

**AMENDMENT NO. 1 TO  
CAROTHERS PARKWAY AND MERIDIAN BOULEVARD/GILLESPIE DRIVE INTERSECTION  
IMPROVEMENTS AGREEMENT  
COF Contract No. 2015-0172**

**THIS AMENDMENT** is made by and between the **City of Franklin, Tennessee** (“City”) and **MERIDIAN COOL SPRINGS OWNER’S ASSOCIATION, INC.** (“Property Owner”), entered into on this \_\_\_\_ day of \_\_\_\_\_, 2017.

**WHEREAS**, the City and Property Owner entered into an agreement on October 13, 2016, to make intersection improvements at the intersection of Meridian Blvd and Carothers Parkway; and

**WHEREAS**, the City’s estimated cost for design, permitting, construction management, and installation/construction for the improvements on Meridian Blvd, Carothers Parkway, and signal modifications associated with the project was \$221,000.00; and

**WHEREAS**, during final paving operation, the City requested additional milling and resurfacing at the intersection and on Gillespie Drive as part of the project; and

**WHEREAS**, the property owner has submitted reliable cost documentation associated with the project and the final cost was \$672,263.38; and

**WHEREAS**, the City’s final project cost is \$331,483.50 (\$185,632.17 for intersection improvements and \$145,851.33 for additional milling /resurfacing); and

**WHEREAS**, funding for the project was to be paid out of the FY 2017 TOC Capital Budget and the FY 2017 Street Departments resurfacing budget; and

**WHEREAS**, the project was completed by the Property Owner and accepted by the City.

**NOW, THEREFORE**, the City and the Property Owner, their successors and assigns, do hereby agree as follows:

1. The foregoing recitals are incorporated into this Agreement and made a part thereof.
2. The City agrees to reimburse the Property Owner \$331,483.50 for the Project based on submitted cost documentation.
3. There shall be no additional reimbursements to Property Owner associated with this project.
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 13, 2016, are unchanged and remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment.

**Property Owner**

Meridian Cool Springs Owner's Association, Inc

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned, a Notary Public of said County and State, personally appeared \_\_\_\_\_, with who I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be \_\_\_\_\_ (or other officer authorized to execute the instrument) of Boyle Investment Company the within named bargainer, a limited liability company, and that he as such \_\_\_\_\_ executed the foregoing instrument for the purposes therein contained, by personally signing the name of the company by himself as \_\_\_\_\_.

Witness my hand and seal on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**CITY OF FRANKLIN, TENNESSEE**

**ATTEST:**

By: \_\_\_\_\_  
DR. KEN MOORE  
Mayor

By: \_\_\_\_\_  
ERIC S. STUCKY  
City Administrator

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

STATE OF TENNESSEE  
COUNTY OF WILLIAMSON

Before me, the undersigned Notary Public of said County and State, personally appeared DR. KEN MOORE and ERIC S. STUCKEY, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Mayor and City Administrator, respectively, of the City of Franklin, Tennessee, the within named bargainor, a municipality, and that as such Mayor and City Administrator executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by themselves as Mayor and City Administrator.

Witness my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**Approved as to form:**

\_\_\_\_\_  
Kristen L. Corn, Assistant City Attorney