

AGENDA

Special City Council Meeting and Workshop



5:00 PM - Tuesday, June 15, 2021

City Council Chambers, 201 E. Nash Street, Terrell, TX

Mayor Rick Carmona

Council Members

District 2 - Grady Simpson

District 3 - Mayrani Velazquez

District 4 - Stephanie Holmes-Thomas

District 5 - Tim Royse

City Manager Mike Sims

NOTICE IS HEREBY GIVEN that the Terrell City Council will conduct a Special City Council Meeting and Workshop at 5:00 p.m. on Tuesday, June 15, 2021, at Terrell City Hall located at 201 East Nash Street. The meeting is open to the public with limited seating in the Council Chambers. Recommendations of the CDC regarding social distancing will be practiced during the course of the public meeting to slow the spread of the Coronavirus (COVID-19).

If you choose not to attend in person and you wish to submit public comments, email support@cityofterrell.org and title the email "Public Comment". All public comments submitted by 12:00 pm on Tuesday, June 15, 2021 will be provided to the City Council members and read into the record for the Tuesday, June 15, 2021 City Council Meeting.

Page

1. CALL TO ORDER

2. INVOCATION

3. PLEDGE TO AMERICAN FLAG AND TEXAS FLAG.

4. MAYOR AND COUNCIL COMMUNITY RECOGNITION AND EVENTS

5. HEAR REMARKS FROM VISITORS.

This time is set aside on the agenda to invite any person to address the Council on issues not subject to a public hearing. Routine administrative matters are best discussed with the appropriate City Staff before bringing them to the Council. Prior to the meeting, please complete a "Citizen Participation Form" and present it to the City Secretary. In accordance with the Texas Open Meetings Act, Section 551.042, the City Council cannot discuss, consider, or take action on matters not listed on the agenda. Speakers should limit their comments to 3 minutes and are asked to speak into the microphone provided, identifying themselves for the record. The total amount of time set aside for this place on the agenda is 15 minutes. Comments of a personal nature directed at the Council or Staff are inappropriate.

6. DISCUSSION ITEMS

6.1.	Discuss Work Authorization 19 for Professional Services related to the FM148 North Project.	4 - 13
	<u>Agenda Item Report - AIR-21-050 - Pdf</u>	
6.2.	Discuss Resolution No. 1048, a Resolution Adopting Policies in Connection with the TxCDBG Programs.	14 - 36
	<u>Agenda Item Report - AIR-21-044 - Pdf</u>	
6.3.	Discuss Resolution No. 1049, a Resolution Designating Signature Authorizations for Community Development Block Grant Projects.	37 - 38
	<u>Agenda Item Report - AIR-21-043 - Pdf</u>	
6.4.	Discuss Amendment No. 1 for Professional Services for Drainage Improvements Evaluation for the Boone/West End/Mineral Wells Project.	39 - 45
	<u>Agenda Item Report - AIR-21-045 - Pdf</u>	
6.5.	Discuss Professional Services Contract for the Design of a Water Main in N. Blanche Street from E. Moore to E. High Street.	46 - 61
	<u>Agenda Item Report - AIR-21-047 - Pdf</u>	
6.6.	Discuss Professional Services Contract for the Design of Sewer Main for the TxCDBG Project.	62 - 77
	<u>Agenda Item Report - AIR-21-046 - Pdf</u>	
6.7.	Review Final Design for Temple Street Project.	78
	<u>Temple Street Layout</u>	

7. ADJOURN INTO EXECUTIVE SESSION IN ACCORDANCE WITH SECTION 551 OF THE TEXAS GOVERNMENT CODE TO DISCUSS THE FOLLOWING:

Section 551.072 Deliberations Regarding Real Property.
Section 551.087 Deliberations Regarding Economic Development Negotiations.

8. RECONVENE INTO REGULAR SESSION AND CONSIDER ACTION, IF ANY, ITEMS DISCUSSED IN EXECUTIVE SESSION.

9. ADJOURN.

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the Governing Body of the City of Terrell is a true and correct copy of said NOTICE, which has been posted on the front OUTDOOR BULLETIN BOARD CABINET FOR AGENDAS of the Terrell City Hall, Terrell, Texas, a place convenient and readily accessible to the General Public and on the website at cityoterrell.org, and which has been continuously posted for a period of seventy-two (72) hours prior to the date and time said meeting was convened.

Posted Friday, June 11, 2021 –5:00 p.m.

Dawn Steil, City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 972-551-6600 for further information. Braille is not available.

Council Reserves the Right to Adjourn into Executive Session to Seek Legal Counsel on a Matter Which the Canon of Legal Ethics Demands to Preserve the Attorney-Client Privilege Pursuant to Section 551.071(2) of the Texas Government Code.

Special City Council Meeting and
Workshop
AGENDA ITEM REPORT



To:

Subject: Discuss Work Authorization 19 for Professional Services related to the FM148 North Project

Meeting: Special City Council Meeting and Workshop - Jun 15 2021

Department: Engineering

Staff Contact: Steve Rogers, City Engineer

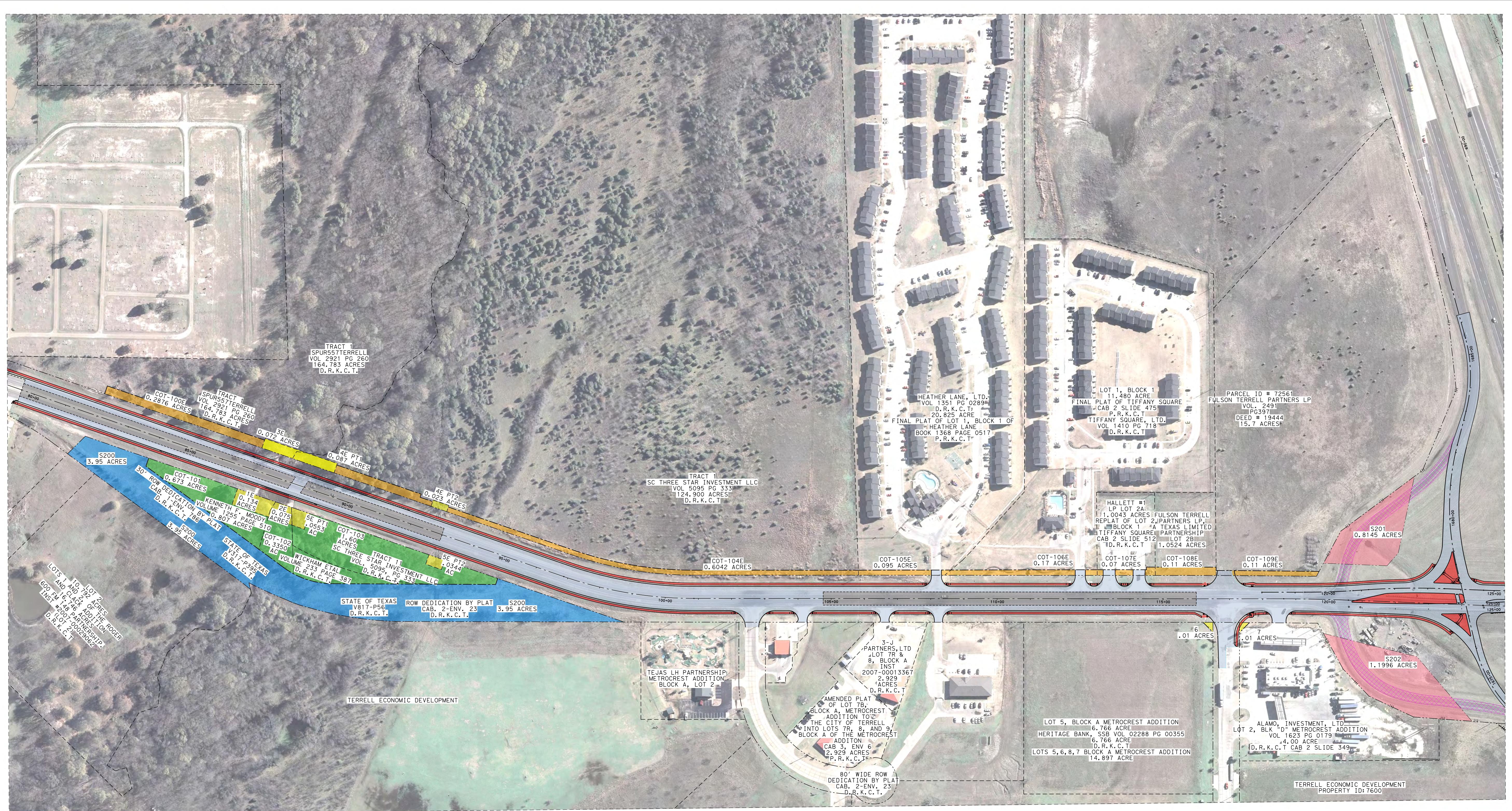
BACKGROUND INFORMATION:

This scope of services relates to Raba Kistner Infrastructure, Inc., in association with a sub-consultant, to provide survey and legal descriptions for three (3) parcels along FM 148 and assist in management and property acquisition. These documents are necessary for negotiations with property owners for the City to take ownership of the properties.

The proposed fee is not to exceed \$71,000.00. Funding is provided through the existing City/County and RTC Partnership.

ATTACHMENTS:

[RK Agreement - Agenda item](#)



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CITY OF TERRELL FEE

CITY OF TERRELL SURPLUS PUBLIC USE

CITY OF TERRELL LONG TERM DRAINAGE UTILITY EASEMENT

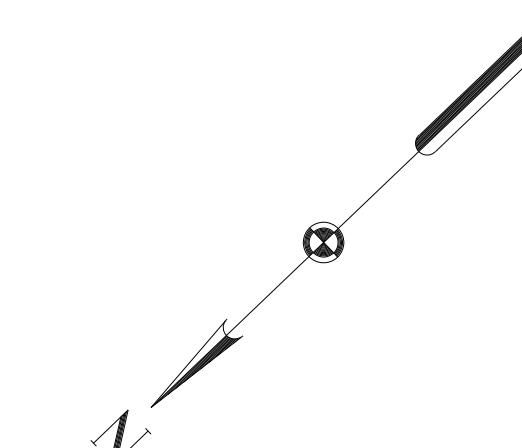
TXDC

CITY OF TERRE SURPLUS PURCHASE

PREFPARFD BY:

Kimley>>>Horn

13455 NOEL RD, TWO GALLERIA TOWER, SUITE 700,
DALLAS, TX 75240
PHONE: 972-770-1300 FAX: 972-239-3820
WWW.KIMLEY-HORN.COM TX F-928



0 150 300

SCALE: 1 " = 150 "

This Services Authorization, which is effective as of _____, shall constitute an amendment to the Professional Services Agreement between the City of Terrell ("City") and Raba Kistner Infrastructure, Inc. ("Engineer") dated October 17, 2011 ("Agreement"). Subject to the terms and conditions described in the Agreement, which are adopted as if repeated in their entirety herein, this Services Authorization serves as authorization by City to Engineer to proceed with the following Professional Engineering Services ("Services"):

City of Terrell Authorization Number:

WA 19

Project Component Name:

FM 148 North: From SP 557 to S of US 80

Phase Number:

Phase III R.O.W Services (Surplus Properties)

Maximum Compensation for this Authorization:

\$71,000.00

The Scope of Services for this Authorization shall be:

-The scope of services include: Oversight and Management of Complete Survey, Mapping, Appraisal, and Acquisition Services for three (3) parcels (S200, S201, and S202). Task also include Title ownership research, preparation of ROE form to be signed and delivered to Client, submission of complete packages to TxDOT, submitting signed agreements, and recording original documents in the real property records.

ADDITIONAL PROJECT COMPONENT OR PHASE SPECIFIC CONTRACT

DOCUMENTS: See attached: Exhibit A- Pinnacle Consulting Management Group Fee Schedule
Exhibit B - Raba Kistner Infrastructure, Inc. Fee Schedule

ADDITIONAL TERMS AND CONDITIONS:

ONLY THE CITY'S AUTHORIZED REPRESENTATIVE MAY APPROVE ANY CHANGE TO THIS SERVICES AUTHORIZATION

APPROVED AND ACCEPTED BY:

RABA KISTNER INFRASTRUCTURE, INC.

CITY OF TERRELL

By: _____

By: _____

Name: Russel W. Lenz, P.E

Name: Mike Sims

Title: President & COO

Title: City Manager

Date: _____

Date: _____

Exhibit A

PROPOSAL for RIGHT OF WAY SERVICES

Pinnacle Consulting Management Group, Inc. (Pinnacle Group) appreciates the opportunity to provide a response for Right of Way Services for **Raba Kistner, Inc. (the Client)** project.

Pinnacle Consulting Management Group, Inc. is a majority woman-owned corporation certified as a Woman-Owned Business Enterprise (WBE) the North Central Texas Regional Certification Agency. We appreciate the opportunity to provide our company information, experience and fees to be considered by the Raba Kistner, Inc. for the **City of Terrell Surplus Property Project**.

Established in 1997, Pinnacle Group provides all services associated with the acquisition of land and right of way, as well as expert relocation assistance and related services. Pinnacle Group has experience in all aspects of land acquisition/right of way acquisition services and right of way program management services, including considerable experience with the requirements of municipal, state and federally funded projects. All services are performed in accordance with the regulations and standards of the acquiring agency and when necessary, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the URA regulations that became effective in February 2005. We know the importance of the timely delivery of needed real estate or right of way to meet project schedules, and to do so in a manner that maintains full eligibility for funding participation from other sources. Pinnacle Group's objective is to provide our clients with unsurpassed professional services in a manner that provides exceptional service to those property owners and tenants affected by a project, and to do so in a timely and cost-efficient manner.

Pinnacle Group has experience providing right of way/land acquisition and program management services in the following areas:

Right of Way/Land Acquisition Services

- Title Research and Curative
- Surveying
- Appraisal and Appraisal Review (Sub-contractor)
- Rights of Entry
- Land/Right of Way Acquisition
- Relocation Assistance Services
- Eminent Domain Support
- Easement Acquisition
- Property Management
- Utility Relocation Coordination
- Feasibility Studies

Right of Way Program Management

- Right of Way and Land Acquisition Consulting
- Schedule Adherence
- Cost Management
- Project Accounting and Claim Review
- Compliance/Quality Assurance Review
- Records Management



Pinnacle Group has contracted with the following sampling of clients:

Land Acquisition/Right of Way Acquisition Services –

Texas Clients:

Texas Department of Transportation
Tarrant Regional Water District
Dallas Area Rapid Transit GEC II Contract/ACT21, A Joint Venture, TX
City of Arlington/Dallas Cowboys Stadium Project and City Projects
City of McKinney
City of Garland
City of Corinth
City of North Richland Hills
City of Lubbock
City of Weatherford
City of Fort Worth
City of Denton
City of Haslet
Oncor Electric Delivery Company
Benbrook Water Authority
Freese and Nichols – Parker County

Oklahoma Clients:

Oklahoma Department of Transportation
Oklahoma Turnpike Authority
Oklahoma City Urban Renewal Authority
Oklahoma Gas and Electric
Caddo County Commissioner, District 1
Comanche County Commissioners, Districts 1 & 3
Grand River Dam Authority
City of Oklahoma City
City of Norman
Jefferson County Commissioners, Districts 1, 2 & 3
Lawton Urban Renewal Authority
Love County Commissioner, District 3

Other Clients:

Mississippi Department of Transportation
Virginia Department of Transportation
Dominion Virginia Power, VA
Connecting Idaho Partners/Idaho Department of Transportation

Projects currently underway in Texas:

Dragados/Flatiron – US 181 Harbor Bridge – Corpus Christi
Texas DOT – SH 36 – Brazoria & Fort Bend Counties
Texas DOT – IH 35 in Denton County
Texas DOT – IH 30 in Rockwall County
Freese and Nichols – Multiple projects, Parker County
Oncor Electric Deliver Co – DFW Metroplex and surrounding areas
City of Denton – Bonnie Brae Avenue, Phase 4B
City of Fort Worth – Big Fossil Creek Parallel Relief Sanitary Sewer Main M-402A, Phase 2



PERSONNEL

We pride ourselves on the caliber of project managers, and agents Pinnacle assigns to projects. Pinnacle staff members are professionals who have considerable experience providing right of way acquisition, land acquisition, relocation assistance and property management in accordance with the Uniform Act. Our personnel have worked on projects for government agencies and private sector clients and have successfully completed projects in accordance with contract requirements. In addition, we encourage our personnel to be involved with the International Right of Way Association (IRWA) at the local chapter level and further his or her education by taking courses offered by the IRWA in order to become discipline certified with the goal of attaining the IRWA senior designation (SR/WA).

The following Pinnacle personnel who are located in the Dallas/Fort Worth area and have experience in providing both acquisition, relocation and condemnation assistance services for city and state projects in Texas.

Marcus Boyd, R/W-URAC, SR/WA, R/W-RAC, R/W-NAC

Executive Vice President

Sarah Riebe, SR/WA, R/W-NAC

Regional and Project Manager
Lead Title and Condemnation

Juan Salazar, R/W-NAC

Project Manager
Lead Negotiation

Robyn Keating

Assistant Project Manager

Cason Mees

Right of Way Agent

Shawna Helterbrand

Right of Way Agent

Ana Salazar

Right of Way Agent

Daniel Cedillo

Right of Way Agent

Ana Ortiz

Right of Way Agent

Jonathon Swake

Easement and Right of Way Agent Trainee
File and Documentation Lead

Neva Pence

File and Documentation

Project Management Approach - The Project Manager will be responsible for the daily management of project activities and will carry a parcel workload. The Project Manager will assign project tasks to agents and will be responsible for monitoring project schedules, project budgets, and attend scheduled status meetings with the Client project personnel. In addition, the Project Manager will coordinate Condemnation Services with representatives for the Client and will work closely with each Client representative to coordinate efforts to ensure that project schedules are maintained.

PROJECT OFFICE

All services for the Client will be coordinated through our Texas Corporate office at the following address:

1400 Brown Trail, Suite A
Bedford, TX 76022

Project Contact: Sarah Riebe, Regional and Project Manager

Telephone: 817-304-2051

E-mail: sriebe@pinnaclegroup.biz



PROJECT APPROACH

Pinnacle will approach the project committed to determine the scope of services to be provided; the unique situations which are present and how best to proceed with the project in terms of staffing and overall project approach. Although every action undertaken by Pinnacle will be in accordance with the Client's guidelines, we carefully review each appraisal, easement acquisition situation to determine if each unique circumstance requires unique solutions and how best those should be incorporated. A professional approach is always our objective as well as a commitment to provide the highest quality service and assistance to those persons impacted by a project.

WHAT WE KNOW ABOUT THE PROJECT

The Project includes acquiring surplus property in various locations in the City of Terrell. The project consists of fee acquisitions for at least three (3) properties based on our review of the maps provided.

HOW WE WILL MANAGE THE PROJECT

The first and most important consideration is timely and accurate communication. The communication between the Client, the property owners and the team on the ground is critical to meeting project deadlines. Timely reporting of appraisal, title, and negotiation progress will ensure that we will successfully complete the project on or ahead of schedule.

Pinnacle Group has a proven record with other clients in managing major projects throughout Texas. Our ability to effectively communicate with all associated parties is evidenced by the number of successful projects completed under our direction.

A second consideration that ensures the successful completion of the project is the ability to manage change. Every project schedule is subject to multiple changes, including utility coordination that must be factored into prioritizing appraisal, title and negotiation efforts. The ability of Pinnacle Group to shift and reschedule priorities ensures a smooth flow in the overall project schedule.

Members of Pinnacle Group successfully worked on various projects statewide with extremely aggressive schedules, managing changing priorities at a moment's notice. Pinnacle Group's ability to plan and anticipate change enhances our ability to succeed in bringing projects in on schedule.

Another consideration in the successful management of a project is Pinnacle Group's ability to manage the field staff. In order to meet project milestones and schedules, we must be able to recognize the abilities of the staff members. Individual goals must be set and monitored to meet the overall project schedule completion. If individuals are unable to meet these individual goals or the client identifies concerns regarding a particular staff member, appropriate action must be taken to address the individual's performance. Pinnacle Group has successfully managed personnel on various projects statewide and will continue to succeed in delivering quality and timely projects for our clients.

A final consideration is Pinnacle Group's ability to assist the client in maintaining the project budget. Pinnacle Group has a proven track record of negotiating prudent and sound settlements that minimize the risk involved with the condemnation process.



BENEFITS OF SELECTING PINNACLE GROUP

Pinnacle Group is different from other right-of-way companies as right of way is our one and only focus. We are not a construction or engineering company that only has a small right of way department. We are a small, majority woman-owned business that does not have the high overhead of a larger engineering company. Our company structure enables us to charge lower fees for similar services with higher quality. With right of way being our only source of revenue, it is our only focus and requires our best efforts as there is no other service for us to fall back on. Another aspect of our company that sets us apart is our diversity. We have 7 English/Spanish bilingual employees located in Texas and another employee who is Vietnamese/English bilingual. I don't believe there is another right of way company that has at least 30 employees located in Texas in which 8 are bilingual.

The following represents our approach to providing Fee Acquisition Services for approximately three (3) Parcels:

- ◆ **Project Kick-Off Meeting and Acquisition Services**
 - ◊ This meeting is perhaps the single most important step in the entire process based on our past experience in providing consultant right of way services. The purpose of the kick-off meeting is for our project staff to meet with the Client project staff to review the work to be performed, and also to clarify procedures and documentation expected by the Client.
 - ◊ Review of Surveys. The surveys prepared by the surveyor will be carefully reviewed to verify what property is being acquired.
 - ◊ Review of Appraisal Reports Regarding Relocations. The appraisal reports prepared by the appraiser and review appraiser will be carefully reviewed to verify what property is being acquired as real property and what is being classified as personal property to ensure those items are dealt with through the relocation assistance program.
 - ◊ Work directly with the Real Estate Services division of TxDOT to adhere to their policies and procedures in acquiring surplus property.
- ◆ **Administrative and Management**
 - ◊ Pinnacle Group strongly believes in keeping the Client fully aware of what actions are underway, including issues which need the attention of Client personnel. We propose to meet with the Client as needed; however, strongly suggest there be a monthly review meeting of the project activities. This meeting will serve to review the project schedule, issues related to displacements which may require special attention.
 - ◊ Pinnacle Group will maintain a complete status report of all project activities including scheduled and actual dates of key events. Status reports will be provided on a weekly/bi-weekly basis, or as requested by the Client in an approved format. In addition, Pinnacle Group will maintain a timeline of project activities and a record of all payments to property owners.



PROPOSED PROJECT FEES NOT TO EXCEED TOTAL OF \$56,000.00

Proposed fees for the project are based on three (3) parcels:

Survey and Mapping Services Not to Exceed Project Total – \$20,000.00

**Proposed fees for the project are based on approximately three (3) parcels
Will be invoiced as pass-thru actual cost reimbursement.

Appraisal Services Not to Exceed Project Total – \$14,100.00

**Proposed fees for the project are based on approximately three (3) parcels
Will be invoiced as pass-thru actual cost reimbursement.

Vacant Land Appraisals* \$3,200.00
\$3,200.00 per parcel maximum

Appraisal Review Services* \$1,500.00
\$1,500.00 per parcel maximum

Acquisition Services Not to Exceed Project Total – \$21,900.00

Right of Entry Coordination/Title/Negotiation Services*

**This is a 'Not to Exceed' total for Acquisition Services and will be invoiced based only on actual work performed. This is also considering any unforeseen reimbursements required.
*Services include, title ownership research, discussions with landowners, preparation of ROE form to be signed and delivered to Client (in the event a ROE is not agreed to by the landowners, Pinnacle Group will submit a contact log to Client explaining why the landowner would not agree), submission of packages to TxDOT, submitting signed agreements, and recording original documents in the real property records.
*Recording Fees, Copies, Mileage and Travel Expenses will be invoiced as pass-thru actual cost reimbursement.
Proposed Fee is based on a rate of \$150.00 per hour.

Exhibit B

Work Authorization 19 **Management Oversight of Surplus Properties Fee Proposal**

Basis of Estimate

Estimated duration of 50 weeks at 2 hours per week Total of 100 Hrs.

Regional Construction Manager Loaded Rate: \$150.00/Hr.

Raba Kistner Term Labor Estimate \$15,000.00*

**This is a 'Not to Exceed' total for Management Oversight and review of surplus properties and will be invoiced based only on actual work performed. This is also considering any unforeseen reimbursements required. *Services include, all required oversight, coordination, collaboration, and review of proposed packages prior to submission to TxDOT.*

Mileage and Travel Expenses will be invoiced as pass-thru actual cost reimbursement.

Proposed Fee is based on a rate of \$150.00 per hour.

Special City Council Meeting and
Workshop
AGENDA ITEM REPORT



To:

Subject: Discuss Resolution No. ____ a Resolution Adopting Policies in Connection with the TxCDBG Programs

Meeting: Special City Council Meeting and Workshop - Jun 15 2021

Department: Engineering

Staff Contact: Steve Rogers, City Engineer

BACKGROUND INFORMATION:

The Texas Community Development Block Grant program requires cities awarded grants to adopt and affirm policies regarding Housing Program rights.

ATTACHMENTS:

[Resolution-civil rights policies](#)

[Resolution - civil rights - supporting policies](#)

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE ATTACHED POLICIES IN CONNECTION WITH THE CITY OF TERRELL, TEXAS PARTICIPATION IN FEDERALLY FUNDED COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECTS AND ADHERENCE TO THE REGULATIONS DESCRIBED THEREIN.

WHEREAS, the City of Terrell, Texas, (hereinafter referred to as "City") has been awarded TxCDBG funding through a TxCDBG grant from the Texas Department of Agriculture (hereinafter referred to as "TDA");

WHEREAS, the City, in accordance with Section 109 of the Title I of the Housing and Community Development Act. (24 CFR 6); the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and for construction contracts greater than \$10,000, must take actions to ensure that no person or group is denied benefits such as employment, training, housing, and contracts generated by the CDBG activity, on the basis of race, color, religion, sex, national origin, age, or disability;

WHEREAS, the City, in consideration for the receipt and acceptance of federal funding, agrees to comply with all federal rules and regulations including those rules and regulations governing citizen participation and civil rights protections;

WHEREAS, the City, in accordance with Section 3 of the Housing and Urban Development Act of 1968, as amended, and 24 CFR Part 135, is required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the TxCDBG project area;

WHEREAS, the City, in accordance with Section 104(1) of the Housing and Community Development Act, as amended, and State's certification requirements at 24 CFR 91.325(b)(6), must adopt an excessive force policy that prohibits the use of excessive force against non-violent civil rights demonstrations;

WHEREAS, the City, in accordance with Executive Order 13166, must take reasonable steps to ensure meaningful access to services in federally assisted programs and activities by persons with limited English proficiency (LEP) and must have an LEP plan in place specific to the locality and beneficiaries for each TxCDBG project;

WHEREAS, the City, in accordance with Section 504 of the Rehabilitation Act of 1973, does not discriminate on the basis of disability and agrees to ensure that qualified individuals with disabilities have access to programs and activities that receive federal funds; and

WHEREAS, the City, in accordance with Section 808(e)(5) of the Fair Housing Act (42 USC 3608(e)(5)) that requires HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act, agrees to conduct at least one activity during the contract period of the TxCDBG contract, to affirmatively further fair housing;

WHEREAS, the City, agrees to maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

1. Section 3 Policy;
2. Excessive Force Policy;
3. Fair Housing Policy; and
4. Code of Conduct Policy

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, THAT THE CITY OF TERRELL ADOPTS THE FOLLOWING:

1. Citizen Participation Plan and Grievance Procedures;
2. Section 504 Policy and Grievance Procedures;
3. Limited English Proficiency Plan;

PASSED AND APPROVED by the City Council of the City of Terrell, Texas on this _____ day of _____, 2021.

E. RICK CARMONA, MAYOR

ATTEST:

DAWN STEIL, City Secretary

UNA RESOLUCIÓN ADOPTANDO LAS POLÍTICAS ADJUNTAS EN RELACIÓN CON CITY OF TERRELL, LA PARTICIPACIÓN DE TEXAS EN LOS PROYECTOS DE LA SUBVENCIÓN DE BLOQUES DE DESARROLLO COMUNITARIO FEDERALMENTE FINANCIADOS (CDBG) Y LAADHESIÓN A LOS REGLAMENTOS DESCritos EN ESTE DOCUMENTO.

Mientras que, City of Terrell, Texas, (en lo sucesivo "Ciudad") ha sido galardonado con CDBG financiación a través de una subvención de CDBG;

Considerando que, Ciudad, según sección 109 del título I de la ley de desarrollo comunitario y vivienda. (24 CFR 6); la ley de discriminación de edad de 1975 (42 U.S.C. 6101-6107); y la sección 504 de la ley de rehabilitación de 1973 (29 U.S.C. 794) y contratos de construcción superior a \$10.000, debe tomar medidas para garantizar que ninguna persona o grupo es negado beneficios como empleo, formación, vivienda y contratos generados por el CDBG actividad, sobre la base de raza, color, religión, sexo, origen nacional, edad o discapacidad;

Considerando que, Ciudad, en la consideración para la recepción y aceptación de fondos federales, se compromete a cumplir con normas federales y reglamentos incluyendo las normas y reglamentos de participación ciudadana y protección de los derechos civiles;

Mientras que, la Ciudad, conformidad con el artículo 3 de la ley de vivienda y desarrollo urbano de 1968, como enmendada y 24 CFR parte 135, se requiere, en la mayor medida posible, para proporcionar oportunidades de formación y empleo para bajar los residentes de ingreso y contrato de oportunidades de negocios en el área del proyecto CDBG;

Considerando que, la Ciudad, según 104(1) de la sección de vivienda y ley de desarrollo de comunidad, enmendado, y requisitos para la certificación del estado en 24 CFR 91.325(b)(6), deben adoptar una política de fuerza excesiva prohíbe el uso de fuerza excesiva contra manifestaciones derechos civiles no violentas;

Considerando que la Ciudad, de acuerdo con la Orden Ejecutiva 13166, debe tomar medidas razonables para garantizar el acceso significativo a los servicios en programas y actividades con asistencia federal por personas con dominio limitado del inglés (LEP) y debe tener un plan LEP específico de la localidad y beneficiarios para cada proyecto CDBG;

Mientras que la Ciudad, según la sección 504 de la Rehabilitation Act de 1973, no discrimina por motivos de discapacidad y se compromete a asegurar que personas calificadas con discapacidades tengan acceso a programas y actividades que reciben fondos federales; y

Considerando que, la Ciudad, según la sección 808(e)(5) de la ley de vivienda justa (42 3608(e)(5)) USC que requiere programas de HUD y actividades administrar en forma afirmativamente a más de las políticas de la ley de vivienda equitativa, se compromete a realizar al menos una actividad durante el período del contrato del contrato CDBG, afirmativamente para equidad de vivienda;

Mientras que la Ciudad, se compromete a mantener escritas normas de conducta que cubre conflictos de interés y que rigen las acciones de sus empleados participan en la selección, concesión y administración de contratos.

ITEM 6.2.

1. Política de la Sección 3;
2. Política de fuerza excesiva;
3. Política de Vivienda Justa; y
4. Política del Código de Conducta

AHORA, POR LO TANTO, SER RESUELTO POR EL Ayuntamiento DE LA CITY OF TERRELL, TEXAS, QUE LA CITY OF TERRELL ADOPTA LO SIGUIENTE:

1. Plan de Participación Ciudadana y Procedimientos de Quejas;
2. De la Sección 504 y Procedimientos de Quejas;
3. Plan de dominio limitado del inglés;

Pasado y aprobado el día _____ de _____, 2021.

Rick Carmona, Alcalde

Atestigar:

Dawn Steil, Secretario de la ciudad

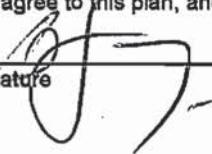
Section 3 Policy

In accordance with 12 U.S.C. 1701u the City of Terrell agrees to implement the following steps; which, to the greatest extent feasible, will provide job training, employment and contracting opportunities for Section 3 residents and Section 3 businesses of the areas in which the program/project is being carried out.

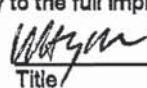
- A. Introduce and pass a resolution adopting this plan as a policy to strive to attain goals for compliance to Section 3 regulations by increasing opportunities for employment and contracting for Section 3 residents and businesses.
- B. Assign duties related to implementation of this plan to the designated Civil Rights Officer.
- C. Notify Section 3 residents and business concerns of potential new employment and contracting opportunities as they are triggered by TxCDBG grant awards through the use of: Public Hearings and related advertisements; public notices; bidding advertisements and bid documents; notification to local business organizations such as the Chamber(s) of Commerce or the Urban League; local advertising media including public signage; project area committees and citizen advisory boards; local HUD offices; regional planning agencies; and all other appropriate referral sources. Include Section 3 clauses in all covered solicitations and contracts.
- D. Maintain a list of those businesses that have identified themselves as Section 3 businesses for utilization in TxCDBG funded procurements, notify those businesses of pending contractual opportunities, and make this list available for general Grant Recipient procurement needs.
- E. Maintain a list of those persons who have identified themselves as Section 3 residents and contact those persons when hiring/training opportunities are available through either the Grant Recipient or contractors.
- F. Require that all Prime contractors and subcontractors with contracts over \$100,000 commit to this plan as part of their contract work. Monitor the contractors' performance with respect to meeting Section 3 requirements and require that they submit reports as may be required by HUD or TDA to the Grant Recipient.
- G. Submit reports as required by HUD or TDA regarding contracting with Section 3 businesses and/or employment as they occur; and submit reports within 20 days of calendar year end which identify and quantify Section 3 businesses and employees.
- H. Maintain records, including copies of correspondence, memoranda, etc., which document all actions taken to comply with Section 3 regulations.

As officers and representatives of the City of Terrell, we the undersigned have read and fully agree to this plan, and become a party to the full implementation of this program.

Signature



Title



7-21-17
Date

Política de la Sección 3

Según 12 U.S.C. 1701u City of Terrell se compromete a implementar los siguientes pasos, que, en *la mayor medida posible*, proporcionará capacitación, empleo y oportunidades de contratación para los residentes de la sección 3 y sección 3 empresas de las zonas en que el proyecto lleva a cabo.

- A. Introducción y pase una resolución adoptando este plan como una política de esforzarse por alcanzar metas para el cumplimiento de las normas de la sección 3 por aumentar las oportunidades de empleo y contratación para empresas y residentes de la sección 3.
- B. Asignación de tareas relacionadas con la implementación de este plan al oficial designado de los derechos civiles.
- C. Notificar a sección 3 residentes y preocupaciones de negocio de potenciales nuevos empleos y oportunidades de contratación ya que se desencadenan por TxCDBG conceden premios mediante el uso de: audiencias públicas relacionadas con los anuncios, avisos públicos, anuncios de licitación y oferta documentos; notificación a organizaciones locales como las cámaras de comercio o la Liga Urbana; medios de publicidad local incluyendo señalización pública; proyecto área comités y consejos ciudadanos, las oficinas locales de HUD; organismos de planificación regionales; y todas las demás fuentes de referencia apropiadas. Incluir cláusulas de la sección 3 en todo cubierto las solicitudes y contratos.
- D. Mantener una lista de las empresas que se han identificado como sección 3 empresas para la utilización en las compras de TxCDBG financiado, notificar a las empresas de espera oportunidades contractuales y hacer esta lista disponible para las necesidades de adquisición de receptor de la beca general.
- E. Mantener una lista de aquellas personas que se identificaron como residentes de la sección 3 y en contacto con las personas cuando oportunidades de contratación y capacitación están disponibles a través del receptor de la beca o contratistas.
- F. Requiere que todos los primeros contratistas y subcontratistas con contratos sobre \$100.000 comprometen este plan como parte de su contrato de trabajo. Monitorear el desempeño de los contratistas con respecto a los requerimientos de la sección 3 y requieren que presenten informes que se requieran por HUD o TDA al destinatario de la subvención.
- G. Presentar informes según los requisitos de HUD o TDA con respecto a la contratación con empresas de la sección 3 o empleo que se producen; y presentar informes dentro de 20 días del final del año fiscal federal (por el 20 de octubre) que identificar y cuantificar sección 3 empresas y empleados.
- H. Mantener los registros, incluyendo copias de correspondencia, memorandos, etc., que documentan todas las acciones adoptadas para cumplir con las normas de la sección 3.

Como funcionarios y representantes de la City of Terrell, los abajo firmantes han leído completamente de acuerdo a este plan y ser parte de la plena aplicación de este programa.

Rick Carmona, Alcalde

Date

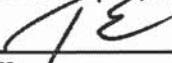
Excessive Force Policy

In accordance with 24 CFR 91.325(b)(6), the City of Terrell hereby adopts and will enforce the following policy with respect to the use of excessive force:

1. It is the policy of the City of Terrell to prohibit the use of excessive force by the law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations;
2. It is also the policy of the City of Terrell to enforce applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.
3. The City of Terrell will introduce and pass a resolution adopting this policy.

As officers and representatives of the City of Terrell, we the undersigned have read and fully agree to this plan, and become a party to the full implementation of this program.

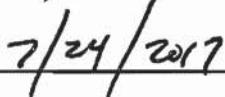
Signature



Title



Date



10/15/2015:

ITEM 6.2.

Excesivo de la fuerza política

Según 24 CFR 91.325(b)(6), la City of Terrell presente adopta y aplicará la siguiente política con respecto al uso de fuerza excesiva:

1. Es la política de La City of Terrell para prohibir el uso de fuerza excesiva por las agencias del orden público dentro de su jurisdicción contra cualquier individuo en manifestaciones de los derechos civiles no violentas;
2. También es la política de la City of Terrell para hacer cumplir leyes estatales y locales aplicables contra físicamente restricción de entrada o salida de un centro o un lugar que es objeto de estas manifestaciones de los derechos civiles no violentas dentro de su jurisdicción.
3. La City of Terrell a presentar y aprobar una resolución la adopción de esta política.

Como funcionarios y representantes de City of Terrell, los abajo firmantes han leído completamente de acuerdo a este plan y ser parte de la plena aplicación de este programa.

Rick Carmona, Alcalde

Date

A1015

Fair Housing Policy

In accordance with Fair Housing Act, the City of Terrell hereby adopts the following policy with respect to the Affirmatively Furthering Fair Housing:

1. *The City of Terrell agrees to affirmatively further fair housing choice for all seven protected classes (race, color, religion, sex, disability, familial status, and national origin).*
2. *The City of Terrell agrees to plan at least one activity during the contract term to affirmatively further fair housing.*
3. *The City of Terrell will introduce and pass a resolution adopting this policy.*

As officers and representatives of The City of Terrell, we the undersigned have read and fully agree to this plan, and become a party to the full implementation of this program.



Signature**City Manager**

Title

7/11/2017
Date

09/01/2016

Política de Equidad de Vivienda

Conformidad con la ley de vivienda equitativa, City of Terrell presente adopta la siguiente política con respecto al afirmativo promover Feria de vivienda:

1. City of Terrell se compromete a afirmativamente más opción de vivienda para todas las clases protegidas siete (raza, color, religión, sexo, discapacidad, estatus familiar y origen nacional).
2. City of Terrell se compromete a plan de al menos una actividad durante la vigencia del contrato a afirmativamente más vivienda.
3. City of Terrell a presentar y aprobar una resolución la adopción de esta política.

Como funcionarios y representantes de City of Terrell, los abajo firmantes han leído completamente de acuerdo a este plan y ser parte de la plena aplicación de este programa.

Rick Carmona, Alcalde

Date

SAMPLE CODE OF CONDUCT POLICY

These procedures are intended to serve as guidelines for the procurement of supplies, equipment, construction services and professional services for the Texas Community Development Block Grant (TxCDBG) Program. The regulations related to conflict of interest and nepotism may be found at the Texas Government Code Chapter 573, Texas Local Government Code Chapter 171, Uniform Grant Management Standards by Texas Comptroller, 24 CFR 570.489(g) & (h), and 2 CFR 200.318.

As a Grant Recipient of a TxCDBG contract, The City of Terrell shall avoid, neutralize or mitigate actual or potential conflicts of interest so as to prevent an unfair competitive advantage or the existence of conflicting roles that might impair the performance of the TxCDBG contract or impact the integrity of the procurement process.

For procurement of goods and services, no employee, officer, or agent of The City of Terrell shall participate in the selection, award, or administration of a contract supported by TxCDBG funds if he or she has a real or apparent conflict of interest. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

No officer, employee, or agent of The City of Terrell shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

For all other cases, no employee, agent, consultant, officer, or elected or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving TxCDBG funds, that has any CDBG function/responsibility, or is in a position to participate in a decision-making process or gain inside information, may obtain a financial interest or benefit from the TxCDBG activity.

The conflict of interest restrictions and procurement requirements identified herein shall apply to a benefitting business, utility provider, or other third party entity that is receiving assistance, directly or indirectly, under a TxCDBG contract or award, or that is required to complete some or all work under the TxCDBG contract in order to meet the National Program Objective.

Any person or entity including any benefitting business, utility provider, or other third party entity that is receiving assistance, directly or indirectly, under a TxCDBG contract or award, or that is required to complete some or all work under the TxCDBG contract in order to meet a National Program Objective, that might potentially receive benefits from TxCDBG awards may not participate in the selection, award, or administration of a contract supported by CDBG funding.

Any alleged violations of these standards of conduct shall be referred to The City of Terrell Attorney. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

Passed and approved this 4th day of December, 2018.



D.J. Ory, Mayor

CÓDIGO DE CONDUCTA
CONFLICTO DE INTERÉS POLÍTICA PERTAINING A LOS PROCEDIMIENTOS DE
CONTRATACIÓN

Como beneficiario de una subvención de un contrato de subvención federal o estatal (incluido TxCDBG), la City of Terrell evitará, neutralizará o mitigará los conflictos de interés reales o potenciales a fin de evitar una ventaja competitiva desleal o la existencia de roles contradictorios que puedan perjudicar la el rendimiento del contrato de subvención federal o estatal o afecta la integridad del proceso de adquisición.

Para la adquisición de bienes y servicios, ningún empleado, funcionario o agente de la City of Terrell participará en la selección, adjudicación o administración de un contrato respaldado por fondos de subvención federales o estatales (incluido TxCDBG) si él o ella tiene un real o aparente conflicto de intereses. Tal conflicto podría surgir si el empleado, oficial o agente; cualquier miembro de su familia inmediata; su compañero; o una organización que emplea o está a punto de emplear a cualquiera de las partes indicadas en este documento, tiene un interés financiero o de otra índole o un beneficio personal tangible de una empresa considerada para un contrato.

Ningún funcionario, empleado o agente de la City of Terrell solicitará o aceptará propinas, favores o cualquier cosa de valor monetario de contratistas o empresas, posibles contratistas o empresas, o partes de sub-acuerdos, excepto cuando el interés financiero no sea sustancial o el regalo es un artículo no solicitado de valor intrínseco nominal.

Los contratistas que desarrollan o redactan especificaciones, requisitos, declaraciones de trabajo o invitaciones para presentar ofertas o solicitudes de propuestas deben ser excluidos de la competencia para tales adquisiciones.

Para todos los demás casos, ningún empleado, agente, consultor, funcionario o funcionario elegido o designado del estado, o de una unidad del gobierno local general, o de cualquier agencia pública designada, o subbeneficiarios que reciben fondos de subvención federales o estatales (incluyendo TxCDBG), que tiene cualquier función / responsabilidad relacionada con las subvenciones, o que está en condiciones de participar en un proceso de toma de decisiones o de obtener información interna, puede obtener un interés o beneficio financiero de la actividad de subvención federal o estatal.

Las restricciones de conflicto de intereses y los requisitos de adquisición identificados en este documento se aplicarán a un negocio beneficiario, proveedor de servicios u otra entidad externa que esté recibiendo asistencia, directa o indirectamente, bajo un contrato o adjudicación de subvención federal o estatal, o que se requiera para completar algunos o todos trabajan bajo el contrato de subvención federal o estatal para cumplir con los Objetivos del Programa Nacional.

Cualquier persona o entidad incluyendo cualquier empresa beneficiaria, proveedor de servicios públicos u otra entidad externa que esté recibiendo asistencia, directa o indirectamente, bajo un contrato o adjudicación de subvención federal o estatal (incluido TxCDBG), o que se requiera para completar una parte o todo el trabajo en virtud del contrato de subvención federal o estatal para cumplir un objetivo del programa nacional, que podría recibir beneficios de la subvención federal o estatal no puede participar en la selección, adjudicación o administración de un contrato respaldado por fondos federales o estatales.

Cualquier presunta violación de estas normas de conducta se remitirá a la Fiscalía de la City of Terrell. Cuando aparezcan violaciones, el empleado, agente o agente infractor estará sujeto a medidas disciplinarias, que incluyen, entre otros, el despido o la transferencia; cuando las infracciones o infracciones parecen ser de naturaleza sustancial, el asunto puede remitirse a los funcionarios apropiados para su investigación penal y posible enjuiciamiento.

Rick Carmona, Alcalde

Date

CITIZEN PARTICIPATION PLAN

TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

COMPLAINT PROCEDURES

These complaint procedures comply with the requirements of the Texas Department of Agriculture's Texas Community Development Block Grant (TxCDBG) Program and Local Government Requirements found in 24 CFR §570.486 (Code of Federal Regulations). Citizens can obtain a copy of these procedures at the City of Terrell, 201 E. Nash Street, Terrell, TX 75160, 972-551-6600, during regular business hours.

Below are the formal complaint and grievance procedures regarding the services provided under the TxCDBG project.

1. A person who has a complaint or grievance about any services or activities with respect to the TxCDBG project, whether it is a proposed, ongoing, or completed TxCDBG should contact City of Terrell, at 201 E. Nash Street, Terrell, TX 75160 or may call, 972-551-6600.
2. A copy of the complaint or grievance shall be transmitted by the City Manager to the entity that is the subject of the complaint or grievance and to the City Attorney within five (5) working days after the date of the complaint or grievance was received.
3. The City shall complete an investigation of the complaint or grievance, if practicable, and provide a timely written answer to the person who made the complaint or grievance within ten (10) days.
4. If the investigation cannot be completed within ten (10) working days per 3 above, the person who made the grievance or complaint shall be notified, in writing, within fifteen (15) days where practicable after receipt of the original complaint or grievance and shall detail when the investigation should be completed.
5. If necessary, the grievance and a written copy of the subsequent investigation shall be forwarded to the TxCDBG for their further review and comment.
6. If appropriate, provide copies of grievance procedures and responses to grievances in both English and Spanish, or other appropriate language.

TECHNICAL ASSISTANCE

When requested, the City shall provide technical assistance to groups that are representative of persons of low- and moderate-income in developing proposals for the use of TxCDBG funds. The City, based upon the specific needs of the community's residents at the time of the request, shall determine the level and type of assistance.

PUBLIC HEARING PROVISIONS

For each public hearing scheduled and conducted by the City, the following public hearing provisions shall be observed:

1. Public notice of all hearings must be published at least seventy-two (72) hours prior to the scheduled hearing. The public notice must be published in a local newspaper. Each public notice must include the date, time, location, and topics to be considered at the public hearing. A published newspaper article can also be used to meet this requirement so long as it meets all content and timing requirements. Notices should also be prominently posted in public buildings and distributed to local Public Housing Authorities and other interested community groups.
2. When a significant number of non-English speaking residents are a part of the potential service area of the TxCDBG project, vital documents such as notices should be published in the predominant language of these non-English speaking citizens.
3. Each public hearing shall be held at a time and location convenient to potential or actual beneficiaries and will include accommodation for persons with disabilities. Persons with disabilities must be able to attend the hearings and the City must make arrangements for individuals who require auxiliary aids or services if contacted at least two days prior to the hearing.

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4. A public hearing held prior to the submission of a TxCDBG application must be held after 5:00 PM on a weekday or at a convenient time on a Saturday or Sunday.
5. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter should be present to accommodate the needs of the non-English speaking residents.

The City shall comply with the following citizen participation requirements for the preparation and submission of an application for a TxCDBG project:

1. At a minimum, the City shall hold at least one (1) public hearing prior to submitting the application to the Texas Department of Agriculture.
2. The City shall retain documentation of the hearing notice(s), a listing of persons attending the hearing(s), minutes of the hearing(s), and any other records concerning the proposed use of funds for three (3) years from closeout of the grant to the state. Such records shall be made available to the public in accordance with Chapter 552, Texas Government Code.
3. The public hearing shall include a discussion with citizens as outlined in the applicable TxCDBG application manual to include, but is not limited to, the development of housing and community development needs, the amount of funding available, all eligible activities under the TxCDBG program, and the use of past TxCDBG contract funds, if applicable. Citizens, with particular emphasis on persons of low- and moderate-income who are residents of slum and blight areas, shall be encouraged to submit their views and proposals regarding community development and housing needs. Citizens shall be made aware of the location where they may submit their views and proposals should they be unable to attend the public hearing.
4. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, an interpreter should be present to accommodate the needs of the non-English speaking residents.

The City must comply with the following citizen participation requirements in the event that the City receives funds from the TxCDBG program:

1. The City shall also hold a public hearing concerning any substantial change, as determined by TxCDBG, proposed to be made in the use of TxCDBG funds from one eligible activity to another again using the preceding notice requirements.
2. Upon completion of the TxCDBG project, the City shall hold a public hearing and review its program performance including the actual use of the TxCDBG funds.
3. When a significant number of non-English speaking residents can be reasonably expected to participate in a public hearing, for either a public hearing concerning substantial change to the TxCDBG project or for the closeout of the TxCDBG project, publish notice in both English and Spanish, or other appropriate language and provide an interpreter at the hearing to accommodate the needs of the non-English speaking residents.
4. The City shall retain documentation of the TxCDBG project, including hearing notice(s), a listing of persons attending the hearing(s), minutes of the hearing(s), and any other records concerning the actual use of funds for a period of three (3) years from closeout of the grant to the state. Such records shall be made available to the public in accordance with Chapter 552, Texas Government Code.

Rick Carmona, Mayor

Date

PLAN DE PARTICIPACIÓN CIUDADANA**PROGRAMA DE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM****PROCEDIMIENTOS DE QUEJA**

Estos procedimientos de queja cumplen con los requisitos del Departamento de Programa de Agricultura de Texas Community Development Block Grant (TxCDBG) y los requisitos del gobierno local de Texas se encuentran en 24 CFR §570.486 (Código de Regulaciones Federales). Los ciudadanos pueden obtener una copia de estos procedimientos en la City of Terrell, 201 E. Nash Street, Terrell, TX 75160, 972-551-6600 en horario de oficina.

A continuación se presentan los procedimientos formales de quejas y quejas relativas a los servicios prestados en el marco del proyecto TxCDBG.

1. Una persona que tiene una queja o reclamación sobre cualquiera de los servicios o actividades en relación con el proyecto TxCDBG, o si se trata de una propuesta, en curso o determinado proyecto TxCDBG, pueden durante las horas regulares presentar dicha queja o reclamo, por escrito a City of Terrell, a 201 E. Nash Street, Terrell, TX 75160 o puede llamar a 972-551-6600.
2. Una copia de la queja o reclamación se transmitirá por el Administrador de la ciudad a la entidad que es encargada de la queja o reclamación y al Abogado de la Ciudad dentro de los cinco (5) días hábiles siguientes a la fecha de la queja o dia que la reclamación fue recibida.
3. La Ciudad deberá cumplir una investigación de la queja o reclamación, si es posible, y dará una respuesta oportuna por escrito a la persona que hizo la denuncia o queja dentro de los diez (10) días.
4. Si la investigación no puede ser completada dentro de los diez (10) días hábiles anteriormente, la persona que hizo la queja o denuncia sera notificada, por escrito, dentro de los quince (15) días cuando sea posible después de la entrega de la queja original o quejas y detallará cuando se deberá completar la investigación.
5. Si es necesario, la queja y una copia escrita de la investigación posterior se remitirán a la TxCDBG para su posterior revisión y comentarios.
6. Se proporcionara copias de los procedimientos de queja y las respuestas a las quejas, tanto en Inglés y Español, u otro lenguaje apropiado.

ASISTENCIA TÉCNICA

Cuando lo solicite, Ciudad proporcionará asistencia técnica a los grupos que son representantes de las personas de bajos y moderados ingresos en el desarrollo de propuestas para el uso de los fondos TxCDBG. Ciudad, en base a las necesidades específicas de los residentes de la comunidad en el momento de la solicitud, deberá determinar el nivel y tipo de asistencia.

DISPOSICIONES Audiencia Pública

Para cada audiencia pública programada y llevada a cabo por la Ciudad, se observarán las disposiciones siguientes de audiencias públicas:

1. Aviso público de todas las audiencias deberá publicarse al menos setenta y dos (72) horas antes de la audiencia programada. El aviso público deberá publicarse en un periódico local. Cada aviso público debe incluir la fecha, hora, lugar y temas a considerar en la audiencia pública. Un artículo periodístico publicado también puede utilizarse para cumplir con este requisito, siempre y cuando cumpla con todos los requisitos de contenido y temporización. Los avisos también deben ser un lugar prominente en los edificios públicos y se distribuyen a las autoridades locales de vivienda pública y otros grupos interesados de la comunidad.
2. Cuando se tenga un número significativo de residentes que no hablan inglés serán una parte de la zona de servicio potencial del proyecto TxCDBG, documentos vitales como las comunicaciones deben ser publicados en el idioma predominante de estos ciudadanos que no hablan inglés.
3. Cada audiencia pública se llevará a cabo en un momento y lugar conveniente para los beneficiarios potenciales o reales e incluirá alojamiento para personas con discapacidad. Las personas con discapacidad

ITEM 6.2.

deben poder asistir a las audiencias y la Ciudad debe hacer los arreglos para las personas que requieren ayudas o servicios auxiliares en caso de necesitarlo por lo menos dos días antes de la audiencia será pública.

4. Una audiencia pública celebrada antes de la presentación de una solicitud TxCDBG debe hacerse después de las 5:00 pm en un día de semana o en un momento conveniente en sábado o domingo.
5. Cuando un número significativo de residentes que no hablan inglés se registra para participar en una audiencia pública, un intérprete debe estar presente para dar cabida a las necesidades de los residentes que no hablan inglés.

La Ciudad deberá cumplir con los siguientes requisitos de participación ciudadana para la elaboración y presentación de una solicitud para un proyecto TxCDBG:

1. Como mínimo, la Ciudad deberá tener por lo menos un (1) audiencia pública antes de presentar la solicitud al Departamento de Agricultura de Texas.
2. La Ciudad conservará la documentación de la convocatoria(s) audiencia, un listado de las personas que asistieron a la audiencia(s), acta de la vista(s), y cualquier otra documentación relativa a la propuesta de utilizar los fondos para tres (3) años a partir de la liquidación de la subvención para el Estado. Dichos registros se pondrán a disposición del público, de conformidad con el Capítulo 552, Código de Gobierno de Texas.
3. La audiencia pública deberá incluir una discusión con los ciudadanos como se indica en el manual correspondiente de aplicación TxCDBG, pero no se limita a, el desarrollo de las necesidades de vivienda y desarrollo comunitario, la cantidad de fondos disponibles, todas las actividades elegibles bajo el programa TxCDBG y el uso de fondos últimos contratos TxCDBG, en su caso. Los ciudadanos, con especial énfasis en las personas de bajos y moderados ingresos que son residentes de las zonas de tugurios y tizón, se fomentará a presentar sus opiniones y propuestas sobre el desarrollo de la comunidad y las necesidades de vivienda. Los ciudadanos deben ser conscientes de la ubicación en la que podrán presentar sus puntos de vista y propuestas en caso de que no pueda asistir a la audiencia pública.
4. Cuando un número significativo de residentes que no hablan inglés se registra para participar en una audiencia pública, un intérprete debe estar presente para dar cabida a las necesidades de los residentes que no hablan inglés.

La Ciudad debe cumplir con los siguientes requisitos de participación ciudadana en el caso de que la Ciudad recibe fondos del programa TxCDBG:

1. La Ciudad celebrará una audiencia pública sobre cualquier cambio sustancial, según lo determinado por TxCDBG, se propuso que se hará con el uso de fondos TxCDBG de una actividad elegible a otro utilizando de nuevo los requisitos de notificación
2. Una vez finalizado el proyecto TxCDBG, la Ciudad celebrará una audiencia pública y revisara el desempeño del programa incluyendo el uso real de los fondos TxCDBG.
3. Cuando un número significativo de residentes que no hablan inglés se puede registrar para participar en una audiencia pública, ya sea para una audiencia pública sobre el cambio sustancial del proyecto TxCDBG o para la liquidación del proyecto TxCDBG, publicará un aviso en Inglés y Español u otro idioma apropiado y se proporcionara un intérprete en la audiencia para dar cabida a las necesidades de los residentes.
4. La Ciudad conservará la documentación del proyecto TxCDBG, incluyendo aviso de audiencia(s), un listado de las personas que asistieron a la audiencia(s), acta de la vista(s), y cualquier otro registro concerniente al uso real de los fondos por un período de a tres (3) años a partir de la liquidación del proyecto al estado.

Dichos registros se pondrán a disposición del público, de conformidad con el Capítulo 552, Código de Gobierno de

Rick Carmona, Alcalde

Date

**Section 504 Policy Against Discrimination
based on Handicap and Grievance Procedures**

In accordance with 24 CFR Section 8, Nondiscrimination based on Handicap in federally assisted programs and activities of the Department of Housing and Urban Development, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309), City of Terrell hereby adopts the following policy and grievance procedures:

1. **Discrimination prohibited.** No otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development (HUD).
2. The City of Terrell does not discriminate on the basis of handicap in admission or access to, or treatment or employment in, its federally assisted programs and activities.
3. The City of Terrell recruitment materials or publications shall include a statement of this policy in 1. above.
4. The City of Terrell shall take continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipients that it does not discriminate on the basis of handicap in violation of 24 CFR Part 8.
5. For hearing and visually impaired individuals eligible to be served or likely to be affected by the TxCDBG program, City of Terrell shall ensure that they are provided with the information necessary to understand and participate in the TxCDBG program.

6. Grievances and Complaints

- A. Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for City of Terrell to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.
- B. Complaints should be addressed to: City Manager, 201 E. Nash Street, Terrell, TX 75160, 972-551-6600, who has been designated to coordinate Section 504 compliance efforts
- C. A complaint should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
- D. A complaint should be filed within thirty (30) working days after the complainant becomes aware of the alleged violation.
- E. An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by City Manager. Informal but thorough investigations will afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
- F. A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by City Manager, and a copy forwarded to the complainant with fifteen (15) working days after the filing of the complaint where practicable.
- G. The Section 504 coordinator shall maintain the files and records of the City of Terrell relating to the complaints files.
- H. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the determination/resolution as described in f. above. The request for reconsideration should be made to the City of Terrell within ten working days after the receipt of the written determination/resolution.

ITEM 6.2.

- I. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Section 504 complaint with the U.S. Department of Housing and Urban Development. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
- J. These procedures shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and assure that the City of Terrell complies with Section 504 and HUD regulations.

Rick Carmona, Mayor

Date

**Sección 504 política contra la discriminación
basada en discapacidad y procedimiento de querellas**

Apartado 24 CFR 8, no discriminación basada en discapacidad en federalmente asistidos programas y actividades del Departamento de vivienda y desarrollo urbano, sección 504 de la Rehabilitation Act de 1973, enmendada (29 U.S.C. 794) y 109 de la sección de la vivienda y el acto de desarrollo comunitario de 1974, según enmendada (42 U.S.C. 5309), la City of Terrell se adopta los procedimientos de política y quejas:

1. **Discriminación prohibida.** De lo contrario no individuo calificado con discapacidad en los Estados Unidos, únicamente por razón de su discapacidad, se excluirá de la participación en, ser negado los beneficios de o ser sujeto a discriminación bajo cualquier programa o actividad recibir Asistencia financiera federal del Departamento de vivienda y desarrollo urbano (HUD).
2. La City of Terrell no discrimina por discapacidad en la admisión o acceso a, o tratamiento o empleo en, sus programas federalmente asistidos y actividades.
3. La City of Terrell publicaciones o materiales de reclutamiento (*Destinatario de la subvención*) incluirá una declaración de esta política en 1. encima de.
4. La City of Terrell tendrá seguir pasos para notificar a los participantes, beneficiarios, solicitantes y empleados, incluyendo aquellos con deterioro de la visión o audición y sindicatos u organizaciones profesionales tenencia colectiva acuerdos de negociación o profesionales con los destinatarios que no discrimina sobre la base de discapacidad en violación de 24 CFR parte 8.
5. Para personas con discapacidad visual y auditivos individuos elegibles que sirve o que puedan verse afectadas por el programa TxCDBG, La City of Terrell se asegurará de que cuentan con la información necesaria para entender y participar en el programa TxCDBG.

6. Quejas y denuncias

- A. Cualquier persona que cree que él o ella ha sido víctima de discriminación por discapacidad puede presentar una queja bajo este procedimiento. Es contra la ley de La City of Terrell para tomar represalias contra cualquier persona que presenta una queja o coopera en la investigación de una queja.
- B. Las quejas deben ser dirigidas a: Administrador de la ciudad, 201 E. Nash Street, Terrell, TX 75160, 972-551-6600, que ha sido designado para coordinar los esfuerzos de cumplimiento de la sección 504.
- C. Una queja debe ser presentado por escrito o verbalmente, contener el nombre y dirección de la persona que lo presenta y describir brevemente la supuesta violación de las normas.
- D. Una queja debe presentarse dentro de treinta 30 días hábiles después de que el denunciante tenga conocimiento de la presunta violación.
- E. Una investigación, como puede ser apropiado, deberá seguir una presentación de una queja. La investigación será conducida por Administrador de la ciudad. Investigaciones informales pero minuciosa brindará todas las personas interesadas y sus representantes, si los hubiere, una oportunidad de presentar pruebas pertinentes a una queja.
- F. Una determinación escrita en cuanto a la validez de la denuncia y la descripción de la resolución, si los hubiere, se expedirá por Administrador de la ciudad y una copia enviada al demandante con quince 15 días de trabajo después de la presentación de la queja siempre que sea posible.

ITEM 6.2.

- G. Coordinador de la sección 504 deberá mantener los archivos y registros de la La City of Terrell relativas a los archivos de quejas.
- H. El demandante puede solicitar una reconsideración del caso en instancias donde él o ella está insatisfecha con la resolución determinación como se describe en f. anterior. La solicitud de reconsideración debe hacerse a las La City of Terrell dentro de diez días hábiles después de la recepción de la determinación y resolución escrita.
- I. El derecho de una persona a una resolución rápida y equitativa de la denuncia presentada a continuación no deberá ser deteriorada por la búsqueda de la persona de otros remedios como la presentación de una queja con el Departamento de vivienda y desarrollo urbano de los Estados Unidos de la sección 504. Utilización de este procedimiento de quejas no es un requisito previo para la búsqueda de otros remedios.
- J. Estos procedimientos se interpretarán para proteger los derechos sustantivos de las personas interesadas, para cumplir con normas de proceso debido apropiado y asegurar que La City of Terrell cumple con las regulaciones de la sección 504 y HUD.

Rick Carmona, Alcalde

Date

Limited English Proficiency Plan

Grantee:	City of Terrell
Community Population:	17,869
LEP Population:	1,029 (6.3%)
Languages Spoken:	
1. By more than 5% of the eligible population or beneficiaries and has more than 50 in number; or	
2. By more than 5% of the eligible population or beneficiaries but has less than 50 or less in number; or	Spanish
3. By more than 1,000 individuals in the eligible population in the market area or among current beneficiaries.	

Program activities to be accessible to LEP persons:

Public notices and hearings regarding applications for grant funding, amendments to project activities, and completion of grant-funded projects.

Publications regarding TxCDBG applications, grievance procedure, complaint procedures, answers to complaints, notices, notices of rights and disciplinary action, and other vital hearings, documents, and program requirements.

Other program documents:

Resources available to Grant Recipient:

Translation services: City will retain translation services upon request.

Interpreter services: City will retain translation services upon request.

Other resources:

Language assistance to be provided:

Translation (oral and/or written) of advertised notices and vital documents for: City will provide translated documents upon request and retain services to accommodate populations with limited English proficiency.

Referrals to community liaisons proficient in the language of LEP person: City will identify community liaisons that will assist to provide accommodations to LEP person and provide these services upon request.

Public meetings conducted in multiple languages: City will conduct public meetings in multiple languages upon request.

Notices to recipients of the availability of LEP services: City will reference the availability of accommodations in public notices and post documents to accommodate LEP persons in public buildings.

Other Services:

Signature - Chief Elected Official or Civil Rights Officer

Date

See also: http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf

Plan de dominio limitado del inglés

Nombre Grante:	City of Terrell
Población de la Comunidad:	17,869
LEP Población:	1,029 (6.3%)
Idiomas Hablados:	
En más del 5% de la población elegible o beneficiarios y tiene más de 50 en número; o	Spanish
Por más del 5% de la población o beneficiarios elegibles, Pero tiene menos de 50 o menos en número; o	
Por más de 1,000 individuos en la población elegible en El área del mercado o entre los beneficiarios actuales.	

Las actividades del programa deben ser accesibles para las personas LEP:

X Avisos públicos y audiencias con respecto a las solicitudes de fondos de la subvención, enmiendas a las actividades del proyecto y finalización del proyecto financiado mediante donaciones.

X Publicaciones sobre la solicitud de TxCDBG procedimientos de quejas procedimientos de quejas, procedimientos de quejas, respuestas a reclamos, avisos de derechos y medidas disciplinarias, y otras audiencias vitales documento y requisitos del programa.

X Otros Documentos del Programa:

Recursos disponibles para el beneficiario de subvención:

X Servicios de traducción: Ciudad retendrá servicios de traducción a pedido.

X Servicios de intérprete: Ciudad retendrá servicios de intérprete a pedido.

 Otros recursos:

Language assistance to be provided:

X Traducción (oral y/o escrita) de anuncios publicados y documentos vitales para: Ciudad proporciona documentos traducidos previa solicitud y retendrá los servicios para acomodar a las poblaciones con dominio limitado del inglés.

X Referencias a enlaces comunitarios competentes en el lenguaje de personas con LEP: Ciudad identificara enlaces comunitarios que ayudarán a proporcionar acomodaciones a personas LEP y proporcionan estos servicios a pedido.

X Reuniones públicas realizadas en múltiples idiomas: Ciudad conducirá reuniones públicas en múltiples idiomas a pedido.

X Avisos a los destinatarios de la disponibilidad de los servicios LEP: Ciudad hará referencia a la disponibilidad a acomodaciones en avisos públicos y documentos postales para acomodar a personas con LEP en edificios públicos.

 Otros servicios:

Firma - Funcionario principal electo o funcionario de derechos civiles

Fecha

Ver tambien: http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf

Special City Council Meeting and
Workshop

AGENDA ITEM REPORT



To:

Subject: Discuss Resolution No. _____ a Resolution Designating Signature Authorizations for Community Development Block Grant Projects

Meeting: Special City Council Meeting and Workshop - Jun 15 2021

Department: Engineering

Staff Contact: Steve Rogers, City Engineer

BACKGROUND INFORMATION:

Texas Department of Agriculture policies require cities to pass a resolution regarding signatures for Community Development Block Grant (CDBG) projects.

ATTACHMENTS:

[Terrell_A201_Signatory Resolution](#)

RESOLUTION NO. _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (TxCDBG) CONTRACT NUMBERS 7220232 AND 7220459.

WHEREAS, the City of Terrell, Texas has received a 2020 Texas Community Development Block Grant award to provide wastewater improvements and (a 2020 Texas Community Development Block Grant award to complete downtown sidewalk and accessibility improvements), and;

WHEREAS, it is necessary to appoint persons to execute contractual documents and documents for requesting funds from the Texas Department of Agriculture, and;

WHEREAS, an original signed copy of the TxCDBG *Depository/Authorized Signatories Designation Form A202* is to be submitted with a copy of this Resolution, and;

WHEREAS, the City of Terrell, Texas acknowledges that in the event that an authorized signatory of the City changes (elections, illness, resignations, etc.), the City must provide TxCDBG with the following:

- a resolution stating who the new authorized signatory is (not required if this original resolution names only the title and not the name of the signatory); and
- a revised TxCDBG *Depository/ Authorized Signatories Designation Form A202*.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AS FOLLOWS:

The **Mayor and City Manager** be authorized to execute contractual and environmental review documents between the Texas Department of Agriculture and the City for the 2020 Texas Community Development Block Grant Program contracts.

The **Mayor, Mayor Pro-Tem, City Manager and City Secretary** be authorized to execute the *State of Texas Purchase Voucher and Request for Payment Form* documents required for requesting funds approved in the specified Texas Community Development Block Grant Program contracts.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS on _____, 2021.

E. RICK CARMONA, MAYOR

Attest:

DAWN STEIL, CITY SECRETARY

Special City Council Meeting and
Workshop
AGENDA ITEM REPORT



To:

Subject: Discuss Amendment No. 1 for Professional Services for Drainage Improvements Evaluation for the Boone/West End/Mineral Wells Project

Meeting: Special City Council Meeting and Workshop - Jun 15 2021

Department: Engineering

Staff Contact: Steve Rogers, City Engineer

BACKGROUND INFORMATION:

Schaumberg & Polk, Inc. (SPI) was contracted to review drainage, water and sewer improvements in Boone Street and along West End and Mineral Wells. Further review of the area indicated that additional survey work and engineering evaluation, above that originally scoped, was required to insure drainage is properly planned along West End and north to the railroad track. The expanded area will also provide data in and around Southwest Christian College.

The proposed fee for Amendment No. 1 is \$43,600.00. The original contract totalled \$43,800.00. The revised total contract amount recommended is an amount not to exceed \$87,400.00.

Funding will be provided from the Stormwater Fund.

ATTACHMENTS:

[SPI amendment No 1 - complete](#)

June 7, 2021

Mr. Mike Mikeska, P.E., Assistant City Engineer
City of Terrell
201 East Nash Street
Terrell, TX 75160

Re: **Engineering Cost Proposal and Scope of Services**
Boone/West End/Mineral Wells Drainage Improvements
Related to Boone Street Water and Sewer Main Replacement, City Project No. 21-09
Amendment #1

Mr. Mikeska,

Schaumburg & Polk, Inc. (SPI) is pleased to provide you with this proposal for professional engineering services related to the already active project, Boone Street Water and Sewer Main Replacement, City Project No. 21-09. Following initial analysis of the Boone, West End, and Mineral Wells area drainage patterns and features, the City has requested that SPI submit a proposal to expand the area of study for drainage considerations and to recommend potential improvements to the watershed, particularly along City streets: West End, Bradshaw, Mineral Wells, Eason, Dick, Boone, and the unimproved (platted only) Lake Street. The expanded footprint should extend northward to the UP Railroad (UPRR) tracks and include any cross culverts beneath the tracks, eastward to include the Southwest Christian College (SWCC) property between Lake Street and UPRR, and west of Eason Street to identify the western boundary of the area watershed divide.

The anticipated scope of services for the project includes the following:

- Broaden the topographic survey which was obtained for the Boone Street Water and Sewer project to include additional topo on Bradshaw Street south to Mineral Wells, on Bradshaw Street north to Dick, on Eason Street between West End and Dick, on West End between Bradshaw and Eason, on Mineral Wells Street from Bradshaw to Boone, on Dick Street between Eason and Bradshaw, along platted Lake Street from Eason to the north-south leg of platted Lake Street, along platted Lake Street from West End to the east-west leg of platted Lake Street, and between the north-south leg of platted Lake Street and the City's detention pond located on the north side of West End Street. The topo should also include the UPRR right of way between Eason Street and the SWCC campus, the SWCC property between platted Lake Street and the UPRR, and enough area west of Eason to determine the western watershed divide. See the areas of additional topo needed on the enclosed **Survey Limits Drawing**. The topo survey to be added is shown in yellow-dashed and black-dashed outlines. The white-dashed outlined areas were included in the original agreement. The additional survey must be on the same datum as, and compatible with existing topo obtained for, the Boone Street Water and Sewer project.
- Analyze the expanded topo and determine drainage patterns of the broadened areas.
- Prepare a brief Report to describe drainage problems in the subject watershed and

make recommendations for improvements. Recommendations should address at minimum the following:

- 1) How to drain standing water along the platted Lake Street corridor, and what storm infrastructure and/or grading is needed to accommodate the runoff.
- 2) How to direct runoff between the platted Lake Street corridor and the existing detention pond to the east (just north of West End), and what storm infrastructure and/or grading is needed to accommodate the runoff.
- 3) How to direct runoff in ditches along Bradshaw Street south of West End Street and north of West End Street, and what storm infrastructure is needed to accommodate the runoff. Existing storm sewer should remain in place and be utilized where possible.
- 4) How to direct runoff in ditches along Mineral Wells Street between Bradshaw Street and a primary drainage ditch located about 385 feet east of Boone Street, and what storm infrastructure is needed to accommodate the runoff. Existing storm sewer should remain in place and be utilized where possible.
- 5) How to direct runoff in ditches along Boone Street between West End Street and Mineral Wells Street, and what storm infrastructure is needed to accommodate the runoff. Existing storm sewer should remain in place and be utilized where possible.
- 6) How to direct runoff in ditches along Eason Street between West End Street and Dick Street, and what storm infrastructure is needed to accommodate the runoff. Existing storm sewer should remain in place and be utilized where possible.
- 7) How to direct runoff in ditches along Dick Street between Eason Street and Bradshaw Street, and what storm infrastructure is needed to accommodate the runoff. Existing storm sewer should remain in place and be utilized where possible.
- 8) Determine direction of runoff on the SWCC property between Lake Street and UPRR. Confirm that flow does not convey beneath the UPRR via the existing culvert from one side to the other.

- Prepare an engineer's opinion of probable construction cost corresponding to the above recommendations.

This work can be included in an amendment to the already active engineering agreement for the Boone Street Water and Sewer Replacement, City Project No. 21-09. SPI proposes to provide these services at a total not to exceed lump sum fee amount of **\$43,600** broken out as follows:

- a) Additional topographic survey - **(\$24,200)**
- b) Drainage study, analysis, and brief report with recommendations for improvements - **(\$19,400)**

SPI can begin this work immediately following a Notice to Proceed (NTP) from the City. SPI can provide the deliverables (items a – b) within ten (10) weeks.

LIMITATIONS OF PROPOSAL

1. This proposal excludes preparation of easements or property acquisition. These services and a proposal to provide said services can be provided upon request.

Thank you for the opportunity to provide this proposal to you. If this fee proposal and scope of work are acceptable to you, an **Amendment** #1 to our original Engineering Agreement is enclosed for your consideration and approval. If you have any questions or comments, do not hesitate to call me.

Schaumburg & Polk, Inc.

Franklin Stephens, P.E.

Franklin Stephens, P.E.
Terrell Office Branch Manager

Enclosures: Survey Limits Drawing for Additional Topo Area
Amendment #1 to Original Engineering Agreement

AMENDMENT #1 TO ENGINEERING AGREEMENT

Schaumburg & Polk, Inc. (SPI), hereinafter called the "Firm," entered into an agreement with the **City Of Terrell, Texas**, hereinafter called the "City", on the 8th of October, 2020, for the purpose of providing professional engineering services related to the Boone Street Utilities Replacement. The City has, since that time, requested a change in the scope of work required, and therefore it is necessary to amend the referenced original agreement. The said agreement is hereby amended ("Amendment #1") upon the mutual consent of both parties. The original agreement shall remain intact fully except for those parts specifically omitted, added to, or revised as follows:

Page 1, Add as 5th paragraph the following:

Additional topographic survey and study-report phase services as further described in attached ***Engineering Cost Proposal and Scope of Services for Boone/West End/Mineral Wells Drainage Improvements***, which ***Engineering Cost Proposal and Scope of Services for Boone/West End/Mineral Wells Drainage Improvements*** is hereby incorporated as a binding part of this amendment to the engineering agreement.

Section 1.01, Basic Agreement and Period of Service, paragraph A, last sentence shall be replaced with the following:

Owner shall pay Engineer for its services as set forth in Paragraph 7.01.

Section 1.01, Basic Agreement and Period of Service, paragraph B, last sentence shall be replaced with the following:

Completed construction bid package no later than August 31, 2021.

Section 7.01, Basis of Payment - Lump Sum, paragraph A shall be replaced with the following:

Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer amounts not to exceed as follows:

1. Design and Bid Phase services amount of	\$ 29,600.00
2. Additional Topo Survey services amount of	\$ 24,200.00
3. Additional Study-Report services amount of	\$ 19,400.00
4. Bid Phase Services amount of	\$ 5,500.00
5. <u>Construction Phase services amount of</u>	<u>\$ 8,700.00</u>
6. Total Revised Fee Amount	\$ 87,400.00

ITEM 6.4.

IN WITNESSETH WHEREOF, the parties have executed this Amendment to the original Agreement by causing the same to be signed on the day and year first above written.

BY: _____ DATE: _____
(Local City Official)

(Printed Name)

(Title)

BY: Franklin Stephens, P.E. DATE: June 7, 2021
(Firm's Authorized Representative)
Franklin Stephens, P.E.
(Printed Name)
Vice-President
(Title)



Special City Council Meeting and Workshop

AGENDA ITEM REPORT



To:

Subject: Discuss Professional Services Contract for the Design of a Water Main in N. Blanche Street from E. Moore to E. High Street

Meeting: Special City Council Meeting and Workshop - Jun 15 2021

Department: Engineering

Staff Contact: Steve Rogers, City Engineer

BACKGROUND INFORMATION:

Staff negotiated a scope of work with Freese & Nichols, Inc. (FNI) for the subject water main replacement in conjunction with the sewer main design that is funded through the TxCDBG award. The existing main is a substandard 4 inch main and needs to be replaced at the time N. Blanche sewer improvements are completed.

TxCDBG rules and tracking of costs will not allow the City to combine the costs of professional services outside of the awarded grant project. Therefore, an agreement is required that is separate from the sewer scope of services.

Staff recommends award to FNI in an amount not to exceed \$64,682.00. Funding for these services will be from the Utility Capital Reserve fund.

ATTACHMENTS:

[Water agenda item](#)

EXHIBIT 1

CITY OF TERRELL

TDA CDBG IMPROVEMENTS

Legend

- Proposed Water Lines
- Water Lines
- Proposed Sewer Lines
- Sewer Lines
- Cleanout
- Manhole



PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF TARRANT §

This Agreement is entered into by City of Terrell, hereinafter called "Client" and Freese and Nichols, Inc., hereinafter called "FNI." In consideration of the Agreements herein, the parties agree as follows:

- I. **EMPLOYMENT OF FNI:** In accordance with the terms of this Agreement, Client agrees to employ and compensate FNI to perform professional services in connection with the Project. The Project is described as Blanche Street Water Improvements.
- II. **SCOPE OF SERVICES:** FNI shall render professional services in connection with Project as set forth in Attachment SC – Scope of Services and Responsibilities of Client which is attached to and made a part of this Agreement.
- III. **COMPENSATION:** Client agrees to pay FNI for all professional services rendered under this Agreement. FNI shall perform professional services as outlined in the "Scope of Services". Compensation to FNI for Basic Services shall be the lump sum of Fifty Eight Thousand Nine Hundred Thirty Two Dollars (\$58,932). Compensation to FNI for Special Services shall be computed on the basis of charges in Attachment CO, but shall not exceed Five Thousand Seven Hundred Fifty Dollars (\$5,750).

If FNI's services are delayed or suspended by Client, or if FNI's services are extended for more than 60 days through no fault of FNI, FNI shall be entitled to equitable adjustment of rates and amounts of compensation to reflect reasonable costs incurred by FNI in connection with such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

- IV. **TERMS AND CONDITIONS OF AGREEMENT:** The Terms and Conditions of Agreement as set forth as Attachment TC – Terms and Conditions of Agreement shall govern the relationship between the Client and FNI.

Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and FNI, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and FNI and not for the benefit of any other party.

This Agreement constitutes the entire Agreement between Client and FNI and supersedes all prior written or oral understandings.

This contract is executed in two counterparts. IN TESTIMONY HEREOF, Agreement executed:

Freese and Nichols, Inc.

By: _____

Print Name and Title _____

Date: _____

ATTEST: _____

City of Terrell

By: _____

Print Name and Title _____

Date: _____

ATTEST: _____

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

ARTICLE I

PROJECT DESCRIPTION: The City of Terrell (Owner) is proceeding with design and construction of the North Blanche Street Water Improvements (The Project). The Project will include professional services for the relocation and upsizing of the water lines along North Blanche Street. These relocations are being performed in preparation for the future storm drain improvements depicted in the “North Blanche Street Utility Alignment Study,” dated May 3, 2021. This project is being separated from the TDA CDBG Sewer Improvements project due to CDBG requirements. To reduce project costs, this project will directly “piggyback” the design and construction aspects of the TDA CDBG Sewer Improvement project. The Project will have the following facilities:

1. Approximately 175 linear feet of 12-inch diameter water pipeline along Moore Avenue (US 80) near North Blanche Street, and approximately 700 linear feet of 8-inch water pipeline along North Blanche Street (Assuming 3 plan/profile sheets). The project will include TxDOT coordination for the alignment that follows Moore Avenue.

The following facilities or services are not part of The Project, and will be provided by others or under separate scope:

1. Easement preparation services. It is understood that the proposed pipelines will be located within the existing right-of-way.
2. Correlating sewer line relocations and upsizing.

The Project will include the following construction bid packages:

1. North Blanche Street Water Improvements

If more construction or equipment bid packages are included, or if the TDA CDBG Sewer Improvement project is placed on hold and/or delayed requiring this project to proceed independently, then additional compensation will be mutually agreed upon.

The Project procurement method will include conventional bid procurement. The Project will include the conventional design-bid-build delivery method.

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project:

A. PROJECT MANAGEMENT

Upon execution of this Agreement, FNI shall:

1. Conduct internal and external kickoff meetings to review scope, schedule, and budget; determine any special conditions that may affect design and/or construction; discuss administrative requirements of Owner; and to develop design criteria. A site visit will be held directly following the external kickoff meeting. These discussion items will be held with the sewer improvements kickoff meetings.
2. Manage efforts of internal design team and sub-consultants on the Project and perform Quality Control and Constructability review of all deliverables.

3. Prepare meeting agendas and minutes and attend the following meetings:
 - a. Attend six (6) meetings with Owner / third parties during design and bid phases, and other consultants providing services to Owner. It is assumed that 50% of these meetings will be held via video conference.
 - b. Attend two (2) meetings with utility providers needed for the project. It is assumed these meetings will be in person.
 - c. Attend two (2) workshops for review of milestone design submittals. It is assumed these meeting will be in person.
 - d. All meetings noted above will be consolidated with the Sewer Improvements project meetings. No additional effort is being added to this contract. Separation of meetings from the Sewer Improvements project will be considered an additional service.
4. Prepare a Microsoft Project schedule and provide monthly updates including necessary revisions to bring the Project back on schedule if needed. The project schedule will not be resource loaded and will be consolidated with the Sewer Improvements Project.
5. Prepare monthly reporting including status report, recent activities, upcoming activities, action items log, decisions made log, budget updates, schedule updates, and scope changes. Prepare monthly invoices.
6. Deliverables include the following:
 - a. Agendas and minutes for all meetings
 - b. Project schedule updated monthly
 - c. Monthly reporting
 - d. Monthly invoices

B. STUDY PHASE: This phase was completed previously under a separate contract. No additional alignment studies or stormwater design will be provided as a part of this project. FNI will utilize the correlating “North Blanche Street Utility Alignment Study,” dated May 3, 2021.

C. FINAL DESIGN PHASE: FNI shall provide professional services in this phase as follows:

1. Prepare front end documents, including bid documents, general conditions, and special conditions for the construction package, based upon the Owner’s and FNI’s standard documents. Meet with Owner to resolve review comments, and revise documents accordingly.
2. Advise Owner of need for and recommend scope of additional Special Services, not already included in Article II of this Scope of Work. The cost of such additional Special Services shall be paid by Owner and are not included in the services performed by FNI.
3. Prepare applications for routine permits such as road crossing permits and TCEQ Approval. Environmental and United States Army Corp of Engineers (USACE) permitting, preparation of applications and supporting documents for government grants or for planning advances is an Additional Service.
4. Furnish such information necessary to utility companies whose facilities may be affected, or services may be required for the Project.

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5. Prepare revised opinion of probable construction cost at the 50% and 90% submittals.
6. 50 % Review: Prepare drawings, specifications, construction contract documents, designs, and layouts of improvements to be constructed. Prepare bidder's proposal forms (project quantities) of the improvements to be constructed. Furnish Owner two (2) sets of copies of full size drawings, specifications, and bid proposals marked "Preliminary" for approval by Owner. FNI will meet with the Owner to present the plans and specifications and receive comments. Review documents will include dimensional layout drawings, plans, sections and elevations for all the trades, typical details, and most special details. The draft specifications will include major equipment items. Pipeline plans will include plan and profile sheets, pipeline appurtenances, and typical details. FNI will receive comments from Owner and address comments in the 90% Review.
7. 90% Review: Furnish Owner two (2) sets of copies of full size drawings, specifications, and bid proposals marked "Preliminary" for approval by Owner. FNI will meet with the Owner to present the plans and specifications and receive comments. Review documents will include all plans and specifications with minor corrections and notes remaining. FNI will receive comments from Owner and address comments in the Final Draft. Upon final approval by Owner, FNI will provide Owner two (2) sets of copies of "Final" plans and specifications.
8. FNI will work with the City on ways to best ensure, although not guaranteed, both this water improvements project is awarded to the same contractor as the sewer improvements project.
9. Deliverables for the Final Design Phase include:
 - a. Front end documents for construction and equipment packages
 - b. Routine Permit Applications (Road Crossing and TCEQ Approval)
 - c. OPCC at 50% and 90% submittals
 - d. 50% review submittal of Plans and Specifications
 - e. 90% review submittal of Plans and Specifications
 - f. Final "Sealed" Plans and Specifications for Advertisement

D. **BID OR NEGOTIATION PHASE:** Upon completion of the design services and approval of "Final" drawings and specifications by Owner, FNI will proceed with the performance of services in this phase as follows:

1. Assist Owner in securing bids. Issue a Notice to Bidders to prospective contractors and vendors listed in FNI's database of prospective bidders, and to selected plan rooms. Provide a copy of the notice to bidders for Owner to use in notifying construction news publications and publishing appropriate legal notice. The cost for publications shall be paid by Owner.
2. Submit electronic copies of plans, specifications and bidding documents to CIVCAST. Prospective bidders may download and print documents from CIVCAST, who will maintain plan holder list and post addenda. FNI will also list bid projects on the FNI website.
3. Assist Owner by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to CIVCAST if necessary.
4. Assist the Owner in conducting a pre-bid conference for the construction projects and coordinate responses with Owner. Pre-bid to be held directly following the sewer improvements pre-bid. Response to the pre-bid conference will be in the form of addenda issued after the conference.

5. At Owner request, FNI will assist Owner in the opening, tabulating, and analyzing the bids received. Bid opening to be held following the sewer improvements project bid opening. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project. Recommend award of contracts or other actions as appropriate to be taken by Owner.
6. Assist Owner in the preparation of Construction Contract Documents for construction contracts. Provide ten (10) sets of Construction Contract Documents which include information from the selected bidders' bid documents, legal documents, and addenda bound in the documents for execution by the Owner and construction contractor. Distribute five (5) copies of these documents to the contractor with a notice of award that includes directions for the execution of these documents by the construction contractor. Provide Owner with the remaining five (5) copies of these documents for use during construction. Additional sets of documents can be provided as an additional service.
7. Furnish contractor copies of the drawings and specifications for construction pursuant to the General Conditions of the Construction Contract.
8. Deliverables for the Bid or Negotiation Phase include:
 - a. Notice to Bidders
 - b. Electronic copies of plans, specifications, bidding documents, and addenda
 - c. Recommendation of Award with tabulation of bids
 - d. Notice of award to selected bidder
 - e. Conformed contract documents for execution
 - f. Copies of conformed contract documents for Contractor and Owner

E. **CONSTRUCTION PHASE:** Upon completion of the bid or negotiation phase services, FNI will proceed with the performance of construction phase services as described below. FNI will endeavor to protect Owner in providing these services however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

These services are based on the use of FNI standard General Conditions for construction projects. Modifications to these services required by use of other general conditions or contract administration procedures are an additional service. If general conditions other than FNI standards are used, the Owner agrees to include provisions in the construction contract documents that will require the construction contractor to include FNI and their subconsultants on this project to be listed as an additional insured on contractor's insurance policies.

1. Assist Owner in conducting pre-construction conference(s) with the Contractor(s), review construction schedules prepared by the Contractor(s) pursuant to the requirements of the construction contract and prepare a proposed estimate of monthly cash requirements of the Project from information provided by the Construction Contractor.
2. Establish communication procedures with the Owner and contractor. Submit monthly reports of construction progress. Reports will describe construction progress in general terms and summarize project costs, cash flow, construction schedule and pending and approved contract modifications.

3. Establish and maintain a project documentation system consistent with the requirements of the construction contract documents. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation. Produce monthly reports indicating the status of all submittals in the review process. Review contractor's submittals, including, requests for information, modification requests, shop drawings, schedules, and other submittals in accordance with the requirements of the construction contract documents for the projects. Monitor the progress of the contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.
4. Based on FNI's observations as an experienced and qualified design professional and review of the Payment Requests and supporting documentation submitted by Contractor, determine the amount that FNI recommends Contractor be paid on monthly and final estimates, pursuant to the General Conditions of the Construction Contract.
5. Make visits monthly, up to a total of eight visits on same day as Sewer Improvements project, appropriate to the stage of construction to the site (as distinguished from the continuous services of a Resident Project Representative) to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Construction Contract Documents. In this effort FNI will endeavor to protect the Owner against defects and deficiencies in the work of Contractors and will report any observed deficiencies to Owner. Visits to the site in excess of the specified number are an additional service.
6. Notify the contractor of non-conforming work observed on site visits. Review quality related documents provided by the contractor such as test reports, equipment installation reports or other documentation required by the Construction contract documents.
7. Interpret the drawings and specifications for Owner and Contractor(s). Investigations, analyses, and studies requested by the Contractor(s) and approved by Owner, for substitutions of equipment and/or materials or deviations from the drawings and specifications is an additional service.
8. Establish procedures for administering constructive changes to the construction contracts. Process contract modifications and negotiate with the contractor on behalf of the Owner to determine the cost and time impacts of these changes. Prepare change order documentation for approved changes for execution by the Owner. Documentation of field orders, where cost to Owner is not impacted, will also be prepared. Investigations, analyses, studies or design for substitutions of equipment or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents requested by the contractor and approved by the Owner are an additional service. Substitutions of materials or equipment or design modifications requested by the Owner are an additional service.
9. Prepare documentation for contract modifications required to implement modifications in the design of the project. Receive and evaluate notices of contractor claims and make recommendations to the Owner on the merit and value of the claim on the basis of information submitted by the contractor or available in project documentation. Endeavor to negotiate a settlement value with the Contractor on behalf of the Owner if appropriate. Providing these services to review or evaluate construction contractor(s) claim(s), supported by causes not within the control of FNI are an additional service.
10. Assist in the transfer of and acceptance by the construction contractor of any Owner furnished equipment or materials.
11. Conduct, in company with Owner's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Construction Contract Documents. Prepare a list of deficiencies to be corrected by the contractor before recommendation

of final payment. Assist the Owner in obtaining legal releases, permits, warranties, spare parts, and keys from the contractor. Review and comment on the certificate of completion and the recommendation for final payment to the Contractor(s). Visiting the site to review completed work in excess of two trips are an additional service.

12. Revise the construction drawings in accordance with the information furnished by construction Contractor(s) reflecting changes in the Project made during construction. Two (2) sets of prints of "Record Drawings" shall be provided by FNI to Owner.

ARTICLE II

SPECIAL SERVICES: Special Services to be performed by FNI include the following:

- A. **TOPO SURVEYING:** Existing topo survey will be utilized from the noted stormwater analysis study. Complete topo survey of the alignment and corridor will not be provided. Two (2) days of survey crew time is included for surveying the water line alignment southerly to Moore Avenue. Additional topo survey can be provided as an Additional Service.

ARTICLE III

ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above-described basic services, are described as follows:

- A. Field surveying required for the preparation of designs and drawings in addition to limits noted in the Special Services. Field layouts or the furnishing of construction line and grade surveys. Making property, boundary and right of way surveys, preparation of easement and deed descriptions, including title search and examination of deed records. GIS mapping services or assistance with these services.
- B. Providing SUE services of any form.
- C. Environmental assessment services and general coordination with the THC. It is understood that the channel and wetland areas will be avoided by bored installation methods.
- D. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Owner.
- E. Additional stormwater analysis or design beyond the information provided in the "North Blanche Street Utility Alignment Study," dated May 3, 2021.
- F. Providing renderings, model, and mock-ups requested by the Owner.
- G. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of FNI.
- H. Providing consultation concerning the replacement of any Work damaged by fire or other cause during the construction and providing services as may be required in connection with the replacement of such Work. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective work. Any services required as a result of default of the contractor(s) or the failure, for any reason, of the contractor(s) to complete the work within the

contract time. Providing services after the completion of the construction phase not specifically listed in Article II. Visits to the site in excess of the number of trips included in Article II for periodic site visits, coordination meetings, or contract completion activities. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form. Providing services to review or evaluate construction contractor(s) claim(s), provided said claims are supported by causes not within the control of FNI. Providing value engineering studies or reviews of cost savings proposed by construction contractors after bids have been submitted. Provide follow-up professional services during Contractor's warranty period.

- I. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by Owner.
- J. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- K. Providing shop, mill, field or laboratory inspection of materials and equipment. Observe factory tests of equipment at any site remote to the project or observing tests required as a result of equipment failing the initial test.
- L. Preparing Operation and Maintenance Manuals or conducting operator training.
- M. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- N. Furnishing the services of a Resident Project Representative to act as Owner's on-site representative during the Construction Phase. The Resident Project Representative will act as directed by FNI in order to provide more extensive representation at the Project site during the Construction Phase. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative and assistants, FNI shall endeavor to provide further protection for Owner against defects and deficiencies in the work. Furnishing the services of a Resident Project Representative is subject to the provisions of Article I, E and Attachment RPR.

If Owner provides personnel to support the activities of the Resident Project Representative who is FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such personnel will be set forth in an Attachment attached to and made a part of this Agreement before the services of such personnel are begun. It is understood and agreed that such personnel will work under the direction of and be responsible to the Resident Project Representative. Owner agrees that whenever FNI informs him in writing that any such personnel provided by the Owner are, in his opinion, incompetent, unfaithful or disorderly, such personnel shall be replaced.

- O. Furnishing Special Inspections required under chapter 17 of the International Building Code. These Special Inspections are often continuous, requiring an inspector dedicated to inspection of the individual work item, and they are in addition to General Representation and Resident Representation services noted elsewhere in the contract. These continuous inspection services can be provided by FNI as an Additional Service.
- P. Furnishing Inspections and Commissioning Reports required by International Energy Efficiency Code (IECC).

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- Q. Assisting Owner in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
- R. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
- S. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- T. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.
- U. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- V. Services required to resolve bid protests or to rebid the projects for any reason.
- W. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.
- X. Provide Geotechnical investigations, studies and reports.
- Y. Accessibility and TDLR coordination and review aspects.

ARTICLE IV

TIME OF COMPLETION: FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in accordance with the following schedule: Completion of design phase services within six (6) months. FNI will coordinate with Owner and endeavor to meet the CDBG's required construction NTP date of January 31, 2022 and construction completion date of January 31, 2023.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in Owner or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and in Attachment CO.

ARTICLE V

RESPONSIBILITIES OF Owner: Owner shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Owner recognizes and expects that certain Change Orders may be required. Unless noted otherwise, the Owner shall budget a minimum of 5% for new construction and a minimum of 10% for construction that includes refurbishing existing structures.

Further, Owner recognizes and expects that certain Change Orders may be required to be issued as the result in whole or part of imprecision, incompleteness, errors, omission, ambiguities, or inconsistencies in the Drawings, Specifications, and other design documentation furnished by Engineer or in the other professional services performed or furnished by Engineer under this Agreement (“Covered Change Orders”). Accordingly, Owner agrees to pay for Change Orders and otherwise to make no claim directly or indirectly against Engineer on the basis of professional negligence, breach of contract, or otherwise with respect to the costs of approved Covered Change Orders unless the aggregate costs of all such approved Covered Change Orders exceed 2% for new construction and 4% for reconstruction. Any responsibility of Engineer for the costs of Covered Change Orders in excess of such percentage will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the cost of Covered Change Orders will not include:

- any costs that Owner would have incurred if the Covered Change Order work had been included originally in the Contract Documents and without any other error or omission of Engineer related thereto,
- Any costs that are due to unforeseen site conditions, or
- Any costs that are due to changes made by the Owner.
- Any costs that are due to the Contractor

Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, Engineer is liable for the cost of Covered Change Orders in excess of the percent of Construction Cost stated above or for any other Change Order. Wherever used in this document, the term Engineer includes Engineer's officers, directors, partners, employees, agents, and Engineers Consultants.

- B. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to FNI's services for the Project.
- C. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the drawings and specifications.
- D. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- E. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay all fees for permit applications.
- H. Owner shall make or arrange to have made all subsurface investigations, including but not limited to borings, test pits, soil resistivity surveys, and other subsurface explorations. Owner shall also make

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or arrange to have made the interpretations of data and reports resulting from such investigations. All costs associated with such investigations shall be paid by Owner.

- I. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Owner may require or FNI may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Owner may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as Owner may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- J. Owner shall determine, prior to receipt of construction bid, if FNI is to furnish Resident Project Representative service so the Bidders can be informed.
- K. If Owner designates a person to serve in the capacity of Resident Project Representative who is not FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such Resident Project Representative(s) will be set forth in an Attachment attached to and made a part of this Agreement before the Construction Phase of the Project begins. Said attachment shall also set forth appropriate modifications of the Construction Phase services as defined in Attachment SC, Article I, together with such adjustment of compensation as appropriate.
- L. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
- M. Give prompt written notice to FNI whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services, or any defect or nonconformance of the work of any Contractor.
- N. Furnish, or direct FNI to provide, Additional Services as stipulated in Attachment SC, Article III of this Agreement or other services as required.
- O. Bear all costs incident to compliance with the requirements of this Article V.

ARTICLE VI

DESIGNATED REPRESENTATIVES: FNI and Owner designate the following representatives:

Owner's Designated Representative – Steve Rogers, PO Box 310, Terrell, Texas, 75160; 972.551.6600; srogers@cityofterrell.org

FNI's Designated Representative – Daniel Huffines, 5805 Main Street, Suite B, Frisco, Texas 75034; 214.217.2218; dwh@freese.com

FNI's Accounting Representative – Lisa Broussard, 2711 North Haskell Avenue, Suite 3300, Dallas, Texas 75204; 972.331.6021, lisa.broussard@freese.com

Compensation to FNI for Basic Services in Attachment SC shall be the lump sum of Fifty Eight Thousand Nine Hundred Thirty Two Dollars (\$58,932).

Compensation to FNI for Special Services in Attachment SC shall be the lump sum of Five Thousand Seven Hundred Fifty Dollars (\$5,750).

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

Position	Hourly Rate	
	Min	Max
Professional 1	81	151
Professional 2	102	158
Professional 3	123	228
Professional 4	154	245
Professional 5	186	350
Professional 6	200	399
Construction Manager 1	91	179
Construction Manager 2	109	193
Construction Manager 3	168	224
Construction Manager 4	207	291
CAD Technician/Designer 1	74	147
CAD Technician/Designer 2	105	161
CAD Technician/Designer 3	133	210
Corporate Project Support 1	53	126
Corporate Project Support 2	74	175
Corporate Project Support 3	105	266
Intern / Coop	42	109

Rates for In-House Services and Equipment

<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>		<u>Equipment</u>		
Standard IRS Rates			<u>B&W</u>	<u>Color</u>	Valve Crew Vehicle (hour) \$75
	Small Format (per copy)	\$0.10	\$0.25		Pressure Data Logger (each) \$200
<u>Technology Charge</u>	Large Format (per sq. ft.)				Water Quality Meter (per day) \$100
\$8.50 per hour	Bond	\$0.25	\$0.75		Microscope (each) \$150
	Glossy / Mylar	\$0.75	\$1.25		Pressure Recorder (per day) \$100
	Vinyl / Adhesive	\$1.50	\$2.00		Ultrasonic Thickness Guage (per day) \$275
	Mounting (per sq. ft.)	\$2.00			Coating Inspection Kit (per day) \$275
	Binding (per binding)	\$0.25			Flushing / Cfactor (each) \$500
					Backpack Electrofisher (each) \$1,000
				<u>Survey Grade</u>	<u>Standard</u>
				Drone (per day) \$200	\$100
				GPS (per day) \$150	\$50

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.15. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

These ranges and/or rates will be adjusted annually in February. Last updated February 2021.

350022021

TERMS AND CONDITIONS OF AGREEMENT

1. **DEFINITIONS:** The term City as used herein refers to the City of Terrell. The term FNI as used herein refers to Freese and Nichols, Inc., its employees and agents, and its subcontractors and their employees and agents. As used herein, Services refers to the professional services performed by FNI pursuant to the Agreement.
2. **CHANGES:** City, without invalidating the Agreement, may order changes within the general scope of the work required by the Agreement by altering, adding to and/or deducting from the work to be performed. If any change under this clause causes an increase or decrease in FNI's cost of, or the time required for, the performance of any part of the Services, an equitable adjustment will be made by mutual agreement and the Agreement modified in writing accordingly.
3. **TERMINATION:** The obligation to provide Services under this Agreement may be terminated by either party upon 10 days' written notice. In the event of termination, FNI will be paid for all Services rendered and reimbursable expenses incurred to the date of termination and, in addition, all reimbursable expenses directly attributable to termination.
4. **CONSEQUENTIAL DAMAGES:** In no event shall FNI or its subcontractors be liable in contract, tort, strict liability, warranty, or otherwise for any special, indirect, incidental or consequential damages, such as loss of product, loss of use of the equipment or system, loss of anticipated profits or revenue, non-operation or increased expense of operation or other equipment or systems.
5. **INFORMATION FURNISHED BY CITY:** City will assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project. FNI shall have no liability for defects or negligence in the Services attributable to FNI's reliance upon or use of data, design criteria, drawings, specifications or other information furnished by City and City agrees to indemnify and hold FNI harmless from any and all claims and judgments, and all losses, costs and expenses arising therefrom. FNI shall disclose to City, prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications or other information furnished by City to FNI that FNI may reasonably discover in its review and inspection thereof.
6. **INSURANCE:** FNI shall provide City with certificates of insurance with the following minimum coverage:

Commercial General Liability	Workers' Compensation
General Aggregate	\$2,000,000
As required by Statute	
Automobile Liability (Any Auto)	Professional Liability
CSL	\$1,000,000
\$3,000,000 Annual Aggregate	
7. **SUBCONTRACTS:** If, for any reason and at any time during the progress of providing Services, City determines that any subcontractor for FNI is incompetent or undesirable, City will notify FNI accordingly and FNI shall take immediate steps for cancellation of such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in the Agreement shall create any contractual relation between any subcontractor and City.
8. **OWNERSHIP OF DOCUMENTS:** All drawings, reports, data and other project information developed in the execution of the Services provided under this Agreement shall be the property of City upon payment of FNI's fees for Services. FNI may retain copies for record purposes. City agrees such documents are not intended or represented to be suitable for reuse by City or others. Any reuse by City or by those who obtained said documents from City without written verification or adaptation by FNI, will be at City's sole risk and without liability or legal exposure to FNI, or to FNI's independent associates or consultants, and City shall indemnify and hold harmless FNI and FNI's independent associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle FNI to further reasonable compensation. FNI may reuse all drawings, report data and other project information in the execution of the Services provided under this Agreement in FNI's other activities. Any reuse by FNI will be at FNI's sole risk and without liability or legal exposure to City, and FNI shall indemnify and hold harmless City from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom.
9. **POLLUTANTS AND HAZARDOUS WASTES:** It is understood and agreed that FNI has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at the site, if any, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposures to such substances or conditions. The parties agree that in performing the Services required by this Agreement, FNI does not take possession or control of the subject site, but acts as an invitee in performing the Services, and is not therefore responsible for the existence of any pollutant present on or migrating from the site. Further, FNI shall have no responsibility for any pollutant during clean-up, transportation, storage or disposal

activities.

10. **OPINION OF PROBABLE COSTS:** FNI will furnish an opinion of probable project development cost based on present day cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by FNI hereunder will be made on the basis of FNI's experience and qualifications and represent FNI's judgment as an experienced and qualified design professional. It is recognized, however, that FNI does not have control over the cost of labor, material, equipment or services furnished by others or over market conditions or contractors' methods of determining their prices.
11. **CONSTRUCTION REPRESENTATION:** If required by the Agreement, FNI will furnish construction representation according to the defined scope for these services. FNI will observe the progress and the quality of work to determine in general if the work is proceeding in accordance with the Contract Documents. In performing these services, FNI will report any observed deficiencies to City, however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for the supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or the safety precautions and programs incident to the work of the Contractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project. If City designates a Resident Project Representative that is not an employee or agent of FNI, the duties, responsibilities and limitations of authority of such Resident Project Representative will be set forth in writing and made a part of this Agreement before the Construction Phase of the Project begins.
12. **GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:** City agrees to include provisions in the General Conditions of the Construction Contract that require Contractor to include FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by Contractor for the Project (except workers' compensation and professional liability policies); and (2) as an indemnified party in the Contractor's indemnification provisions where the Owner is named as an indemnified party.
13. **PAYMENT:** Progress payments may be requested by FNI based on the amount of Services completed. Payment for the Services of FNI shall be due and payable upon submission of a statement for Services to CITY and in acceptance of the Services as satisfactory by the City. Statements for Services shall not be submitted more frequently than monthly. Any applicable new taxes imposed upon Services, expenses and charges by any governmental body after the execution of this Agreement will be added to FNI's compensation.
If City fails to make any payment due FNI for services and expenses within 30 days after receipt of FNI's statement for services therefore, the amounts due FNI will be increased at the rate of 1 percent per month from said 30th day, and, in addition, FNI may, after giving 7 days' written notice to City, suspend services under this Agreement until FNI has been paid in full, all amounts due for services, expenses and charges.
14. **ARBITRATION:** No arbitration, arising out of or relating to this Agreement, involving one party to this Agreement may include the other party to this Agreement without their approval.
15. **SUCCESSORS AND ASSIGNMENTS:** City and FNI each are hereby bound and the partners, successors, executors, administrators and legal representatives of City and FNI are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
Neither City nor FNI shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent FNI from employing such independent associates and consultants as FNI may deem appropriate to assist in the performance of Services hereunder.
16. **PURCHASE ORDERS:** If a Purchase Order is used to authorize FNI's Services, only the terms, conditions/instructions typed on the face of the Purchase Order shall apply to this Agreement. Should there be any conflict between the Purchase Order and the terms of this Agreement, then this Agreement shall prevail and shall be determinative of the conflict.

Special City Council Meeting and
Workshop
AGENDA ITEM REPORT



To:

Subject: Discuss Professional Services Contract for the Design of Sewer Main for the TxCDBG Project

Meeting: Special City Council Meeting and Workshop - Jun 15 2021

Department: Engineering

Staff Contact: Steve Rogers, City Engineer

BACKGROUND INFORMATION:

The City was awarded a Community Development Block Grant from the Texas Department of Agriculture for the sewer main replacement in N. Blanche Street, E. High Street and N. Delphine Street. Consultant selection for the design of the new mains was conducted and staff selected Freese & Nichols, Inc. (FNI) for the project.

Negotiations with FNI have been completed and staff is recommending a contract amount not to exceed \$103,246.00.

Funding for this project will be primarily through the grant and any additional costs above the grant funded amount will be funded through the Utility Capital Reserve.

ATTACHMENTS:

[Sewer agenda item](#)

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF TARRANT §

This Agreement is entered into by City of Terrell, hereinafter called "Client" and Freese and Nichols, Inc., hereinafter called "FNI." In consideration of the Agreements herein, the parties agree as follows:

- I. **EMPLOYMENT OF FNI:** In accordance with the terms of this Agreement, Client agrees to employ and compensate FNI to perform professional services in connection with the Project. The Project is described as TDA CDBG Sewer Improvements.
- II. **SCOPE OF SERVICES:** FNI shall render professional services in connection with Project as set forth in Attachment SC – Scope of Services and Responsibilities of Client which is attached to and made a part of this Agreement.
- III. **COMPENSATION:** Client agrees to pay FNI for all professional services rendered under this Agreement. FNI shall perform professional services as outlined in the "Scope of Services". Compensation to FNI for Basic Services shall be the lump sum of Ninety Five Thousand Nine Hundred Sixty Dollars (\$95,960). Compensation to FNI for Special Services shall be computed on the basis of charges in Attachment CO, but shall not exceed Seven Thousand Two Hundred Eighty Six Dollars (\$7,286).

If FNI's services are delayed or suspended by Client, or if FNI's services are extended for more than 60 days through no fault of FNI, FNI shall be entitled to equitable adjustment of rates and amounts of compensation to reflect reasonable costs incurred by FNI in connection with such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

- IV. **TERMS AND CONDITIONS OF AGREEMENT:** The Terms and Conditions of Agreement as set forth as Attachment TC – Terms and Conditions of Agreement shall govern the relationship between the Client and FNI.

Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and FNI, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and FNI and not for the benefit of any other party.

This Agreement constitutes the entire Agreement between Client and FNI and supersedes all prior written or oral understandings.

This contract is executed in two counterparts. IN TESTIMONY HEREOF, Agreement executed:

Freese and Nichols, Inc.

By: _____

Print Name and Title _____

Date: _____

ATTEST: _____

City of Terrell

By: _____

Print Name and Title _____

Date: _____

ATTEST: _____

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER**ARTICLE I**

PROJECT DESCRIPTION: The City of Terrell (Owner) is proceeding with design and construction of the TDA CDBG Sewer Improvements (The Project). The Project will include professional services for the relocation and upsizing of the wastewater lines along North Blanche Street, High Street, and Delphine Streets. These relocations are being performed in preparation for the future storm drain improvements depicted in the “North Blanche Street Utility Alignment Study,” dated May 3, 2021. In addition, FNI will provide necessary coordination with the TDA CDBG since they are the partial funding entity for the project. The Project will have the following facilities:

1. Approximately 1,900 linear feet of 12-inch and 10-inch diameter wastewater pipeline (Assuming up to 5 plan/profile sheets) from an existing manhole located north of the North Blanche Street and Moore Street to the intersection of Delphine Street and Brin Street. The project will include the crossing of State Highway 34.

The following facilities or services are not part of The Project, and will be provided by others or under separate scope:

1. Environmental assessment services and general coordination with the THC. It is understood that the Owner's 3rd party consultant will be performing these activities.
2. CDBG wage rate confirmation process.
3. Easement preparation services. It is understood that the proposed pipelines will be located within the existing right-of-way.
4. Correlating water line relocations and upsizing.

The Project will include the following construction bid packages:

1. TDA CDBG Wastewater Improvements

If more construction or equipment bid packages are included, then additional compensation will be mutually agreed upon.

The Project procurement method will include conventional bid procurement. The Project will include the conventional design-bid-build delivery method.

The Owner will use Texas Department of Agriculture (TDA) Funding through the Texas Community Block Grant (CDBG) program. FNI will assist Owner by preparing and submitting the general supporting documentation, final plans and specifications, and monthly construction reports for the design and construction phases.

ITEM 6.6.

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project:

A. PROJECT MANAGEMENT

Upon execution of this Agreement, FNI shall:

1. Conduct internal and external kickoff meetings to review scope, schedule, and budget; determine any special conditions that may affect design and/or construction; discuss administrative requirements of Owner and TDA CDBG; and to develop design criteria. A site visit will be held directly following the external kickoff meeting.
2. Manage efforts of internal design team and sub-consultants on the Project and perform Quality Control and Constructability review of all deliverables.
3. Prepare meeting agendas and minutes and attend the following meetings:
 - a. Attend six (6) meetings with Owner / third parties during design and bid phases, including the TDA CDBG, and other consultants providing services to Owner. It is assumed that 50% of these meetings will be held via video conference.
 - b. Attend two (2) meetings with utility providers needed for the project. It is assumed these meetings will be in person.
 - c. Attend two (2) workshops for review of milestone design submittals. It is assumed these meeting will be in person.
4. Prepare a Microsoft Project schedule and provide monthly updates including necessary revisions to bring the Project back on schedule if needed. The project schedule will not be resource loaded.
5. Prepare monthly reporting including status report, recent activities, upcoming activities, action items log, decisions made log, budget updates, schedule updates, and scope changes. Prepare monthly invoices.
6. Deliverables include the following:
 - a. Agendas and minutes for all meetings
 - b. Project schedule updated monthly
 - c. Monthly reporting
 - d. Monthly invoices

B. STUDY PHASE: This phase was completed previously under a separate contract. No additional alignment studies or stormwater design will be provided as a part of this project. FNI will utilize the correlating "North Blanche Street Utility Alignment Study," dated May 3, 2021.

C. FINAL DESIGN PHASE: FNI shall provide professional services in this phase as follows:

1. Prepare front end documents, including bid documents, general conditions, and special conditions for the construction package, based upon the Owner's and FNI's standard documents, along with the incorporation of required TDA CDBG documents. Meet with Owner to resolve review comments, and revise documents accordingly.
2. Advise Owner of need for and recommend scope of additional Special Services, not already included in Article II of this Scope of Work. The cost of such additional Special Services shall be paid by Owner and are not included in the services performed by FNI.

FNI _____
OWNER _____

ITEM 6.6.

3. Prepare applications for routine permits such as road crossing permits and TCEQ Approval. Environmental and United States Army Corp of Engineers (USACE) permitting, preparation of applications and supporting documents for government grants or for planning advances is an Additional Service.
4. Furnish such information necessary to utility companies whose facilities may be affected, or services may be required for the Project.
5. Prepare revised opinion of probable construction cost at the 50% and 90% submittals.
6. 50% Review: Prepare drawings, specifications, construction contract documents, designs, and layouts of improvements to be constructed. Prepare bidder's proposal forms (project quantities) of the improvements to be constructed. Furnish Owner two (2) sets of copies of full size drawings, specifications, and bid proposals marked "Preliminary" for approval by Owner. FNI will meet with the Owner to present the plans and specifications and receive comments. Review documents will include dimensional layout drawings, plans, sections and elevations for all the trades, typical details, and most special details. The draft specifications will include major equipment items. Pipeline plans will include plan and profile sheets, pipeline appurtenances, and typical details. FNI will receive comments from Owner and address comments in the 90% Review.
7. 90% Review: Furnish Owner two (2) sets of copies of full size drawings, specifications, and bid proposals marked "Preliminary" for approval by Owner. FNI will meet with the Owner to present the plans and specifications and receive comments. Review documents will include all plans and specifications with minor corrections and notes remaining. FNI will receive comments from Owner and address comments in the Final Draft. Upon final approval by Owner, FNI will provide Owner two (2) sets of copies of "Final" plans and specifications.
8. Deliverables for the Final Design Phase include:
 - a. Front end documents for construction and equipment packages
 - b. Routine Permit Applications (Road Crossing and TCEQ Approval)
 - c. OPCC at 50% and 90% submittals
 - d. 50% review submittal of Plans and Specifications
 - e. 90% review submittal of Plans and Specifications
 - f. Final "Sealed" Plans and Specifications for Advertisement

D. **BID OR NEGOTIATION PHASE:** Upon completion of the design services and approval of "Final" drawings and specifications by Owner, FNI will proceed with the performance of services in this phase as follows:

1. Assist Owner in securing bids. Issue a Notice to Bidders to prospective contractors and vendors listed in FNI's database of prospective bidders, and to selected plan rooms. Provide a copy of the notice to bidders for Owner to use in notifying construction news publications and publishing appropriate legal notice. The cost for publications shall be paid by Owner.
2. Submit electronic copies of plans, specifications and bidding documents to CIVCAST. Prospective bidders may download and print documents from CIVCAST, who will maintain plan holder list and post addenda. FNI will also list bid projects on the FNI website.
3. Assist Owner by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to CIVCAST if necessary.

ITEM 6.6.

4. Assist the Owner in conducting a pre-bid conference for the construction projects and coordinate responses with Owner. Response to the pre-bid conference will be in the form of addenda issued after the conference.
5. At Owner request, FNI will assist Owner in the opening, tabulating, and analyzing the bids received. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project. Recommend award of contracts or other actions as appropriate to be taken by Owner.
6. Assist Owner in the preparation of Construction Contract Documents for construction contracts. Provide ten (10) sets of Construction Contract Documents which include information from the selected bidders' bid documents, legal documents, and addenda bound in the documents for execution by the Owner and construction contractor. Distribute five (5) copies of these documents to the contractor with a notice of award that includes directions for the execution of these documents by the construction contractor. Provide Owner with the remaining five (5) copies of these documents for use during construction. Additional sets of documents can be provided as an additional service.
7. Furnish contractor copies of the drawings and specifications for construction pursuant to the General Conditions of the Construction Contract.
8. Deliverables for the Bid or Negotiation Phase include:
 - a. Notice to Bidders
 - b. Electronic copies of plans, specifications, bidding documents, and addenda
 - c. Recommendation of Award with tabulation of bids
 - d. Notice of award to selected bidder
 - e. Conformed contract documents for execution
 - f. Copies of conformed contract documents for Contractor and Owner

E. **CONSTRUCTION PHASE:** Upon completion of the bid or negotiation phase services, FNI will proceed with the performance of construction phase services as described below. FNI will endeavor to protect Owner in providing these services however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

These services are based on the use of FNI standard General Conditions for construction projects. Modifications to these services required by use of other general conditions or contract administration procedures are an additional service. If general conditions other than FNI standards are used, the Owner agrees to include provisions in the construction contract documents that will require the construction contractor to include FNI and their subconsultants on this project to be listed as an additional insured on contractor's insurance policies.

1. Assist Owner in conducting pre-construction conference(s) with the Contractor(s), review construction schedules prepared by the Contractor(s) pursuant to the requirements of the construction contract and prepare a proposed estimate of monthly cash requirements of the Project from information provided by the Construction Contractor.

2. Establish communication procedures with the Owner and contractor. Submit monthly reports of construction progress. Reports will describe construction progress in general terms and summarize project costs, cash flow, construction schedule and pending and approved contract modifications.
3. Establish and maintain a project documentation system consistent with the requirements of the construction contract documents. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation. Produce monthly reports indicating the status of all submittals in the review process. Review contractor's submittals, including, requests for information, modification requests, shop drawings, schedules, and other submittals in accordance with the requirements of the construction contract documents for the projects. Monitor the progress of the contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.
4. Based on FNI's observations as an experienced and qualified design professional and review of the Payment Requests and supporting documentation submitted by Contractor, determine the amount that FNI recommends Contractor be paid on monthly and final estimates, pursuant to the General Conditions of the Construction Contract.
5. Make visits monthly, up to a total of 8 visits, appropriate to the stage of construction to the site (as distinguished from the continuous services of a Resident Project Representative) to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Construction Contract Documents. In this effort FNI will endeavor to protect the Owner against defects and deficiencies in the work of Contractors and will report any observed deficiencies to Owner. Visits to the site in excess of the specified number are an additional service.
6. Notify the contractor of non-conforming work observed on site visits. Review quality related documents provided by the contractor such as test reports, equipment installation reports or other documentation required by the Construction contract documents.
7. Interpret the drawings and specifications for Owner and Contractor(s). Investigations, analyses, and studies requested by the Contractor(s) and approved by Owner, for substitutions of equipment and/or materials or deviations from the drawings and specifications is an additional service.
8. Establish procedures for administering constructive changes to the construction contracts. Process contract modifications and negotiate with the contractor on behalf of the Owner to determine the cost and time impacts of these changes. Prepare change order documentation for approved changes for execution by the Owner. Documentation of field orders, where cost to Owner is not impacted, will also be prepared. Investigations, analyses, studies or design for substitutions of equipment or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents requested by the contractor and approved by the Owner are an additional service. Substitutions of materials or equipment or design modifications requested by the Owner are an additional service.
9. Prepare documentation for contract modifications required to implement modifications in the design of the project. Receive and evaluate notices of contractor claims and make recommendations to the Owner on the merit and value of the claim on the basis of information submitted by the contractor or available in project documentation. Endeavor to negotiate a settlement value with the Contractor on behalf of the Owner if appropriate. Providing these services to review or evaluate construction contractor(s) claim(s), supported by causes not within the control of FNI are an additional service.
10. Assist in the transfer of and acceptance by the construction contractor of any Owner furnished equipment or materials.

11. Conduct, in company with Owner's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Construction Contract Documents. Prepare a list of deficiencies to be corrected by the contractor before recommendation of final payment. Assist the Owner in obtaining legal releases, permits, warranties, spare parts, and keys from the contractor. Review and comment on the certificate of completion and the recommendation for final payment to the Contractor(s). Visiting the site to review completed work in excess of two trips are an additional service.
12. Revise the construction drawings in accordance with the information furnished by construction Contractor(s) reflecting changes in the Project made during construction. Two (2) sets of prints of "Record Drawings" shall be provided by FNI to Owner.

ARTICLE II

SPECIAL SERVICES: Special Services to be performed by FNI include the following:

- A. **SEWER CAPACITY ANALYSIS:** Briefly revisit proposed sizing for the wastewater improvement sections, more specifically City Wastewater CIP Project No. 3a, noted in the "Final Water, Wastewater & Roadway CIP and Impact Fee Update," dated March 20, 2019. Confirm buildout flow projections. Provide recommendations for the potential "pinch" point under State Highway 34. Findings and recommendations will be summarized in a supporting technical memorandum. No flow monitoring will be provided under this scope.

ARTICLE III

ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above-described basic services, are described as follows:

- A. Any additional field surveying beyond the previous stormwater assessment efforts required for the preparation of designs and drawings. Field layouts or the furnishing of construction line and grade surveys. Making property, boundary and right of way surveys, preparation of easement and deed descriptions, including title search and examination of deed records. GIS mapping services or assistance with these services.
- B. Providing SUE services of any form.
- C. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Owner.
- D. Additional stormwater analysis or design beyond the information provided in the "North Blanche Street Utility Alignment Study," dated May 3, 2021.
- E. Providing renderings, model, and mock-ups requested by the Owner.
- F. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of FNI.
- G. Providing consultation concerning the replacement of any Work damaged by fire or other cause during the construction and providing services as may be required in connection with the replacement of such Work. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective work. Any services required as a result of default of the

contractor(s) or the failure, for any reason, of the contractor(s) to complete the work within the contract time. Providing services after the completion of the construction phase not specifically listed in Article II. Visits to the site in excess of the number of trips included in Article II for periodic site visits, coordination meetings, or contract completion activities. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form. Providing services to review or evaluate construction contractor(s) claim(s), provided said claims are supported by causes not within the control of FNI. Providing value engineering studies or reviews of cost savings proposed by construction contractors after bids have been submitted. Provide follow-up professional services during Contractor's warranty period.

- H. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by Owner.
- I. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- J. Providing shop, mill, field or laboratory inspection of materials and equipment. Observe factory tests of equipment at any site remote to the project or observing tests required as a result of equipment failing the initial test.
- K. Preparing Operation and Maintenance Manuals or conducting operator training.
- L. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- M. Furnishing the services of a Resident Project Representative to act as Owner's on-site representative during the Construction Phase. The Resident Project Representative will act as directed by FNI in order to provide more extensive representation at the Project site during the Construction Phase. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative and assistants, FNI shall endeavor to provide further protection for Owner against defects and deficiencies in the work. Furnishing the services of a Resident Project Representative is subject to the provisions of Article I, E and Attachment RPR.

If Owner provides personnel to support the activities of the Resident Project Representative who is FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such personnel will be set forth in an Attachment attached to and made a part of this Agreement before the services of such personnel are begun. It is understood and agreed that such personnel will work under the direction of and be responsible to the Resident Project Representative. Owner agrees that whenever FNI informs him in writing that any such personnel provided by the Owner are, in his opinion, incompetent, unfaithful or disorderly, such personnel shall be replaced.

- N. Furnishing Special Inspections required under chapter 17 of the International Building Code. These Special Inspections are often continuous, requiring an inspector dedicated to inspection of the individual work item, and they are in addition to General Representation and Resident Representation services noted elsewhere in the contract. These continuous inspection services can be provided by FNI as an Additional Service.
- O. Furnishing Inspections and Commissioning Reports required by International Energy Efficiency Code (IECC).

ITEM 6.6.

- P. Assisting Owner in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
- Q. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
- R. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- S. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.
- T. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- U. Services required to resolve bid protests or to rebid the projects for any reason.
- V. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.
- W. Provide Geotechnical investigations, studies and reports.
- X. Accessibility and TDLR coordination and review aspects.

ARTICLE IV

TIME OF COMPLETION: FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in accordance with the following schedule: Completion of design phase services within six (6) months. FNI will coordinate with Owner and endeavor to meet the CDBG's required construction NTP date of January 31, 2022 and construction completion date of January 31, 2023.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in Owner or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and in Attachment CO.

ARTICLE V

RESPONSIBILITIES OF Owner: Owner shall perform the following in a timely manner so as not to delay the services of FNI:

ITEM 6.6.

A. Owner recognizes and expects that certain Change Orders may be required. Unless noted otherwise, the Owner shall budget a minimum of 5% for new construction and a minimum of 10% for construction that includes refurbishing existing structures.

Further, Owner recognizes and expects that certain Change Orders may be required to be issued as the result in whole or part of imprecision, incompleteness, errors, omission, ambiguities, or inconsistencies in the Drawings, Specifications, and other design documentation furnished by Engineer or in the other professional services performed or furnished by Engineer under this Agreement ("Covered Change Orders"). Accordingly, Owner agrees to pay for Change Orders and otherwise to make no claim directly or indirectly against Engineer on the basis of professional negligence, breach of contract, or otherwise with respect to the costs of approved Covered Change Orders unless the aggregate costs of all such approved Covered Change Orders exceed 2% for new construction and 4% for reconstruction. Any responsibility of Engineer for the costs of Covered Change Orders in excess of such percentage will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the cost of Covered Change Orders will not include:

- any costs that Owner would have incurred if the Covered Change Order work had been included originally in the Contract Documents and without any other error or omission of Engineer related thereto,
- Any costs that are due to unforeseen site conditions, or
- Any costs that are due to changes made by the Owner.
- Any costs that are due to the Contractor

Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, Engineer is liable for the cost of Covered Change Orders in excess of the percent of Construction Cost stated above or for any other Change Order. Wherever used in this document, the term Engineer includes Engineer's officers, directors, partners, employees, agents, and Engineers Consultants.

B. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to FNI's services for the Project.

C. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the drawings and specifications.

D. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

E. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.

F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.

G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay all fees for permit applications.

- H. Owner shall make or arrange to have made all subsurface investigations, including but not limited to borings, test pits, soil resistivity surveys, and other subsurface explorations. Owner shall also make or arrange to have made the interpretations of data and reports resulting from such investigations. All costs associated with such investigations shall be paid by Owner.
- I. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Owner may require or FNI may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Owner may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as Owner may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- J. Owner shall determine, prior to receipt of construction bid, if FNI is to furnish Resident Project Representative service so the Bidders can be informed.
- K. If Owner designates a person to serve in the capacity of Resident Project Representative who is not FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such Resident Project Representative(s) will be set forth in an Attachment attached to and made a part of this Agreement before the Construction Phase of the Project begins. Said attachment shall also set forth appropriate modifications of the Construction Phase services as defined in Attachment SC, Article I, together with such adjustment of compensation as appropriate.
- L. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
- M. Give prompt written notice to FNI whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services, or any defect or nonconformance of the work of any Contractor.
- N. Furnish, or direct FNI to provide, Additional Services as stipulated in Attachment SC, Article III of this Agreement or other services as required.
- O. Bear all costs incident to compliance with the requirements of this Article V.

ARTICLE VI

DESIGNATED REPRESENTATIVES: FNI and Owner designate the following representatives:

Owner's Designated Representative – Steve Rogers, PO Box 310, Terrell, Texas, 75160; 972.551.6600; srogers@cityofterrell.org

FNI's Designated Representative – Daniel Huffines, 5805 Main Street, Suite B, Frisco, Texas 75034; 214.217.2218; dwh@freese.com

FNI's Accounting Representative – Lisa Broussard, 2711 North Haskell Avenue, Suite 3300, Dallas, Texas 75204; 972.331.6021, lisa.broussard@freese.com

Compensation to FNI for Basic Services in Attachment SC shall be the lump sum of Ninety Five Thousand Nine Hundred Sixty Dollars (\$95,960).

Compensation to FNI for Special Services in Attachment SC shall be computed on the basis of the following Schedule of Charges, but shall not exceed Seven Thousand Two Hundred Eighty Six Dollars (\$7,286).

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

<u>Position</u>	<u>Hourly Rate</u>	
	<u>Min</u>	<u>Max</u>
Professional 1	81	151
Professional 2	102	158
Professional 3	123	228
Professional 4	154	245
Professional 5	186	350
Professional 6	200	399
Construction Manager 1	91	179
Construction Manager 2	109	193
Construction Manager 3	168	224
Construction Manager 4	207	291
CAD Technician/Designer 1	74	147
CAD Technician/Designer 2	105	161
CAD Technician/Designer 3	133	210
Corporate Project Support 1	53	126
Corporate Project Support 2	74	175
Corporate Project Support 3	105	266
Intern / Coop	42	109

Rates for In-House Services and Equipment

<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>		<u>Equipment</u>		
	<u>B&W</u>	<u>Color</u>			
Standard IRS Rates			Valve Crew Vehicle (hour)	\$75	
	Small Format (per copy)	\$0.10	Pressure Data Logger (each)	\$200	
	Large Format (per sq. ft.)		Water Quality Meter (per day)	\$100	
<u>Technology Charge</u>			Microscope (each)	\$150	
\$8.50 per hour	Bond	\$0.25	Pressure Recorder (per day)	\$100	
	Glossy / Mylar	\$0.75	Ultrasonic Thickness Guage (per day)	\$275	
	Vinyl / Adhesive	\$1.50	Coating Inspection Kit (per day)	\$275	
	Mounting (per sq. ft.)	\$2.00	Flushing / Cfactor (each)	\$500	
	Binding (per binding)	\$0.25	Backpack Electrofisher (each)	\$1,000	
					<u>Survey Grade</u>
			Drone (per day)	\$200	\$100
			GPS (per day)	\$150	\$50

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.15. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

These ranges and/or rates will be adjusted annually in February. Last updated February 2021.

350022021

TERMS AND CONDITIONS OF AGREEMENT

1. **DEFINITIONS:** The term City as used herein refers to the City of Terrell. The term FNI as used herein refers to Freese and Nichols, Inc., its employees and agents, and its subcontractors and their employees and agents. As used herein, Services refers to the professional services performed by FNI pursuant to the Agreement.
2. **CHANGES:** City, without invalidating the Agreement, may order changes within the general scope of the work required by the Agreement by altering, adding to and/or deducting from the work to be performed. If any change under this clause causes an increase or decrease in FNI's cost of, or the time required for, the performance of any part of the Services, an equitable adjustment will be made by mutual agreement and the Agreement modified in writing accordingly.
3. **TERMINATION:** The obligation to provide Services under this Agreement may be terminated by either party upon 10 days' written notice. In the event of termination, FNI will be paid for all Services rendered and reimbursable expenses incurred to the date of termination and, in addition, all reimbursable expenses directly attributable to termination.
4. **CONSEQUENTIAL DAMAGES:** In no event shall FNI or its subcontractors be liable in contract, tort, strict liability, warranty, or otherwise for any special, indirect, incidental or consequential damages, such as loss of product, loss of use of the equipment or system, loss of anticipated profits or revenue, non-operation or increased expense of operation or other equipment or systems.
5. **INFORMATION FURNISHED BY CITY:** City will assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project. FNI shall have no liability for defects or negligence in the Services attributable to FNI's reliance upon or use of data, design criteria, drawings, specifications or other information furnished by City and City agrees to indemnify and hold FNI harmless from any and all claims and judgments, and all losses, costs and expenses arising therefrom. FNI shall disclose to City, prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications or other information furnished by City to FNI that FNI may reasonably discover in its review and inspection thereof.
6. **INSURANCE:** FNI shall provide City with certificates of insurance with the following minimum coverage:

Commercial General Liability	Workers' Compensation
General Aggregate	\$2,000,000
As required by Statute	
Automobile Liability (Any Auto)	Professional Liability
CSL	\$1,000,000
\$3,000,000 Annual Aggregate	
7. **SUBCONTRACTS:** If, for any reason and at any time during the progress of providing Services, City determines that any subcontractor for FNI is incompetent or undesirable, City will notify FNI accordingly and FNI shall take immediate steps for cancellation of such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in the Agreement shall create any contractual relation between any subcontractor and City.
8. **OWNERSHIP OF DOCUMENTS:** All drawings, reports, data and other project information developed in the execution of the Services provided under this Agreement shall be the property of City upon payment of FNI's fees for Services. FNI may retain copies for record purposes. City agrees such documents are not intended or represented to be suitable for reuse by City or others. Any reuse by City or by those who obtained said documents from City without written verification or adaptation by FNI, will be at City's sole risk and without liability or legal exposure to FNI, or to FNI's independent associates or consultants, and City shall indemnify and hold harmless FNI and FNI's independent associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle FNI to further reasonable compensation. FNI may reuse all drawings, report data and other project information in the execution of the Services provided under this Agreement in FNI's other activities. Any reuse by FNI will be at FNI's sole risk and without liability or legal exposure to City, and FNI shall indemnify and hold harmless City from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom.
9. **POLLUTANTS AND HAZARDOUS WASTES:** It is understood and agreed that FNI has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at the site, if any, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposures to such substances or conditions. The parties agree that in performing the Services required by this Agreement, FNI does not take possession or control of the subject site, but acts as an invitee in performing the Services, and is not therefore responsible for the existence of any pollutant present on or migrating from the site. Further, FNI shall have no responsibility for any pollutant during clean-up, transportation, storage or disposal

activities.

10. **OPINION OF PROBABLE COSTS:** FNI will furnish an opinion of probable project development cost based on present day cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by FNI hereunder will be made on the basis of FNI's experience and qualifications and represent FNI's judgment as an experienced and qualified design professional. It is recognized, however, that FNI does not have control over the cost of labor, material, equipment or services furnished by others or over market conditions or contractors' methods of determining their prices.
11. **CONSTRUCTION REPRESENTATION:** If required by the Agreement, FNI will furnish construction representation according to the defined scope for these services. FNI will observe the progress and the quality of work to determine in general if the work is proceeding in accordance with the Contract Documents. In performing these services, FNI will report any observed deficiencies to City, however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for the supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or the safety precautions and programs incident to the work of the Contractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project. If City designates a Resident Project Representative that is not an employee or agent of FNI, the duties, responsibilities and limitations of authority of such Resident Project Representative will be set forth in writing and made a part of this Agreement before the Construction Phase of the Project begins.
12. **GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:** City agrees to include provisions in the General Conditions of the Construction Contract that require Contractor to include FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by Contractor for the Project (except workers' compensation and professional liability policies); and (2) as an indemnified party in the Contractor's indemnification provisions where the Owner is named as an indemnified party.
13. **PAYMENT:** Progress payments may be requested by FNI based on the amount of Services completed. Payment for the Services of FNI shall be due and payable upon submission of a statement for Services to CITY and in acceptance of the Services as satisfactory by the City. Statements for Services shall not be submitted more frequently than monthly. Any applicable new taxes imposed upon Services, expenses and charges by any governmental body after the execution of this Agreement will be added to FNI's compensation.
If City fails to make any payment due FNI for services and expenses within 30 days after receipt of FNI's statement for services therefore, the amounts due FNI will be increased at the rate of 1 percent per month from said 30th day, and, in addition, FNI may, after giving 7 days' written notice to City, suspend services under this Agreement until FNI has been paid in full, all amounts due for services, expenses and charges.
14. **ARBITRATION:** No arbitration, arising out of or relating to this Agreement, involving one party to this Agreement may include the other party to this Agreement without their approval.
15. **SUCCESSORS AND ASSIGNMENTS:** City and FNI each are hereby bound and the partners, successors, executors, administrators and legal representatives of City and FNI are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
Neither City nor FNI shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent FNI from employing such independent associates and consultants as FNI may deem appropriate to assist in the performance of Services hereunder.
16. **PURCHASE ORDERS:** If a Purchase Order is used to authorize FNI's Services, only the terms, conditions/instructions typed on the face of the Purchase Order shall apply to this Agreement. Should there be any conflict between the Purchase Order and the terms of this Agreement, then this Agreement shall prevail and shall be determinative of the conflict.

