

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

**AGREEMENT FOR PROFESSIONAL SERVICES**

This agreement ("Agreement") is made by and between the City of Allen, Texas ("City") and **Freese and Nichols, Inc.**, a **Design Firm** ("Professional") (each a "Party" and collectively the "Parties"), acting by and through their authorized representatives.

**RECITALS:**

**WHEREAS**, the City desires to engage the services of the Professional as an independent contractor, and not as an employee, to provide the services described in Exhibit "A" (the "Scope of Services") to assist the City in **Stacy Road Pump Station No. 1 Rehabilitation** (the "Project") on the terms and conditions set forth in this Agreement; and

**WHEREAS**, the Professional desires to render services for the City on the terms and conditions set forth in this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

**Article I**  
**Term**

1.1 This Agreement shall commence on the last date of execution hereof ("Effective Date") and continue until completion of the services, unless sooner terminated as provided herein.

1.2 Either Party may terminate this Agreement by giving thirty (30) days prior written notice to the other Party. In the event of such termination the Professional shall deliver to City all finished and unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by the Professional in connection with this Agreement. Professional shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

**Article II**  
**Scope of Service**

2.1 The Professional shall perform the services in connection with the Project as set forth in the Scope of Services. The Professional shall perform the services: (i) with the professional skill and care ordinarily provided by competent engineers or architects, as the case may be, practicing in the same or similar locality and under the same or similar circumstances and professional license; and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect, as the case may be.

2.2 The City shall, prior to commencement of services, provide the Professional with the information set forth in the Scope of Services, if any.

2.3 Licenses. Professional represents to City that Professional possesses any and all licenses which may be required by the State of Texas or any other governmental entity having jurisdiction as may be necessary for the performance of Professional's services pursuant to this Agreement.

2.4 The Parties acknowledge and agree that any and all opinions provided by the Professional in connection with the Scope of Services represent the professional judgment of the Professional, in accordance with the standard of care applicable by law to the services performed hereunder.

2.5 Upon execution of this Agreement the City has the right to use the Professional's instruments of service, including but not limited to reports, maps, cost estimates, recommendations or other deliverables for the Project, provided that the City substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The City's employees, agents, contractors and subcontractors may reproduce applicable portions of the instruments of service for use in performing services or construction for the Project. Upon payment of all amounts due Professional hereunder, all deliverables, materials and reports prepared by the Professional in connection with this Agreement shall become the property of the City. The City shall have the right to publish, disclose, distribute and otherwise use such deliverables, materials and reports only for those purposes for which they were intended. Subject to the foregoing, Professional shall, upon completion of the services, or earlier termination, provide the City with the deliverables, drawings, reports, maps, and materials prepared by Professional as set forth in the Scope of Services.

### **Article III Schedule of Work**

The Professional agrees to complete the required services in accordance with the Project Schedule outlined in the Scope of Services.

### **Article IV Compensation and Method of Payment**

4.1 Professional will be compensated in accordance with the payment schedule and amounts set forth in the Scope of Services. Unless otherwise provided herein, payment to the Professional shall be monthly based on the Professional's monthly progress report and detailed monthly itemized statement for services that shows the names of the Professional's employees, agents, contractors performing the services, the time worked, the actual services performed, the rates charges for such service, reimbursable expenses, and the amount due and payable as of the current statement, in a form reasonably acceptable to the City. Monthly statements shall include

authorized non-salary expenses with supporting itemized invoices and documentation. The City shall pay such monthly statements within thirty (30) days after receipt and City verification of the services and expenses unless otherwise provided herein. The final payment of the compensation shall be made after satisfactory completion of the services following the City acceptance of the study, report, recommendation or other work set forth in the Scope of Services, and the submittal of "AS BUILT" drawings, or record drawings, as applicable.

4.2 Unless otherwise provided in the Scope of Services the Professional shall be responsible for all expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, telephone, internet and email charges.

4.3 The hourly rates set forth in the Scope of Services, if any shall remain in effect during the term of this Agreement. Any changes to established hourly rates shall require the prior written consent of the City.

#### **Article V** **Devotion of Time; Personnel; and Equipment**

5.1 The Professional shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. Should the City require additional services not included under this Agreement, the Professional shall make reasonable effort to provide such additional services within the time schedule without decreasing the effectiveness of the performance of services required under this Agreement, and shall be compensated for such additional services on a time and materials basis, in accordance with Professional's standard hourly rate schedule, or as otherwise agreed between the Parties.

5.2 To the extent reasonably necessary for the Professional to perform the services under this Agreement, the Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that the Professional may deem proper to aid or assist in the performance of the services under this Agreement. The Professional shall provide written notice to and obtain written approval from the City prior to engaging services not referenced in the Scope of Services. The cost of such personnel and assistance shall be included as part of the total compensation to be paid Professional hereunder and shall not otherwise be reimbursed by the City unless otherwise provided herein.

5.3 The Professional shall furnish the facilities, equipment and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

5.4 The Professional shall submit monthly progress reports and attend monthly progress meetings scheduled by the City or more frequently as may be required by the City from time to time based upon Project demands. Each progress report shall detail the work accomplished and special problems or delays experienced on the Project during the previous report period, and the planned work activities and special problems or delays anticipated for the next report period.

## **Article VI Miscellaneous**

6.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

6.2 Assignment. The Professional may not assign this Agreement without the prior written consent of City. In the event of an assignment by the Professional to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

6.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

6.4 Governing Law. The laws of the State of Texas shall govern this Agreement without regard to any conflict of law rules; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

6.6 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

6.7 Independent Contractor. It is understood and agreed by and between the Parties that the Professional, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

6.8 Right-of-Access. The Professional shall not enter onto private property without lawful right-of-access to perform the required surveys, or other necessary investigations. The Professional will take reasonable precautions to minimize damage to the private and public property in the performance of such surveys and investigations. Any right-of-access to public or private property shall be obtained in accordance with the Scope of Services.

6.9 **Notice.** Any notice required or permitted to be delivered hereunder may be sent by first class mail, courier or by confirmed telefax or facsimile to the address specified below, or to such other Party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery or on the day actually received if sent by courier or otherwise hand delivered:

If intended for City:

Eric Ellwanger  
City Manager  
City of Allen, Texas  
3rd Floor, Allen City Hall  
305 Century Parkway  
Allen, Texas 75013  
214.509.4110 - telephone  
214.509.4118 - fax

With a copy to:

Peter G. Smith  
City Attorney  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Ross Tower  
500 North Akard Street  
Dallas, Texas 75201  
214.965.9900 - telephone  
214.965.0010 - fax

If intended for Professional:

**Freese and Nichols, Inc.**  
Attn: Sam Meisner, PE  
Vice President  
2711 North Haskell Ave, Suite 3300  
Dallas, Texas 75204  
214-217-2200 - telephone  
817-735-7491 - fax

6.9 **Insurance.**

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (i) a comprehensive general liability policy of insurance for bodily injury, death and property damage including the property of the City, its officers, contractors, agents and employees (collectively referred to as the "City") insuring against all claims, demands or actions relating to the work and services provided by the Professional pursuant to this Agreement with a minimum combined single limit of not less than \$2,000,000.00 per occurrence for injury to persons (including death), and for property damage and \$2,000,000.00 aggregate including products and completed operations coverage of \$1,000,000.00. This policy shall be primary to any policy or policies carried by or available to the City; (ii) policy of automobile liability insurance covering any vehicles owned, non-owned and hired and/or operated by Professional, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit for bodily injury, death and property damage; (iii) statutory Worker's Compensation Insurance at the statutory

limits and Employers Liability covering all of Professional's employees involved in the provision of services under this Agreement with policy limit of not less than \$1,000,000.00; and (iv) Professional Liability with policy limit of not less than \$2,000,000.00 per claim and \$2,000,000.00 in the aggregate, covering negligent acts, errors and omissions by Professional, its contractors, sub-contractors, consultants and employees in the performance of services pursuant to this Agreement.

- (b) All insurance shall be endorsed to provide the following provisions: (1) name the City, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability; (2) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability Insurance. A specific endorsement needs to be added to all policies, with a copy of the endorsement provided to the City that indicates the insurance company will provide to the City at least a thirty (30) day prior written notice for cancellation, non-renewal, and/or material changes of the policy. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, the Consultant shall provide at least thirty (30) days prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance.
- (c) All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by the City.
- (d) A certificate of insurance and copies of policy endorsements evidencing the required insurance shall be submitted to the City prior to commencement of services. On every date of renewal of the required insurance policies, the Professional shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Professional shall within ten (10) business days after written request provide the City with certificates of insurance and policy endorsements for the insurance required herein. The delivery of the certificates of insurance and policy endorsements to the City is a condition precedent to the payment of any amounts due to Professional by the City. The failure to provide valid certificates of insurance and policy endorsements shall be deemed a default and/or breach of this Agreement.

#### **6.10 Debarment and Suspension.**

- (a) In accordance with 2 CFR section 180.300, the principal of this contract as described in 2 CFR section 180.995 being duly sworn or under penalty of perjury

under the laws of the United States, certifies that neither this company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas or any of its departments or agencies.

- (b) If during the contract period the principal becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, the principal shall immediately inform the City of Allen.
- (c) For contracts that are financed by Federal or State grants, the principal agrees that this section will be enforced on each of its subcontractors and will inform the City of Allen of any violations of this section by subcontractors to the contract.
- (d) The certification in this section is a material representation of fact relied upon by the City in entering into this contract.

6.11 Indemnification. PROFESSIONAL DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE PROFESSIONAL EXERCISES CONTROL SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE, § 130.002 (B).

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE PROFESSIONAL'S LIABILITY.

THE PROFESSIONAL'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

6.12 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

6.13 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

6.14 Prohibition of Boycott Israel. Professional verifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended. This section does not apply if the Professional is a sole proprietor, a non-profit entity or a governmental entity; and only applies if: (i) the Professional has ten (10) or more fulltime employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

*(Signature Page to Follow)*



EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF ALLEN, TEXAS

By: \_\_\_\_\_  
Eric Ellwanger, City Manager

ATTEST:

By: \_\_\_\_\_  
Shelley B. George, City Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Peter G. Smith, City Attorney

EXECUTED this 30<sup>th</sup> day of December, 2019.

Freese and Nichols, Inc.

By:   
Name: Sam Meisner, PE  
Title: Vice President

## **EXHIBIT "A"**

### **Scope of Services**

The City of Allen (Owner) is proceeding with design and construction of the Stacy Road Pump Station No. 1 Rehabilitation (The Project). The Project will generally include replacement of all pumps, motors, above ground piping, valves/actuators, and limited HVAC equipment. In addition, a new electrical building will be included, along with a supporting new generator. The existing medium-voltage MCC will be replaced with low-voltage switchboard and motor soft-starters and will be relocated to the new electrical building. The utility transformer will be relocated and replaced accordingly. General improvements will be provided in accordance with recommendations noted in the Stacy Road Pump Station No. 1 Assessment completed by FNI. No improvements are planned at Pump Station No. 2 unless specifically noted below.

The Project will have the following facilities:

1. Removal / replacement of existing pumps with four new pumps sized at approximately 2,085 gpm at 186' TDH. Supporting motors, piping, valves/actuators, and miscellaneous appurtenances will be provided in conjunction with the existing pump station headers/penetrations. The existing discharge header will remain in place, but will be repaired and recoated.
2. Remove and demolish existing electrical equipment, including the medium voltage MCC, existing PFCC's, dry-type transformer, low voltage switchboard, panelboard, cable and conduit. Lighting in the existing pump station will be removed and replaced with LED fixtures.
3. A new adjacent electrical building, 480V Switchboard with Automatic Throw Over, motor soft starters, PFCC's, dry-type transformer, distribution panelboard, and lighting panelboard. The new electrical building plan dimensions will be approximately 28'x20'. Design for the building will include supporting HVAC, architectural, and structural aspects as required. Architectural aesthetics and structural systems will mirror those of the existing facility. Any mockup or rendering aspects can be provided as an additional service.
4. Coordination with onsite NTMWD meter vault improvements and transformer replacement and relocation. Only internal coordination will be provided. No City or NTMWD meetings are included in this scope, but can be provided as an additional service, if deemed necessary. The City of Allen (Owner) and NTMWD construction projects will be completed independently. Any overlap during construction phase and coordination between Owner, NTMWD and Contractor(s) will be handled by the Owner.
5. Coordination with Electric Utility company for electric system information, requirements, as well as transformer replacement and relocation.
6. Abandonment and removal of chemical injection facilities and repurposing that space into a storage closet. Entry to closet will remain as-is.
7. Diesel-fired backup electric generating facilities with fuel storage.

**EXHIBIT "A"**  
**Scope of Services**

8. Providing services to design and install an automatic means of transferring power from the normal Utility Power feed to the existing back-up generator power in Pump Station No. 2.
9. Existing SCADA/PLC cabinet will remain. Coordination with the City's System integrator, Wheco, for the programming modifications and cable re-terminations.
10. Coordination with the City's security integrator, Securadyne, for modifications to the existing local security system at the Pump Station site by installing additional cameras. Security system at the Pump Station will remain a local system with the cameras designed to record and store video surveillance.

The following facilities are not part of The Project, and/or will be provided by others:

1. On-site SCADA / PLC will remain and be reused since recently upgraded.
2. City and NTMWD onsite flow meter improvement aspects by others.
3. Electric power service to the Project Site will be provided by the electric utility company. Owner connection will be on the secondary side of the utility transformer. FNI will design site grading, underground duct banks, and concrete equipment pads for electric utility equipment, if required.
4. Power system study including a short circuit and protective device coordination study, load flow and motor starting study, and arc flash hazard analysis for Project Site. FNI will provide a performance specification for a qualified electrical subcontractor to complete study, programming, and labeling.
5. Yard piping, grading and drainage, roads and parking, fencing, landscaping, irrigation, site water and wastewater utilities modifications.
6. Existing building roofing aspects, rooftop HVAC/PRV's, hatches, and skylights will be replaced as a part of the Owner's insurance repairs due the Spring 2019 storm damage.
7. Existing pump station building compliance aspects in relation to 2018 IBC and 2012 TAS accessibility requirements, along with proposed improvements onsite.

The Project will include one combined construction and equipment bid package. If more construction or equipment bid packages are included, then additional compensation will be mutually agreed upon.

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

**EXHIBIT "A"**  
**Scope of Services**

**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. No client kickoff meeting will be conducted. FNI will begin Final Design Phase on written notice to proceed.
2. Prepare meeting agendas and minutes and attend the following meetings:
  - a. Attend two (2) workshops for review of milestone design submittals with Owner staff.
  - b. Attend one (1) meeting with utility providers needed for the project.
  - c. No public, City planning / Development Services, building code, or fire marshal meetings or coordination are provided in this scope, but can be provided as an additional service if deemed necessary later.
3. Prepare a Microsoft Project schedule and provide updates only to bring the Project back on schedule if needed due to delays. The project schedule will not be resource loaded.
4. Prepare monthly invoices. Per Owner request, no supporting reporting will be provided with invoices.
5. Deliverables include the following:
  - a. Agendas and minutes for all meetings
  - b. Monthly invoices

**B. STUDY / ASSESSMENT PHASE:** Previously completed under a separate scope. Assessment memo recommendations to be utilized for final design aspects.

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

1. Based upon final location of facilities, prepare the final hydraulic design basis of the system, including pump station capacity, phasing, pump selection, design of flow control valves, pipe and valve selection, and miscellaneous appurtenances.
2. Prepare one-line diagrams of power systems.

**EXHIBIT "A"**  
**Scope of Services**

3. Digitize necessary layouts of existing facility per provided as-builts. Supporting photographs may be utilized in some scenarios to depict rehabilitation needs. No detailed survey will be provided indoors of the existing facility.
4. Owner will assemble the specifications to include all front-end documents (bid documents, general conditions, special conditions, Owner standard specifications, and other Div 00). FNI will be responsible for providing a bid table on an Owner provided template and any supporting technical specifications (Div 01-46).
5. Manage efforts of internal design team and sub-consultants on the Project and perform Quality Control review of all deliverables across all design disciplines.
6. Advise Owner of need for and recommend scope of additional Special Services, not already included in the Special Services 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.
7. Prepare application for TCEQ Approval. No other permits will be prepared. Accessibility permitting is not included based on no proposed improvements in the existing office spaces.
8. Furnish such information necessary to utility companies whose facilities may be affected, or services may be required for the Project. Provide site civil design of the facility sites to support the electric utilities site requirements, including site grading, roads, underground duct banks, and equipment pads if necessary. Easements for utilities companies can be provided as an Additional Service, if required.
9. Prepare revised opinion of probable construction cost at the 60% and 95% submittals.
10. 60% Review: Prepare drawings, technical specifications, designs, and layouts of improvements to be constructed. Prepare bidder's proposal forms on Owner template (project quantities) of the improvements to be constructed. Furnish Owner four (4) sets of copies of drawings (1 full size, 3 half size, and PDF), technical specifications (PDF), 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 technical specifications will include major equipment items. FNI will receive comments from Owner and address comments in the 95% Review. Any required review or permits needed from other City of Allen departments (fire, planning, development services, building inspections, etc.) will be coordinated by the Owner and comments will be provided as part of the 60% review submittal.
11. 95% Review: Furnish Owner four (4) sets of copies of drawings (1 full size, 3 half size, and PDF), technical specifications, and bid proposals marked "Preliminary" for approval by Owner. FNI will meet with the Owner to present the plans and

**EXHIBIT "A"**  
**Scope of Services**

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 a PDF of Final "Sealed" plans and technical specifications.

12. Deliverables for the Final Design Phase include:

- a. Bid Proposal Table on Owner template
- b. Routine Permit Applications (TCEQ Approval)
- c. Information to electric provider to acquire utility service
- d. OPCC at 60% and 95% submittals
- e. 60% review submittal of Plans and Technical Specifications
- f. 95% review submittal of Plans and Technical Specifications
- g. Final "Sealed" Plans and Specifications

D. **BID 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. Owner to issue a Notice to Bidders to prospective contractors and vendors.
2. Submit electronic copies of plans, technical specifications and bidding documents to the Owner so they can be uploaded to the Owner's bid website. Owner to manage bidding website.
3. Assist Owner by responding to questions and interpreting bid documents. Prepare addenda to the bid documents, if necessary.
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. Attend the tour of the project site after the pre-bid 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. If the contractor's qualifications are unclear and a detailed review of references is required this may be an additional service. Recommend award of contracts or other actions as appropriate to be taken by Owner.

**EXHIBIT "A"**  
**Scope of Services**

6. Assist Owner in the preparation of Construction Contract Documents for construction contracts. Owner will prepare bid proposal, contract, and other legal documents included in the front-ends for execution. FNI will provide six (6) 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. City to distribute one (1) copy 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. FNI will furnish contractor electronic (PDF) copies of the drawings and specifications for construction.. Additional sets of hard copy documents can be provided as an additional service.
8. Deliverables for the Bid or Negotiation Phase include:
  - a. Electronic copies of plans, technical specifications, bid proposal table, and addenda
  - b. Recommendation of Award with tabulation of bids
  - c. Conformed contract documents for execution (City to provide completed front-end documents)
  - d. Copies of conformed plans, technical specifications and bid proposal table for Contractor and Owner

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

- A. **SURVEYING:** Onsite NTMWD meter vault survey information to be utilized for design aspects. Current available survey covers the Pump Station No. 1 and immediate surrounding area. An additional one day of survey crew time is included in this scope for picking up any miscellaneous site aspects that may be needed for the Owner's improvements.
- B. **GEOTECHNICAL ENGINEERING:** Existing onsite NTMWD meter vault bore info to be utilized for foundation design. FNI will coordinate internally in support of pertinent foundation design recommendations for the proposed electrical building and generator pads. No field activities, lab work, or formal summary will be provided. Additional field activities, lab work, or analysis can be provided as an additional service, if deemed necessary.
- C. **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

**EXHIBIT "A"**  
**Scope of Services**

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. Owner will conduct pre-construction conference(s) with the Contractor and other regular construction progress meetings. FNI will not attend unless additional services authorized or budget substituted via other sources.
2. 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.
3. Review contractor's submittals, including, requests for information (RFI), shop drawings, factory test reports of major equipment, operations and maintenance manuals of major equipment, and other submittals in accordance with the requirements of the construction contract documents for the projects. We have estimated five (5) RFIs, eighty (80) shop drawings, ten (10) factory test reports, and ten (10) operations and maintenance manuals. Submittal review in excess of this number may be an additional service. If multiple reviews are required due to non-conformance with a technical specification, this may be an additional service or a direct invoice by FNI to the Contractor with the Owner's approval.
4. City to monitor the progress of the contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.
5. City to provide review of the Payment Requests and supporting documentation submitted by Contractor.
6. No site visits will be provided by FNI or are currently budgeted. If site visits or meeting needs are determined necessary by City staff, FNI and City to coordinate either additional service effort or substitution of effort to cover visits accordingly.
7. Revise the construction drawings in accordance with the information furnished by construction Contractor(s) reflecting changes in the Project made during construction.



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Electronic copies (CAD and PDF) of "Record Drawings" shall be provided by FNI to Owner.

- D. **CONSTRUCTION MODIFICATION REQUESTS:** Prepare change or field order documentation for approved changes for execution by the Owner, up to two (2). 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.

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

- A. Construction phase aspects not directly noted above. Construction site visits or meetings.
- B. SUE investigation services. Where SUE information is not available, FNI will utilize available City record drawings.
- C. Special coordination meetings with City and NTMWD.
- D. Factory witness testing for equipment, including pumps, motors, supporting electrical gear, and generator.
- E. 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.
- F. 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.
- G. Providing renderings, model, and mock-ups requested by the Owner.
- H. 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.
- I. 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

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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.

- J. 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.
- K. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- L. 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.
- M. Conducting pilot plant studies or tests.
- N. Preparing Operation and Maintenance Manuals or conducting operator training.
- O. 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.
- P. 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, D 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

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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.

- Q. 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.
- R. Furnishing Inspections and Commissioning Reports required by International Energy Efficiency Code (IECC).
- S. 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).
- T. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
- U. 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.
- V. 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.
- W. 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.
- X. Services required to resolve bid protests or to rebid the projects for any reason.
- Y. 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.

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**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:

	Stacy Road Pump Station No. 1 Rehabilitation
Council Approval / Notice to Proceed	January 14, 2020
60% Review Submittal	May 1, 2020
95% Review Submittal	July 23, 2020
Final "Sealed" Submittal	September 11, 2020
Submit TCEQ Review Submittal Package	September 18, 2020

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.

**COMPENSATION:** Professional will be compensated in accordance with the payment schedule and amounts set forth in the Scope of Services and outlined below:

A. **BASIC SERVICES:** Payment for basic services shall be per lump sum (LS) amounts as shown below:

1. PROJECT MANAGEMENT ..... \$5,900
2. FINAL DESIGN / WORKSHOPS..... \$264,900
3. BID PHASE ..... \$10,600

TOTAL BASIC SERVICES (LS): ..... \$281,400

B. **SPECIAL SERVICES:** Payment for special services shall be based on the cost plus not to exceed (CPM) amounts shown below:

1. SURVEYING ..... \$2,900
2. GEOTECHNICAL ENGINEERING..... \$2,200
3. CONSTRUCTION PHASE ..... \$44,600
4. CONSTRUCTION MODIFICATION REQUESTS ..... \$5,800

TOTAL SPECIAL SERVICES (CPM): ..... \$55,500