

**AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR MCEWEN DRIVE TEMPORARY CONNECTOR  
COF CONTRACT NO 2012-0076**

**THIS AMENDMENT** is made and entered into on this the \_\_\_ day of \_\_\_\_\_, 2012, by and between the **City of Franklin, Tennessee** ("City") and **SULLIVAN ENGINEERING, INC. (SEI)** ("Consultant").

**WITNESSETH:**

**WHEREAS**, the City and the Consultant entered into a Professional Services Agreement ("Agreement") entitled **MCEWEN DRIVE TEMPORARY CONNECTOR DESIGN**, dated 8<sup>th</sup> Day of May, 2012; and

**WHEREAS**, the Consultant has provided a revised Scope of Services for the Construction Administration and Inspection and estimated Fee for said services as broken down in Exhibit A; and

**WHEREAS**, the City has negotiated with the Consultant an increase in services as described in Exhibit A for an additional cost of \$95,000.

**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. Consultant's Responsibilities and Duties. Consultant agrees to perform the additional CEI Services as described in Exhibit A.
3. City's Responsibilities and Duties. City shall pay Consultant for the cost of the additional CEI Services required in an amount not to exceed **Ninety Five Thousand Dollars (\$95,000.00)**

The City reserves the right to issue any payments jointly to the Consultant and Contractor when the City receives information that the Consultant has not paid its Contractor.

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 May 8<sup>th</sup>, 2012 are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment.

**CITY OF FRANKLIN, TENNESSEE**

**SULLIVAN ENGINEERING,  
INC.**

By: \_\_\_\_\_  
**Dr. Ken Moore**  
Mayor  
Date: \_\_\_\_\_

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

**Attest:**

\_\_\_\_\_  
**Eric S. Stuckey**  
City Administrator/Recorder  
Date: \_\_\_\_\_

**Approved as to form:**

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

# EXHIBIT A



## **SULLIVAN ENGINEERING, INC.**

317 Main Street, Suite 201  
Brentwood, TN 37064  
(615)642-5822

September 24, 2012

Mr. Paul Holzen, P. E.  
City of Franklin Director of Engineering  
Engineering Department  
109 3rd Avenue South  
Suite 142  
Franklin, TN 37064

### **PROJECT IDENTIFICATION:**

McEwen Drive Temporary Connector  
City of Franklin Construction Project No. 2012-0151  
Sullivan Engineering Project No. 12-004  
Dated: October 2012

Dear Paul,

This document is to define as clearly as possible the duties of the construction observation team with regard to contract administration, construction observation and testing services. Additional services shall include evaluation of signing and pavement markings of the Cool Springs roundabout and approaches. The team used in the successful completion of this project area as follows:

- Project Administrator ----- Sullivan Engineering, Inc.
- Contract Documents----- Sullivan Engineering, Inc.
- Roadway Construction Observation----- Sullivan Engineering, Inc./Terracon
- Water Quality Observation (1)----- Sullivan Engineering, Inc./Terracon
- Testing ----- Terracon
- Cool Springs Roundabout signs/pvmt marking ----- Sullivan Engineering, Inc./RPM Transportation

Note:

(1) The construction documents additionally require that the General Contractor provide inspectors and supervisors responsible for the implementation and maintenance of EPSC features. Personnel responsible for these services shall have at a minimum have a current certification of having successfully completed the TDEC "level 1 - Fundamentals of Erosion Prevention and Sediment Control for Construction Sites".

The intent of this document is to provide an understanding of responsibility and authority of personnel while providing construction oversight and contract administration of the subject project. The administration of this agreement will be conducted in full cooperation with city staff assigned to the project. In addition the City Project Supervisor associated with the construction of this project shall have the final word in regard to challenges by the contractor or decisions made by the contract administrator regarding work. The ultimate goal by all parties involved is to administer the contract in a highly professional manner, conducive of a cooperative relationship between the Construction Observation Team, Prime Contractor, and City Staff, to

complete the work on budget, on time and with minimum inconvenience to the public.

Sullivan Engineering, Inc. (SEI) team that has been assembled for this project shall provide effective and qualified supervision of all construction observation and contract administration services related to this document. Our field technicians will be certified in the applicable areas of expertise as listed below:

- T.D.O.T. Certified Asphalt Roadway Paving Inspector
- T.D.O.T. Certified Concrete Technician
- T.D.O.T. Certified Soils and Aggregate Technician
- T.D.E.C. Certified Level 1 and 3 E.S.P.C. Technician

Construction observation services will insure work activities conform to Plans and Specifications for all roadway, structures, and specialty items being incorporated into the project. Our team of professionals observe, measure and record items used in the construction of this project for use in the review of the prime contractor's application for payment. Field measurements will be recorded in a format agreed upon at the pre-construction conference. If our team of observes finds deficiencies or problems with work performed by the prime contractor or his sub-contractors we shall promptly notify the city project supervisor and prime contractor of the problem. The prime contractor shall also be requested to take necessary actions to correct the situation immediately.

Our team will observe traffic and erosion control items for conformance with approved permits and plans as well as effectiveness of operation in the field. Non-compliance or ineffective traffic or erosion control measures shall be promptly brought to the prime contractor's attention with a request to take necessary actions to correct the situation immediately.

### **Construction Engineering Services**

- a) Project diary of site visits shall contain but not be limited to consisting of:
  - i) A record of the contractors daily activity on the project
  - ii) Location and work performed at the time of inspection
  - iii) Direction provided to the prime contractor as it relates to clarification of the construction documents
  - iv) Events of note on the project
  - v) Incidents of note on the construction site such as an accident. If an incident does occur on the project details surrounding the incident such as police report number, fatalities, causes, time, and other pertinent data shall be noted.
  - vi) Although this project is to be constructed based on a calendar basis our team will note significant weather events. The notes will contain such information as amount of precipitation, cloud cover and temperature at the time of the site visit.
  - vii) Other details that may be important later in the project life
- b) Maintain a project correspondence file
  - i) Distribute meeting minutes
  - ii) Review and distribute Shop Drawings
    - (1) Review request for substitutions
    - (2) Coordinate with City for appropriate actions
  - iii) Distribute contract documents as required.
    - (1) Supplemental Instructions
    - (2) Proposal Request

- (3) Change Orders
- c) Attend project meetings
  - i) Schedule and attend bi-weekly project meetings
  - ii) Visit site a minimum of one (1) day weekly to ascertain construction status
    - (1) Periodic site visits will be performed throughout the week
    - (2) Special site meetings with city and contractor as required.
  - iii) Attend substantial and final field review meetings
    - (1) Prepare and distribute punch list items
  - iv) Attend other project meetings as required.
- d) Contractor's application for payments
  - i) Visit construction site to check quantity and quality of work
  - ii) Check material tickets
    - (1) Verify material tickets have been prepared by a certified public weigher
    - (2) Project identification
    - (3) Name of supplier
  - iii) Other items which require field measurements or adjustments
    - (1) Concrete curb
    - (2) Bituminous adjustment
    - (3) Fuel Adjustments
    - (4) Incentives
    - (5) Liquidated damages
    - (6) Changes to Owner and Contractor Agreement (money and time)
  - iv) Compare and evaluate estimated quantity with contractors request
  - v) Distribute, review and submit for payment
- e) **Quality Assurance**
  - i) Construction Testing & Observation
    - (1) Testing for Acceptance of work
      - (a) To provide field testing and observations using employees qualified or properly certified to perform the required task.
      - (b) Monitor testing provided by the contractor in the field as defined in the project manual and at the pre-construction conference.
      - (c) Documentation of testing shall be on forms as agreed upon at the pre-construction conference.
      - (d) Field testing
        - (i) Shall include but not be limited to
          - 1. ACI tests for concrete
          - 2. Approved testing of earthwork, base stone, asphalt, and pipe backfill
          - 3. Aggregate analysis and moisture testing for roadway embankment and base stone materials
          - 4. Test to be taken at the asphalt plant which is typically performed by TDOT personnel has been excluded from the agreement.
          - 5. Quality assurance shall also include miscellaneous checking of application rates, and dimensions to assure conformance to Plans and Specifications.
    - (2) Certifications of material to be used on this project as submitted by the contractor will be reviewed for conformity to the project specifications.
    - (3) Observe roadway construction operations
      - (a) Field visits with written reports.
- f) **Project Claims**
  - i) Prepare documentation for claims or potential claims by the contractor
  - ii) Assist City of Franklin in the defense of claims

- g) Review construction schedule
  - i) Notify owner and contractor as required
- h) Review Traffic and Erosion features
  - i) Installation
  - ii) Maintenance
    - (1) Notify contractor as to non-compliance issues
- i) Prepare project closure documents

<b>Estimated construction time 26 Weeks</b>	<b>Professional Engineer II</b>	<b>Staff Assoc/Proj Coordinator</b>	<b>Roadway Designer II</b>	<b>CADD Technician</b>
<b><u>Rate/MD</u></b>	<b><u>\$1,209.12</u></b>	<b><u>\$896.48</u></b>	<b><u>\$766.72</u></b>	<b><u>\$684.24</u></b>
Project diary and site visits	1.63	3.38	0.00	2.60
Maintain a project correspondence file	0.00	6.50	0.00	0.00
Attend project meetings	2.44	9.75	0.00	9.75
Contractor's application for payments	0.00	2.03	0.00	0.00
Quality Assurance	1.63	3.38	0.00	0.00
Observe roadway construction operations	1.63	3.38	0.00	0.00
Project Claims	0.00	1.69	0.00	0.00
Review construction schedule	0.00	1.69	0.00	0.00
Review Traffic and Erosion features	0.00	3.38	0.00	0.00
Maintain Traffic During Construction	0.00	3.38	0.00	0.00
	0.00	0.00	0.00	0.00
<b><u>Total MD</u></b>	7.31	38.56	0.00	12.35
<b><u>Sub-Total</u></b>	<b>\$8,841.69</b>	<b>\$34,569.39</b>	<b>\$0.00</b>	<b>\$8,450.36</b>
				<b>Fee Summary</b>
				<b>\$51,861.44</b>

## **Geotechnical, Testing and Filed Observations (Terracon)**

### **Scope of Work:**

1. Earthwork Observations and Testing (2 weeks of part-time 4 hours per day, 5 days per week)
2. Site Concrete Testing and Inspection (4 misc. concrete pours on curb and gutter)
3. Stone Base Placement Observations and Testing

4. Asphalt Paving Inspection and Testing
5. Project Management and Administration

Round trip travel to and from the jobsite from Terracon's office is 36 miles and 1.0 hour.

**Earthwork Observations & Testing**

<u>Field Activity</u>	<u># of Trips</u>	<u>Fee</u>
Earthwork Observation and Testing (On-site time only)	10	\$1,932.00
Trip Charge (includes travel time and mileage)	10	\$736.00
<b><u>Laboratory Activity</u></b>		
Atterberg Limits	2	\$184.00
Natural Moisture	2	\$13.80
Proctor	2	\$287.50

**Earthwork Observations & Testing Subtotal** **\$3,153.30**

**Site Concrete Inspection And Testing**

<u>Field Activity</u>	<u># of Trips</u>	<u>Fee</u>
Curb and Gutter Pours	4	\$386.40
Cylinder Pick-up	3	\$36.23
Trip Charge	7	\$515.20
<b><u>Laboratory Activity</u></b>		
Test Cylinders	12	\$151.80

**Site Concrete Inspection And Testing Subtotal** **\$1,089.63**

**Stone Base Placement Observations And Testing**

<u>Field Activity</u>	<u># of Trips</u>	<u>Fee</u>
Observations and Testing	5	\$1,932.00
Specimen Pick-up	1	\$12.08
Trip Charge	6	\$441.60
<b><u>Laboratory Activity</u></b>		
Seive Analysis	1	\$74.75
Specific Gravity	1	\$74.75
Proctor	1	\$143.75



**Stone Base Placement Observations And Testing Subtotal** **\$2,678.93**

**Asphalt Placement Observation And Testing**

<u>Field Activity</u>	<u># of Trips</u>	<u>Fee</u>
Observations and Testing (On-site time only)	5	\$1,932.00
Observations and Testing - OT (On-site time only)	5	\$724.50
Observations and Testing - OT (On-site time only - Saturday)	1	\$724.50
Trip Charge - OT (includes travel time and mileage)	6	\$683.10
<b><u>Laboratory Activity</u></b>		
Extraction/Gradation Test	2	\$287.50
Asphalt Cores	5	\$460.00

**Asphalt Placement Observations And Testing Subtotal** **\$4,811.60**

**Meetings And Consulting**

Per our conversations on September 17, 2012, there is estimated to be one pre-bid meeting, one pre-Construction meeting, 1 day per week of site visits by an engineer, and 20 progress meetings.

A secretary will take meeting minutes at each meeting.

<u>Field Activity</u>	<u># of Trips</u>	<u>Fee</u>
Pre-bid Meeting	1	\$338.10
Pre-Construction Meeting	1	\$338.10
Site Visits	10	\$4,508.00
Progress Meetings	20	\$6,762.00
Minute Recording	22	\$3,187.80
Mileage	32	\$794.88

**Meetings And Consulting Subtotal** **\$15,928.88**

**Estimated Construction Inspection And Testing Subtotal** **\$27,662.33**

**Miscellaneous Contract Administration Fees** **\$3,319.48**

**Estimated Total** **\$30,981.81**

**Cool Springs Roundabout – Pavement Marking and Signage Plan (RPM Transportation)**

Scope of services associated with evaluating and updating pavement marking and signing plans for final design of the proposed roundabout at the intersection of Cool Springs Boulevard and McEwen Drive which will include adding a fourth leg to the intersection. Base survey and design information for the proposed roadway improvements will be developed from the current construction design documents, Sullivan Engineering, Inc., Project # 12-004.

**Task 1 – Evaluation & Development of Pavement Marking and Signage Plan**

On order to identify recommended modifications to the current pavement markings and signage, our design team will analyze the impacts of adding a fourth leg to the intersection. Based on this analysis a pavement marking and signage plan for final design of the proposed roundabout at the intersection of Cool Springs Boulevard and McEwen Drive will be prepared and issued as a supplemental roadway construction document.

Project coordination via phone and email throughout the project, with one review by city staff for comments and revisions.

	Description of Work	Unit	Fee
Task 1	Analyze & Develop Pavement Marking and Signage Plan, Project Coordination & Meetings	Lump sum	\$6,900.00
	Estimated Reimbursable (NTE)	Actual (Not to Exceed)	\$172.50
<b>TOTAL</b>			<b>\$7,072.50</b>

The following summary represents the estimated fee necessary for our design team to complete this project:

**SUMMARY OF PROPOSAL**

Task	Unit	Fee Summary (Rounded)
Construction Engineering Services	Lump Sum	\$51,861.00
Estimated Construction Inspection And Testing Sub-Total	Not To Exceed	\$30,982.00
Cool Springs Roundabout – Pavement Marking And Signage Plan	Lump Sum	\$7,073.00

Survey (Field Check Allowance)	Not To Exceed	\$5,000.00
<b>TOTAL</b>		<b>\$94,916.00</b>

**ADDITIONAL SERVICES**

Any work, other than the scope of services outlined herein, shall be designated additional services. At such time that it is determined that these additional services are required; Sullivan Engineering, Inc. reserves the right to amend this proposal or execute a separate agreement that will provide such services. Services desired by the client, but not specifically outlined herein, can be provided on an hourly basis.

This project will be developed in accordance with City of Franklin and T.D.O.T. Guidelines, and shall include all items listed in the Scope of Work, inclusive of any computer plotting, printing or reimbursable expenses.

I hope this proposal meets with your approval. Please phone after you have had a chance to review this proposal or if there are any questions.

Sincerely,  
**Sullivan Engineering, Inc.**

*Paul V. Collins, Jr.*

Paul V. Collins, Jr.  
Vice President

cc: Mr. Richard Sullivan, PE, Sullivan Engineering, Inc.



28 September 2012

TO: Board of Mayor and Aldermen (BOMA)

FROM: David Parker, P.E., City Engineer/CIP Executive  
Eric Stuckey, City Administrator  
Paul Holzen, P.E., Director of Engineering  
Jonathan Marston, P.E., Staff Engineer

SUBJECT: Consideration of Amendment No. 1 (Contract 2012-0076) to the Professional Services Agreement (PSA) with Sullivan Engineering, Inc. (SEI) for Construction Administration and Inspection services for the McEwen Drive Temporary Connector Project in an amount not to exceed \$95,000.00.

**Purpose**

The purpose of this memo is to recommend approval of the PSA with SEI for the McEwen Drive Temporary Connector Project Construction Administration and Inspection services.

**Background**

On May 8, 2012 BOMA approved SEI to design the McEwen Drive Temporary Connector Project. This project provides a continuous transition between the roundabout at McEwen Drive & Cool Springs Boulevard to the existing two-lane section of McEwen Drive east of the roundabout. The construction of this project is estimated at 6 months. The services provided by SEI and their subconsultant, Terracon, will supplement the project oversight provided by City Staff and ensure the final product is of the highest quality.

**Financial Impact**

The Construction Administration and Inspection is \$95,000 and represents approximately 5% of the Opinion of Probable Costs for this project (\$1,920,000). Funds are to be paid out of the Capital Projects Budget.

**Recommendation**

Staff recommends approval of Amendment No. 1 Contract 2012-0076, the Professional Services Agreement (PSA) with Sullivan Engineering, Inc. (SEI) for Construction Administration and Inspection services for the McEwen Drive Temporary Connector Project in an amount not to exceed \$95,000.00.