

**AMENDMENT NO 1 TO
MALLORY STATION ROAD RESURFACING
AGREEMENT
COF Contract No 2009-0039**

THIS AMENDMENT is made and entered into on this the --- day of ----, 2010, by and between the City of Franklin, Tennessee ("City") and Mallory Valley Utility District ("Utility").

WITNESSETH:

WHEREAS, the City and the Utility entered into a Contract dated August 8, 2009, setting for the rights and obligations of the parties in connection with the Utility's plans to construct a water transmission line from the intersection of Franklin Road and Moore's Lane to approximately 1,200 L.F. south of Baker's Bridge Road on Carothers Parkway located in the City in Williamson County, Tennessee and named as The Franklin Road Transmission Line Project (hereinafter called the "Project"); and

WHEREAS, as a part of the Project, the City is required to relocate the Utility's water meter serving Academy Sports which is located within a Utility easement; and

WHEREAS, the City has obtained a new easement for the new location of the water meter; and

WHEREAS, the City has requested that the Utility relocate the water meter for Academy Sports as a part the Project, and the City has agreed to reimburse the Utility for the cost of the relocation of the water meter; and

WHEREAS, a cost estimate for water meter relocation is set forth in Exhibit B, Cost Estimate of Relocation of Water Meter; and

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. Section 1.(b) of the COF Contract No 2009-0039 is amended as follows:

The Utility will install the new water facilities and will relocate the Academy Sports water meter in accordance with the plans prepared by the Utility as approved by TDEC and the City. The approved estimate of cost of the resurfacing work is attached hereto as Exhibit A, Cost Estimate of Mallory Station Resurfacing, and is incorporated herein by reference. The approved estimate of

cost of the water meter relocation work is attached hereto as Exhibit B, Cost Estimate of Relocation of Water Meter, and is incorporated herein by reference.

3. COF Contract No 2009-0039 is further amended by adding a new Section 20 as follows:

20. The Utility agrees to obtain a change order from its contractor for the Project for the cost to relocate the Utility's water meter for Academy Sports and to provide the City a copy of this change order before the Utility's contractor performs the water meter relocation work. In the event the Utility's contractor requests an increase in the cost to relocate the water meter set forth in this change order, the Utility shall inform the City of the cost increase before approving the change order for the cost increase. Upon the completion of the Project, the City agrees to reimburse the Utility for the actual costs incurred by the Utility to relocate the water meter.

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 August 8, 2009 are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

CITY OF FRANKLIN, TENNESSEE

MALLORY VALLEY UTILITY DISTRICT

By: _____
John C. Schroer
Mayor
Date: _____

By: _____
Print: _____
Title: _____
Date: _____

Approved as to form:

Shauna R. Billingsley, City Attorney

Exhibit "B"



100% Employee Owned

6401 Centennial Boulevard Nashville, Tennessee 37209 (615) 350-7975 / fax (615) 350-6067

August 25, 2010

Mr. Keith Davis, P.E.
Hethcoat & Davis, Inc.
278 Franklin Road, Suite 200
Brentwood, TN 37027

Re: Mallory Valley Utility District
Franklin Road Transmission Line
Academy Sports Meter Relocation

Dear Mr. Davis:

Garney Construction is pleased to provide you a price for the Academy Sports Meter Relocation as follows:

DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION
Mobilization	1	LS	\$4,300.00	\$4,300.00
10" CL 350 DIP	190	LF	\$73.00	\$13,870.00
10" Gate Valve w/ box	1	EA	\$3,000.00	\$3,000.00
10" Connection (Tap Sleeve & Valve)	1	EA	\$6,800.00	\$6,800.00
10" Connection to existing line	1	EA	\$1,000.00	\$1,000.00
10" Cut & Cap	3	EA	\$600.00	\$1,800.00
10" Meter & Vault	1	LS	\$41,000.00	\$41,000.00
10" Backflow Preventer	1	LS	\$18,000.00	\$18,000.00
Irrigation Connections, Relocate Meter, Relocate Backflow	1	LS	\$13,500.00	\$13,500.00
2" Type K Copper	40	LF	\$35.00	\$1,400.00
Electrical	1	LS	\$6,000.00	\$6,000.00
			TOTAL	\$110,670.00

These prices are based on the following clarifications:

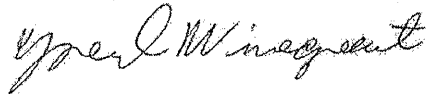
- Garney will still be on site working in the area on the Franklin Road Project.
- This price includes no paving, sidewalk, or curb & gutter.
- Garney has included stone backfill of the trenches
- Installation of a new fire hydrant is not included in this scope.

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Academy Sports Meter Relocation
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- Garney has figured on 190 LF of Class 350 10" Ductile Iron Pipe
- Garney has figured on 40 LF of 2" Copper
- The Electrical scope includes up to 150 LF of trench
- The Electrical scope does not include any work under the building. If existing conduit cannot be used for the new circuit, the electrician plans to do a wall penetration.

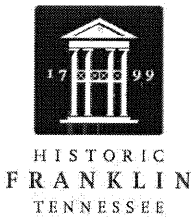
If you have any questions, please contact me at (615) 350-7975.

Sincerely yours,



Youral Winegeart
Project Manager


cc: Steve Ford, Garney Construction



MEMORANDUM

October 4, 2010

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator 
David Parker, City Engineer/CIP Executive
Eric Gardner, Director of Engineering
Paul Holzen, Engineering Supervisor

SUBJECT: Nichol Mill Lane and Mallory Lane Traffic Signal and Intersection Modification Plans

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to make an informed decision concerning Amendment No1 to Mallory Station Road Resurfacing Agreement, COF Contract No 2009-0039.

Background

On July 28, 2009 BOMA approved the Mallory Station Road Resurfacing Agreement (COF Contract No 2009-0039) between the City of Franklin and MVUD. This agreement allows MVUD to install a waterline within City of Franklin ROW and requires them to resurface Mallory Station Road between Franklin Road and the CSX Railroad crossing. In addition to the above work, MVUD will be installing a 24" transmission line within the Nichol Mill Lane ROW. As part of the Nichol Mill Lane Project the City of Franklin is required to relocate MVUD's water meter currently serving Academy Sports. City Staff has requested MVUD to include this work in their existing contract with Garney Construction allowing all MVUD's utilities to be relocated prior to construction.

Financial Impact

Garney Construction provided MVUD, Hethcoat & Davis and the City of Franklin with a cost proposal of \$110,670 to complete this work. This cost was anticipated as a part of the Nichol Mill Lane project budget.

Recommendation

City Staff has reviewed the cost proposal and recommends approval of Amendment No 1 to Mallory Station Road Resurfacing Agreement COF Contract No 2009-0039. Staff believes that the cost proposed by Garney is reasonable for the defined scope.