

**AMENDMENT NO. 1 TO
PROFESSIONAL SERVICES AGREEMENT
FOR THE FRANKLIN ZONING ORDINANCE
COF Contract No. 2018-0134**

THIS AMENDMENT is made and entered into on this the ____ day of _____, 2019, by and between the **City of Franklin, Tennessee** ("City") and **Town Planning & Urban Design Collaborative LLC (TPUDC)** ("Consultant").

WITNESSETH:

WHEREAS, the City and Consultant entered into a Professional Services Agreement ("Agreement"), dated October 9, 2018, for the Planning and Zoning Services for the Zoning Ordinance Update ("Project"); and

WHEREAS, said Agreement stipulated that Consultant would be paid a fee of One Hundred Thirty-Six Thousand Six Hundred Eighty and No/100 Dollars (\$136,680.00), as detailed in the Scope of Service and Fee Schedule; and

WHEREAS, the City and Consultant needed additional work performed during the detailed Ordinance review phase and realize the need for additional services to accommodate additional community outreach and engagement, and ongoing education and consulting services following adoption; and

WHEREAS, the Consultant has provided a Proposal ("Attachment A"), dated June 15, 2019, for an increase in services on an as-needed basis, in an amount not to exceed **Fifty Thousand and No/100 Dollars (\$50,000.00)**; and

WHEREAS, the City has reviewed the Proposal and desires to enter into an amendment to the 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 stated in 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 **Fifty Thousand and No/100 Dollars (\$50,000.00)**.

The City reserves the right to issue any payments jointly to the 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 9, 2018, are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

The CITY OF FRANKLIN, TENNESSEE

**TOWN PLANNING & URBAN DESIGN
COLLABORATIVE LLC (TPUDC)**

By: _____
Dr. Ken Moore
Mayor
Date: _____

By: W. Brian Wright
Print: W. Brian Wright
Title: Principal
Date: June 24, 2019

Attest:

Eric S. Stuckey
City Administrator
Date: _____

Approved as to form:

Shauna R. Billingsley, City Attorney

**AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT
FOR THE FRANKLIN ZONING ORDINANCE COF Contract No. 2018-0134
Attachment A**

City of Franklin, Tennessee Professional Services Agreement COF Contract No. 2018-0134 is hereby amended as follows:

1. Item 4 of the Declarations is hereby amended to read as follows:
“Consultant shall be paid on a monthly basis for work performed under this Agreement. For the work performed under Phases 1-3 of the Services, as set forth in Attachment A (Scope of Services), Consultant shall be paid ONE HUNDRED THIRTY-SIX THOUSAND SIX HUNDRED EIGHTY AND NO/100 DOLLARS. For the work performed under Phases 4-6 of the Services, as set forth on Attachment A (Scope of Services), Consultant shall be paid on an hourly basis at the hourly rates set forth on Attachment B (Hourly Rates), up to FIFTY THOUSAND AND NO/100 DOLLARS.”
2. Attachment A (Scope of Services) is hereby amended by revising Phases 4-6 to read as follows:

Phase 4: PUBLIC DRAFT OF THE REVISED ZONING CODE

Task 4.1: Client Meeting

Staff will prepare a set of consolidated comments received from the public on the Public Draft. TPUDC and Staff will meet to discuss the Public Draft comments. Following that meeting, Staff will make appropriate revisions to the document.

Task 4.2: Review of Staff Revisions to Public Draft

TPUDC will review the revisions to the Public Draft by Staff and provide final comments. This revision will serve to create the Final Draft.

Task 4.3: INTENTIONALLY OMITTED

Task 4.4: Decision-Maker Workshops

On an “as needed, as requested” basis, TPUDC will facilitate and present at Zoning Ordinance Workshops with members of the Board of Mayor and Alderman and Planning Commission. These could include project updates, topical discussions, presentations regarding the Zoning Ordinance, or question and answer sessions.

Task 4.5: Stakeholders / Decision-Makers Meetings

On an “as needed, as requested” basis, TPUDC will participate in individual or small group meetings with stakeholders and/or members of the Board of Mayor and Alderman and Planning Commission to discuss the Zoning Ordinance.

Task 4.6: Project Management

General project management of work items occurring during this Phase.

Phase 5: Additional Community Outreach & Engagement**Task 5.1: Neighborhood, Stakeholder, and Decision-Maker Meetings**

On an “as needed, as requested” basis, TPUDC will participate in meetings, which may be in various locations and neighborhoods around the City with key neighborhood or stakeholder groups identified by Staff and Decision-Makers. In neighborhoods, this may be a presentation, “What Does the Zoning Ordinance Project Mean to You?” to educate citizens about the effects and changes the Zoning Ordinance might bring to their neighborhoods. Meetings may include individual or small group meetings with members of the Board of Mayor and Alderman and Planning Commission to discuss the Zoning Ordinance.

Task 5.2: INTENTIONALLY OMITTED.**Task 5.3: Project Management**

General project management of work items occurring during this Phase.

Phase 6: APPROVAL PROCESS OF Final Draft

TPUDC will assist Staff during the approval process as follows:

Task 6.1: Planning Commission and Board of Mayor and Aldermen Meetings and Presentations

TPUDC will attend and present to Planning Commission and Board of Mayor and Aldermen at meetings concerning the Zoning Ordinance Project.

Task 6.2: Client Meeting

TPUDC will meet with Staff to discuss comments, questions, and suggestions for refinements to the Zoning Ordinance from Planning Commission and BOMA.

Task 6.3: Final Zoning Ordinance Revisions Review

TPUDC will review and provide any comments on Staff’s final revisions based on input received from the Planning Commission and Board of Mayor and Aldermen.

Task 6.4: Project Management

General project management of work items occurring during this Phase.

Phase 7: POST-ADOPTION**Task 7.1: Ongoing Education & Consulting Services**

On an “as needed, as requested” basis, TPUDC will provide ongoing education and consulting services related to the Zoning Ordinance and design proposals.

Task 7.2: Project Management

General project management of work items occurring during this Phase.

3. An additional attachment, Attachment B (Hourly Rates for Phase 4-6) shall be attached as an integral part of the Agreement, reading as follows:

Attachment B Hourly Rates for Phases 4-6

PRINCIPAL	\$200.00/hr
ATTORNEY	\$200.00/hr
DIRECTOR	\$150.00/hr
ADMINISTRATOR	\$60.00/hr
GRAPHIC DESIGNER	\$100.00/hr
PLANNER	\$160.00/hr
RENDERER	\$150.00/hr

4. The attachments, “Franklin Zoning Ordinance Budget” and “Franklin Zoning Ordinance Schedule” shall be deleted.