

CONTRACT
COF Contract No. 2019-0037

This CONTRACT is entered into by and between the **City of Franklin, Tennessee**, hereinafter referred to as “Franklin,” and **Mallory Valley Utility District of Williamson County, Tennessee**, hereinafter referred to as “the District.”

W I T N E S S E T H:

Whereas, the District owns and operates a water distribution system that is partly located within Franklin;

Whereas, East McEwen Drive, Cool Springs Boulevard, and Oxford Glen Drive intersect at a roundabout within Franklin (“the Roundabout”);

Whereas, the District has exclusive easements running parallel to Cool Springs Boulevard and Oxford Glen Drive, of record in Book 4130, Page 735 of the Williamson County Register of Deeds Office, in which the District has an 18-inch-diameter water main;

Whereas, at the Roundabout, the District’s water main leaves the easements and crosses the public right of way;

Whereas, Franklin wishes to expand the Roundabout, which will require the relocation of part of the District’s water main;

Whereas, the proposed expansion of the right of way will encroach on the District’s exclusive easements; and

Whereas, Franklin and the District wish to define their rights and obligations with respect to the Roundabout;

Now, Therefore, for and in consideration of the mutual covenants of the parties, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Franklin will relocate a portion of the District's 18-inch-diameter water main in accordance with the plans attached hereto as Exhibit A, including all drawings and notes ("the Plans"). The Plans are hereby incorporated into this Contract. Any requirement placed on the "contractor" in the Plans will apply to Franklin. Franklin will not deviate from the Plans in any manner without the advance written consent of the District. This project will be referred to herein as the "Main Relocation." All water mains, valves, fittings, pipes, meters, hydrants, and appurtenances installed as part of the Main Relocation will be referred to herein as "the Water Facilities."

2. The District will acquire and supply all materials needed for the Main Relocation. The District will have the materials delivered to the worksite or another mutually acceptable location. The purchase of materials will occur within six (6) weeks after the date of execution of this Contract. Notwithstanding the foregoing, if, six (6) weeks after the date of execution of this Contract, the District has not received any bids for the materials or if the District has determined that it must seek new bids, the purchase of materials will occur as soon as reasonably practicable.

3. Franklin will pay for and supply all labor and equipment needed for the Main Relocation. Notwithstanding anything to the contrary in the Plans, Franklin will complete the Main Relocation within eight (8) weeks of the date of delivery of materials.

4. Franklin will notify the District of each day during which the Water Facilities will be under construction so that the District's inspector may be on-site to observe the installation to ensure that the Plans and the District's technical specifications are met. The inspector will review the actual installation in progress on-site. If merited, the inspector will approve the location and quality of the installation immediately after inspection. No portion of the installation will be covered or back filled until the District's inspector approves the installation.

If the inspector finds that the installation varies from the Plans or the District's technical specifications or finds defects in workmanship or materials, Franklin must correct the installation immediately and obtain a re-inspection and approval of the corrected installation before covering that portion of the installation. Franklin will bear all expenses necessary to uncover any portion back filled or covered prior to inspection and approval by the District's inspector.

5. Franklin will obtain at its own cost and expense any licenses, permits, additional right of way, or other property interests needed for the Main Relocation.

6. A portion of the District's existing 18-inch-diameter water main will be abandoned in place, as depicted in the Plans.

7. Upon installation, testing, disinfection, approval, and acceptance for use by the District, the Water Facilities will become the District's property without the necessity of a formal conveyance from Franklin to the District. Franklin warrants that title to the Water Facilities will be free and unencumbered. The District's election to accept any portion of the Water Facilities will not be construed as an assumption of any obligation Franklin or a third party may have in connection with the Water Facilities. Upon demand by the District, Franklin will execute, acknowledge, and deliver a deed or other instrument formally conveying title to the Water Facilities to the District.

8. If Franklin performs all of its obligations under this Contract, then the Main Relocation will not be deemed to unlawfully interfere with the District's exclusive easements of record in Book 4130, Page 735 of the Williamson County Register of Deeds Office. This Section 8 will not prevent the District from bringing or maintaining a lawsuit or other legal proceeding to prevent or remedy interference with its easements if (a) Franklin breaches this Contract or (b) Franklin interferes with the District's easements in a manner not required by the

Main Relocation.

9. This Contract is not assignable by either party without the written consent of the other party.

10. Franklin will produce and submit to the District as-built drawings for all the Water Facilities that Franklin installs.

11. The invalidity or unenforceability of any provision of this Contract will not affect the validity or enforceability of the remaining provisions.

12. This Contract constitutes the entire agreement of the parties. This Contract may be modified or amended only by an instrument in writing executed by the parties.

13. This Contract is governed by the laws of Tennessee, and any dispute or legal action arising out of or related to this Contract must be filed in the courts of Williamson County, Tennessee.

14. The parties have participated jointly in the negotiation and drafting of this Contract. This Contract shall not be construed for or against either party based upon authorship.

15. The individuals signing below represent that they have full authority to execute this Contract on behalf of their respective parties; that this Contract has received any approval required by law from their respective parties; and that this Contract is a legal, valid, and binding agreement. This Contract will be deemed executed when both parties have signed it below.

16. This Contract may be signed in counterparts. Counterparts delivered via facsimile or via e-mail in Adobe portable document format (.pdf) shall be deemed originals.

In Witness Whereof, the parties have affixed their signatures as of the dates shown below.

[Signature pages follow.]

CITY OF FRANKLIN, TENNESSEE

The City Administrator Approved this Agreement on the 19TH day of MARCH 2019 under the Authority Granted by the Franklin Board of Mayor and Aldermen by Resolution 2012-05

By: Eric S. Stuckey 3-19-19
Eric S. Stuckey Date
City Administrator

MALLORY VALLEY UTILITY DISTRICT
OF WILLIAMSON COUNTY, TENNESSEE

By: Ron Coker 2-28-2019
Ron Coker, Date
President of the Board of Commissioners

Approved as to form:

Tiffani M. Pope
Tiffani M. Pope, COF Staff Attorney

State of Tennessee)
)
County of Williamson)

Before me, a Notary Public in and for the County and State aforesaid, personally appeared Ron Coker, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of the Board of Commissioners of Mallory Valley Utility District of Williamson County, Tennessee, a public corporation, and that he executed the foregoing instrument for the purpose therein contained by signing on behalf of the corporation.

Witness my hand and official seal on this the 28 day of FEBRUARY, 2019.

[Handwritten Signature]

NOTARY PUBLIC

My Commission Expires: May 17, 2019



State of Tennessee)
)
County of Williamson)

Before me, a Notary Public in and for the County and State aforesaid, personally appeared Eric S. Stuckey, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the City Administrator of the City of Franklin, Tennessee, and that he executed the foregoing instrument for the purpose therein contained by signing on behalf of the City of Franklin.

Witness my hand and official seal on this the 19TH day of MARCH, 2019.

[Handwritten Signature: Vicki L. Parr]

NOTARY PUBLIC

My Commission Expires: 2-23-20



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EXHIBIT A

