

**CITY OF CORPUS CHRISTI**  
**MASTER SERVICES AGREEMENT FOR PROFESSIONAL SERVICES**  
**Preliminary Engineering Street Feasibility and Cost Estimate Reports (Bond 2018)**

This Agreement is between the City of Corpus Christi, a Texas home rule municipal corporation, P.O. Box 9277, Corpus Christi, Nueces County, Texas 78469-9277 (City) acting through its duly authorized City Manager or designee and Freese and Nichols, Inc., a Texas Corporation, 800 N. Shoreline Boulevard, Suite 1600N, Corpus Christi, Texas 78401 (Consultant).

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## ARTICLE I – PROJECT TASK ORDER

- 1.1 This Agreement shall apply to as many tasks as City and Consultant agree will be performed under the terms and conditions of this Agreement. Each task Consultant performs for City hereunder shall be designated a Task Order. No Task Order shall be binding or enforceable unless and until it has been properly executed by both City and Consultant. Each properly executed Task Order shall become a separate supplemental agreement to this Agreement.
- 1.2 The Consultant shall provide its Scope of Services, to be included in each Task Order. The Scope of Services shall include all associated services required for Consultant to provide such Services, pursuant to this Agreement, and any and all Services which would normally be required by law or common due diligence in accordance with the standard of care defined in Article XII of this Agreement.
- 1.3 Under this Agreement, Consultant will provide services on a Task Order basis for a range of services related to assisting Engineering Services with professional engineering, architecture and construction services related to execution of Capital Improvements Programs. All work will be subject to authorization from City. A detailed Scope of Services and fee estimate will be developed for each task prior to execution of work.
- 1.4 Consultant must comply with City standards, as specified in the Unified Development Code (UDC) or Code of Ordinances, as applicable, throughout the duration of the Project, unless specifically and explicitly excluded from doing so in the approved Task Order. A request made by either party to deviate from City standards after the contract is executed must be in writing.
- 1.5 Consultant must perform tasks and submit deliverables as detailed in each approved Task Order.
- 1.6 Consultant must provide all labor, equipment and transportation necessary to complete all services agreed to in a timely manner throughout the term of the Agreement. Persons retained by Consultant to perform work pursuant to this Agreement shall be employees or subconsultants of Consultant. Consultant must provide City with a list of all subconsultants that includes the services performed by the subconsultant and the percentage of work performed by the subconsultant. Changes in Consultant's team that provides services under this Agreement must be agreed to by the City in writing.
- 1.7 Consultant must not begin work on any Task Order authorized under this Agreement until they are briefed on the scope of the Project and are notified in writing to proceed.
- 1.8 For design services, Consultant agrees to render the professional services necessary for the advancement of the Project through Final Completion of the Construction Contract. Consultant acknowledges and accepts its responsibilities, as defined and described in the City's General Conditions for Construction Contracts, an excerpt of which is attached as **Exhibit G**.

## ARTICLE II – COMPENSATION

- 2.1 The Compensation for all services included in this Agreement and in the Scope of Services for this Agreement shall not exceed \$300,000.
- 2.2 The Consultant's fee for each Task Order will be on a lump sum or time and materials (T&M) basis with a negotiated not-to-exceed amount. The fees will not exceed those identified and will be full and total compensation for all services outlined in each Task Order, and for all expenses incurred in performing these services.

- 2.3 Consultant shall submit a proposal to the City, which shall be incorporated into this agreement as **Exhibit B**, subject to approval by the City.
- 2.4 Consultant shall submit a Rate Schedule, shown in **Exhibit B-1**, with their proposal. The rate schedule shall remain confidential pursuant to section 552.104 of the Texas Government Code since release of this information would give advantage to a competitor or bidder. In addition, section 552.110 of the TX Govt. Code protects third party commercial and financial information if release of the information would cause the third party substantial competitive harm.
- 2.5 Monthly invoices will be submitted in accordance with the Payment Request (**Exhibit C**). For T&M basis fees, Consultant shall submit documentation with the monthly invoice that shows who worked on the Project, the number of hours that each individual worked on the Project and reimbursables for that individual.
- 2.5.1 Principals may only bill at the hourly rate of Principals when acting in that capacity. Principals acting in the capacity of staff must bill at staff rates. The Consultant shall provide documentation with each payment request that clearly indicates how that individual's time is allocated and the justification for that allocation.

- 2.6 The anticipated fee structure under this agreement is as follows:

DESCRIPTION	NOT TO EXCEED AMOUNT
Maximum Contract Amount	\$300,000.00
Task 1 – TBD	TBD
Task 2 – TBD	TBD
Task 3 – TBD	TBD
Task 4 – TBD	TBD
Task 5 – TBD	TBD
Task 6 – TBD	TBD

- 2.7 All services shall be performed and the applicable standard of professional care set forth herein and to City's satisfaction, which satisfaction shall be judged by the Director in his/her sole discretion. City shall not be liable for any payment under this Agreement for services which are unsatisfactory and which previously have not been approved by the Director.
- 2.8 In the event of any dispute(s) between the Parties regarding the amount properly compensable for any Task Order or as final compensation or regarding any amount that may be withheld by City, Consultant shall be required to make a claim pursuant to and in accordance with the terms of this Agreement and follow the procedures provided herein for the resolution of such dispute. In the event Consultant does not initiate and follow the claims procedures provided in this Agreement in a timely manner and as required by the terms thereof, any such claim shall be waived.
- 2.9 Request of final compensation by Consultant shall constitute a waiver of claims except those previously made in writing and identified by Consultant as unsettled at the time of final Payment Request.
- 2.10 Any fee payable under this Agreement is subject to the availability of funds. The Consultant may be directed to suspend work pending receipt and appropriation of funds.

### ARTICLE III – QUALITY CONTROL PLAN

- 3.1 The Consultant agrees to perform quality assurance-quality control/constructability reviews (QCP Review). The City reserves the right to retain a separate consultant to perform additional QCP services for the City.
- 3.2 The Consultant will perform QCP Reviews at intervals during the project to ensure deliverables satisfy applicable industry quality standards and meet the requirements of the project scope. Based on the findings of the QCP Review, the Consultant must reconcile the project scope and Opinion of Probable Cost (OPC) as needed.
- 3.3 Documents that do not meet City standards may be rejected. Consultant will not be compensated for having to resubmit documents.

### ARTICLE IV – INSURANCE REQUIREMENTS

- 4.1 Consultant must not commence work under this Agreement until all required insurance has been obtained, and such insurance has been approved by the City. Consultant must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.
- 4.2 Insurance Requirements are shown in **EXHIBIT D**.

### ARTICLE V - INDEMNIFICATION

**Consultant shall fully indemnify and hold harmless the City of Corpus Christi and its officials, officers, agents, employees, or other entity, excluding the engineer or architect or that person's agent, employee or subconsultant, over which the City exercises control ("Indemnatee") from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and court costs, to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement or failure to pay a subcontractor or supplier committed by Consultant or its agent, Consultant under contract or another entity over which Consultant exercises control while in the exercise of rights or performance of the duties under this agreement. This indemnification does not apply to any liability resulting from the negligent acts or omissions of the City or its employees, to the extent of such negligence.**

**Consultant shall defend Indemnatee, with counsel satisfactory to the City Attorney, from and against any and all claims, damages, liabilities or costs, including reasonable attorney fees and court costs, if the claim is not based wholly or partly on the negligence of, fault of or breach of contract by Indemnatee. If a claim is based wholly or partly on the negligence of, fault of or breach of contract by Indemnatee, the Consultant shall reimburse the City's reasonable attorney's fees in proportion to the Consultant's liability.**

**Consultant must advise City in writing within 24 hours of any claim or demand against City or Consultant known to Consultant related to or arising out of Consultant's activities under this Agreement.**

## ARTICLE VI – TERM; RENEWALS; TIMES FOR RENDERING SERVICE

- 6.1 This Agreement shall be effective upon the signature of the City Manager or designee (Effective Date).
- 6.2 This Agreement shall be applicable to Task Order issued hereunder from the Effective Date of the Agreement until project is complete.
- 6.3 This service shall be for a period of one (1) year beginning on the Effective Date. ~~The Agreement may be renewed for up to \_\_\_\_\_ one-year renewal options upon mutual agreement of the parties to be evidenced in writing prior to the expiration date of the prior term. Any renewals shall be at the same terms and conditions, plus any approved changes.~~
- 6.4 The times for performing services or providing deliverables will be stated in each Task Order. If no times are so stated, Consultant will perform services and provide deliverables within a reasonable time.

## ARTICLE VII - TERMINATION OF AGREEMENT

### 7.1 By Consultant:

7.1.1 The City reserves the right to suspend this Agreement at the end of any phase for the convenience of the City by issuing a written and signed Notice of Suspension. The Consultant may terminate this Agreement for convenience in the event such suspension extends for a period beyond 120 calendar days by delivering a Notice of Termination to the City.

7.1.2 The Consultant must follow the Termination Procedure outlined in this Agreement.

### 7.2 By City:

7.2.1 The City may terminate this agreement for convenience upon seven days written notice to the Consultant at the address of record.

7.2.2 The City may terminate this agreement for cause upon ten days written notice to the Consultant. If Consultant begins, within three days of receipt of such notice, to correct its failure and proceeds to diligently cure such failure within the ten days, the agreement will not terminate. If the Consultant again fails to perform under this agreement, the City may terminate the agreement for cause upon seven days written notice to the Consultant with no additional cure period. If the City terminates for cause, the City may reject any and all proposals submitted by Consultant for up to two years.

### 7.3 Termination Procedure

7.3.1 Upon receipt of a Notice of Termination and prior to the effective date of termination, unless the notice otherwise directs or Consultant takes action to cure a failure to perform under the cure period, Consultant shall immediately begin the phase-out and discontinuance of all services in connection with the performance of this Agreement. Within 30 calendar days after receipt of the Notice of Termination, unless Consultant has successfully cured a failure to perform, Consultant shall submit a statement showing in detail the services performed under this Agreement prior to the effective date of termination. City retains the option to grant an extension to the time period for submittal of such statement.

7.3.2 Consultant shall submit all completed and/or partially completed work under this Agreement, including but not limited to specifications, designs, plans and exhibits.

7.3.3 Upon receipt of documents described in the Termination Procedure and absent any reason why City may be compelled to withhold fees, Consultant will be compensated for its services based upon a Time & Materials calculation or Consultant and City's estimate of the proportion of the total services actually completed at the time of termination. There will be no compensation for anticipated profits on services not completed.

7.3.4 Consultant acknowledges that City is a public entity and has a duty to document the expenditure of public funds. The failure of Consultant to comply with the submittal of the statement and documents, as required above, shall constitute a waiver by Consultant of any and all rights or claims to payment for services performed under this Agreement.

## ARTICLE VIII – RIGHT OF REVIEW AND AUDIT

- 8.1 Consultant grants City, or its designees, the right to audit, examine or inspect, at City's election, all of Consultant's records relating to the performance of the Work under this Agreement, during the term of this Agreement and retention period herein. The audit, examination or inspection may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Consultant agrees to retain its records for a minimum of four (4) years following termination of the Agreement, unless there is an ongoing dispute under this Agreement, then such retention period shall extend until final resolution of the dispute.
- 8.2 "Consultant's records" include any and all information, materials and data of every kind and character generated as a result of the Work under this Agreement. Examples include billings, books, general ledger, cost ledgers, invoices, production sheets, documents, correspondence, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, federal and state tax filings for issue in questions and any and all other agreements, sources of information and matters that may, in City's judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Agreement Documents.
- 8.3 City agrees that it shall exercise the right to audit, examine or inspect Consultant's records only during City's regular business hours. Consultant agrees to allow City's designee access to all of Consultant's records, Consultant's facilities and Consultant's current or former employees, deemed necessary by City or its designee(s), to perform such audit, inspection or examination. Consultant also agrees to provide adequate and appropriate work space necessary to City or its designees to conduct such audits, inspections or examinations.
- 8.4 Consultant shall include this audit clause in any subcontractor, supplier or vendor contract.

## ARTICLE IX – OWNER REMEDIES

- 9.1 The City and Consultant agree that in the event the City suffers actual damages, the City may elect to pursue its actual damages and any other remedy allowed by law. This includes but is not limited to:
- 9.1.1 Failure of the Consultant to make adequate progress and endanger timely and successful completion of the Project, which includes failure of subconsultants to meet contractual obligations;
- 9.1.2 Failure of the Consultant to design in compliance with the laws of the City, State and/or federal governments, such that subsequent compliance costs exceed expenditures that would have been involved had services been properly executed by the Consultant.

9.1.3 Losses are incurred because of defects, errors and omissions in the design, working drawings, specifications or other documents prepared by the Consultant to the extent that the financial losses are greater than the City would have originally paid had there not been defects, errors and omissions in the documents.

9.2 The City may assert a claim against the Consultant's professional liability insurance as appropriate when other remedies are not available or offered for design deficiencies discovered during and after Project construction.

9.3 When the City incurs non-value added work costs for change orders due to design errors or omissions, the City will send the Consultant a letter that includes:

- (1) Summary of facts with supporting documentation;
- (2) Instructions for Consultant to revise design documents, if appropriate, at Consultant's expense;
- (3) Calculation of non-value added work costs incurred by the City; and
- (4) Deadline for Consultant's response.

9.4 The Consultant may be required to revise bid documents and re-advertise the Project at the Consultant's sole cost if, in the City's judgment, the Consultant generates excessive addenda, either in terms of the nature of the revision or the actual number of changes due to the Consultant's errors or omissions.

9.5 The City may withhold or nullify the whole or part of any payment as detailed in Article II.

## ARTICLE X – CONSULTANT REMEDIES

10.1 If Consultant is delayed due to uncontrollable circumstances, such as strikes, riots, acts of God, national emergency, acts of the public enemy, governmental restrictions, laws or regulations or any other causes beyond Consultant's and City's reasonable control, an extension of the Project schedule in an amount equal to the time lost due to such delay shall be Consultant's sole and exclusive remedy. The revised schedule should be approved in writing with a documented reason for granting the extension.

10.2 If Consultant requests a remedy for a condition not specified above, Consultant must file a Claim as provided in this Agreement.

## ARTICLE XI – CLAIMS AND DISPUTE RESOLUTION

### 11.1 Filing of Claims

11.1.1 Claims arising from the circumstances identified in this Agreement or other occurrences or events, shall be made by Written Notice delivered by the party making the Claim to the other party within twenty-one (21) calendar days after the start of the occurrence or event giving rise to the Claim and stating the general nature of the Claim.

11.1.2 Every Claim of Consultant, whether for additional compensation, additional time or other relief, shall be signed and sworn to by a person authorized to bind the Consultant by his/her signature, verifying the truth and accuracy of the Claim.

11.1.3 The responsibility to substantiate a claim rests with the party making the Claim.

11.1.4 Within thirty (30) calendar days of receipt of notice and supporting documentation, City will meet to

discuss the request, after which an offer of settlement or a notification of no settlement offer will be sent to Consultant. If Consultant is not satisfied with the proposal presented, Consultant will have thirty (30) calendar days in which to (i) submit additional supporting data requested by the City, (ii) modify the initial request for remedy or (iii) request Alternative Dispute Resolution.

11.1.5 Pending final resolution of a claim, except as otherwise agreed in writing, Consultant shall proceed diligently with performance of the Agreement and City shall continue to make payments in accordance with this Agreement.

## 11.2 Alternative Dispute Resolution

11.2.1 All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

11.2.2 Before invoking mediation or any other alternative dispute resolution (ADR) process set forth herein, the Parties agree that they shall first try to resolve any dispute arising out of or related to this Agreement through discussions directly between those senior management representatives within their respective organizations who have overall managerial responsibility for similar projects.

This step shall be a condition precedent to the use of any other ADR process. If the parties' senior management representatives cannot resolve the dispute within thirty (30) calendar days after a Party delivers a written notice of such dispute, then the Parties shall proceed with the mediation ADR process contained herein.

### 11.2.3 Mediation

11.2.3.1 In the event that City or Consultant shall contend that the other has committed a material breach of this Agreement, the Party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute.

11.2.3.2 Request for mediation shall be in writing, and shall request that the mediation commence no less than thirty (30) or more than ninety (90) calendar days following the date of the request, except upon agreement of both parties.

11.2.3.3 In the event City and Consultant are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) calendar days of the request for mediation, all conditions precedent in this Article shall be deemed to have occurred.

11.2.3.4 The parties shall share the mediator's fee. Venue for any mediation or lawsuit arising under this Agreement shall be Nueces County, Texas. Any agreement reached in mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. No provision of this Agreement shall waive any immunity or defense. No provision of this Agreement is a consent to suit.

11.3 In case of litigation between the parties, Consultant and City agree that neither party shall be responsible for payment of attorney's fees pursuant to any law or other provision for payment of attorneys' fees. Both Parties expressly waive any claim to attorney's fees should litigation result from any dispute in this Agreement.

11.4 **No Waiver of Governmental Immunity. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO WAIVE CITY'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW.**



## ARTICLE XII – MISCELLANEOUS PROVISIONS

- 12.1 Assignability. The Consultant will not assign, transfer or delegate any of its obligations or duties in this Agreement to any other person without the prior written consent of the City, except for routine duties delegated to personnel of the Consultant staff. If the Consultant is a partnership, then in the event of the termination of the partnership, this contract will inure to the individual benefit of such partner or partners as the City may designate. No part of the Consultant fee may be assigned in advance of receipt by the Consultant without written consent of the City.

The City will not pay the fees of expert or technical assistance and consultants unless such employment, including the rate of compensation, has been approved in writing by the City.

- 12.2 Ownership of Documents. Consultant agrees that upon payment, City shall exclusively own any and all information in whatsoever form and character produced and/or maintained in accordance with, pursuant to or as a result of this Agreement, including contract documents (plans and specifications), drawings and submittal data. Consultant may make a copy for its files. Any reuse, without specific written verification or adaptation by Consultant, shall be a City's sole risk and without liability or legal exposure to Consultant. The City agrees that any modification of the plans will be evidenced on the plans and be signed and sealed by a professional engineer prior to re-use of modified plans.
- 12.3 Standard of Care. Services provided by Consultant under this Agreement shall be performed with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license; and performed as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.
- 12.4 Licensing. Consultant shall be represented by personnel with appropriate licensure, registration and/or certification(s) at meetings of any official nature concerning the Project, including scope meetings, review meetings, pre-bid meetings and preconstruction meetings.
- 12.5 Entire Agreement. This Agreement, including Task Orders, represents the entire and integrated Agreement between City and Consultant and supersedes all prior negotiations, representations or agreements, either oral or written. This Agreement may be amended only by written instrument signed by both the City and Consultant.
- 12.6 Disclosure of Interest. **(Exhibit E)** Consultant agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the *Disclosure of Interests* form as part of this contract.
- 12.7 Certificate of Interested Parties. **(Exhibit F)**. Consultant agrees to comply with Texas Government Code section 2252.908 and complete Form 1295 Certificate of Interested Parties as part of this agreement. Form 1295 requires disclosure of "interested parties" with respect to entities that enter contracts with cities that exceed \$50,000. These interested parties include:

- (1) persons with a "controlling interest" in the entity, which includes:
  - a. an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock or otherwise that exceeds 10 percent;
  - b. membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or
  - c. service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers; or

- (2) a person who actively participates in facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser or attorney for the business entity.

Form 1295 must be electronically filed with the Texas Ethics Commission at [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm). The form must then be printed, signed, notarized and filed with the City. For more information, please review the Texas Ethics Commission Rules at <https://www.ethics.state.tx.us/legal/ch46.html>.

- 12.8 Conflict of Interest. Consultant agrees to comply with Chapter 176 of the Texas Local Government Code and file Form CIQ with the City Secretary's Office, if required. For more information and to determine if you need to file a Form CIQ, please review the information on the City Secretary's website at <http://www.cctexas.com/government/city-secretary/conflict-disclosure/index>
- 12.9 Controlling Law. This Agreement is governed by the laws of the State of Texas without regard to its conflicts of laws. Venue for legal proceedings lies exclusively in Nueces County, Texas.
- 12.10 Severability. If, for any reason, any one or more Articles and/or paragraphs of this Agreement are held invalid or unenforceable, such invalidity or unenforceability shall not affect, impair or invalidate the remaining Articles and/or paragraphs of this Agreement but shall be confined in its effect to the specific Article, sentences, clauses or parts of this Agreement held invalid or unenforceable, and the invalidity or unenforceability of any Article, sentence, clause or parts of this Agreement, in any one or more instance, shall not affect or prejudice in any way the validity of this Agreement in any other instance.
- 12.11 Conflict Resolution Between Documents. Consultant hereby agrees and acknowledges if anything contained in the Consultant-prepared **Exhibit A**, Scope of Services or in any other document prepared by Consultant and included herein, is in conflict with Articles I - XII of this Agreement (Articles) and/or an approved Task Order, the Articles and/or the Task Order shall take precedence and control to resolve said conflict.

#### CITY OF CORPUS CHRISTI

\_\_\_\_\_  
Jeff H. Edmonds, P. E.                      Date  
Director of Engineering Services

#### APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Assistant City Attorney                      Date

#### ATTEST

\_\_\_\_\_  
Rebecca Huerta, City Secretary

#### FREESE AND NICHOLS, INC.

 12/01/17  
\_\_\_\_\_  
Ron Guzman, P. E.                      Date  
Principal  
800 N. Shoreline Blvd., Suite 1600N  
Corpus Christi, TX 78401  
(361) 561-6500 Office  
(361) 561-6501 Fax  
rg@freese.com

Funding info is N/A at this time.

Funding info will be provided upon execution of Task Order No. 1.

Project Number N/A

Accounting Unit N/A

Account N/A

Activity N/A

Account Category N/A

Fund Name N/A

## EXHIBIT A

### SAMPLE TASK ORDER

This Task Order pertains to a Master Services Agreement for Professional Services by and between City of Corpus Christi, Texas (City) and "Company Name" (Consultant) dated \_\_\_\_\_, 2018 (Agreement). Consultant shall perform services on the project described below as provided in this Task Order and in the Agreement. This Task Order shall not be binding until it has been properly signed by both parties. Upon execution, this Task Order shall supplement the Agreement as it pertains to the project described below.

**TASK ORDER NO.:**

**PROJECT NAME:** \_\_\_\_\_

**1. PROJECT DESCRIPTION**

**2. SCOPE OF SERVICES**

**3. COMPENSATION**

This Task Order is approved and Consultant may proceed. All other terms and conditions of the Agreement remain in full force and effect.

**CITY OF CORPUS CHRISTI**

**FREES AND NICHOLS, INC.**

\_\_\_\_\_  
Jeff H. Edmonds, P. E.                      Date  
Director of Engineering Services

\_\_\_\_\_  
Ron Guzman, P. E.                      Date  
Principal  
800 N. Shoreline Blvd., Suite 1600N  
Corpus Christi, TX 78401  
(361) 561-6500 Office  
(361) 561-6501 Fax  
rg@freese.com

EXHIBIT B

CONSULTANT PROPOSAL

December 4, 2017

Mr. Jeff Edmonds, P.E.  
Director of Engineering Services  
City of Corpus Christi  
P. O. Box 9277  
Corpus Christi, TX 78469-9277

Attn: Chris Hale, P.E.  
Re: Master Service Agreement (MSA) for Street Feasibility Report (Bond 2018)  
Freese and Nichols Professional Services Proposal

Dear Mr. Edmonds,

Freese and Nichols, Inc. (FNI) is pleased to provide our Street Feasibility (Bond 2018, Prop. 1) Report professional services proposal for evaluating street segments as identified by the City of Corpus Christi Engineering Services. This project scope will include the following activities:

Basic Services:

A. Preliminary Phase

1. Perform preliminary review of the project data provided by the City.
2. Confirm, evaluate, and field-verify existing site conditions.
3. Meet two (2) times with City staff to define the project requirements.
4. Review previously developed sketches, designs and/or engineering reports provided by City.
5. Review City provided infrastructure lifecycle criteria and Master plans.
  - a. Evaluate existing street conditions based on field observation and City provided information.
  - b. Evaluate existing utilities condition based on field observation and City provided information.
  - c. Identify franchise utilities based on field observation and City provided information.
  - d. Review Corpus Christi MPO proposed bicycle and mobility plan recommendations, prescribed pedestrian and ADA elements, and future RTA bus route plans.
6. Prepare a Final Report with the following information:
  - a. Cover Sheet
  - b. Executive Summary
  - c. Project Report
    - i. Project Description
      1. Bond 2018 Language
      2. Location
      3. Existing Conditions
      4. Proposed Construction
      5. Land Acquisition
      6. Other Project Elements
    - ii. Opinion of Probable Cost
    - iii. Project Timetable/Schedule

- iv. Street Section
  - v. Project Site Photographs
  - vi. Strip Map
7. Submittals
- a. 1 draft report (1 hard copy and 1 electronic)
  - b. 1 final report (1 hard copy and 1 electronic)
  - c. Submitted in white 1" three ring binder with tabs

**Project Assumptions:**

1. City will provide related as-built drawings, utility base maps in electronic format, proposed utilities to be upgraded, traffic projections, and unit prices to be used for development of the preliminary opinion of probable construction costs.
2. No topographic or boundary survey will be provided by the Consultant for this project.
3. No geotechnical survey services will be provided by Consultant for this project.
4. Consultant will only identify permits required for development of project. No permit application efforts are to be performed by Consultant under this contract.
5. Consultant will rely on preliminary pavement sections provided by the City for developing pavement costs.

**The City staff will:**

1. Designate an individual to have responsibility, authority, and control for coordinating activities for the construction contract awarded.
2. Provide the budget for the Project specifying the funds available for the construction contract.
3. Provide the City's standard specifications, standard detail sheets, standard and special provisions, and forms for required bid documents.

**Schedule:**

FNI will provide the draft report for City review within 8 weeks from the Notice to Proceed. It is anticipated that the City will require 2 weeks for review. The City's comments can be addressed and included in the final report 2 weeks from receipt of the review comments.

**Fee:**

The proposed not to exceed amount for MSA Street Feasibility Report (Bond 2018) is \$300,000. FNI will prepare Task Orders in accordance with the MSA for each street segment identified by Engineering Services.

We look forward to working with your team on this project.

Please feel free to contact me at 361.561.6500 if you have any questions.

Respectfully,

Freese and Nichols, Inc.



Ron Guzman, P.E.  
Vice President/Principal

## EXHIBIT B-1

### CONFIDENTIAL RATE SCHEDULE

Rate sheets are confidential pursuant to **section 552.104 of the Texas Government Code** since release of this information would give advantage to a competitor or bidder. In addition, **section 552.110 of the TX Govt. Code** protects third party commercial and financial information if release of the information would cause the third party substantial competitive harm.

DOCUMENTATION OF PROVISIONAL / OVERHEAD RATES: Overhead rate documentation has been provided to the City of Corpus Christi and was utilized in reviewing and approving the loaded hourly rates below.

<b>PRINCIPAL(S):</b>	<b>HOURLY RATE (\$/hr)</b>	<b>TX REGISTRATION #:</b>
<b>Project Consultant:</b>		
<b>CAD Technician:</b>		
<b>Clerical:</b>		
<b>Other – specify:</b>		
<b>SUBCONSULTANT(S):</b>		
(firm)		
<b>Principal(s):</b>		
<b>Project Consultant:</b>		
<b>CAD Technician:</b>		
<b>Clerical</b>		
<b>Other – specify:</b>		

Add additional subconsultants as needed.



# EXHIBIT C

## PAYMENT REQUEST FORM

**COMPLETE PROJECT NAME**  
**Project No. XXXX**  
**Invoice No. 12345**  
**Invoice Date 01/01/2017**

	Contract	Amd No. 1	Amd No. 2	Total Contract	Current Invoice	Previous Invoice	Total Invoice	Remaining Balance	Percent Complete
<b>Basic Services:</b>									
Preliminary Phase	\$1,000.00	\$0.00	\$0.00	<b>\$1,000.00</b>	\$0.00	\$1,000.00	\$1,000.00	\$0.00	100.0%
Design Phase	\$2,000.00	\$1,000.00	\$0.00	<b>\$3,000.00</b>	\$1,000.00	\$500.00	\$1,500.00	\$1,500.00	50.0%
Bid Phase	\$500.00	\$0.00	\$250.00	<b>\$750.00</b>	\$0.00	\$0.00	\$0.00	\$750.00	0.0%
Construction Phase	\$2,500.00	\$0.00	\$1,000.00	<b>\$3,500.00</b>	\$0.00	\$0.00	\$0.00	\$3,500.00	0.0%
Subtotal Basic Services	\$6,000.00	\$1,000.00	\$1,250.00	<b>\$8,250.00</b>	\$1,000.00	\$1,500.00	\$2,500.00	\$5,750.00	30.3%
<b>Additional Services:</b>									
Permitting	\$2,000.00	\$0.00	\$0.00	<b>\$2,000.00</b>	\$500.00	\$0.00	\$500.00	\$1,500.00	25.0%
Warranty Phase	\$0.00	\$1,120.00	\$0.00	<b>\$1,120.00</b>	\$0.00	\$0.00	\$0.00	\$1,120.00	0.0%
Inspection	\$0.00	\$0.00	\$1,627.00	<b>\$1,627.00</b>	\$0.00	\$0.00	\$0.00	\$1,627.00	0.0%
Platting Survey	TBD	TBD	TBD	<b>TBD</b>	TBD	TBD	TBD	TBD	TBD
O & M Manuals	TBD	TBD	TBD	<b>TBD</b>	TBD	TBD	TBD	TBD	TBD
SCADA	TBD	TBD	TBD	<b>TBD</b>	TBD	TBD	TBD	TBD	TBD
Subtotal Additional Services	\$2,000.00	\$1,120.00	\$1,627.00	<b>\$4,747.00</b>	\$500.00	\$0.00	\$500.00	\$4,247.00	10.5%
<b>Summary of Fees:</b>									
Basic Services Fees	\$6,000.00	\$1,000.00	\$1,250.00	<b>\$8,250.00</b>	\$1,000.00	\$1,500.00	\$2,500.00	\$5,750.00	30.3%
Additional Services Fees	\$2,000.00	\$1,120.00	\$1,627.00	<b>\$4,747.00</b>	\$500.00	\$0.00	\$500.00	\$4,247.00	10.5%
<b>Total of Fees</b>	<b>\$8,000.00</b>	<b>\$2,120.00</b>	<b>\$2,877.00</b>	<b>\$12,997.00</b>	<b>\$1,500.00</b>	<b>\$1,500.00</b>	<b>\$3,000.00</b>	<b>\$9,997.00</b>	<b>23.1%</b>

**Notes:**

*If needed, update this sample form based on the contract requirements.*

*If applicable, refer to the contract for information on what to include with time and materials (T&M).*

<b>EXHIBIT "C"</b>
Page 1 of 1

## EXHIBIT D

### INSURANCE REQUIREMENTS

#### **Pre-Design, Design and General Consulting Contracts**

1.1 Consultant must not commence work under this agreement until all required insurance has been obtained and such insurance has been approved by the City. Consultant must not allow any subcontractor to commence work until all similar insurance required of any subcontractor has been obtained.

1.2 Consultant must furnish to the Director of Engineering Services with the signed agreement a copy of Certificates of Insurance (COI) with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. **A waiver of subrogation is required on all applicable policies. Endorsements must be provided with COI. Project name and or number must be listed in Description Box of COI.**

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
<b>30-written day notice of cancellation, required on all certificates or by applicable policy endorsements</b>	<b>Bodily Injury and Property Damage</b> Per occurrence - aggregate
PROFESSIONAL LIABILITY (Errors and Omissions)	\$1,000,000 Per Claim  If claims made policy, retro date must be prior to inception of agreement, have extended reporting period provisions and identify any limitations regarding who is insured.

1.3 In the event of accidents of any kind related to this agreement, Consultant must furnish the City with copies of all reports of any accidents within 10 days of the accident.

1.4 Consultant shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Consultant's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII. **Consultant is required to provide City with renewal Certificates.**

1.5 Consultant shall be required to submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Consultant shall pay any costs incurred resulting from said changes. All notices under this Article shall be given to City at the following address:

City of Corpus Christi  
Attn: Engineering Services  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

**1.6 Consultant agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**

1.6.1 Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation or non-renewal of coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

1.7 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

1.8 In addition to any other remedies the City may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Consultant to remove the exhibit hereunder, and/or withhold any payment(s) if any, which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

1.9 Nothing herein contained shall be construed as limiting in any way the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractor's performance of the work covered under this agreement.

1.10 It is agreed that Consultant's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this agreement.

1.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this agreement.



SUPPLIER NUMBER \_\_\_\_\_  
TO BE ASSIGNED BY CITY  
PURCHASING DIVISION

## EXHIBIT E CITY OF CORPUS CHRISTI DISCLOSURE OF INTEREST

City of Corpus Christi Ordinance 17112, as amended, requires all persons or firms seeking to do business with the City to provide the following information. Every question must be answered. If the question is not applicable, answer with "NA". See reverse side for Filing Requirements, Certifications and definitions.

**COMPANY NAME:** Freese and Nichols, Inc.

**P. O. BOX:** \_\_\_\_\_

**STREET ADDRESS:** 800 N. Shoreline, Suite 1600N **CITY:** Corpus Christi **ZIP:** 78401

**FIRM IS:** 1. Corporation ☒ 2. Partnership ☐ 3. Sole Owner ☐  
4. Association ☐ 5. Other ☐

### DISCLOSURE QUESTIONS

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Job Title and City Department (if known)
N/A	

2. State the names of each "official" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Title
N/A	

3. State the names of each "board member" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Board, Commission or Committee
N/A	

4. State the names of each employee or officer of a "consultant" for the City of Corpus Christi who worked on any matter related to the subject of this contract and has an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Consultant
N/A	

### FILING REQUIREMENTS

If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any City official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, you shall disclose that fact in a signed writing to the City official, employee or body that has been requested to act in the matter, unless the interest of the City official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Secretary. [Ethics Ordinance Section 2-349 (d)]

### CERTIFICATION

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Corpus Christi, Texas as changes occur.

**Certifying Person:** Ron Guzman **Title:** Principal/Vice President  
(Type or Print)

**Signature of Certifying Person:**



**Date:** 12.1.17

### DEFINITIONS

- a. "Board member." A member of any board, commission, or committee appointed by the City Council of the City of Corpus Christi, Texas.
- b. "Economic benefit". An action that is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof.
- c. "Employee." Any person employed by the City of Corpus Christi, Texas either on a full or part-time basis, but not as an independent contractor.
- d. "Firm." Any entity operated for economic gain, whether professional, industrial or commercial, and whether established to produce or deal with a product or service, including but not limited to, entities operated in the form of sole proprietorship, as self-employed person, partnership, corporation, joint stock company, joint venture, receivership or trust, and entities which for purposes of taxation are treated as non-profit organizations.
- e. "Official." The Mayor, members of the City Council, City Manager, Deputy City Manager, Assistant City Managers, Department and Division Heads, and Municipal Court Judges of the City of Corpus Christi, Texas.
- f. "Ownership Interest." Legal or equitable interest, whether actually or constructively held, in a firm, including when such interest is held through an agent, trust, estate, or holding entity. "Constructively held" refers to holdings or control established through voting trusts, proxies, or special terms of venture or partnership agreements."
- g. "Consultant." Any person or firm, such as engineers and architects, hired by the City of Corpus Christi for the purpose of professional consultation and recommendation.

EXHIBIT F  
FORM 1295  
CERTIFICATE OF INTERESTED PARTIES

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Freese and Nichols, Inc.  
Corpus Christi, TX United States

Certificate Number:  
2017-288738

Date Filed:  
11/30/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Corpus Christi

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

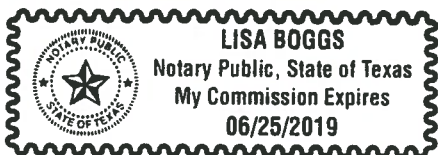
MSA for Prelim Eng Street Feas  
Provide Professional Engineering Services associated with Street Feasibility projects as requested.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Hatley, Tricia	Oklahoma City, OK United States	X	
	Coltharp, Brian	Fort Worth, TX United States	X	
	Cole, Scott	Fort Worth, TX United States	X	
	New, John	San Antonio, TX United States	X	
	Taylor, Jeff	Houston, TX United States	X	
	Milrany, Cindy	Fort Worth, TX United States	X	
	Nichols, Michael	Fort Worth, TX United States	X	
	Pence, Robert	Fort Worth, TX United States	X	
	Gooch, Thomas	Fort Worth, TX United States	X	

5 Check only if there is NO Interested Party. ☐

### 6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



*[Signature]*  
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Ron Guzman, this the 1st day of December, 20 17, to certify which, witness my hand and seal of office.

*[Signature]*  
Signature of officer administering oath

Lisa Boggs  
Printed name of officer administering oath

Notary Public  
Title of officer administering oath