

CITY OF FORT WORTH, TEXAS**STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES**

This AGREEMENT is between the City of Fort Worth, a Texas home-rule municipality ("CITY"), and Freese & Nichols, Inc., authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Walsh Ranch Regional Stormwater Plan – Project No. 103844.

**Article I
Scope of Services**

The Scope of Services is set forth in Attachment A. Negotiated changes to this Agreement, if any, are included in Attachment C.

**Article II
Compensation**

The ENGINEER's compensation shall be in the amount up to \$90,000.00 as set forth in Attachment B. Payment shall be considered full compensation for all labor (including all benefits, overhead and markups), materials, supplies, and equipment necessary to complete the Services.

Engineer shall provide monthly invoices to City. The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in Attachment D to this AGREEMENT, to reasonably substantiate the invoices.

Payments for services rendered shall be made in accordance with the Texas Prompt Payment Act (Texas Government Code Ch. 2251).

Acceptance by Engineer of said payment shall release City from all claims or liabilities under this Agreement for anything related to, performed, or furnished in connection with the Services for which payment is made, including any act or omission of City in connection with such Services.

**Article III
Term**

Time is of the essence. Unless otherwise terminated pursuant to Article VI. D. herein, this Agreement shall be for a term beginning upon the effective date, as described below, and shall continue until the expiration of the funds or completion of the subject matter contemplated herein pursuant to the schedule, whichever occurs first. Unless specifically otherwise amended, the original term shall not exceed five years from the original effective date.

Article IV Obligations of the Engineer

A. General

The ENGINEER will serve as the CITY's professional engineering representative under this Agreement, providing professional engineering consultation and advice and furnishing customary services incidental thereto.

B. Standard of Care

The ENGINEER shall perform its services:

(1) with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license; and

(2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

C. Subsurface Investigations

(1) The ENGINEER shall advise the CITY with regard to the necessity for subcontract work such as special surveys, tests, test borings, or other subsurface investigations in connection with design and engineering work to be performed hereunder. The ENGINEER shall also advise the CITY concerning the results of same. Such surveys, tests, and investigations shall be furnished by the CITY, unless otherwise specified in Attachment A.

(2) In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER.

D. Preparation of Engineering Drawings

The ENGINEER will provide to the CITY the original drawings of all plans in ink on reproducible mylar sheets and electronic files in .pdf format, or as otherwise approved by CITY, which shall become the property of the CITY. CITY may use such drawings in any manner it desires; provided, however, that the ENGINEER shall not be liable for the use of such drawings for any project other than the PROJECT described herein.

E. Engineer's Personnel at Construction Site

- (1) The presence or duties of the ENGINEER's personnel at a construction site, whether as on-site representatives or otherwise, do not make the ENGINEER or its personnel in any way responsible for those duties that belong to the CITY and/or the CITY's construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the contract documents and any health or safety precautions required by such construction work. The ENGINEER and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.
- (2) Except to the extent of specific site visits expressly detailed and set forth in Attachment A, the ENGINEER or its personnel shall have no obligation or responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the PROJECT, when completed, will be in accordance with the contract documents, nor shall anything in the contract documents or this AGREEMENT between CITY and ENGINEER be construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the contract documents, the ENGINEER shall inform the CITY.
- (3) When professional certification of performance or characteristics of materials, systems or equipment is reasonably required to perform the services set forth in the Scope of Services, the ENGINEER shall be entitled to rely upon such certification to establish materials, systems or equipment and performance criteria to be required in the contract documents.

F. Opinions of Probable Cost, Financial Considerations, and Schedules

- (1) The ENGINEER shall provide opinions of probable costs based on the current available information at the time of preparation, in accordance with Attachment A.
- (2) In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the PROJECT, the ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, the ENGINEER makes no warranty that the CITY's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from the ENGINEER's opinions, analyses, projections, or estimates.

G. Construction Progress Payments

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that the construction contractor has completed the work in exact accordance with the contract documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are no other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

H. Record Drawings

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. The ENGINEER is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

I. Business Equity Participation

City has goals for the full and equitable participation of minority business and/or women business enterprises in City contracts greater than \$100,000. In accordance with the City's Business Equity Ordinance No. 25165-10-2021 (replacing Ordinance No. 24534-11-2020, as codified in Chapter 20, Article X of the City's Code of Ordinances, as amended, and any relevant policy or guidance documents), the City has goals for the full and equitable participation of minority business and/or women business enterprises in City contracts greater than \$100,000. Engineer acknowledges the MBE and WBE goals established for this contract and its execution of this Agreement is Engineer's written commitment to meet the prescribed MBE and WBE participation goals. Any misrepresentation of facts (other than a negligent misrepresentation) and/or the commission of fraud by the Engineer may result in the termination of this Agreement and debarment from participating in City contracts for a period of time of not less than three (3) years.

J. Right to Audit

- (1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this contract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this contract. ENGINEER agrees that the CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CITY shall give ENGINEER reasonable advance notice of intended audits.
- (2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this article together with subsection (3) hereof. CITY shall give subconsultant reasonable advance notice of intended audits.
- (3) ENGINEER and subconsultant agree to reproduce such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of hard copies at the rate published in the Texas Administrative Code in

effect as of the time copying is performed.

K. INSURANCE

Engineer shall not commence work under this Agreement until it has obtained all insurance required under Attachment F and City has approved such insurance.

L. Independent Consultant

The ENGINEER agrees to perform all services as an independent consultant and not as a subcontractor, agent, or employee of the CITY. The doctrine of *respondeat superior* shall not apply.

M. Disclosure

The ENGINEER acknowledges to the CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property cities. The ENGINEER further acknowledges that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this contract and prior to final payment under the contract.

N. Asbestos or Hazardous Substances

- (1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.
- (2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in obtaining the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

O. Permitting Authorities - Design Changes

If permitting authorities require design changes so as to comply with published design criteria and/or current engineering practice standards which the ENGINEER should have been aware of at the time this Agreement was executed, the ENGINEER shall revise plans and specifications, as required, at its own cost and expense. However, if design changes are required due to the changes in the permitting authorities' published design criteria and/or practice standards criteria which are published after the date of this Agreement which the ENGINEER could not have been reasonably aware of, the ENGINEER shall notify the CITY of such changes and an adjustment in compensation will be made through an amendment to this AGREEMENT.

P. Schedule

ENGINEER shall manage the PROJECT in accordance with the schedule developed per Attachment D to this AGREEMENT.

**Article V
Obligations of the City**

A. City-Furnished Data

ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

B. Access to Facilities and Property

The CITY will make its facilities accessible to the ENGINEER as required for the ENGINEER's performance of its services. The CITY will perform, at no cost to the ENGINEER, such tests of equipment, machinery, pipelines, and other components of the CITY's facilities as may be required in connection with the ENGINEER's services. The CITY will be responsible for all acts of the CITY's personnel.

C. Advertisements, Permits, and Access

Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for the ENGINEER's services or PROJECT construction.

D. Timely Review

The CITY will examine the ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as the CITY deems appropriate; and render in writing decisions required by the CITY in a timely manner in accordance with the project schedule prepared in accordance with Attachment D.

E. Prompt Notice

The CITY will give prompt written notice to the ENGINEER whenever CITY observes or becomes aware of any development that affects the scope or timing of the ENGINEER's services or of any defect in the work of the ENGINEER or construction contractors.

F. Asbestos or Hazardous Substances Release.

- (1) CITY acknowledges ENGINEER will perform part of the work at CITY's facilities that may contain hazardous materials, including asbestos containing materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.
- (2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the project.

G. Contractor Indemnification

The CITY agrees to include in all construction contracts the provisions of Article IV.E. regarding the ENGINEER's Personnel at the construction site, and provisions providing for contractor indemnification of the CITY and the ENGINEER for contractor's negligence.

H. Contractor Claims and Third-Party Beneficiaries

- (1) The CITY agrees to include the following clause in all contracts with construction contractors and equipment or materials suppliers:

"Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER."
- (2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.
- (3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this Agreement.
- (4) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

I. Litigation Assistance

The Scope of Services does not include costs of the ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY. In the event CITY requests such services of the ENGINEER, this AGREEMENT shall be amended or a separate agreement will be negotiated between the parties.

J. Changes

The CITY may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT with appropriate CITY approval.

**Article VI
General Legal Provisions**

A. Authorization to Proceed

ENGINEER shall be authorized to proceed with this AGREEMENT upon receipt of a written Notice to Proceed from the CITY.

B. Reuse of Project Documents

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents.

C. Force Majeure

CITY and ENGINEER shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control, including, but not limited to: acts of the public enemy, fires, strikes, lockouts, natural disasters, epidemics/pandemics, wars, riots, material or labor restrictions by any governmental authority and/or any other similar causes.

D. Termination

- (1) This AGREEMENT may be terminated
 - a.) by the City for its convenience upon 30 days' written notice to ENGINEER.
 - b.) by either the CITY or the ENGINEER for cause if either party fails substantially to perform through no fault of the other and the nonperforming party does not commence correction of such nonperformance within 5 days' written notice or thereafter fails to diligently complete the correction.
- (2) If this AGREEMENT is terminated for the convenience of the City, the ENGINEER will be paid for termination expenses as follows:
 - a.) Reasonable cost of reproduction or electronic storage of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product;
 - b.) The reasonable time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for convenience so that the work effort is suitable for long time storage.
- (3) Prior to proceeding with termination services, the ENGINEER will submit to the CITY an itemized statement of all projected termination expenses. The CITY'S approval shall be obtained in writing prior to proceeding with termination services.

E. Suspension, Delay, or Interruption to Work

The CITY may suspend, delay, or interrupt the services of the ENGINEER for the convenience of the CITY. In the event of such suspension, delay, or interruption, an equitable adjustment in the PROJECT's schedule, commitment and cost of the ENGINEER's personnel and subcontractors, and ENGINEER's compensation will be made.

F. Indemnification

The ENGINEER shall indemnify or hold harmless the CITY against liability for any damage committed by the ENGINEER or ENGINEER's agent, consultant under contract, or another entity over which the ENGINEER exercises control to the extent that the damage is caused by or resulting from an act of negligence, intentional tort, intellectual

property infringement, or failure to pay a subcontractor or supplier. CITY is entitled to recover its reasonable attorney's fees in proportion to the ENGINEER's liability.

G. Assignment

ENGINEER shall not assign all or any part of this AGREEMENT without the prior written consent of CITY.

H. Jurisdiction

The law of the State of Texas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. The venue for any litigation related to this AGREEMENT shall be Tarrant County, Texas.

I. Severability and Survival

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Articles V.F., VI.B., VI.D., VI.F., VI.H., and VI.I. shall survive termination of this AGREEMENT for any cause.

J. Observe and Comply

ENGINEER shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this AGREEMENT and the work hereunder, and shall observe and comply with all orders, laws ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. **ENGINEER agrees to defend, indemnify and hold harmless CITY and all of its officers, agents and employees from and against all claims or liability arising out of the violation of any such order, law, ordinance, or regulation, whether it be by itself or its employees.**

K. Contract Construction/No Waiver

The parties acknowledge that each Party and, if it so chooses, its counsel, have reviewed and revised Agreement and that the normal rule of contract construction, to the effect that any ambiguities are to be resolved against the drafting party, must not be employed in the interpretation of Agreement or any amendments or exhibits hereto.

The failure of CITY or ENGINEER to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of CITY's or ENGINEER's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

L. Immigration Nationality Act

ENGINEER shall verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by CITY, ENGINEER shall provide CITY with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. ENGINEER shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any ENGINEER employee who is not legally eligible to perform such services. **ENGINEER SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY ENGINEER, ENGINEER'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** CITY, upon written notice to ENGINEER, shall have the right to immediately terminate this Agreement for violations of this provision by ENGINEER.

M. Prohibition On Contracts With Companies Boycotting Israel

ENGINEER unless a sole proprietor, acknowledges that in accordance with Chapter 2271 of the Texas Government Code, if ENGINEER has 10 or more full time-employees and the contract value is \$100,000 or more, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. **By signing this contract, ENGINEER certifies that ENGINEER'S signature provides written verification to the City that if Chapter 2271, Texas Government Code applies, ENGINEER: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.**

N. Prohibition on Boycotting Energy Companies

ENGINEER acknowledges that in accordance with Chapter 2274 of the Texas Government Code-(as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2), the CITY is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more, which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, ENGINEER certifies that ENGINEER’s signature provides written verification to the CITY that ENGINEER: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement.**

O. Prohibition on Discrimination Against Firearm and Ammunition Industries

ENGINEER acknowledges that except as otherwise provided by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1), the CITY is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate,” “firearm entity” and “firearm trade association” have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, ENGINEER certifies that ENGINEER’s signature provides written verification to the CITY that ENGINEER: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.**

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, which supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. This AGREEMENT may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the

same instrument.

The following attachments and schedules are hereby made a part of this AGREEMENT:

- Attachment A - Scope of Services
- Attachment B - Compensation
- Attachment C - Amendments to Standard Agreement for Engineering Services
- Attachment D - Project Schedule
- Attachment E - Location Map
- Attachment F – Insurance Requirements

Duly executed by each party’s designated representative to be effective on the date subscribed by the City’s designated Assistant City Manager.

BY:
CITY OF FORT WORTH

BY:
ENGINEER
Freese & Nichols, Inc.

Dana Burghdoff
Dana Burghdoff (Jan 5, 2022 12:32 CST)

Dana Burghdoff
Assistant City Manager

Scott Hubley
Scott Hubley (Jan 3, 2022 14:48 CST)

Scott Hubley, PE, CFM
Principal and Vice President

Date: Jan 5, 2022

Date: Jan 3, 2022

ATTEST:

Jannette S. Goodall
Jannette S. Goodall (Jan 5, 2022 16:59 CST)

Jannette Goodall
City Secretary

APPROVAL RECOMMENDED:

By: *William M. Johnson*
Wj (Jan 4, 2022 14:07 CST)

William M. Johnson
Director, Transportation and Public Works

APPROVED AS TO FORM AND LEGALITY

Form 1295 No. 2021-835465

By: *DBlack*
DBlack (Jan 5, 2022 12:30 CST)

Douglas W Black
Sr. Assistant City Attorney

M&C No.: NA

M&C Date: NA

Contract Compliance Manager:

By signing, I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

Jennifer M Dyke
Jennifer M Dyke (Jan 3, 2022 14:54 CST)

Jennifer Dyke
Stormwater Program Manager

ATTACHMENT "A"

Scope for Engineering Design Related Services for Storm Water Improvements Projects

The scope set forth herein defines the work to be performed by the ENGINEER in completing the project. Both the CITY and ENGINEER have attempted to clearly define the work to be performed and address the needs of the Project. Under this scope, "ENGINEER" is expanded to include any sub-consultant, including surveyor, employed or contracted by the ENGINEER.

BACKGROUND

The City of Fort Worth desires to explore the option to enter a public/private partnership agreement for the development of a regional stormwater plan for the Walsh Ranch property. To decide whether such an agreement would be in the City's best interest, a variety of collaborative technical engineering activities involving City and Walsh Ranch representatives is required. The objective of this scope of services is to provide a variety of technical services, as the City's representative, in these exploratory activities to aid in the public/private partnership agreement decision.

OBJECTIVES

1. This agreement provides for professional services through a number of Task Order assignments so that the City can make a determination on a potential partnership opportunity on an as-needed basis. Some of these tasks may be urgent in nature and a rapid response capability is required.
2. The primary objective of the first Task Order is to support City of Fort Worth Stormwater staff to explore development of a regional stormwater plan for Walsh Ranch, in partnership with Walsh Ranch representatives, including development of a Work Plan to determine if it is in the City's best interest to enter into a public/private partnership agreement for plan development.
3. If the public/private partnership is pursued, a second Task Order is anticipated to begin H&H modeling. A more detailed scope and budget proposal will be prepared prior to City written authorization to proceed.
4. Additional Task Orders may be authorized to meet future needs.

WORK TO BE PERFORMED

TASK ORDER 1 – GOALS & CONSTRAINTS

Consultant will provide on-call services (hourly, plus expenses), for an amount not to exceed \$30,000 or over a time period no greater than three months, as requested by City staff. It is anticipated that these services will include technical support to the City, in collaboration with Walsh Ranch representatives, to jointly define mutually agreeable goals and planning

constraints for a Walsh Ranch Regional Stormwater Plan. These mutually agreeable goals and constraints must be identified as the basis for the public/private partnership agreement and resulting scope of work to develop the Regional Stormwater Plan through a separate, follow-up contract to this agreement. Multiple work sessions between City and Walsh Ranch representatives are expected. Technical support may include offering technical opinions during work sessions, developing a strategy for processing interim development activity while the planning study is being prepared, modeling and planning strategy development, and the preparation of a work plan for preparing the regional stormwater plan if the City and Walsh Ranch representatives agree to prepare the regional plan.

This assignment does not include technical support in the form of field surveying, hydrologic or hydraulic modeling, permitting, or preparation of construction plans and specifications.

TASK ORDER 2 – BASE CONDITIONS MODELING JUMPSTART

Detailed scope for TO2, if authorized, will be added later based on the outcome and findings of TO1. Because of uncertainty associated with the scope of work, deliverables, budget requirements, and schedule, these items will be negotiated independently. A rough estimate of \$60,000 is anticipated to jumpstart the initial activities associated with base conditions modeling work. Completing the base conditions modeling work beyond TO2 would be authorized separately.

ATTACHMENT B
Engineering Services for
Walsh Ranch Regional Stormwater Plan
City Project No. 103844
Time and Materials with Rate Schedule Project

I. Compensation

- A. The ENGINEER shall be compensated for personnel time, non-labor expenses, and subcontract expenses in performing services enumerated in Attachment A as follows:

<u>Position</u>	<u>Hourly Rate</u>
Professional 1	107
Professional 2	130
Professional 3	146
Professional 4	169
Professional 5	197
Professional 6	225
Construction Manager 1	85
Construction Manager 2	111
Construction Manager 3	131
Construction Manager 4	164
CAD Technician/Designer 1	91
CAD Technician/Designer 2	117
CAD Technician/Designer 3	145
Corporate Project Support 1	87
Corporate Project Support 2	105
Corporate Project Support 3	139
Intern / Coop	53
Senior Advisor	175

Rates for In-House Services and Equipment

Mileage

Standard IRS Rates

Bulk Printing and Reproduction

B&W

Color

Small Format (per copy)

\$0.10

\$0.25

Large Format (per sq. ft.)

Bond

\$0.25

\$0.75

Glossy / Mylar

\$0.75

\$1.25

Vinyl / Adhesive

\$1.50

\$2.00

Mounting (per sq. ft.)

\$2.00

Binding (per binding)

\$0.25

Technology Charge

\$8.50 per hour

Equipment

Survey

Grade

Standard

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.

- i. **Subcontract Expenses.** Subcontract expenses and outside services shall be reimbursed at cost to ENGINEER plus a markup of ten percent (10%).
- ii. **Budgets.** ENGINEER will make reasonable efforts to complete the work within the budget and will keep the City informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.

ENGINEER is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is the City obligated to pay ENGINEER beyond these limits.

If ENGINEER projects, in the course of providing the necessary services, that the PROJECT cost presented in Article 2 of this Agreement will be exceeded, whether

by change in scope of the project, increased costs or other conditions, the ENGINEER shall immediately report such fact to the City and, if so instructed by the City, shall suspend all work hereunder.

When any budget has been increased, ENGINEER's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase.

- B. The ENGINEER shall be paid monthly payments as described in Section II - Method of Payment.

II. Method of Payment

- A. The ENGINEER shall be paid by the City based upon an invoice created on the basis of statements prepared from the books and records of account of the ENGINEER, based on the actual hours and costs expended by the ENGINEER in performing the work.
- B. Each invoice shall be verified as to its accuracy and compliance with the terms of this Agreement by an officer of the ENGINEER.
- C. ENGINEER shall prepare and submit invoices in the format and including content as presented in Exhibit B-1.
- D. Payment of invoices will be subject to certification by the City that such work has been performed.

III. Progress Reports

- A. The ENGINEER shall prepare and submit to the designated representative of the Transportation and Public Works Department monthly progress reports and schedules in the format required by the City.

ATTACHMENT "C"

CHANGES AND AMENDMENTS TO STANDARD AGREEMENT

Engineering Services for
Walsh Ranch Regional Stormwater Plan
City Project No. 103844

None

ATTACHMENT "D"
PROJECT SCHEDULE

Task Order 1 - ENGINEER shall provide on-call technical support for a period of up to 3 months from the Notice to Proceed unless both parties agree in writing to extend the schedule.

Task Order 2 – Schedule for Task Order 2, if authorized, will be determined as a part of scope definition.

ATTACHMENT "E"

LOCATION MAP

Engineering Services for
Walsh Ranch Regional Stormwater Plan
City Project No. 103844

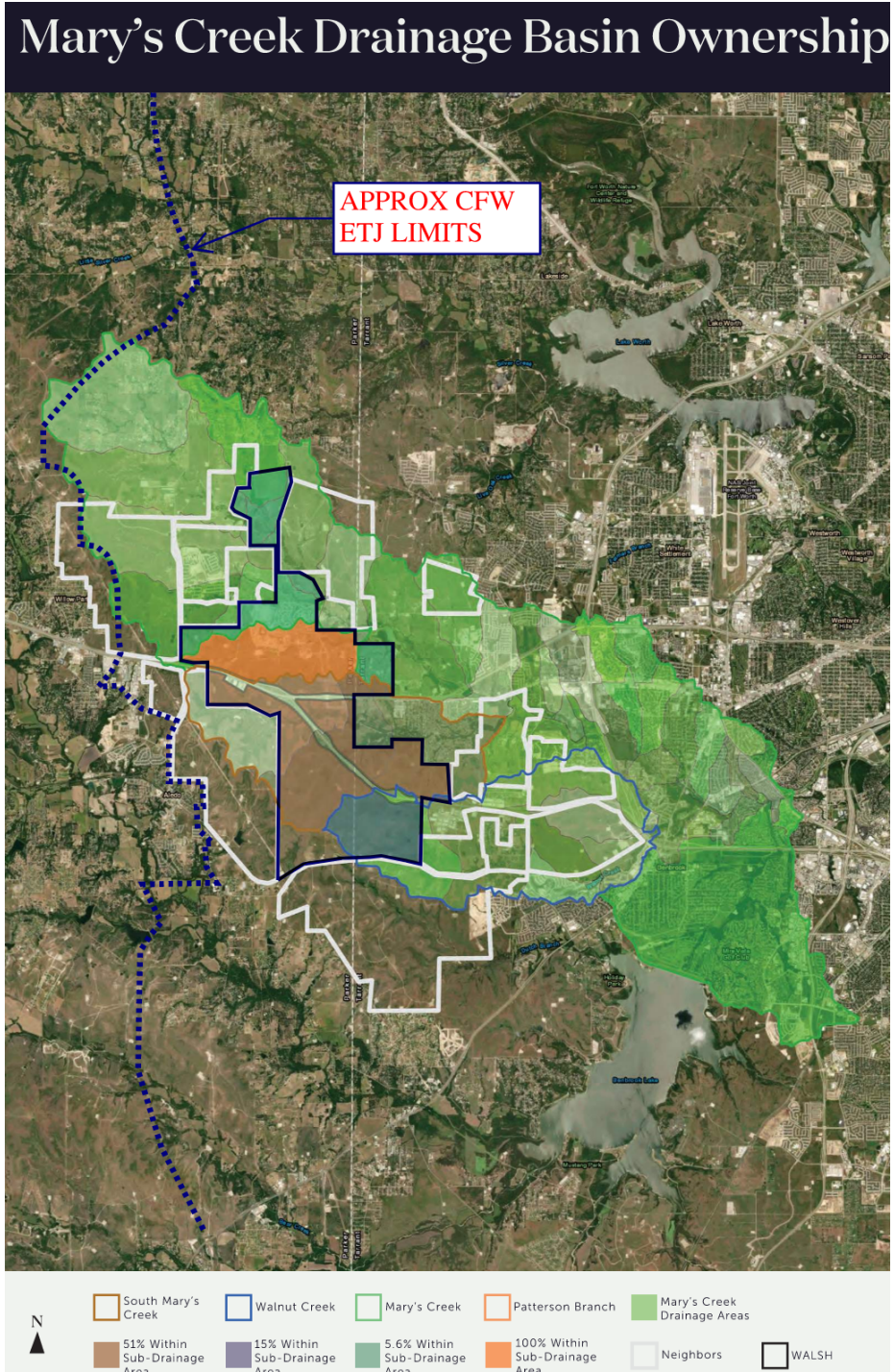


EXHIBIT F

CITY OF FORT WORTH

STANDARD INSURANCE REQUIREMENTS

(1) INSURANCE LIMITS

- a. Commercial General Liability – Insured shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance as follows:

\$1,000,000 each occurrence

\$2,000,000 aggregate

If such Commercial General Liability insurance contains a general aggregate limit, it shall apply separately to this Project or location.

- i. City shall be included as an additional insured with all rights of defense under the CGL, using ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City. The Commercial General Liability insurance policy shall have no exclusions or endorsements that would alter or nullify: premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained within the policy, unless City specifically approves such exclusions in writing.
- ii. Insured waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained in accordance with Agreement.

- b. Business Auto – Insured shall maintain business auto liability and, if necessary, commercial umbrella liability insurance as follows:

\$1,000,000 each accident (or reasonably equivalent limits of coverage if written on a split limits basis).

Such insurance shall cover liability arising out of “any auto”, including owned, hired, and non-owned autos, when said vehicle is used in the course of Insured’s business and/or the Project. If Insured owns no vehicles, coverage for hired or non-owned autos is acceptable.

Insured waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by Insured pursuant to this Agreement or under any applicable auto physical damage coverage.

- c. Workers' Compensation – Insured shall maintain workers compensation and employer's liability insurance and, if necessary, commercial umbrella liability insurance as follows:

Coverage A: statutory limits
Coverage B: \$100,000 each accident
\$500,000 disease - policy limit
\$100,000 disease - each employee

Insured waives all rights against City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability or commercial umbrella insurance obtained by Insured pursuant to this Agreement.

- d. Professional Liability (Errors & Omissions) – Insured shall maintain professional liability insurance as follows:

\$1,000,000 - Each Claim Limit
\$2,000,000 - Aggregate Limit

Professional Liability coverage may be provided through an endorsement to the Commercial General Liability policy, or a separate policy specific to Professional E&O. Either is acceptable if coverage meets all other requirements. Coverage shall be written on a claims-made basis, and maintained for the duration of the contractual agreement and for five (5) years following completion of services provided. The policy shall contain a retroactive date prior or equal to the Effective Date of the Agreement or the first date of services to be performed, whichever is earlier. An annual certificate of insurance shall be submitted to City to evidence coverage.

(2) GENERAL INSURANCE REQUIREMENTS

- a. Certificates of insurance evidencing that Insured has obtained all required insurance shall be attached to Agreement concurrent with its execution. Any failure to attach the required insurance documentation hereto shall not constitute a waiver of the insurance requirements.
- b. Applicable policies shall be endorsed to name City as an Additional Insured, as its interests may appear, and must afford the City the benefit of any defense provided by the policy. The term City shall include its employees, officers, officials, and agents as respects the contracted services. Applicable policies shall each be endorsed with a waiver of subrogation in favor of City with respect to the Project.
- c. Certificate(s) of insurance shall document that insurance coverage limits specified in this Agreement are provided under applicable policies documented thereon. Insured's insurance policy(s) shall be endorsed to provide that said insurance is primary protection and any self-funded or

commercial coverage maintained by City shall not be called upon to contribute to loss recovery. Insured's liability shall not be limited to the specified amounts of insurance required herein.

- d. Other than worker's compensation insurance, in lieu of traditional insurance, City may consider alternative coverage or risk treatment measures through insurance pools or risk retention groups. City must approve in writing any alternative coverage for it to be accepted.
- e. A minimum of thirty (30) days' notice of cancellation or material change in coverage shall be provided to City. A ten (10) days' notice shall be acceptable in the event of non-payment of premium.
- f. Insurers must be authorized to do business in the State of Texas and have a current A.M. Best rating of A:VII or equivalent measure of financial strength and solvency as determined by the City's Risk Management division.
- g. Any deductible or self-insured retention in excess of \$25,000 that would change or alter the requirements herein is subject to approval in writing by City, if coverage is not provided on a first-dollar basis. City, at its sole discretion, may consent to alternative coverage maintained through insurance pools or risk retention groups. Dedicated financial resources or letters of credit may also be acceptable to City.
- h. In the course of the Agreement, Insured shall report, in a timely manner, to City's Risk Management Department with additional notice to the Contract Compliance Manager, any known loss or occurrence which could give rise to a liability claim or lawsuit against City or which could result in a property loss.
- i. City shall be entitled, upon its request and without incurring expense, to review Insured's insurance policies including endorsements thereto and, at City's discretion, Insured may be required to provide proof of insurance premium payments.
- j. Lines of coverage, other than Professional Liability, underwritten on a claims-made basis, shall contain a retroactive date coincident with or prior to the date of this Agreement. The certificate of insurance shall state both the retroactive date and that the coverage is claims-made.
- k. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption nor restrictive modification or changes from date of commencement of the Project until final payment and termination of any coverage required to be maintained after final payments.
- l. City shall not be responsible for the direct payment of any insurance premiums required by Agreement.
- m. Subcontractors of Insured shall be required by Insured to maintain the same or reasonably equivalent insurance coverage as required for Insured. Upon City's request, Insured shall provide City with documentation thereof.