



**EXHIBIT**  
**"A"**

**CITY OF ROUND ROCK**  
**CONTRACT FOR ENGINEERING SERVICES**

**FIRM:** FREESE AND NICHOLS, INC. (“Engineer”)  
**ADDRESS:** 10431 Morado Circle, Unit 300, Austin, Texas 78759  
**PROJECT:** Southeast Area 1 – Existing Conditions Drainage Assessment

**THE STATE OF TEXAS** §  
§  
**COUNTY OF WILLIAMSON** §

THIS CONTRACT FOR ENGINEERING SERVICES (“Contract”) is made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2022 by and between the CITY OF ROUND ROCK, a Texas home-rule municipal corporation, whose offices are located at 221 East Main Street, Round Rock, Texas 78664-5299, (hereinafter referred to as “City”), and Engineer, and such Contract is for the purpose of contracting for professional engineering services.

**RECITALS:**

WHEREAS, V.T.C.A., Government Code §2254.002(2)(A)(vii) under Subchapter A entitled “Professional Services Procurement Act” provides for the procurement by municipalities of services of professional engineers; and

WHEREAS, City and Engineer desire to contract for such professional engineering services; and

WHEREAS, City desires to use American Rescue Plan funds fees and costs associated with the Project;

WHEREAS, City shall comply with the requirements of 2 CFR Part 200 and any other applicable federal requirements related to the procurement and expenditure of fees and costs related to the Project;

WHEREAS, City and Engineer wish to document their agreement concerning the requirements and respective obligations of the parties;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable considerations, and the covenants and agreements hereinafter contained to be kept and performed by the respective parties hereto, it is agreed as follows:

### **CONTRACT DOCUMENTS**

The Contract Documents consist of this Contract and any exhibits attached hereto (which exhibits are hereby incorporated into and made a part of this Contract) and all Supplemental Contracts (as defined herein in Article 13) which are subsequently issued. These form the entire contract, and all are as fully a part of this Contract as if attached to this Contract or repeated herein.

### **ARTICLE 1** **CITY SERVICES**

City shall perform or provide services as identified in Exhibit A entitled "City Services."

### **ARTICLE 2** **ENGINEERING SERVICES**

Engineer shall perform Engineering Services as identified in Exhibit B entitled "Engineering Services."

Engineer shall perform the Engineering Services in accordance with the Work Schedule as identified in Exhibit C entitled "Work Schedule." Such Work Schedule shall contain a complete schedule so that the Engineering Services under this Contract may be accomplished within the specified time and at the specified cost. The Work Schedule shall provide specific work sequences and definite review times by City and Engineer of all Engineering Services. Should the review times or Engineering Services take longer than shown on the Work Schedule, through no fault of Engineer, Engineer may submit a timely written request for additional time, which shall be subject to the approval of the City Manager.

### **ARTICLE 3** **CONTRACT TERM**

**(1) Term.** The Engineer is expected to complete the Engineering Services described herein in accordance with the above described Work Schedule. If Engineer does not perform the Engineering Services in accordance with the Work Schedule, then City shall have the right to terminate this Contract as set forth below in Article 20. So long as the City elects not to terminate this Contract, it shall continue from day to day until such time as the Engineering Services are completed. Any Engineering Services performed or costs incurred after the date of termination shall not be eligible for reimbursement. Engineer shall notify City in writing as soon as possible if he/she/it determines, or reasonably anticipates, that the Engineering Services will not be completed in accordance with the Work Schedule.

**(2) Work Schedule.** Engineer acknowledges that the Work Schedule is of critical importance, and agrees to undertake all necessary efforts to expedite the performance of Engineering Services required herein so that construction of the project will be commenced and completed as scheduled. In this regard, and subject to adjustments in the Work Schedule as provided in Article 2 herein, Engineer shall proceed with sufficient qualified personnel and consultants necessary to fully and timely accomplish all Engineering Services required under this Contract in a professional manner.

**(3) Notice to Proceed.** After execution of this Contract, Engineer shall not proceed with Engineering Services until authorized in writing by City to proceed as provided in Article 7.

#### **ARTICLE 4** **COMPENSATION**

City shall pay and Engineer agrees to accept the amount shown below as full compensation for the Engineering Services performed and to be performed under this Contract.

The amount payable under this Contract, without modification of the Contract as provided herein, is the sum of Two Hundred Eighty Thousand One Hundred Thirty-Nine and No/100 Dollars (\$280,139.00) as shown in Exhibit D. The lump sum amount payable shall be revised equitably only by written Supplemental Contract in the event of a change in Engineering Services as authorized by City.

Engineer shall prepare and submit to City monthly progress reports in sufficient detail to support the progress of the Engineering Services and to support invoices requesting monthly payment. Any preferred format of City for such monthly progress reports shall be identified in Exhibit B. Satisfactory progress of Engineering Services shall be an absolute condition of payment.

The fee herein referenced may be adjusted for additional Engineering Services requested and performed only if approved by written Supplemental Contract.

#### **ARTICLE 5** **METHOD OF PAYMENT**

Payments to Engineer shall be made while Engineering Services are in progress. Engineer shall prepare and submit to City, not more frequently than once per month, a progress report as referenced in Article 4 above. Such progress report shall state the percentage of completion of Engineering Services accomplished during that billing period and to date. Simultaneous with submission of such progress report, Engineer shall prepare and submit one (1) original and one (1) copy of a certified invoice in a form acceptable to City. This submittal shall also include a progress assessment report in a form acceptable to City.

Progress payments shall be made in proportion to the percentage of completion of Engineering Services identified in Exhibit D. Progress payments shall be made by City based upon Engineering Services actually provided and performed. Upon timely receipt and approval of each statement, City shall make a good faith effort to pay the amount which is due and payable within thirty (30) days. City reserves the right to withhold payment pending verification of satisfactory Engineering Services performed. Engineer has the responsibility to submit proof to City, adequate and sufficient in its determination, that tasks were completed.

The certified statements shall show the total amount earned to the date of submission and shall show the amount due and payable as of the date of the current statement. Final payment does not relieve Engineer of the responsibility of correcting any errors and/or omissions resulting from his/her/its negligence.

## **ARTICLE 6**

### **PROMPT PAYMENT POLICY**

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Engineer will be made within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for services, whichever is later. Engineer may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply in the event:

- A. There is a bona fide dispute between City and Engineer concerning the supplies, materials, or equipment delivered or the services performed that causes the payment to be late; or
- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Engineer and a subcontractor or between a subcontractor and its supplier concerning supplies, materials, or equipment delivered or the Engineering Services performed which causes the payment to be late; or
- D. The invoice is not mailed to City in strict accordance with instructions, if any, on the purchase order, or this Contract or other such contractual agreement.

City shall document to Engineer the issues related to disputed invoices within ten (10) calendar days of receipt of such invoice. Any non-disputed invoices shall be considered correct and payable per the terms of Chapter 2251, V.T.C.A., Texas Government Code.

## **ARTICLE 7**

### **NOTICE TO PROCEED**

The Engineer shall not proceed with any task listed on Exhibit B until the City has issued a written Notice to Proceed regarding such task. The City shall not be responsible for work performed or costs incurred by Engineer related to any task for which a Notice to Proceed has not been issued.

## **ARTICLE 8**

### **PROJECT TEAM**

City's Designated Representative for purposes of this Contract is as follows:

Federico Sanchez  
Project Manager  
3400 Sunrise Road  
Round Rock, Texas 78665  
Telephone Number (512) 218-6609  
Fax Number (512) 255-6911  
Email Address: [fsanchez@roundrocktexas.gov](mailto:fsanchez@roundrocktexas.gov)

City's Designated Representative shall be authorized to act on City's behalf with respect to this Contract. City or City's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by Engineer in order to avoid unreasonable delay in the orderly and sequential progress of Engineering Services.

Engineer's Designated Representative for purposes of this Contract is as follows:

Garrett Johnson, PE, CFM, GISP  
Project Manager  
10431 Morado Circle, Unit 300  
Austin, Texas 78759  
Telephone Number (512) 617-3160  
Fax Number (817) 735-7491  
Email Address [jgjfreese.com](mailto:jgjfreese.com)

## **ARTICLE 9**

### **PROGRESS EVALUATION**

Engineer shall, from time to time during the progress of the Engineering Services, confer with City at City's election. Engineer shall prepare and present such information as may be pertinent and necessary, or as may be requested by City, in order for City to evaluate features of the Engineering Services. At the request of City or Engineer, conferences shall be provided at Engineer's office, the offices of City, or at other locations designated by City. When requested by City, such conferences shall also include evaluation of the Engineering Services.

Should City determine that the progress in Engineering Services does not satisfy the Work Schedule, then City shall review the Work Schedule with Engineer to determine corrective action required.

Engineer shall promptly advise City in writing of events which have or may have a significant impact upon the progress of the Engineering Services, including but not limited to the following:

- (1) Problems, delays, adverse conditions which may materially affect the ability to meet the objectives of the Work Schedule, or preclude the attainment of project Engineering Services units by established time periods; and such disclosure shall be accompanied by statement of actions taken or contemplated, and City assistance needed to resolve the situation, if any; and

- (2) Favorable developments or events which enable meeting the Work Schedule goals sooner than anticipated.

## **ARTICLE 10**

### **SUSPENSION**

Should City desire to suspend the Engineering Services, but not to terminate this Contract, then such suspension may be affected by City giving Engineer thirty (30) calendar days' verbal notification followed by written confirmation to that effect. Such thirty-day notice may be waived in writing by agreement and signature of both parties. The Engineering Services may be reinstated and resumed in full force and effect within sixty (60) days of receipt of written notice from City to resume the Engineering Services. Such sixty-day notice may be waived in writing by agreement and signature of both parties. If this Contract is suspended for more than thirty (30) days, Engineer shall have the option of terminating this Contract.

If City suspends the Engineering Services, the contract period as determined in Article 3, and the Work Schedule, shall be extended for a time period equal to the suspension period.

City assumes no liability for Engineering Services performed or costs incurred prior to the date authorized by City for Engineer to begin Engineering Services, and/or during periods when Engineering Services is suspended, and/or subsequent to the contract completion date.

## **ARTICLE 11**

### **ADDITIONAL ENGINEERING SERVICES**

If Engineer forms a reasonable opinion that any work he/she/it has been directed to perform is beyond the scope of this Contract and as such constitutes extra work, he/she/it shall promptly notify City in writing. In the event City finds that such work does constitute extra work and exceeds the maximum amount payable, City shall so advise Engineer and a written Supplemental Contract will be executed between the parties as provided in Article 13. Engineer shall not perform any proposed additional work nor incur any additional costs prior to the execution, by both parties, of a written Supplemental Contract. City shall not be responsible for actions by Engineer nor for any costs incurred by Engineer relating to additional work not directly associated with the performance of the Engineering Services authorized in this Contract or any amendments thereto.

## **ARTICLE 12**

### **CHANGES IN ENGINEERING SERVICES**

If City deems it necessary to request changes to previously satisfactorily completed Engineering Services or parts thereof which involve changes to the original Engineering Services or character of Engineering Services under this Contract, then Engineer shall make such revisions as requested and as directed by City. Such revisions shall be considered as additional Engineering Services and paid for as specified under Article 11.

Engineer shall make revisions to Engineering Services authorized hereunder as are necessary to correct errors appearing therein, when required to do so by City. No additional compensation shall be

due for such Engineering Services.

### **ARTICLE 13** **SUPPLEMENTAL CONTRACTS**

The terms of this Contract may be modified by written Supplemental Contract if City determines that there has been a significant change in (1) the scope, complexity or character of the Engineering Services, or (2) the duration of the Engineering Services. Any such Supplemental Contract must be duly authorized by the City. Engineer shall not proceed until the Supplemental Contract has been executed. Additional compensation, if appropriate, shall be identified as provided in Article 4.

It is understood and agreed by and between both parties that Engineer shall make no claim for extra work done or materials furnished until the City authorizes full execution of the written Supplemental Contract and authorization to proceed. City reserves the right to withhold payment pending verification of satisfactory Engineering Services performed.

### **ARTICLE 14** **USE OF DOCUMENTS**

All documents, including but not limited to drawings, specifications and data or programs stored electronically, (hereinafter referred to as "Instruments of Service") prepared by Engineer and its subcontractors are related exclusively to the services described in this Contract and are intended to be used with respect to this Project. However, it is expressly understood and agreed by and between the parties hereto that all of Engineer's designs under this Contract (including but not limited to tracings, drawings, estimates, specifications, investigations, studies and other documents, completed or partially completed), shall be the property of City to be thereafter used in any lawful manner as City elects. Any such subsequent use made of documents by City shall be at City's sole risk and without liability to Engineer, and, to the extent permitted by law, City shall hold harmless Engineer from all claims, damages, losses and expenses, resulting therefrom. Any modification of the plans will be evidenced on the plans and be signed and sealed by a licensed professional prior to re-use of modified plans.

By execution of this Contract and in confirmation of the fee for services to be paid under this Contract, Engineer hereby conveys, transfers and assigns to City all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project designs and work product developed under this Contract. Copies may be retained by Engineer. Engineer shall be liable to City for any loss or damage to any such documents while they are in the possession of or while being worked upon by Engineer or anyone connected with Engineer, including agents, employees, Engineers or subcontractors. All documents so lost or damaged shall be replaced or restored by Engineer without cost to City.

Upon execution of this Contract, Engineer grants to City permission to reproduce Engineer's work and documents for purposes of constructing, using and maintaining the Project, provided that City shall comply with its obligations, including prompt payment of all sums when due, under this Contract. Engineer shall obtain similar permission from Engineer's subcontractors consistent with this Contract. If and upon the date Engineer is adjudged in default of this Contract, City is permitted to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes,

corrections or additions to the work and documents for the purposes of completing, using and maintaining the Project.

City shall not assign, delegate, sublicense, pledge or otherwise transfer any permission granted herein to another party without the prior written contract of Engineer. However, City shall be permitted to authorize the contractor, subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is permitted. Any unauthorized use of the Instruments of Service shall be at City's sole risk and without liability to Engineer and its Engineers.

Prior to Engineer providing to City any Instruments of Service in electronic form or City providing to Engineer any electronic data for incorporation into the Instruments of Service, City and Engineer shall by separate written contract set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations not otherwise provided in this Contract. Any electronic files are provided by Engineer for the convenience of City, and use of them is at City's sole risk. In the case of any defects in electronic files or any discrepancies between them and any hardcopy of the same documents prepared by Engineer, the hardcopy shall prevail. Only printed copies of documents conveyed by Engineer shall be relied upon.

Engineer shall have no liability for changes made to the drawings by other engineers subsequent to the completion of the Project. Any such change shall be sealed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified.

## **ARTICLE 15**

### **PERSONNEL, EQUIPMENT AND MATERIAL**

Engineer shall furnish and maintain, at its own expense, quarters for the performance of all Engineering Services, and adequate and sufficient personnel and equipment to perform the Engineering Services as required. All employees of Engineer shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Engineer who, in the opinion of City, is incompetent or whose conduct becomes detrimental to the Engineering Services shall immediately be removed from association with the project when so instructed by City. Engineer certifies that it presently has adequate qualified personnel in its employment for performance of the Engineering Services required under this Contract, or will obtain such personnel from sources other than City. Engineer may not change the Project Manager without prior written consent of City.

## **ARTICLE 16**

### **SUBCONTRACTING**

Engineer shall not assign, subcontract or transfer any portion of the Engineering Services under this Contract without prior written approval from City. All subcontracts shall include the provisions required in this Contract and shall be approved as to form, in writing, by City prior to Engineering Services being performed under the subcontract. No subcontract shall relieve Engineer of any responsibilities under this Contract.



**ARTICLE 17**  
**EVALUATION OF ENGINEERING SERVICES**

City, or any authorized representatives of it, shall have the right at all reasonable times to review or otherwise evaluate the Engineering Services performed or being performed hereunder and the premises on which it is being performed. If any review or evaluation is made on the premises of Engineer or a subcontractor, then Engineer shall provide and require its subcontractors to provide all reasonable facilities and assistance for the safety and convenience of City or other representatives in the performance of their duties.

**ARTICLE 18**  
**SUBMISSION OF REPORTS**

All applicable study reports shall be submitted in preliminary form for approval by City before any final report is issued. City's comments on Engineer's preliminary reports shall be addressed in any final report.

**ARTICLE 19**  
**VIOLATION OF CONTRACT TERMS/BREACH OF CONTRACT**

Violation of contract terms or breach of contract by Engineer shall be grounds for termination of this Contract, and any increased costs arising from Engineer's default, breach of contract, or violation of contract terms shall be paid by Engineer.

**ARTICLE 20**  
**TERMINATION**

This Contract may be terminated as set forth below.

- (1) By mutual agreement and consent, in writing, of both parties.
- (2) By City, by notice in writing to Engineer, as a consequence of failure by Engineer to perform the Engineering Services set forth herein in a satisfactory manner.
- (3) By either party, upon the failure of the other party to fulfill its obligations as set forth herein.
- (4) By City, for reasons of its own and not subject to the mutual consent of Engineer, upon not less than thirty (30) days' written notice to Engineer.
- (5) By satisfactory completion of all Engineering Services and obligations described herein.

Should City terminate this Contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to Engineer. In determining the value of the Engineering Services performed by Engineer prior to termination, City shall be the sole judge. Compensation for Engineering Services at termination will be based on a percentage of the Engineering

Services completed at that time. Should City terminate this Contract under Subsection (4) immediately above, then the amount charged during the thirty-day notice period shall not exceed the amount charged during the preceding thirty (30) days.

If Engineer defaults in the performance of this Contract or if City terminates this Contract for fault on the part of Engineer, then City shall give consideration to the actual costs incurred by Engineer in performing the Engineering Services to the date of default, the amount of Engineering Services required which was satisfactorily completed to date of default, the value of the Engineering Services which are usable to City, the reasonable and necessary cost to City of employing another firm to complete the Engineering Services required and the time required to do so, and other factors which affect the value to City of the Engineering Services performed at the time of default.

The termination of this Contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of City and Engineer under this Contract, except the obligations set forth herein in Article 21 entitled "Compliance with Laws." If the termination of this Contract is due to the failure of Engineer to fulfill his/her/its contractual obligations, then City may take over the project and prosecute the Engineering Services to completion. In such case, Engineer shall be liable to City for any additional and reasonable costs incurred by City.

Engineer shall be responsible for the settlement of all contractual and administrative issues arising out of any procurements made by Engineer in support of the Engineering Services under this Contract.

## **ARTICLE 21**

### **COMPLIANCE WITH LAWS**

**(1) Compliance.** Engineer shall comply with all applicable state, federal and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Contract, including without limitation, minimum/maximum salary and wage statutes and regulations, and licensing laws and regulations. Engineer shall furnish City with satisfactory proof of his/her/its compliance.

Engineer shall further obtain all permits and licenses required in the performance of the Engineering Services contracted for herein.

**(2)** As required by Chapter 2271, Government Code, Engineer hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

**(3)** In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has a provision in the contract verifying that it: (1) does not have a practice, policy, guidance, or directive that discriminates

against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The signatory executing this Contract on behalf of the Engineer verifies Engineer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not discriminate during the term of this Contract against any firearm entity or firearm trade association.

(4) In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has a provision in the contract verifying that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Contract. The signatory executing this Contract on behalf of Engineer verifies Engineer does not boycott energy companies, and it will not boycott energy companies during the term of this Contract.

(5) This Project is being assisted by the United States of America. Engineer and City acknowledge and agree that this is a federally assisted Project, and as such, shall comply with all such requirements. Said requirements include, ***but are not limited to***, compliance with 2 CFR 200 and the Equal Opportunity Act and any other federal regulations, code provisions, orders and rules, including but not limited to, the federal regulations set forth in Exhibit E, attached hereto and incorporated herein by reference for all purposes.

(6) **Taxes.** Engineer will pay all taxes, if any, required by law arising by virtue of the Engineering Services performed hereunder. City is qualified for exemption pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act.

## **ARTICLE 22**

### **INDEMNIFICATION**

Engineer shall save and hold City harmless from all liability for damage 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 Engineer, Engineer's agent, or another entity over which Engineer exercises control. Engineer shall also save and hold City harmless from any and all expenses, including but not limited to reasonable attorneys' fees which may be incurred by City in litigation or otherwise defending claims or liabilities which may be imposed on City to the extent resulting from such negligent activities by Engineer, its agents, or employees.

## **ARTICLE 23**

### **ENGINEER'S RESPONSIBILITIES**

Engineer shall be responsible for the accuracy of his/her/its Engineering Services and shall promptly make necessary revisions or corrections to its work product resulting from errors, omissions, or negligent acts, and same shall be done without compensation. City shall determine Engineer's responsibilities for all questions arising from design errors and/or omissions. Engineer shall not be relieved of responsibility for subsequent correction of any such errors or omissions in its work product, or for clarification of any ambiguities until after the construction phase of the project has been

completed.

## **ARTICLE 24** **ENGINEER'S SEAL**

The responsible engineer shall sign, seal and date all appropriate engineering submissions to City in accordance with the Texas Engineering Practice Act and the rules of the State Board of Registration for Professional Engineers.

## **ARTICLE 25** **NON-COLLUSION, FINANCIAL INTEREST PROHIBITED**

**(1) Non-collusion.** Engineer warrants that he/she/it has not employed or retained any company or persons, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that he/she/it has not paid or agreed to pay any company or engineer any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City reserves and shall have the right to annul this Contract without liability or, in its discretion and at its sole election, to deduct from the contract price or compensation, or to otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**(2) Financial Interest Prohibited.** Engineer covenants and represents that Engineer, his/her/its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required for the construction of the project.

## **ARTICLE 26** **INSURANCE**

**(1) Insurance.** Engineer, at Engineer's sole cost, shall purchase and maintain during the entire term while this Contract is in effect professional liability insurance coverage in the minimum amount of One Million Dollars per claim from a company authorized to do insurance business in Texas and otherwise acceptable to City. Engineer shall also notify City, within twenty-four (24) hours of receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage it receives from its insurer.

**(2) Subconsultant Insurance.** Without limiting any of the other obligations or liabilities of Engineer, Engineer shall require each subconsultant performing work under this Contract to maintain during the term of this Contract, at the subconsultant's own expense, the same stipulated minimum insurance required in Article 26, Section (1) above, including the required provisions and additional policy conditions as shown below in Article 26, Section (3).

Engineer shall obtain and monitor the certificates of insurance from each subconsultant in order to assure compliance with the insurance requirements. Engineer must retain the certificates of insurance for the duration of this Contract, and shall have the responsibility of enforcing these insurance requirements among its subconsultants. City shall be entitled, upon request and without expense, to

receive copies of these certificates of insurance.

**(3) Insurance Policy Endorsements.** Each insurance policy shall include the following conditions by endorsement to the policy:

- (a) Engineer shall notify City thirty (30) days prior to the expiration, cancellation, non-renewal in coverage, and such notice thereof shall be given to City by certified mail to:

City Manager, City of Round Rock  
221 East Main Street  
Round Rock, Texas 78664

- (b) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by City, to any such future coverage, or to City's Self-Insured Retentions of whatever nature.

**(4) Cost of Insurance.** The cost of all insurance required herein to be secured and maintained by Engineer shall be borne solely by Engineer, with certificates of insurance evidencing such minimum coverage in force to be filed with City. Such Certificates of Insurance are evidenced as Exhibit E herein entitled "Certificates of Insurance."

## **ARTICLE 27** **COPYRIGHTS**

City shall have the royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any reports developed by Engineer for governmental purposes.

## **ARTICLE 28** **SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon and inure to the benefit of the parties hereto, their successors, lawful assigns, and legal representatives. Engineer may not assign, sublet or transfer any interest in this Contract, in whole or in part, by operation of law or otherwise, without obtaining the prior written consent of City.

## **ARTICLE 29** **SEVERABILITY**

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

**ARTICLE 30**  
**PRIOR AGREEMENTS SUPERSEDED**

This Contract constitutes the sole agreement of the parties hereto, and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein. This Contract may only be amended or supplemented by mutual agreement of the parties hereto in writing.

**ARTICLE 31**  
**ENGINEER'S ACCOUNTING RECORDS**

Records pertaining to the project, and records of accounts between City and Engineer, shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives at mutually convenient times. The City reserves the right to review all records it deems relevant which are related to this Contract.

**ARTICLE 32**  
**NOTICES**

All notices to either party by the other required under this Contract shall be personally delivered or mailed to such party at the following respective addresses:

**City:**

City of Round Rock  
Attention: City Manager  
221 East Main Street  
Round Rock, TX 78664

and to:

Stephan L. Sheets  
City Attorney  
309 East Main Street  
Round Rock, TX 78664

**Engineer:**

Freese and Nichols, Inc.  
10431 Morado Circle, Unit 300  
Austin, TX 78759

### **ARTICLE 33**

#### **GENERAL PROVISIONS**

**(1) Time is of the Essence.** The Services shall be performed expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer. Engineer understands and agrees that time is of the essence and that any failure of Engineer to complete the Engineering Services for each phase of this Contract within the agreed Work Schedule may constitute a material breach of this Contract. Engineer shall be fully responsible for his/her/its delays or for failures to use his/her/its reasonable efforts in accordance with the terms of this Contract and the Engineer's standard of performance as defined herein. Where damage is caused to City due to Engineer's negligent failure to perform City may accordingly withhold, to the extent of such damage, Engineer's payments hereunder without waiver of any of City's additional legal rights or remedies. Any determination to withhold or set off shall be made in good faith and with written notice to Engineer provided, however, Engineer shall have fourteen (14) calendar days from receipt of the notice to submit a plan for cure reasonably acceptable to City.

**(2) Force Majeure.** Neither City nor Engineer shall be deemed in violation of this Contract if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

**(3) Enforcement and Venue.** This Contract shall be enforceable in Round Rock, Williamson County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

**(4) Standard of Performance.** The standard of care for all professional engineering, consulting and related services performed or furnished by Engineer and its employees under this Contract will be the care and skill ordinarily used by members of Engineer's profession practicing under the same or similar circumstances at the same time and in the same locality. Excepting Articles 25 and 34 herein, Engineer makes no warranties, express or implied, under this Contract or otherwise, in connection with the Engineering Services.

**(5) Opinion of Probable Cost.** Any opinions of probable project cost or probable construction cost provided by Engineer are made on the basis of information available to Engineer and on the basis of Engineer's experience and qualifications and represents its judgment as an experienced and qualified professional engineer. However, since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, Engineer does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost Engineer prepares.

**(6) Opinions and Determinations.** Where the terms of this Contract provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

**ARTICLE 34**  
**SIGNATORY WARRANTY**

The undersigned signatory for Engineer hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Contract and that he/she has full and complete authority to enter into this Contract on behalf of the firm. The above-stated representations and warranties are made for the purpose of inducing City to enter into this Contract.

**IN WITNESS WHEREOF**, the City of Round Rock has caused this Contract to be signed in its corporate name by its duly authorized City Manager or Mayor, as has Engineer, signing by and through its duly authorized representative(s), thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions hereof.

CITY OF ROUND ROCK, TEXAS

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Craig Morgan, Mayor

\_\_\_\_\_  
Stephan L. Sheets, City Attorney

**ATTEST:**

By: \_\_\_\_\_  
Meagan Spinks, City Clerk

FREESE AND NICHOLS, INC.

By: \_\_\_\_\_  
Signature of Principal  
Printed Name: \_\_\_\_\_



### **LIST OF EXHIBITS ATTACHED**

- |               |                           |
|---------------|---------------------------|
| (1) Exhibit A | City Services             |
| (2) Exhibit B | Engineering Services      |
| (3) Exhibit C | Work Schedule             |
| (4) Exhibit D | Fee Schedule              |
| (5) Exhibit E | Federal Requirements      |
| (6) Exhibit F | Certificates of Insurance |

## **EXHIBIT A**

### **Services to be Provided by the City**

The City will provide the following information and other assistance to the Engineer (Freese & Nichols, Inc.) that the City deems appropriate and necessary:

1. As-built drawings and GIS data pertaining to storm drain infrastructure in the area, including locations of inlets, manholes, storm drain lines, outfalls, culverts, channels, building footprints, and impervious cover. GIS data will be provided in shapefile or geodatabase format with a table of relevant attributes. For inlets, this will include inlet dimensions and flowline; For storm drain, this will include pipe dimensions, upstream and downstream flowlines, upstream and downstream inlet or manhole IDs, etc.
2. Attendance for:
  - a. One project kickoff meeting
  - b. One meeting to present the Upper Brushy Creek HEC-HMS hydrograph comparisons against stream gage data
  - c. One meeting to present preliminary existing conditions ICM results and develop a decision for either including Brushy Creek within the ICM model or alternatively terminating the ICM model along the southern bank of Brushy Creek and applying boundary conditions settings based on data from the Upper Brushy Creek study models
  - d. One project results meeting to discuss the draft existing conditions drainage assessment modeling results memorandum, and maps.
3. Clear direction and/or response to questions or requests made by the Engineer during the Engineer's performance of services.
4. Timely review of deliverables that have been properly completed and submitted by the Engineer; and timely provisions of comments, if any, to the Engineer resulting from said reviews.

## **EXHIBIT B**

### **Services to be Provided by the Engineer**

#### **1. PROJECT PURPOSE**

The City of Round Rock (City) has requested that Freese and Nichols, Inc. (FNI) prepare an existing conditions drainage assessment of Southeast Area 1 and adjacent hydrologically and/or hydraulically connected areas. The drainage assessment will be based on a two-dimensional (2D) model used to define existing flood risk. Southeast Area 1 is shown in the attached Figure 1.

The drainage assessment model will be prepared using InfoWorks ICM 2021 software, or the newest version at the time of notice to proceed. The model will be prepared based on the City's Modeling Guidelines for InfoWorks ICM (12/13/17) and Round Rock Rain- Rainfall Application Instructions for Hydrologic Analyses and Designs Guidance (August 2020). The model will be used to evaluate the number of structures at risk of flooding during the 25-year and 100-year events. Model results will be validated against the May 2015 storm or a validation event determined based on flooding-related data collected through resident questionnaires.

This scope of work includes analysis of existing conditions only. Conceptual design of flood mitigation projects or analysis of proposed conditions is an additional service.

#### **2. GENERAL SCOPE OF WORK**

The services shown below in the "Scope of Services" are representative of the types of services contemplated on the Contract. It is not considered an exhaustive list of all engineering services that are possible under the Contract nor does it guarantee that all of the services will be requested or required.

#### **Scope of Services:**

##### **Task 1 – Project Management and Meetings**

1. Develop and implement a Quality Assurance & Quality Control Plan for the project.
2. Provide monthly progress reports and invoices to the City of Round Rock (City) for a period of eight months. Manage project integration, scope, schedules, cost, quality, staff resources, communications, and risk as necessary.
3. Hold a kickoff meeting with City staff.
4. Hold an internal kickoff meeting with FNI project staff.
5. Hold internal progress meetings with FNI project staff.
6. Hold a meeting with City staff to present results of the Upper Brushy Creek HEC-HMS model simulation for the May 2015 storm or other validation event compared against USGS Brushy Creek stream gage data.

7. Hold a meeting with City staff to present preliminary existing conditions ICM results and develop a decision for either including Brushy Creek within the ICM model or alternatively terminating the ICM model along the southern bank of Brushy Creek and applying boundary conditions settings based on data from the Upper Brushy Creek study models
8. Hold a meeting with City staff to present the draft existing conditions drainage assessment modeling results, memorandum, and maps.

Deliverables: QA/QC plan, monthly progress reports, meeting minutes.

### **Task 2 – Data Collection**

1. Obtain and review all available as-builts, GIS data, photos and videos of flooding, Upper Brushy Creek Watershed HEC-HMS and HEC-RAS models, ICM model and supporting documentation for drainage area west of Interstate 35, and relevant study area reports from the City. It is assumed provided GIS data will include all available stormwater-related information pertaining to channels, culverts, storm drain pipes, inlets, manholes, building footprints, and impervious cover.
2. Obtain 2017 lidar DEM directly from TNIRIS. Process bare earth LAS points into a sub-5'x5' grid for importing into ICM.
3. Conduct one site visit to confirm drainage patterns and take pictures of major drainage features.
4. Obtain precipitation data from nearby USGS/Upper Brushy Creek WCID rain gauges for the May 2015 storm event or other validation event based on resident questionnaires.

Deliverables: None for this task. This task gathers data for the model and memorandum.

### **Task 3 – Existing Conditions Modeling**

1. Create an existing conditions HEC-HMS model to calculate excess precipitation hyetographs for Atlas 14 25- and 100-year design storm events for application within the InfoWorks ICM existing conditions drainage assessment model. Excess precipitation will be calculated using one subbasin for the project area.
2. Create an existing conditions InfoWorks ICM model of the Southeast Area 1 study area (Figure 1) following City guidance.
  - a. Incorporate drainage system plan view locations and connections, vertical profile information and system dimensions primarily based on GIS attribute table data. Supplement with as-built data or best estimates as necessary. Request missing flowlines from City survey crews as needed.
  - b. Build a hydraulic modeling mesh incorporating mesh zones, mesh level zones break lines, and building footprints for refinement as needed. Simplify building footprints if necessary to obtain an efficient mesh configuration.
  - c. Simulate the May 2015 storm or other validation event within the Upper Brushy Creek HEC-HMS model and compare results against Brushy Creek USGS stream gage data records collected at Interstate 35 and at the confluence of Dry Creek. This assessment will be used to inform the City about the quality of the HEC-HMS boundary condition inflows to the ICM model. The Upper Brushy Creek HEC-HMS model will not be edited to achieve calibration with the stream gage

- data. If the City requests edits to the Upper Brushy Creek HEC-HMS model, this would be considered an additional service.
- d. Develop hydrologic and hydraulic boundary conditions for the study area using Upper Brushy Creek Watershed HEC-HMS and HEC-RAS models.
  - e. Apply excess precipitation developed in Task 3.1 directly to the hydraulic mesh in InfoWorks ICM to allow for hydraulic routing of the precipitation runoff (“rain-on-mesh”).
3. Simulate the Atlas 14 25- and 100-year design storm events using the rain-on-mesh approach.
    - a. Check 1D/2D connections, evaluate model stability, and optimize the model input as needed to obtain a stable model.
    - b. Summarize flooding depths at each structure during the 25-year and 100-year events. Structures provided as part of the City’s GIS data will be classified as follows based on the adjacent flooding depth on the lidar surface. Depth of 0–6 inches: not inundated; depth of 6–12 inches: possibly inundated; depth of 12 or more inches: inundated.
  4. Prepare and distribute resident questionnaires for collecting information that may indicate potential validation events that could be used to validate the existing conditions ICM model.
  5. Review returned resident questionnaires and develop a list of storms of interest. This list of storms along with supporting data and assumptions will be provided to the City for review and final determination of the validation events to be simulated within the existing conditions ICM model.
  6. Validate flooding depths during the May 2015 storm event and/or selected validation events. It is assumed that no more than three validation events will be simulated within the existing conditions ICM model. Detailed model calibration is considered an additional service.
  7. Quality Control (QC) review of the existing conditions model. Address internal QC comments.
  8. Address one round of City comments after meeting to discuss results.

Deliverables: None for this task. This task prepares data to be documented in the draft existing conditions memorandum. Preparation of final model and final memorandum is anticipated to be delivered as part of a future proposed conditions authorization.

#### **Task 4 – Drainage Memorandum and Inundation Maps**

1. Prepare a draft technical memorandum documenting input data and modeling process. The memorandum will include inundation maps for the 25-year, 100-year, and validation events.
2. Quality control review of the draft drainage memorandum and maps. Address internal QC comments and submit the draft drainage memorandum and maps to the City.
3. Address City comments on inundation maps after meeting to discuss the results.

Deliverables: Draft memorandum and inundation maps in PDF format, final inundation maps in PDF format

City of Round Rock – Southeast Area 1 Existing Conditions Drainage Assessment  
Exhibit "C" – Work Schedule

ID	Task Mode	Task Name	Duration	Start	Finish	<div> <div>2022</div> <div> <div>Oct</div> <div>Nov</div> <div>Dec</div> <div>Jan</div> <div>Feb</div> <div>Mar</div> <div>Apr</div> <div>May</div> <div>Jun</div> <div>Jul</div> <div>Aug</div> <div>Sep</div> <div>Oct</div> <div>Nov</div> <div>Dec</div> <div>2023</div> <div> <div>Jan</div> <div>Feb</div> <div>Mar</div> </div> </div> </div>											
1																	
2		Notice to proceed/kickoff meeting with City	0 days	Tue 2/1/22	Tue 2/1/22												
3		Data collection	5 wks	Tue 2/1/22	Mon 3/7/22												
4		Obtain/review as-builts, GIS data, drainage reports, UBC models (HMS, RAS, ICM)	2 wks	Tue 2/1/22	Mon 2/14/22												
5		Internal kickoff meeting	0 days	Mon 2/14/22	Mon 2/14/22												
6		GIS desktop set-up; process lidar	2 wks	Tue 2/1/22	Mon 2/14/22												
7		Conduct site visit	0 days	Mon 3/7/22	Mon 3/7/22												
8		Existing conditions modeling	35 wks	Tue 2/15/22	Mon 10/17/22												
9		HMS – excess precip model	1 wk	Tue 2/15/22	Mon 2/21/22												
10		ICM – review storm drain/inlets, culverts, bridges compared to as-builts	3 wks	Tue 2/15/22	Mon 3/7/22												
11		ICM – incorporate lidar, storm drain/inlets, culverts, bridges	4 wks	Tue 3/8/22	Mon 4/4/22												
12		ICM – mesh zones, breaklines, building footprints	3 wks	Tue 4/5/22	Mon 4/25/22												
13		ICM – develop/test boundary conditions/options for Brushy Creek	3 wks	Tue 4/26/22	Mon 5/16/22												
14		ICM – 25- and 100-yr simulations and optimization	3 wks	Tue 5/17/22	Mon 6/6/22												
15		Independent QC and address comments	2 wks	Tue 6/7/22	Mon 6/20/22												
16		City Meeting - Present initial results, Brushy Creek boundary condition options	1 wk	Tue 6/21/22	Mon 6/27/22												
17		Resident questionnaires	10 wks	Tue 6/28/22	Mon 9/5/22												
18		UBC HMS - Simulate May 2015 storm; compare results to stream gage data	1 wk	Tue 9/6/22	Mon 9/12/22												
19		ICM - validation simulations	1 wk	Tue 9/13/22	Mon 9/19/22												
20		Summarize structure depths and validate May 2015	1 wk	Tue 9/20/22	Mon 9/26/22												
21		Independent QC and address comments	3 wks	Tue 9/27/22	Mon 10/17/22												
22		Drainage memo and inundation maps - draft	4 wks	Tue 10/18/22	Mon 11/14/22												
23		Prepare draft memo and maps	2 wks	Tue 10/18/22	Mon 10/31/22												
24		Independent QC and address comments	2 wks	Tue 11/1/22	Mon 11/14/22												
25		Submit draft memo and maps	0 days	Mon 11/14/22	Mon 11/14/22												
26		Drainage memo and inundation maps - revised	5 wks	Tue 11/15/22	Mon 1/9/23												
27		City review	2 wks	Tue 11/15/22	Mon 12/5/22												
28		Draft memo review meeting	1 wk	Tue 12/6/22	Mon 12/12/22												
29		Address City comments, finalize existing conditions maps	2 wks	Tue 12/13/22	Mon 1/9/23												
30		Submit final maps/begin scoping proposed alternatives	0 days	Mon 1/9/23	Mon 1/9/23												

**EXHIBIT D**

**Fee Schedule**

<b>Project Name:</b>		Southeast Area 1 Existing Conditions Drainage Assessment				
<b>Task</b>		<b>Total Labor Hours</b>	<b>Loaded Labor Cost</b>	<b>Other Direct Costs</b>	<b>Subconsultants</b>	<b>TOTALS</b>
Task 1:	Project Management and Meetings	166	\$ 29,759	\$0.00	\$0.00	\$ 29,759
Task 2:	Data Collection	204	\$ 33,137	\$0.00	\$0.00	\$ 33,137
Task 3:	Existing Conditions Modeling	1,268	\$ 193,986	\$0.00	\$0.00	\$ 193,986
Task 4:	Drainage Memorandum and Inundation Maps	156	\$ 23,257	\$0.00	\$0.00	\$ 23,257
<b>GRAND TOTAL:</b>		1,794	\$ 280,139	\$0.00	\$0.00	\$ 280,139

Hourly rates to be billed on a time and materials basis per Attachment CO.

Note that budgets per task are provided for reference only and may be adjusted to better align with actual effort per task.

**COMPENSATION**

Compensation to FNI for Basic Services in Attachment SC shall be computed on the basis of the following Schedule of Charges.

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

<b><u>Position</u></b>	<b><u>Hourly Rate</u></b>
Professional 1	\$113
Professional 2	\$137
Professional 3	\$156
Professional 4	\$178
Professional 5	\$209
Professional 6	\$240
Construction Manager 1	\$103
Construction Manager 2	\$128
Construction Manager 3	\$138
Construction Manager 4	\$173
Construction Manager 5	\$209
Construction Manager 6	\$240
Construction Representative 1	\$92
Construction Representative 2	\$103
Construction Representative 3	\$128
Construction Representative 4	\$138
CAD Technician/Designer 1	\$96
CAD Technician/Designer 2	\$126
CAD Technician/Designer 3	\$153
Corporate Project Support 1	\$92
Corporate Project Support 2	\$111
Corporate Project Support 3	\$148
Intern/ Coop	\$57
Senior Advisor	\$175

**RATES FOR IN-HOUSE SERVICES AND EQUIPMENT:**

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

**OTHER DIRECT EXPENSES:**

Other direct expenses are reimbursed at actual cost times a multiplier of 1.05. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.05. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

***These rates will be subject to an annual rate increase to not exceed 3.0% effective February 2022.***



## EXHIBIT E: FEDERAL REQUIREMENTS FOR AMERICAN RESCUE PLAN PROJECTS

Section No.	Title
FR-01	Breach of Contract Terms
FR-02	Termination of Contract
FR-03	Equal Employment Opportunity - 41 CFR Part 60-1.4(b)
FR-04	Standard Federal Equal Employment Opportunity Construction Contract Specifications – 41 CFR Part 60.4.3
FR-05	Copeland Anti-Kickback Act 29 CFR Part 5
FR-06	Davis-Bacon Labor Requirements 29 CFR part 5
FR-07	Contract Work hours and Safety Standards Act Requirements
FR-08	Rights to Inventions
FR-9	Access to Records and Record Retention
FR-10	Clean Air and Water Pollution Control
FR-11	Energy Conservation Requirements
FR-12	Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
FR-13	Lobbying and Influencing Procurement
FR-14	Domestic Preference for Procurements
FR-15	Procurement of Recovered Materials

**FEDERAL REQUIREMENTS: FR-01**

**BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the contractor or their subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

**FEDERAL REQUIREMENTS: FR-02**

**TERMINATION OF CONTRACT**

- 1 The City may, by written notice, terminate this contract in whole or in part at any time, either for the City's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to the City.
- 2 If the termination is for the convenience of the City, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.
- 3 If the termination is due to failure to fulfill the contractor's obligations, the City may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor shall be liable to the City for any additional cost occasioned to the City thereby.
- 4 If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the City. In such event, adjustment in the contract price shall be made as provided in this clause.
- 5 The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**FEDERAL REQUIREMENTS: FR-03**

**EQUAL EMPLOYMENT OPPORTUNITY - Executive Order 11246 as amended,**  
**41 CFR PART 60-1.4(b)**

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

c. The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representatives of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedure authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of

September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provision, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes

involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

[Sec. 202 amended by EO 11375 of Oct 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684. EO 12086 of Oct5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 203. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

Contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

The Secretary of Labor may direct that any contractor or subcontractor shall submit, as part of his/her Compliance Report, a statement in writing, signed by

an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

[Sec. 203 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p.230]

**FEDERAL REQUIREMENTS: FR-04**

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY**  
**CONSTRUCTION CONTRACT SPECIFICATIONS - 41 CFR Part 60.4.3**

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
  - d. "Minority" includes:
    - (i) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
    - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (iv) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance

with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 18.7a through 18.7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the

minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically



ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or female sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (18.7a through 18.7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the contractor is a member

and participant, may be asserted as fulfilling any one or more of its obligations under 18.7a through 18.7p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally,) the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 18.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security

number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

**FEDERAL REQUIREMENTS: FR-05**

**COPELAND "ANTI-KICKBACK" ACT – 18 U.S.C. 874 / 40 U.S.C. 276c / 29 CFR Part 3**

**Compliance with Copeland Act requirements. The Contractor shall comply with all the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.**

**TITLE 18 USC 874**

**Sec. 874. Kickbacks from public works employees**

"Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

**TITLE 40, U.S.C. (as amended)**

**Sec. 276c, Regulations governing contractors and subcontractors**

"The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure) shall apply to such statements."

*Reorganization Plan No. 14 of 1950* (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z note):

"In order to assure coordination of administration and consistency of enforcement of the labor standards provision of each of the [foregoing and other enumerated] Acts by the Federal agencies responsible for the administration thereof, the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by these agencies, and cause to be made by the Department of Labor such investigations, with respect to compliance with and enforcement of such labor standards, as he deems desirable, ..."

## **FEDERAL REQUIREMENTS: FR-06**

### **FEDERAL LABOR STANDARDS PROVISIONS (HUD 4010)**

#### **DAVIS - BACON REQUIREMENTS**

**Compliance with Davis-Bacon and Related Act Requirements: All rulings and interpretations of the Davis-Bacon and Related Acts Contained in 29 CFR Parts 1, 3 and 5 are herein incorporated by reference.**

For additional information regarding Labor Rates, please go to the following official website of the United States government:

[www.SAM.gov](http://www.SAM.gov)

#### **Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**1. (i) Minimum Wages** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the

work in a prominent and accessible place where it can easily be seen by the workers.

**(ii) (a)** Any class of laborers or mechanics, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 12150140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 12150140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB control number 12150140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be

necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and



wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a) (3) (i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be maintained under CFR 5.5(a) (3) (i) above and that such information is correct and complete;

**(2)** That each laborer and mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**(iii)** The contractor or subcontractor shall make the records required under paragraph A.3.(i) available for inspection, copying or transcription by authorized representatives of HUD or its designee, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make

them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by

formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal Employment Opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

## **5. Compliance with Copeland Act Requirements.**

The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes Concerning Labor Standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded. Government contracts by virtue of section 3(a)

of the Davis- Bacon Act or 29 CFR 5.12(a) (1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CF Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12 (a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S. Criminal 1001. Additionally, U.S. Criminal Code Section 1 01 0, Title 18, U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C, "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of ..... influencing in any way the action of such Administration....makes, utters or publishes any statement knowing the same to be false.....shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provision of this Contract are applicable shall be discharged or in any other manner discrimination against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

## **WAGE RATES**

"General Decision Number: TX20210007 01/01/2021

Superseded General Decision Number: TX20200007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McClennon and Williamson Counties) and HIGHWAY Construction Projects

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015.

If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/01/2021

\* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	\$ 12.56	
ELECTRICIAN.....	\$ 26.35	
FORM BUILDER/FORM SETTER Paving & Curb.....	\$ 12.94	
Structures.....	\$ 12.87	
LABORER Asphalt Raker.....	\$ 12.12	
Flagger.....	\$ 9.45	
Laborer, Common.....	\$ 10.50	
Laborer, Utility.....	\$ 12.27	
Pipelayer.....	\$ 12.79	
Work Zone Barricade Servicer.....	\$ 11.85	
PAINTER (Structures).....	\$ 18.34	
POWER EQUIPMENT OPERATOR: Agricultural Tractor.....	\$ 12.69	
Asphalt Distributor.....	\$ 15.55	
Asphalt Paving Machine.....	\$ 14.36	
Boom Truck.....	\$ 18.36	
Broom or Sweeper.....	\$ 11.04	
Concrete Pavement Finishing Machine.....	\$ 15.48	
Crane, Hydraulic 80 tons or less.....	\$ 18.36	
Crane, Lattice Boom 80 tons or less.....	\$ 15.87	
Crane, Lattice Boom over 80 tons.....	\$ 19.38	
Crawler Tractor.....	\$ 15.67	
Directional Drilling Locator.....	\$ 11.67	
Directional Drilling Operator.....	\$ 17.24	
Excavator 50,000 lbs or Less.....	\$ 12.88	
Excavator over 50,000 lbs...	\$ 17.71	
Foundation Drill, Truck Mounted.....	\$ 16.93	

Front End Loader, 3 CY or Less.....	\$ 13.04
Front End Loader, Over 3 CY.	\$ 13.21
Loader/Backhoe.....	\$ 14.12
Mechanic.....	\$ 17.10
Milling Machine.....	\$ 14.18
Motor Grader, Fine Grade....	\$ 18.51
Motor Grader, Rough.....	\$ 14.63
Pavement Marking Machine....	\$ 19.17
Reclaimer/Pulverizer.....	\$ 12.88
Roller, Asphalt.....	\$ 12.78
Roller, Other.....	\$ 10.50
Scraper.....	\$ 12.27
Spreader Box.....	\$ 14.04
Trenching Machine, Heavy....	\$ 18.48
 Servicer.....	 \$ 14.51
 Steel Worker	
Reinforcing.....	\$ 14.00
Structural.....	\$ 19.29
 TRAFFIC SIGNAL INSTALLER	
Traffic Signal/Light Pole	
Worker.....	\$ 16.00
 TRUCK DRIVER	
Lowboy-Float.....	\$ 15.66
Off Road Hauler.....	\$ 11.88
Single Axle.....	\$ 11.79
Single or Tandem Axle Dump	
Truck.....	\$ 11.68
Tandem Axle Tractor w/Semi	
Trailer.....	\$ 12.81
 WELDER.....	 \$ 15.97
-----	
----	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

=====

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017.

If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year.

Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

-----

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate(weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey.

#### Example:

PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number,005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1,2014.



Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

-----

#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on
  - a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator  
(See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are  
final.

=====

END OF GENERAL DECISION

"

## **FEDERAL REQUIREMENTS: FR-07**

### **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this paragraph.

(4) Subcontractors. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this paragraph and also a clause requiring the

subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

(5) Health and Safety. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

The Contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary.

**FEDERAL REQUIREMENTS: FR-08**

**RIGHTS TO INVENTIONS**

All rights to inventions and materials generated under this contract are subject to regulations issued by the Sponsor of the Federal grant under which this contract is executed.

**FEDERAL REQUIREMENTS: FR-9**

**ACCESS TO RECORDS AND RECORD RETENTION**

The Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Sponsor and the Comptroller General of the United States or any of their duly authorized representative's access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

**FEDERAL REQUIREMENTS: FR-10**

**CLEAN AIR AND WATER POLLUTION CONTROL**

Contractors and subcontractors agree:

a. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

b. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;

c. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;

d. To include or cause to be included in any construction contract or subcontract which exceeds \$ 100,000 the aforementioned criteria and requirements.



**FEDERAL REQUIREMENTS: FR-11**

**ENERGY CONSERVATION REQUIREMENTS**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

**FEDERAL REQUIREMENTS: FR-12**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY  
AND VOLUNTARY EXCLUSION**

The Contractor certifies, by acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts.

**FEDERAL REQUIREMENTS: FR-13**

**LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

(1) No Federal appropriated funds shall be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant and the amendment or modification of any Federal grant.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

**FEDERAL REQUIREMENTS: FR-14**

**DOMESTIC PREFERENCE FOR PROCUREMENTS**

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under the award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States) including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase order or products under this award.

## **FEDERAL REQUIREMENTS: FR-15**

### **PROCUREMENT OF RECOVERED MATERIALS**

A non-Federal entity that is a state agency or agency of a political subdivision of the state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of 6002 include procuring only items designed in guidelines of the EPA at 40 CFR 247 that contain the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## EXHIBIT F

Certificates of Insurance

Attached Behind This Page



FREEAND-02

KSUTTON

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/3/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Ames &amp; Gough</b> <b>8300 Greensboro Drive</b> <b>Suite 980</b> <b>McLean, VA 22102</b>	<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext): (703) 827-2277</b>		<b>FAX (A/C, No): (703) 827-2279</b>
	<b>E-MAIL ADDRESS: admin@amesgough.com</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>			<b>NAIC #</b>
<b>INSURED</b>  <b>Freese and Nichols, Inc.</b> <b>801 Cherry Street, Suite 2800</b> <b>Fort Worth, TX 76102</b>	<b>INSURER A : Hartford Underwriters Insurance Company A+ (XV)</b>		<b>30104</b>
	<b>INSURER B : Twin City Fire Insurance Company A+ (XV)</b>		<b>29459</b>
	<b>INSURER C : Hartford Casualty Insurance Company A+ (XV)</b>		<b>29424</b>
	<b>INSURER D : Hartford Accident and Indemnity Company A+ (XV)</b>		<b>22357</b>
	<b>INSURER E : Continental Casualty Company (CNA) A, XV</b>		<b>20443</b>
<b>INSURER F :</b>			

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>Contractual Liab.</b>  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			<b>42UUNOL5238</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b> \$
<b>B</b>	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			<b>42UENOL5558</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>C</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ <b>10,000</b>			<b>42XHUAB1234</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	EACH OCCURRENCE \$ <b>10,000,000</b> AGGREGATE \$ <b>10,000,000</b> \$
<b>D</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		<b>N/A</b>	<b>42WBOL6H3F</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
<b>E</b>	<b>Professional Liab.</b>			<b>AEH008214422</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	<b>Per Claim</b> <b>5,000,000</b>

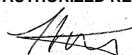
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
**PROFESSIONAL LIABILITY AGGREGATE LIMIT: \$10,000,000**

**RE: Southeast Area 1 – Existing Conditions Drainage Assessment.**

City of Round Rock is included as Additional Insured with respect to General Liability, Auto Liability, and Umbrella Liability when required by written contract. General Liability, Auto Liability and Umbrella Liability are primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and when required by written contract. 30-day Notice of Cancellation will be issued for the General Liability, Auto Liability, Umbrella Liability, Workers Compensation and Professional Liability policies in accordance with policy terms and conditions.

## CERTIFICATE HOLDER

## CANCELLATION

<b>City of Round Rock</b> <b>221 E. Main Street</b> <b>Round Rock, TX 78664</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
---	--