pollution Control (WPC).

We understand that the City of Franklin performs yearly macroinvertebrate stream sampling following protocols set forth in the QS-SOP at up to twelve locations within the City of Franklin and Williamson County. We understand that City of Franklin personnel collected macroinvertebrate samples using the semi-quantitative kick sampling (SQ-KICK) method at 11 locations in 2017. Following Stantec's sample processing, data evaluation, and compilation of findings, the City of Franklin will submit a report of the Macroinvertebrate Stream Survey results to TDEC to meet the requirements for the City's Small Municipal Separate Stormwater Sewer System (MS4) NPDES General Permit.

#### **SCOPE OF WORK**

The proposed scope of work is based upon information provided to Stantec by the City of Franklin, our knowledge of national and state stormwater regulations and permitting procedures, and our experience with similar projects. The tasks below will be completed using qualified personnel or subcontractors and will follow the TDEC QS-SOP protocol.

#### **TASK 1. Macroinvertebrate Sample Analysis and Data Reduction**

- Habitat Assessment Field Sheets, completed by The City of Franklin, will be used to calculate habitat parameters and assign a Total Score to each sampling location for comparison to

Design with community in mind



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**Reference: Proposal for 2017 Macroinvertebrate Stream Survey Sample Sorting and Identification, Data Reduction, and Report, Franklin, Williamson County, Tennessee**

the appropriate Regional Expectations for Individual Habitat Parameters (QS-SOP, Table 2) and Habitat Assessment Guidelines (QS-SOP, Table 2). The field sheets will be included in the appendices of the report.

- WPC Stream Survey Field Sheets, completed by the City of Franklin, and published information will be used to summarize sample stream and watershed characteristics and 303 d List status for inclusion in the report. The field sheets will be included in the appendices of the report.
- Field water quality measurements collected by City of Franklin personnel and documented on the WPC Stream Survey Field Sheets will be outlined in a table in the report.
- Digital photographs provided by City of Franklin personnel will be included in the appendices of the report.
- Stantec will submit the preserved macroinvertebrate samples collected by the City of Franklin personnel under chain of custody to a qualified Tennessee laboratory, Aquatic Resources Center, Inc., for sorting and analysis. The organisms from each sample location will be sorted to 200 +/- 20 percent, then identified to genus, except *Acari*, *Nematoda*, *Hydra*, *Brachiobdellida*, immature *Tubificidae*, *Lumbriculidae*, and *Nematomorpha*. The laboratory will follow Quality Assurance (QA) and Quality Control (QC) specifications as outlined in the QS-SOP, including an internal sorting efficiency QC and an external taxonomic verification QC. After identification, the samples will be placed in fresh preservative (80% ethanol) at the laboratory and returned to City of Franklin.
- Data reduction of the macroinvertebrate results will be performed for each sampling location by calculating a numerical value for each of the seven biometrics outlined in the QS-SOP using taxa identified to the genus level, except as specified above. Stantec personnel will make a determination of biological condition of the aquatic communities based on the index scores for the appropriate bioregion and season (QS-SOP, Appendix A).
- Stantec will use global positioning system (GPS) coordinates provided by The City of Franklin to prepare figures for the report including a topographic map depicting the 11 sampling locations and aerial photographs showing each sample location.

**Task 2 - Report Preparation**

Deliverables for this project will include a macroinvertebrate stream survey report and required maps, forms, and data sheets suitable for submittal to the TDEC. The report will include a summary of the project objectives, scope of work, results and evaluation of data, and a summary of findings and conclusions. The appendices will include figures and tables to summarize findings, field data sheets, laboratory results, and photographic documentation log.





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Page 3 of 4

**Reference: Proposal for 2017 Macroinvertebrate Stream Survey Sample Sorting and Identification, Data Reduction, and Report, Franklin, Williamson County, Tennessee**

A draft report will be submitted to The City of Franklin for review. Following review and comments by The City of Franklin personnel, Stantec will submit one electronic copy of the final report to the City of Franklin.

### **ASSUMPTIONS**

The following assumptions were used to develop this scope of work and cost estimate:

- The City of Franklin personnel will complete all field work, including sample site selection, macroinvertebrate sample collection and preservation, completion of field survey sheets, habitat assessment forms, and field water quality data collection, following the QS-SOP.
- The City of Franklin personnel will complete all electronic reporting requirements to TDEC outlined in the QS-SOP.
- The City of Franklin personnel will use the SQ-KICK macroinvertebrate sampling method. Any deviations from the QS-SOP will be documented and provided to Stantec to include in the report.
- The sample locations will meet the requirements for comparison to the biocriteria of the appropriate ecoregion reference database (QS-SOP, Appendix A). If the City of Franklin determines that upstream or watershed reference samples must be collected to meet the QS-SOP requirements, additional macroinvertebrate analysis and sample reduction services may be required, which would require a change in the scope and budget of this proposal.
- The City of Franklin personnel will label and log each sample container following the QS-SOP.
- Stantec understands no duplicate macroinvertebrate samples were collected during the 2017 survey.

### **SCHEDULE**

It is anticipated that report can be completed eight (8) to ten (10) weeks following the notice to proceed and upon receipt of the macroinvertebrate sample identification from the lab. Should the schedule need to be expedited to meet permitting or regulatory deadlines, please contact Stantec immediately and we will make any allowable arrangements to complete the scope of work per the revised schedule, as requested. Please note that costs may increase should the schedule need to be expedited, and a surcharge for prioritized laboratory analysis may apply.

### **COST**

Stantec proposes to perform the above detailed services for a lump sum of **\$7,780**. Stantec has developed this cost proposal based on the above described scope of study and the defined detail of study that you have indicated. If additional efforts or scope items are warranted and approved



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TERMS AND CONDITIONS STATED IN CITY  
OF FRANKLIN, TN PROFESSIONAL SERVICE  
AGREEMENT 2017 MACROINVERTEBRATE  
STREAM SURVEY SAMPLE SORTING,  
IDENTIFICATION, DATA REDUCTION,  
AND REPORT ATTACHED ABOVE,  
CONTRACT NUMBER 2018-0157

Attachment A  
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PAGE 4

**Reference:** Proposal for 2017 Macroinvertebrate Stream Survey Sample Sorting and Identification, Data Reduction, and Report, Franklin, Williamson County, Tennessee

by the client prior to initiation, the services will be invoiced at the applicable rates or negotiated as necessary.

#### **TERMS AND CONDITIONS**

This proposal is subject to the attached Stantec Professional Services Terms and Conditions. If the terms of our proposal are acceptable, you can acknowledge, and we can proceed with the work upon receipt of your signature on the Confirmation of Assignment.

If you have any questions regarding the details of our proposal, please contact Amy Tolley at (615) 582-9240 or Rhett Baggett at (615) 426-7043. We appreciate this opportunity to be of service.

Sincerely,

**STANTEC CONSULTING SERVICES INC.**

Rhett Baggett, PWS, TN-QHP  
Natural Resources Business Lead  
Stantec Consulting Services, Inc.  
Phone: (615) 426-7043  
Fax: (502) 212-5055  
Rhett.Baggett@stantec.com

Amy M. Tolley  
Project Manager  
Stantec Consulting Services, Inc.  
Phone: (615) 582-9240  
Amy.Tolley@stantec.com

**Please sign below acknowledging that you agree to the referenced proposal scope of services and fees:**

Client  
Signature: \_\_\_\_\_ Date \_\_\_\_\_  
Client (Printed): \_\_\_\_\_  
Client Address: \_\_\_\_\_  
\_\_\_\_\_  
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The following Terms and Conditions are attached to and form part of a proposal for services to be performed by Consultant and together, when the Proposal and these Terms and Conditions, these Terms and Conditions shall take precedence. This AGREEMENT supercedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the PROJECT.

**DESCRIPTION OF WORK:** the CLIENT.

**DESCRIPTION OF CLIENT:** behalf and on behalf of

**TERMS AND CONDITIONS:**

Conditions shall be binding on the Consultant and the CLIENT. In the event of any conflict between the Proposal and these Terms and Conditions, these Terms and Conditions shall take precedence. This AGREEMENT supercedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the PROJECT.

**COMPENSATION:** Payment is due to Consultant upon receipt of invoice. Failure to make any payment when due is a material breach of this AGREEMENT and will entitle Consultant, at its option, to suspend or terminate this AGREEMENT and the provision of the SERVICES. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest. Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

**NOTICES:** Each party shall designate a representative who is authorized to act on behalf of that party. All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party.

**TERMINATION:** Either party may terminate the AGREEMENT without cause upon thirty (30) days notice in writing. If either party breaches the AGREEMENT and fails to remedy such breach within seven (7) days of notice to do so by the non-defaulting party, the non-defaulting party may immediately terminate the Agreement. Non-payment by the CLIENT of Consultant's invoices within 30 days of Consultant rendering same is agreed to constitute a material breach and, upon written notice as prescribed above, the duties, obligations and responsibilities of Consultant are terminated. On termination by either party, the CLIENT shall forthwith pay Consultant all fees and charges for the SERVICES provided to the effective date of termination.

**ENVIRONMENTAL:** Except as specifically described in this AGREEMENT, Consultant's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater.

**PROFESSIONAL RESPONSIBILITY:** In performing the SERVICES, Consultant will provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices normally provided in the performance of the SERVICES at the time and the location in which the SERVICES were performed.

**LIMITATION OF LIABILITY:** The CLIENT releases Consultant from any liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, damages, losses, and/or expenses, direct and indirect, or consequential damages, including but not limited to attorney's fees and charges and court and arbitration costs, arising out of, or claimed to arise out of, the performance of the SERVICES, excepting liability arising from the sole negligence of Consultant. It is further agreed that the total amount of all claims the CLIENT may have against Consultant under this AGREEMENT, including but not limited to claims for negligence, negligent misrepresentation and/or breach of contract, shall be strictly limited to the lesser of professional fees paid to Consultant for the SERVICES or \$50,000.00. No claim may be brought against Consultant more than two (2) years after the cause of action arose. As the CLIENT's sole and exclusive remedy under this AGREEMENT any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of Consultant's employees, officers or directors.

Consultant's liability with respect to any claims arising out of this AGREEMENT shall be absolutely limited to direct damages arising out of the SERVICES and Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the CLIENT, including but not limited to claims for loss of use, loss of profits and/or loss of markets.

**INDEMNITY FOR MOLD CLAIMS:** It is understood by the parties that existing or constructed buildings may contain mold substances that can present health hazards and result in bodily injury, property damage and/or necessary remedial measures. If, during performance of the SERVICES, Consultant knowingly encounters any such substances, Consultant shall notify the CLIENT and, without liability for consequential or any other damages, suspend performance of services until the CLIENT retains a qualified specialist to abate and/or remove the mold substances. The CLIENT agrees to release and waive all claims, including consequential damages, against Consultant, its subconsultants and their officers, directors and employees arising from or in any way connected with the existence of mold on or about the project site whether during or after completion of the SERVICES. The CLIENT further agrees to indemnify and hold Consultant harmless from and against all claims, costs, liabilities and damages, including reasonable attorneys' fees and costs, arising in any way from the existence of mold on the project site whether during or after completion of the SERVICES, except for those claims, liabilities, costs or damages caused by the sole gross negligence and/or knowing or willful misconduct of Consultant. Consultant and the CLIENT waive all rights against each other for mold damages to the extent that such damages sustained by either party are covered by insurance.





Attachment A  
COF 2018-0157  
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TERMS AND CONDITIONS STATED IN CITY  
OF FRANKLIN, TN PROFESSIONAL SERVICE  
AGREEMENT 2017 MACROINVERTEBRATE  
STREAM SURVEY SAMPLE SORTING,  
IDENTIFICATION, DATA REDUCTION,  
AND REPORT ATTACHED ABOVE,  
CONTRACT NUMBER 2018-0157

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