

TOWN OF FARRAGUT

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made by and between **TOWN OF FARRAGUT, A TENNESSEE MUNICIPAL CORPORATION** ("CLIENT") and **DUNCAN ASSOCIATES, A TEXAS CORPORATION** ("CONSULTANT") for lump-sum professional planning services.

PROJECT: Impact Fee Study and Program

LOCATION: Town of Farragut, TN

PROJECT DESCRIPTION: Transportation Planning Services for the Development of the Town's Impact Fee Program

WHEREAS, the CLIENT requires professional consulting services to produce an impact fee study and program (hereinafter referred to as the "PROJECT"); and

WHEREAS, the CONSULTANT is qualified and has assembled a Sub-consultant team that has the requisite expertise and experience to perform as outlined in this agreement.

NOW, THEREFORE, for and in consideration of the promises contained in this AGREEMENT, CLIENT and CONSULTANT agree as follows:

1. **Professional Services.** CONSULTANT agrees to perform the following Scope of Work under this Agreement:

See **Attachment A** to this Agreement for the Scope of Work.

2. **Compensation.** CLIENT shall compensate CONSULTANT for the Scope of Work as follows: A lump sum fee of **\$64,460.00**, including reimbursable expenses. In addition, CLIENT shall pay CONSULTANT for additional services that may be requested by the CLIENT beyond the Scope of Work in accordance with the hourly rate schedule located at the bottom of Attachment A to this Agreement.

3. **Schedule.** CONSULTANT shall begin work upon notification of approval of this Agreement by the Board of Mayor and Aldermen and shall complete the work by submitting the final deliverables on or before November 01, 2015. The schedule for the various meetings and presentations as outlined in the Scope of Work shall be agreed upon by the CLIENT and CONSULTANT before beginning work. Modifications to the schedule must be agreed upon by both parties and noted in writing as an addendum to this agreement.

4. **Invoicing and Payments.** Invoices or payment requests shall be submitted to the CLIENT no more than monthly and shall indicate the percentage of the PROJECT completed by

major task. Upon the CLIENT'S request, the CONSULTANT shall provide a detailed invoice to the CLIENT which may include the amount and breakdown of the payment requested, the period covered by the request, and a detailed account of the work performed during the period covered by the payment request. After review, the CLIENT will indicate approval of the payment request by processing the payment request during the next available pay cycle, or shall explain to CONSULTANT by proper notice (see item six below), the reasons for not approving any portion or all of the request, and authorize payment of any amount approved. In the event the CLIENT does not approve any portion of a payment request, and has communicated the reasons to CONSULTANT, CONSULTANT will then take the necessary action to satisfy the reasons for non-approval and resubmit the payment request. CLIENT shall endeavor to remit payment of payment requests or portions thereof which are approved by the Town Administrator or his/her designee within thirty (30) days of receipt by CLIENT. From time to time approval of a payment request may require action by the Board of Mayor and Aldermen which meets on the second and fourth Thursday of most months.

5. **Time.** CONSULTANT will perform its services in a timely manner commensurate with the exercise of due professional care which it acknowledges can be done consistent with the schedule provided for in Paragraph 3. Time for performance shall be extended as necessary for delays or suspensions due to circumstances beyond CONSULTANT'S control. If such delay or suspension extends more than six (6) months (cumulatively), CONSULTANT'S compensation shall be equitably adjusted; provided, however, such adjustment and amendment to this Agreement must be approved by the Board of Mayor and Aldermen before CLIENT is bound.

6. **Contract Administration/Notice Delivered.**

- A. **PROJECT Manager; CONSULTANT.** The CONSULTANT shall assign Clancy Mullen to manage the PROJECT. All services specified by this AGREEMENT shall be performed by the PROJECT Manager, or by the CONSULTANT'S associates and employees under the personal supervision of the PROJECT manager. Should the PROJECT Manager or any key employee of CONSULTANT be unable to complete his or her responsibility for any reason, CONSULTANT will replace him or her with a qualified person pre-approved by the CLIENT.
- B. **PROJECT Manager; CLIENT.** The CLIENT shall assign Gary Palmer, Assistant Town Administrator to manage the CLIENT responsibilities of the PROJECT. Notice, invoices, disputes, and/or amendments arising from or related to this agreement shall be delivered to the assigned as outlined in item C below.
- C. **Notices to CONSULTANT.** All notices, correspondence, and payments to the CONSULTANT shall be digitally transmitted or mailed to:

Duncan Associates
Attention: Clancy Mullen

360 Nueces St., Suite 2701
Austin, TX 78701

Approved Email Address for all digital transmissions that shall serve as proper notice to the CONSULTANT:

clancy@ducanassociates.com with copy to:
jim@duncanassociates.com (James B. Duncan, President)

D. Notices to CLIENT. All notices, correspondence, and invoices to the CLIENT by the CONSULTANT shall be digitally transmitted or mailed to:

Gary Palmer
Assistant Town Administrator
Town of Farragut
11408 Municipal Center Dr.
Farragut, Tennessee 37934

Approved Email Address for all digital transmissions that shall serve as proper notice to the CLIENT:

gpalmer@townoffarragut.org with copy to:
mshiple@townoffarragut.org (Mark Shipley, CD Dir.)

7. **Periodic Reviews.** The services to be performed by the CONSULTANT under this AGREEMENT shall be subject to periodic review by the CLIENT. To prevent an unreasonable delay in the CONSULTANT's work, the CLIENT will endeavor to examine all reports, drawings, and other documents and will respond to the CONSULTANT in writing within ten (10) working days from receipt of such documents. It is understood that the CLIENT's review comments do not relieve the CONSULTANT from the responsibility for the professional and technical accuracy of all services delivered under this AGREEMENT

8. **Suspension of Services.** If CLIENT fails to pay any invoice when due or otherwise is in material breach of this Agreement, CONSULTANT may, at its sole discretion, suspend performance of services upon five (5) days' written notice to CLIENT. Written notice includes digital transmission. CONSULTANT shall have no liability to CLIENT and CLIENT agrees to make no claim for any delay or damage as a result of such suspension, unless (i) the Town Administrator or his/her representative has refused to approve payment, (ii) the reasons are justified pursuant to this Agreement, and (iii) CONSULTANT has failed to satisfy the reasons as required by Paragraph 4 hereof. Upon cure of the cause of a justified suspension, CONSULTANT shall resume services within a reasonable time, and there shall be equitable adjustments of the project schedule and fees to reflect the effects of such suspension, if such adjustments are deemed reasonable and appropriate by the parties.

c. The contract between the parties consists of this Agreement, its attachments, any written request for services issued by CLIENT and any response thereto made by CONSULTANT, including any addenda thereto. To the extent there is a conflict between the terms of any of the documents that constitute the contract between the parties, the terms that are most specific to the matter in dispute shall govern over the more general. In the event the conflicting terms cannot be characterized as specific vs. general, then the terms that provide the greater benefit to the CLIENT and/or impose the greater obligation on the CONSULTANT shall control.

d. This Agreement may be modified only by a written amendment or addendum that has been executed and approved by the appropriate officials shown on the signature page of this Agreement.

e. If any provision of this Agreement is determined to be unenforceable or invalid, such determination will not affect the validity of the other provisions contained in this Agreement. Failure to enforce any provision of this Agreement does not affect the rights of the parties to enforce such provision in another circumstance, nor does it affect the rights of the parties to enforce any other provision of this Agreement at any time.

f. In the performance of this contract, CONSULTANT will comply with all applicable laws, ordinances, rules, regulations and orders of local, state and federal governments, including, but not limited to, the President's Executive Order No. 11246 and 11375, which prohibit discrimination in employment regarding race, color, religion, sex or national origin, Title VI of the Civil Rights Act of 1964, Copeland Anti-Kick Back Act, the Contact Work Hours and Safety Standards Act, Section 402 of the Vietnam Veterans Adjustment Act of 1974, Section 503 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990, all of which are herein incorporated by reference.

g. This AGREEMENT will be governed and construed in accordance with the laws of the State of Tennessee. Any legal action arising from this AGREEMENT shall be under the jurisdiction of the appropriate State of Tennessee Court within Knox County, TN and/or the United States District Court, Eastern District of Tennessee Knoxville Divisional Office within Knox County, TN.

20. **Attachment D for Reference Purposes:**

- Published Request for Qualifications
- Duncan Associates, Inc. Proposal

CLIENT:

Town of Farragut

By: *Ralph McGill*

Printed Name: *Ralph McGill*

Title: *Mayor*

Date: *5/28/2015*

CONSULTANT:

By: *Clancy Mullen*

Printed Name: Clancy Mullen

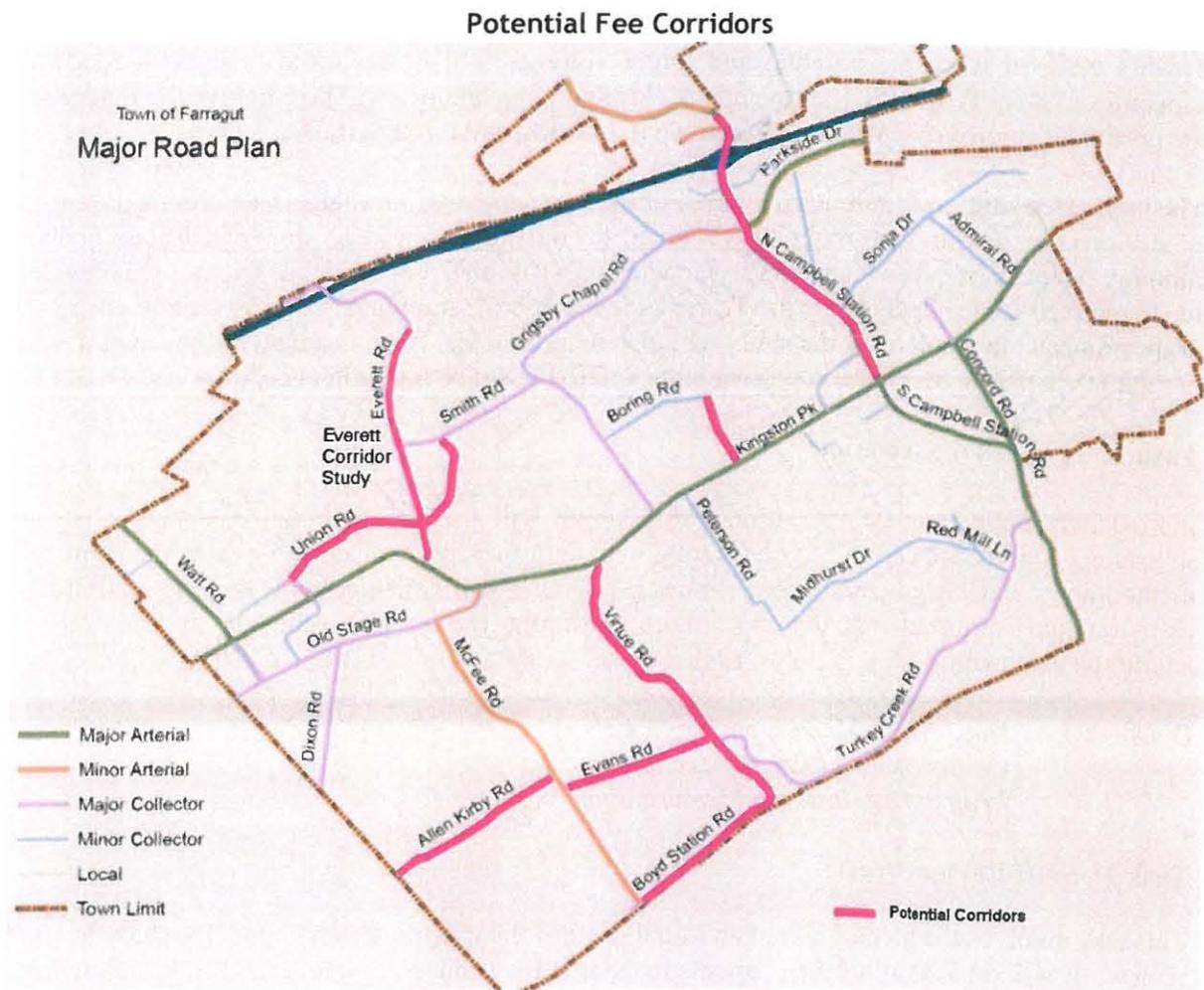
Title: Vice President, Duncan Associates

Date: 5/29/2015

Attachment A: Scope of Services

Project Understanding

The Town recently adopted an Everett Road Corridor Improvement Fee to provide funding for the planned improvement to Everett Road by assessing a fee on new development that will benefit from the corridor improvement. The Town now desires to have a consultant prepare a more comprehensive transportation impact fee, which could either be a uniform Town-wide fee applicable to all new development in the Town, or corridor-specific fees that would apply only to new development in selected corridors. The Town has preliminarily identified nine other corridors (see map below) with significant amounts of undeveloped land and anticipated roadway improvement needs.



Project Approach

Our proposed approach is to develop two separate types of transportation impact fees: a uniform Town-wide fee that would address improvements to the Town's major arterials, and approximately three corridor fees that would be assessed in specific corridor benefit zones to address the cost of minor arterial and collector roads. The needed improvements preliminarily identified by staff, excluding N. Campbell Station Road, which is a major arterial, can be grouped into three areas: South (~~Victor~~, Evans, Allen Kirby and Boyd Station Roads), Northwest (Everett and Union Roads), and Central (Boring Road). More or fewer zones may be warranted depending on the findings of the study.

The methodology will be plan-based, similar to the approach used in the Town's Everett Road Corridor analysis, in that the cost of planned improvements would be divided by the number of new trips causing the need for the improvement in order to determine the cost per trip. This approach will make extensive use of the Knoxville Regional Travel Demand Model. Base and future year model runs will be performed to determine the existing and future volumes on the Town's major roadways. Existing and future volumes will be reviewed in light of roadway capacities to identify needed improvements. Modeling techniques will be employed to determine the portion of improvement costs attributable to existing and through traffic.

The impact fee study will summarize and describe the transportation analysis, determine the extent of any revenue credits that might be warranted for outstanding debt or anticipated State/Federal funding, identify the travel demand characteristics of different land use types, and develop recommended fees schedules for the Town-wide fee and the individual corridor benefit zones. A draft ordinance to implement the study will also be provided. The consultant will be available to participate in public meetings to present and explain the study and ordinance.

Task 1: Project Organization

Immediately upon contract execution, Professional will prepare an initial data needs list and schedule a conference call or Skype meeting with appropriate Town staff to review the approach, methodology, data needs, and policy issues. The task will conclude with the preparation of a memorandum summarizing the discussion, outlining the project schedule and identifying additional data needs.

*Deliverables: Data Needs Memorandum
Conference Call/Skype Meeting
Project Organization Memorandum*

Task 2: Staff Review Draft

This task involves the preparation of an initial draft of the transportation impact fee study for staff review. It will include all of the elements mandated by Tennessee statutes and state and national case law, including compliance with the dual rational nexus test. It will consist of the following sub-tasks:

(a) Set up sub-area model. Set up a sub-area travel demand model framework based on the Knoxville Regional Travel Demand Model. Modify model TAZ structure to add appropriate detail for the Town as needed. Work with Town to determine if adjacent unincorporated land will be annexed and should be included in the Town-wide model results.

(b) Develop Growth Assumptions. Determine appropriate existing and future demographics for both existing and modified TAZs. Ensure base year data are generally consistent with town-wide 2015 population/dwelling units (from census and building permit records) and town-wide existing nonresidential square footage from tax records (which can be roughly translated into employees). Calibrate the model to approximate recent traffic counts on major roads in the Town. Work with Town to ensure that 2035 demographics for the Town used in the model are consistent with their land use plan and projected development potential. Use GIS files that have current land use and zoning land use designations to identify the undeveloped parcels and calculate the projected new units of development by type within each zone, which in turn will be translated into updated 2035 model demographics for the TAZs within each zone.

(c) Identify Improvement Needs. Perform model runs to identify existing and future volumes on Town major roadways. Use capacity analysis to identify existing deficiencies and future road improvement needs in the Town based on the existing Town network, existing and committed non-Town network, and 2035 demographics. Work with the Town to prepare generalized cost estimates for the improvements (or review/adjust the Town's improvement descriptions and costs). The proposed approach is to develop the construction cost estimates in a manner consistent with the methodology utilized by the Tennessee Department of Transportation's Planning Divisions. This methodology utilizes Statewide Average Unit Prices (AUP) for construction materials. The AUPs are readily available from TDOT. The quantities of construction materials will be based upon a typical roadway cross section for each corridor, and not based upon a survey and design. Input from the town will be sought for right-of-way costs along the various corridors under study. If no other data is available for right-of-way cost estimates, tax maps can be utilized. Finally, utility costs associated with the proposed improvements will be estimated to a planning level. Any and all information the town can provide to improve the accuracy of the cost estimates will be utilized.

(d) Develop Corridor Benefit Zones. Based on the identified long-range improvement needs from Task 3, use travel demand model trip matrices (origin-destination patterns), in conjunction with some of the features of the TransCAD software, to create an initial version of the corridor benefit zone boundaries, based on the boundaries of properties whose primary route to Kingston Pike would utilize one of the corridor zone roadways identified for improvement. Adjust the boundaries as warranted in coordination with Town staff. Once the corridor benefit zone boundaries have been identified, modify the TAZ structure within each zone as necessary to match the corridor zone boundaries.

(e) Assign Responsibility. Conduct sub-area model runs utilizing a "select link" and/or "select zone" methodology. Determine the percentage of the cost of each improvement that is attributable to new traffic versus existing traffic. Determine the percentage of new trips on each Town-wide roadway that needs to be improved that is attributable to Town-generated traffic.

Determine the percentage of new trips on each corridor benefit zone roadway that needs to be improved that is attributable to corridor zone-generated traffic.

(f) Prepare Study. Provide written description of the transportation analysis performed, including all data sources, assumptions, model procedures and formulas used. Determine the costs per trip attributable to new development Town-wide and for each identified corridor benefit zone. Determine appropriate revenue credits per trip to account for future revenue anticipated to be generated by new development and used to finance the transportation facilities or retire debt on existing facilities, and any additional credits that may be required to account for dedicated local or outside funding sources anticipated to be available in the future to fund capital improvement needs. Apply the net local costs per trip to the travel demand generation schedule for appropriate land use types to determine the recommended fee schedules.

Deliverable: Draft Transportation Impact Fee Study

Task 3: Final Study/Draft Ordinance

Following receipt of local comments on the draft study, the consultant will make necessary revisions and prepare the final report. The final report will clearly describe the methodology used and will document data sources, assumptions and analysis used in calculating the transportation impact fees. The final written analysis will be accompanied by supporting spreadsheets and electronic copies of the report. Concurrent with the final study, the consultant will prepare a draft ordinance to implement the study recommendations.

*Deliverables: Final Transportation Impact Fee Study
Draft Transportation Impact Fee Ordinance*

Task 4: Public Meetings

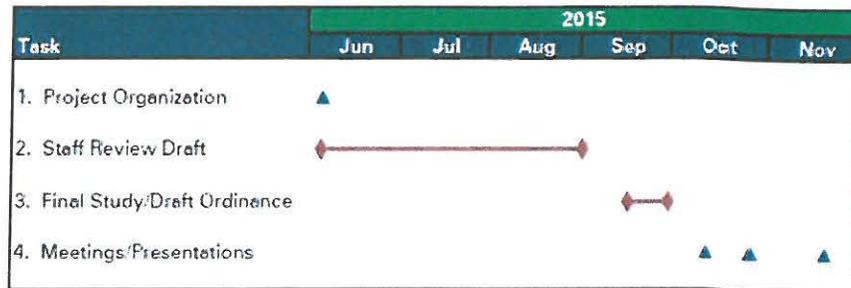
The consultant will attend and participate in meetings in Farragut to present the findings of the study and answer questions of staff, stakeholders, the general public and/or governing body as requested by the Town. Consultant will prepare appropriate presentation materials for the meetings. Participation in up to three public meetings is included in this fixed-fee proposal. The Town will be billed only for meetings attended, and any additional meetings will be provided for additional compensation.

Deliverables: Attendance at Up to Three (3) Public Meetings

Timeline

The proposed scope of services is anticipated to take approximately 6 months from project initiation to the final presentation of the study and ordinance, as illustrated in the following flowchart.

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Fee

The consultant proposed fee for the services as described is \$57,260 for the study, plus an additional \$7,200 for attendance at up to three public meetings, for a not-to-exceed amount of \$64,460, pursuant to the following cost breakdown. The fee is a fixed fee, including all direct and indirect expenses incurred by the consultant in performing the services. The Town will be billed monthly for the percent completion of each task. Consultant attendance at public meetings as part of Task 4 will be billed at a fixed cost of \$2,400 per meeting attended, which includes all travel expenses.

Task	Amount
1. Project Organization	\$2,800
2. Staff Review Draft	\$40,460
3. Final Study/Draft Ordinance	\$14,000
Subtotal	\$57,260
4. Public Meetings/Hearings (3)	\$7,200
Total	\$64,460

Additional work not provided for in the scope of services will be provided on a time and expense basis or as otherwise negotiated, at the following hourly rates: \$195 for James B. Duncan, FAICP, Principal; \$175 for Clancy Mullen, project manager and Kirk Bishop, senior planner; \$95 for Jolene Maas, financial analyst; and \$225 for Eric Damian Kelly, FAICP, land-use lawyer.