



## MEMORANDUM

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April 29, 2010

TO: Board of Mayor and Aldermen

FROM: David Parker, P.E, City Engineer/CIP Executive  
Eric Stuckey, City Administrator  
Eric J. Gardner, P.E., Director of Engineering

SUBJECT: First Amendment to Agreement with Middle Tennessee Electric Membership Corporation for the Underground Electric Cable as part of the McEwen Drive Phase III Project at a cost of \$939,224.00.

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) to consider amending the agreement with Middle Tennessee Electric Membership Corporation (MTEMC) for the required underground electric cable as part of the McEwen Drive Phase III Project.

### **Background**

McEwen Drive Phase III is Priority #3 of the current BOMA approved Capital Investment Program (CIP) priority projects and was included in the BOMA-approved CIP funding plan. The City entered into an agreement with MTEMC in September 2009 for the installation of underground electric cable on the McEwen Phase III Project. As part of the agreement, the City would pay MTEMC \$939,224 for the cable installation.

The City is required to install underground electrical conduit and cable for the section of McEwen Drive within the Avalon Squared Development as part of an agreement between the City and the developer. City staff has worked with MTEMC staff and has determined that the electrical service can remain overhead on the property not owned by the Avalon Squared developer. This section, which runs from Carothers Parkway to the TVA Utility lines, has electrical lines located approximately 400 feet south of the existing road which can be converted to underground when that property is developed.

Since the estimate provided by MTEMC and used for the Agreement dated September 4, 2009, costs for the proposed work have escalated and MTEMC has provided an updated estimate of \$973,085.00. Therefore, there is a need to amend the September 4<sup>th</sup> Agreement to revise the cost.

### **Financial Impact**

Entering into the First Amendment to the Agreement with MTEMC will add \$33,861 to the cost of this portion of the McEwen Drive, Phase III Project.

### **Recommendation**

Approval of the amended agreement with MTEMC is recommended.

**FIRST AMENDMENT TO THE  
MIDDLE TENNESSEE ELECTRIC MEMBERSHIP CORPORATION  
AGREEMENT – O.B.102-N, ATTACHMENT NO. 1  
McEWEN DRIVE, PHASE III  
COF CONTRACT NO. 2009-0047**

This Amendment is entered into this the \_\_\_\_ day of \_\_\_\_\_, 2010 by and between the City of Franklin, Tennessee (“City”) and Middle Tennessee Electric Membership Corporation (“MTEMC”). This Amendment shall amend the Agreement entered into between the City and MTEMC on September 4, 2009.

**WHEREAS**, at the time of the signing of the original Agreement, MTEMC had provided and the City had agreed upon an estimated cost of undergrounding its electrical service lines along proposed McEwen Drive, Phase III – from Cool Springs Blvd west to the TVA Easement – at a cost of \$939,224.00; and

**WHEREAS**, since the time of the signing of the original Agreement, MTEMC has experienced an increase in the costs of materials necessary for the undergrounding of the existing overhead lines along proposed McEwen Drive, Phase III; and

**WHEREAS**, MTEMC has provided an updated cost estimate dated 3/31/2010; and

**WHEREAS**, in order to commence the McEwen Drive, Phase III Project with the undergrounding of the electrical service lines as proposed, the City shall pay MTEMC the estimated cost for such work.

**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. The parties acknowledge that the estimated costs to be incurred by MTEMC for the installation of underground electrical service along McEwen Drive, Phase III from Cool Springs Blvd west to the TVA Easement appears to be appropriate for the excess costs which MTEMC would have incurred had standard overhead service been provided.
3. The last sentence of Paragraph C of the September 4, 2009 Agreement is amended by striking the cost difference of “\$939,224.00” and added instead the cost difference of “\$973,085.00.”
4. The March 31, 2010 MTEMC estimate of cost difference for underground of a 1000/750 circuit from Cool Springs Blvd west to the TVA Easement is attached hereto as Exhibit A
5. All other provisions in the MTEMC O.B. 102-N, Attachment No. 1, the MTEMC Operational Bulletin No. 102-N and the City’s Addendum – Standard Terms and

Conditions – as included as part of the original September 4, 2009 Agreement shall remain unchanged and in full force and affect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

CITY OF FRANKLIN, TENNESSEE

MIDDLE TENNESSEE ELECTRIC  
MEMBERSHIP CORPORATION

By: \_\_\_\_\_  
John C. Schroer  
Mayor  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Eric S. Stuckey  
City Administrator  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Shauna R. Billingsley  
City Attorney