

# R & D ENTERPRISES, INC.

P O Box 3186  
Clarksville, TN 37043

(931) 249-1281 (931) 980-5962

## PROFESSIONAL SERVICES CONSULTANT AGREEMENT

THIS Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2016, by and between the **Town of Nolensville, Tennessee**, with offices at 7218 Nolensville Road, Nolensville, Tennessee 37135 (hereinafter called the "**TOWN**"), and **R & D Enterprises, Inc.** with offices at 4301 Old Clarksville Pike, Clarksville, Tennessee 37043, (hereinafter called the ("**CONSULTANT**").

### EMPLOYMENT OF CONSULTANT

The **TOWN** retains the **CONSULTANT** to perform services in accordance with the terms, conditions, and stipulations hereinafter as stated in the **SCOPE OF SERVICES**.

### PROJECT DESCRIPTION

The **PROJECT** includes the **APPRAISAL** and **ACQUISITION** of right-of-way and/or easements for the Sunset Road Widening Project in Nolensville, Williamson County, Tennessee.

### SCOPE OF SERVICES

The **CONSULTANT** shall render in a satisfactory and proper manner to the **TOWN** the **SERVICES** for the project area as described above. All **SERVICES** will be rendered in accordance with **TDOT** Standards and are specifically detailed in the attached "**EXHIBIT A**".

### COMPENSATION

For the performance of the **SERVICES** set forth above the **TOWN** shall compensate the **CONSULTANT** for all costs, charges, and expenses incurred by the **CONSULTANT** in the performance of the **SERVICES** on a per tract basis as detailed in the attached "**EXHIBIT A**" and made a part of this Agreement. If additional services are requested, a breakdown of each specific task is outlined in the attached "**EXHIBIT A**". Payment shall be made for each Appraisal when completed and approved by the **TOWN**. Payment shall be made on a per tract basis for negotiations after a Purchase Agreement or Condemnation recommendation is delivered to the Town's office.

### SCHEDULE

Once a Notice to Proceed has been issued, the **CONSULTANT** shall complete the **SERVICES** within a timely manner after receipt of the Appraisal and/or the approved value for each tract.

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**R & D Enterprises, Inc.**  
*Right of Way / Relocation Consulting Services*

*Right of Way/Relocation Consulting Services*

## PAYMENT

The **CONSULTANT** shall prepare and submit to the **TOWN** at the end of each monthly period, invoices for tracts which have been completed and accepted by the **TOWN** in such period. These invoices shall be in a form acceptable to the **TOWN** and the **TOWN** will issue payment to the **CONSULTANT** within thirty (30) days of receipt of invoice.

## INDEPENDENT CONTRACTOR

The **CONSULTANT** represents that it has, or will secure, at its own expense, all personnel required in performing the **SERVICES** under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the **TOWN**. The **CONSULTANT**, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be, officers or employees of THE **TOWN** by reason of the Agreement.

## INSURANCE

The **SUBCONSULTANT** shall effect and maintain the following insurance coverage at his own cost and expense:

A. Professional Liability Insurance

Coverage to include **CONSULTANT'S** legal liability for damages arising out of **CONSULTANT** professional **SERVICES** on this **PROJECT**, with Limits of Liability in the amount of at \$1,000,000.

The **CONSULTANT** shall furnish the **TOWN** with a certificate of insurance showing that the **CONSULTANT** has complied with this Article, and the certificate shall provide that thirty (30) days written notification of material change in the coverage or limits or cancellation of the policies shall be given to **TOWN**.

## IDEMNITY

The **CONSULTANT** shall indemnify, defend, and hold harmless the **TOWN** from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability to the extent caused by the negligent acts, errors, or omissions of the **CONSULTANTS**, its officers, employees, agents, or representatives in the performance of **SERVICES** under this Agreement.

The **TOWN** may request the **CONSULTANT** to perform extra services not covered by the **SCOPE OF SERVICES** as previously set forth, and the **CONSULTANT** shall perform such extra services and will be compensated for such extra services when they are submitted in writing mutually agreed to and signed by the parties hereto amending this Agreement accordingly. Fees for additional services are itemized in the attached Exhibit A.

The **TOWN** shall not be liable for payment of any extra services except upon such written amendment.

### DELAYS

The **CONSULTANT** shall perform its services with due diligence upon receipt of a written Notice to Proceed from the **TOWN** and the **TOWN** may authorize costs to be incurred prior to such written Notice to Proceed. In the event that performance of its **SERVICES** is delayed caused beyond the reasonable control of the **CONSULTANT**, and without the fault or negligence of the **CONSULTANT**, the time for the performance of the **SERVICES** may be equitably adjusted by written amendment to reflect the extent of such delay. The **CONSULTANT** shall provide the **TOWN** with written notice of delay within seven (7) calendar days of its occurrence, including therein a description of the delay and the steps contemplated or actually taken by the **CONSULTANT** to mitigate the effect of such delay.

### TERMINATION

This Agreement may be terminated by either party upon seven (7) days written notice in the event of failure to perform in accordance with the terms of this Agreement.

In the event of termination for fault, the **CONSULTANT** shall be compensated for all **SERVICES** satisfactorily performed and accepted by the **TOWN** and cost incurred up to the effective date of termination for which **CONSULTANT** has been previously compensated.

Upon receipt of notice of termination from the **TOWN**, the **CONSULTANT** shall discontinue the **SERVICES** unless otherwise directed and deliver to the **TOWN** all data, reports, estimates, summaries, and such other information and materials as may have been accumulated by the **CONSULTANT** in the performance of the **SERVICES** under this Agreement, whether completed or in process.

### OWNERSHIP OF DOCUMENTS

The parties hereto agree that the **TOWN** shall retain ownership of all files, summaries, other documents of the **CONSULTANT** furnished hereunder. The **CONSULTANT** will be permitted to retain reproducible copies of files, summaries and other documents for its files.

### SUCCESSORS AND ASSIGNS

The **CONSULTANT** shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Agreement without the prior written approval of the **TOWN**. Any unauthorized attempt thereat shall be void and unenforceable.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns, but shall not inure to the benefit of any third party or other person.

### **NOTIFICATION**

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

**TO CITY:** Town of Nolensville  
7218 Nolensville Rd.  
Nolensville, Tennessee 37135  
Attention: Don Swartz, P.E.

**TO CONSULTANT:** R & D Enterprises, Inc.  
P.O. Box 3186  
Clarksville, Tennessee 37043  
Attention: Debra Rhemann

### **DISPUTES**

In an effort to resolve any conflicts that arise during the PROJECT or following the completion of the PROJECT the TOWN and the CONSULTANT agree that all disputes between them arising out of or relating to this Agreement or the PROJECT shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. Mediation shall be conducted and governed by the Construction Industry Arbitration Rules of the American Arbitration Association in effect at the time of the execution of this Agreement. The party requesting such mediation shall file notice of the demand for mediation in writing with the other party hereto and with the American Arbitration Association in the State of Tennessee (unless otherwise agreed by the parties). In no event shall the demand for mediation be made after the date when institution of an action at law or in equity based on such claim, dispute, or other matter in questions would be barred by the applicable statute of limitations.

The TOWN and the CONSULTANT further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the PROJECT and to require all independent contractors and consultants also to include a similar medication provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

### **APPLICABLE LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

**EXTENT OF AGREEMENT**

This Agreement and the attachment(s) represent the entire and integrated agreement between the **TOWN** and the **CONSULTANT** and supersedes and replaces all terms and conditions of any prior agreements, arrangements, negotiations, or representations, written or oral, with respect to this **PROJECT**.

**IN WITNESS WHEREOF**, this Agreement has been executed by the **TOWN** and the **CONSULTANT**, effective from the day and year first written above.

**TOWN OF NOLENSVILLE**

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

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

**CONSULTANT**

By: \_\_\_\_\_  
Ralph D. Rhemann, President

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

“EXHIBIT A”  
SUNSET ROAD WIDENING PROJECT  
NOLENSVILLE, WILLIAMSON COUNTY, TENNESSEE

“FEES” AND SERVICES ARE AS FOLLOWS:

ACQUISITION: Per Tract: \$1,300.00

APPRAISAL: Per Tract: 3 @ \$4,700.00

APPRAISAL: Per Tract 24 @ \$3,100.00

RELOCATION (Business or Residential): Per Tract: \$3,500.00

RELOCATION (Miscellaneous or Signs): Per Tract: \$1,400.00

If applicable and project requires Business or Residential Relocations, an Acquisition Stage Relocation Plan included in the fee for Relocations will be required before any Offers are delivered.

The fees as listed per tract, are for Acquisitions, Appraisals, and Relocations from the current project plans received as of **6/15/2016** and will apply to tracts added for each Acquisition, Appraisal or Relocation due to future changes to this project.