



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made as of the Effective Date by and between **FREESE AND NICHOLS** hereinafter called "ENGINEER", and the **City of Farmers Branch, Texas**, hereinafter called "OWNER".

RECITALS

WHEREAS, OWNER desires ENGINEER to perform certain work and services set forth in Section 1, Scope of Services.

WHEREAS, ENGINEER has expressed a willingness to perform said work and services, hereinafter referred to only as "services", specified in said Scope of Services, and enumerated under Section 1, of this Agreement.

NOW, THEREFORE, for and in consideration of the covenants and promises made one to the other herein, OWNER and ENGINEER agree as follows:

Section 1. Scope of Services

Upon issuance of a written Notice to Proceed by OWNER, ENGINEER agrees to provide to OWNER the necessary professional engineering services related to the preparation of plans and specifications for **STORMWATER UTILITY FEE** as set forth in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference ("the Scope of Services").

Section 2. Term of Agreement

The term of this Agreement shall begin on the last date of execution hereof (the "Effective Date") and shall continue until ENGINEER completes the services required herein to the satisfaction of OWNER, unless sooner terminated as provided in Section 8, below.

Section 3. Engineer Obligations

- A. ENGINEER shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should OWNER require additional services not included under this Agreement, ENGINEER shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by OWNER; and without decreasing the effectiveness of the performance of services required under this Agreement.
- B. To the extent reasonably necessary for ENGINEER to perform the services under this Agreement, ENGINEER shall be authorized to engage the services of any agents, assistants, persons, or corporations that ENGINEER may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of OWNER. The cost of such personnel and assistance shall be a reimbursable expense to ENGINEER only if authorized in writing in advance by OWNER.

- C. ENGINEER shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all services set forth in the Scope of Services.

Section 4. Payment

OWNER agrees to pay ENGINEER for all services authorized in writing and properly performed by ENGINEER in accordance with the Payment Schedule set forth in Exhibit "C", attached hereto and incorporated herein by reference, subject to additions or deletions for changes or extras agreed upon in writing. All fees paid to ENGINEER, by OWNER, shall be based on invoices submitted by ENGINEER for work performed monthly by OWNER, less any previous payments. Payments shall be made within 30 days of receipt of invoice by OWNER.

OWNER reserves the right to delay, without penalty, any partial payment when, in the opinion of OWNER, ENGINEER has not made satisfactory progress on the design of this Project based on the Scope of Services and the Completion Schedule Estimate.

The Total Engineering Fee shall be as specified in Exhibit "C," which shall not exceed **One Hundred Twenty Two Thousand One Hundred Ten Dollars (\$122,110.00)**. OWNER may deduct from any amounts due or to become due to ENGINEER any sum or sums owing by ENGINEER to OWNER. In the event of any breach by ENGINEER of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against OWNER, or the OWNER's premises, arising out of ENGINEER's performance of this Agreement, OWNER shall have the right to retain out of any payments due or to become due to ENGINEER an amount sufficient to completely protect the OWNER from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by ENGINEER.

Section 5. Responsibilities

- A. ENGINEER shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, plans and other services furnished by ENGINEER under this Agreement. ENGINEER shall, without additional compensation, correct or revise any errors or deficiencies in the design, drawings, specifications, plans and other services.
- B. Neither OWNER's review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and ENGINEER shall be and remain liable to OWNER in accordance with applicable law for all damages to OWNER caused by ENGINEER's negligent performance of any of the services furnished under this Agreement.
- C. The rights and remedies of OWNER under this Agreement are as provided by law.

Section 6. Time For Performance

- A. ENGINEER shall perform all services as provided for under this Agreement in a proper, efficient and professional manner in accordance with OWNER's requirements. As time is of the essence of this Agreement, such services shall be completed as provided in the Completion Schedule Estimate attached hereto as Exhibit "B," and incorporated herein by reference, after written Notification to Proceed from OWNER to ENGINEER, exclusive of OWNER and other governmental review time.
- B. In the event ENGINEER's performance of this Agreement is delayed or interfered with by acts of the OWNER or others, ENGINEER may request an extension of time for the performance of same as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.
- C. No allowance of any extension of time, for any cause whatever, shall be claimed or made to ENGINEER, unless ENGINEER shall have made written request upon OWNER for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless OWNER and ENGINEER have agreed in writing upon the allowance of additional time to be made.

Section 7. Documents

- A. All surveys, studies, proposals, applications, drawings, plans, specifications and other documents, including those in electronic form, prepared by ENGINEER and its consultants, subcontractors, agents, representatives, and/or employees in connection with this Agreement ("Project Documents") are intended for the use and benefit of OWNER. ENGINEER and its consultants, subcontractors, agents, representatives, and/or employees shall be deemed the authors of their respective part of the Project Documents. Notwithstanding, OWNER shall own, have, keep and retain all rights, title and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the ENGINEER) in and to all Project Documents, whether in draft form or final form, which are produced at OWNER's request and in furtherance of this Agreement. OWNER shall have full authority to authorize contractor(s), subcontractors, sub-subcontractors, OWNER consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the work or for any other purpose. All materials and reports prepared by ENGINEER in connection with this Agreement are "works for hire" and shall be the property of OWNER. OWNER shall have the right to publish, disclose, distribute and otherwise use Project Documents in accordance with the Engineering Practice Act of the State of Texas (Texas Occupation Code, Chapter 1001, as amended) and/or Texas Occupations Code, Chapter 1051, as amended. ENGINEER shall, upon completion of the services and full payment for the ENGINEER'S services by the OWNER, or earlier termination and appropriate compensation as provided by this Agreement, provide OWNER with reproductions of all materials, reports, and exhibits prepared by ENGINEER pursuant to this Agreement in a TIFF, JPEG or PDF format, and a DXF format in current version of AutoCAD with NAD-83 coordinate format of all such instruments of service to the OWNER.

- B. All instruments of service (including plans, specifications, drawings, reports, designs, computations, computer programs, estimates, surveys, other data or work items, etc.) prepared under this Agreement shall be submitted for approval of OWNER. All instruments of service shall be professionally sealed as may be required by law or by OWNER.
- C. Acceptance and approval of the Project Documents by OWNER shall not constitute nor be deemed a release of the responsibility and liability of ENGINEER, its employees, associates, agents and Engineers for the accuracy or competency of their designs, working drawings and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by OWNER for any defect in the designs, working drawings and specifications, or other documents prepared by ENGINEER, its employees, contractor, agents and engineers.

Section 8. Termination

- A. OWNER may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to ENGINEER. In the event suspension or termination is without cause, payment to ENGINEER, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by OWNER to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to OWNER.
- B. Should OWNER require a modification of this Agreement with ENGINEER, and in the event OWNER and ENGINEER fail to agree upon a modification to this Agreement, OWNER shall have the option of terminating this Agreement and ENGINEER's services hereunder at no additional cost other than the payment to ENGINEER, in accordance with the terms of this Agreement, for the services reasonably determined by OWNER to be properly performed by ENGINEER prior to such termination date.

Section 9. Insurance

- A. ENGINEER shall provide and maintain Workman's Compensation and Employer's Liability Insurance for the protection of ENGINEER's employees, as required by law. ENGINEER shall also provide and maintain in full force and effect during the term of this Agreement, insurance (including, but not limited to, insurance covering the operation of automobiles, trucks and other vehicles) protecting ENGINEER and OWNER against liability from damages because of injuries, including death, suffered by any person or persons other than employees of ENGINEER, and liability for damages to property, arising from or growing out of ENGINEER's operations in connection with the performance of this Agreement.
- B. Such insurance covering personal and bodily injuries or death shall be in the sum of not less than One Million Dollars (\$1,000,000.00) for one (1) person, and not less than One Million Dollars (\$1,000,000.00) for any one (1) occurrence. Insurance covering damages to property shall be in the sum of not less than One Million Dollars (\$1,000,000.00) for any one (1) occurrence, and One Million Dollars (\$1,000,000.00) aggregate.
- C. ENGINEER shall also provide and maintain Professional Liability Insurance coverage to protect ENGINEER and OWNER from liability arising out of the performance of

professional services, if any, under this Agreement. Such coverage shall be in the sum of not less than One Million Dollars (\$1,000,000.00).

- D. A signed Certificate of Insurance, satisfactory to OWNER, showing compliance with the requirements of this Section 9 shall be furnished to OWNER before any services are performed under this Agreement, and shall further indicate that each and every policy for liability insurance coverage as required herein includes a "Contractual Liability Coverage" endorsement covering the Agreement under Section 10, hereof. Such Certificate of Insurance shall provide for thirty (30) days written notice to OWNER prior to the cancellation or modification of any insurance referred to therein.

Section 10. Indemnification For Injury and Performance

ENGINEER hereby agrees to protect, defend, indemnify and hold harmless the OWNER, its officers, agents, servants and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, omission or neglect of ENGINEER, its officers, employees, servants, agents or subcontractors, or anyone else under ENGINEER's direction and control, and arising out of, occurring in connection with, resulting from or caused by the performance or failure of performance of any work or services called for by this Agreement, or from conditions created by the performance or non-performance of said work or services. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, ENGINEER shall be obligated to indemnify OWNER as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

Section 11. Indemnification For Unemployment Compensation

ENGINEER agrees that it is an independent contractor and not an agent of the OWNER, and that ENGINEER is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve OWNER of any responsibility or liability from treating ENGINEER's employees as employees of OWNER for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or contributions. ENGINEER further agrees to indemnify and hold OWNER harmless and reimburse it for any expenses or liability incurred under said Statutes in connection with employees of ENGINEER.

Section 12. Indemnification For Performance

ENGINEER shall defend and indemnify OWNER against and hold OWNER and the premises harmless from any and all claims, suits or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation and management costs incurred by ENGINEER in performing this Agreement.

Section 13. Assignment

ENGINEER shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of OWNER.

Section 14. Applicable Laws

ENGINEER shall comply with all Federal, State, County and Municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services to be performed under this Agreement. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court

Section 15. Default of ENGINEER

In the event ENGINEER fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by OWNER to ENGINEER, OWNER may, at its sole discretion without prejudice to any other right or remedy:

- A. Terminate this Agreement and be relieved of the payment of any further consideration to ENGINEER except for all work determined by OWNER to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of ENGINEER to and from meetings called by OWNER at which ENGINEER is required to attend, but shall not include any loss of profit of ENGINEER. In the event, of such termination, OWNER may proceed to complete the services in any manner deemed proper by OWNER, either by the use of its own forces or by resubletting to others.
- B. OWNER may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of ENGINEER.

Section 16. Adjustments in Services

No claims for extra services, additional services or changes in the services will be made by ENGINEER without a written agreement with OWNER prior to the performance of such services.

Section 17. Execution becomes Effective

This Agreement will be effective upon execution of the Agreement by and between ENGINEER and OWNER.

Section 18. Agreement Amendments

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

Section 19. 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 effect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Section 20. Independent Contractor.

It is understood and agreed by and between the parties that ENGINEER in satisfying the conditions of this Agreement, is acting independently, and that the OWNER assumes no responsibility or liabilities to any third party in connection with ENGINEER's actions. All services to be performed by ENGINEER pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of OWNER. ENGINEER 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. There is no intended third party beneficiary to this Agreement.

Section 21. Right-Of-Access.

OWNER will obtain and/or furnish right-of-access on any project site for ENGINEER to perform any required studies, surveys, tests or other necessary investigations in relation to any Task Order. ENGINEER will take reasonable precautions to minimize damage to the personal or real property in the performance of such surveys, tests, studies and investigations.

Section 22. Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight 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 set forth herein:

If to OWNER: Randy Walhood, Director of Public Works
(Physical Address) City of Farmers Branch
13000 William Dodson Pkwy
Farmers Branch, TX 75234

(Mailing address): P.O. Box 819010
Farmers Branch, TX 75381

(With copy to): Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

If to ENGINEER: Trey Shanks
Associate
Freese and Nichols, Inc.
1701 N. Market Street, Suite 500 LB51
Dallas, Texas 75202-2001

Section 23. 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.

Section 24. Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

Section 25. Survival of Obligations. Any of the representations and obligations of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the termination of this Agreement shall survive termination.

(Signature page to follow)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this the _____ day of _____, 2013.

OWNER:
City of Farmers Branch, Texas

By: _____
Gary D. Greer
Title: City Manager

P.O. Box 819010
Farmers Branch, Texas 75381-9010


WITNESS:

City Secretary

APPROVED AS TO FORM:

City Attorney

ENGINEER:
Freese and Nichols, Inc.

By: 
Title: President + CEO

1701 N. Market Street, Suite 500 LB51
Dallas, Texas 75202-2001

WITNESS:



EXHIBIT "A"

SCOPE OF SERVICES

Freese and Nichols (FNI) will render the following professional services in connection with the development of the Project:

1) Identification of Utility Policies and Goals

FNI will conduct an initial meeting with the City to discuss key policy issues for the creation of the stormwater utility. The following policy issues will be discussed at the initial meeting to determine the framework for the stormwater utility development process.

- a) Amount and type of stormwater services to be funded by the utility fee
- b) Approach to assessing utility fee to individual properties
- c) Fee structure
- d) Use of bonds backed by stormwater utility for drainage capital improvements
- e) Property owner incentives to minimize their impact on the drainage system
- f) Exemptions for certain property owners, as allowed by law
- g) Public outreach goals

2) Stormwater Management Cost of Service

The stormwater utility fee is required to be based on the City's cost of providing drainage service. FNI will work with City staff to develop a five-year program strategy for stormwater management in the City. Cost projections may be compiled from a variety of sources, including:

a) Infrastructure inventory

Determine the data that the City has compiled for their storm water infrastructure and compare it to the data needed to manage the storm water system, such as two-foot topography, stream studies or master plans, FEMA floodplain data, GIS mapping and inventory of infrastructure, and public complaint databases. The deliverable will identify gaps in available data and our understanding of the City's storm water system.

b) Regulatory compliance

- i) Assess the City's general status with relevant stormwater regulations, including
- ii) Phase II MS4 Stormwater Quality Permit,
- iii) Hazard Mitigation Action Plan,
- iv) NPDES/TPDES construction site erosion control activities, and
- v) NFIP FEMA floodplain management.
- vi) The assessment will include review of practices, procedures and implementation for each of the available plans.

c) Development reviews and requirements

General review of the City's drainage ordinances and criteria manuals, as well as the City's process for reviewing and approving development plans. The deliverable will document gaps or deficiencies in the criteria or processes.

d) Storm system operations and maintenance

General review of maintenance planning and implementation of these maintenance activities. The deliverable will identify gaps in available equipment, staff or procedures for proper maintenance of the storm water infrastructure.

e) Capital improvement project ranking and implementation

Review previous studies and master plans to identify non-implemented capital improvement projects. Review available CIP ranking spreadsheets, including implemented projects and expected future implementation of CIPs. The deliverable will identify gaps in the process, non-implemented CIPs, lack of identified CIPs, availability of a ranking process or funding for CIP implementation.

3) Impervious Area Rate Basis to Assess Utility Fee on Eligible Properties

a) Impervious area delineation

FNI will compile available data necessary to assign an equitable stormwater utility fee based on impervious area for each non-exempt property. The following data will be evaluated and analyzed, as necessary, for use in determining each developed property's contribution to the drainage system:

i) City electronic parcel data

ii) Recent aerial photography for the City

iii) Planimetrics

b) Residential impervious area determination

FNI will determine the average impervious area for up to 100 single-family residences in the City. This average will be defined as the equivalent residential unit (ERU). FNI will identify the ERUs for each non-single family residential property existing at the time of project notice to proceed.

4) Revenue Assessment

FNI will input information from Task 1 and Task 2 into FNI's Stormwater Utility Rate Model to identify fee optimal structure options meeting the City's goals. Variations to the implementation schedule, rate, residential tier structure, exemptions, growth rate, costs supported by stormwater utility revenues, and other considerations will be evaluated through the rate model.

FNI will meet with the City to evaluate fee structure options, and based on meeting input from City staff, FNI will develop up to three (3) fee rate options for the City's consideration. FNI will meet with the City's staff to review and discuss the details of each option. FNI will present the stormwater utility fee options, along with staff's recommended selection, to City Council in one (1) meeting.

5) Stormwater Utility Billing Integration

a) Stormwater utility GIS and utility billing data integration

FNI will coordinate with City staff to integrate the stormwater utility data developed in GIS into the City's utility billing system. FNI will create unique identifiers for each property assessed a stormwater utility fee to allow for ongoing maintenance of the appropriate stormwater utility fee between the City's GIS and utility billing system.

b) Quality control testing prior to transition

FNI will coordinate with City staff to conduct two (2) trial billing runs beginning in November 2013. Following each cycle FNI will conduct trial data exports to GIS for maintenance updates.

c) Utility billing maintenance methodology

FNI will coordinate with the City to develop a data integration approach for maintenance of the dataset. This will include maintenance of data through project development to keep dataset current. FNI will develop and deliver an operation and maintenance manual for use by the City. FNI will conduct on-site training for City staff on data maintenance procedures.

6) Draft Stormwater Utility Ordinance and Fee Schedule

FNI will develop a draft stormwater utility ordinance and draft fee schedule for Council adoption. FNI will develop a draft public notice for each. The City will be responsible for publishing the final public notices in a publication of general circulation in the Farmers Branch area three (3) times beginning at least 30 days prior to a public hearing. The public hearing must be held prior to the vote by City Council.

7) Public Involvement

a) Public Outreach

FNI will develop up to two (2) mailers to be distributed to the Farmers Branch community. The mailers will provide information to educate the community about the need for and benefit of proper stormwater management, the equitable nature of funding this service through a stormwater utility fee, and the proposed fee recommended for approval by City Council. This information will be provided to the City in an electronic format for printing as a utility bill insert, separate mailer, or handout. The City will be responsible for the logistics and cost of printing and distributing the information.

b) Stormwater Management Web Site

FNI will develop a stormwater management web site for the Farmers Branch community to learn about current activities, needed activities, and funding options to address both in the long term. The web site will be developed as a stand-alone site linked from the City's web site.

c) Town Hall Meeting

FNI will conduct one (1) town hall meeting at a location selected by City staff to educate the community about stormwater management services and needs, to present funding recommendations, and to collect public input. The City will be responsible for securing a location for each meeting and providing seating for attendees. FNI will provide presentation equipment, note boards, comment forms, handouts, and light refreshments.

8) City Council Meeting for Utility Ordinance and Fee Schedule Adoption

FNI will attend up to two (2) City Council meetings when the Stormwater Utility Ordinance and Fee Schedule are scheduled to be considered for adoption. FNI will be available upon request from the City staff to address Council or community questions about the Ordinance and/or Fee Schedule. Each public hearing can be held immediately prior to the Council vote.

9) Stormwater Utility Report

FNI will deliver a report that documents the basis and approach for the development of the City's stormwater utility fee. FNI will provide the City with three (3) hard copies and one (1) electronic file of the draft stormwater utility report upon completion of the project. Upon receipt of the City's final comments, FNI will finalize the report and deliver five (5) hard copies and one (1) electronic file to the City.

CITY SERVICES RESPONSIBILITIES

The City shall perform the following in a timely manner so as not to delay the services of FNI:

- 1) Contract with utility billing vendor for any programming or technical support required by utility vendor for implementation of stormwater utility fee.
- 2) Designate in writing a person to act as the City's representative with respect to the services to be rendered under this AGREEMENT. Such person shall have contract authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to FNI's services for the Project.
- 3) Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to the Project.
- 4) Make necessary arrangements for the stormwater utility public hearing, including securing the location, publishing public notices, and providing standard meeting equipment, such as tables and chairs.
- 5) Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this AGREEMENT.
- 6) Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as the City deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- 7) Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as the City may require or FNI may reasonably request with regard to legal issues pertaining to the Project.

SPECIAL SERVICES

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

On-call assistance

FNI will provide 60 hours of on-call implementation assistance to help the City initiate billing, proactively address key stakeholder concerns, respond to community questions, and other related activities requested by the City.

EXHIBIT "B"
COMPLETION SCHEDULE ESTIMATE

FNI is authorized to commence work on the Project upon execution of this AGREEMENT and agrees to complete the Basic Services within six (6) months from the Notice to Proceed.

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 the City or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this AGREEMENT and in Exhibit C.

EXHIBIT "C"
PAYMENT SCHEDULE

Basic Services: Compensation to FNI for the Basic Services in Attachment SC shall be the lump sum of One Hundred Twenty Two Thousand One Hundred Ten Dollars (\$122,110). If FNI sees the Scope of Services changing so that additional services are needed, including but not limited to those services described as Additional Services in Exhibit A, FNI will notify CLIENT for CLIENT's approval before proceeding. Additional Services shall be computed based on the Schedule of Charges.

Schedule of Charges for Additional Work:

Staff Member

Salary Cost Times Multiplier of 2.3

Salary Cost is defined as the cost of payroll of engineers, draftsmen, stenographers, surveyors, clerks, laborers, etc., for the time directly chargeable to the project, plus social security contributions, unemployment compensation insurance, retirement benefits, medical and insurance benefits, longevity payments, sick leave, vacation and holiday pay applicable thereto. (Salary Cost is equal to 1.632 times payroll. This factor is adjusted annually).

Other Direct Expenses

Actual Cost Times Multiplier of 1.15

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

Rates for In-house Services

Technology Charge

\$8.50 per hour

Bulk Printing

Black and White \$0.10 per copy

Color \$.50 per copy

Binding \$5.75 per book

These rates will be updated annually