



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY																		
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory																		
Council Meeting Date:		6/28/10																
Department:		Public Works & Engineering																
Department Head:		Alan L. Upchurch																
Agenda Coordinator (include phone #): Irene Pegues (7198)				Project No. 5737														
CAPTION																		
To approve a engineering contract by and between the City of Plano and Freese and Nichols, Inc. in the amount of \$180,000 for the Park Boulevard and US 75 Pedestrian Crossing project and authorizing the City Manager to execute all necessary documents.																		
FINANCIAL SUMMARY																		
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP																		
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS														
Budget	0	555,000	996,000	1,551,000														
Encumbered/Expended Amount	0	0	0	0														
This Item	0	-180,000	0	-180,000														
BALANCE	0	375,000	996,000	1,371,000														
FUND(S): STREET IMPROVEMENT CIP																		
COMMENTS: Funds are included in the 2009-10 Street Improvement CIP. This item, in the amount of \$180,000 will leave a current year balance of \$375,000 for the Park Blvd/US 75 Pedestrian Crossing project. STRATEGIC PLAN GOAL: Engineering design services associated with hike and bike path relate to the City's Goals of Financially Strong City with Service Excellence and Great Neighborhoods – 1 st Choice to Live.																		
SUMMARY OF ITEM																		
This agreement with Freese and Nichols, Inc. is for the engineering design of the Park Boulevard and US 75 Pedestrian Crossing project which will create a 12 foot wide concrete hike and bike path to be constructed from the existing bike path in Chisholm Trail Park eastward along the north side of Park Boulevard, over US 75, to Archerwood Drive, where the path will become 8 feet in width on both sides of Archerwood Drive, and terminate at the Parker Road DART rail station.																		
The contract fee is \$180,000 and is detailed as follows:																		
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:80%;">1. Research and Data, including Geotechnical Report</td> <td align="right">\$14,000</td> </tr> <tr> <td>2. Design Survey/Construction Control Survey</td> <td align="right">\$33,000</td> </tr> <tr> <td>3. Preliminary Design</td> <td align="right">\$52,000</td> </tr> <tr> <td>4. Final Design</td> <td align="right">\$60,400</td> </tr> <tr> <td>5. Bid Phase</td> <td align="right">\$ 9,600</td> </tr> <tr> <td>6. Construction Administration</td> <td align="right">\$ 4,500</td> </tr> <tr> <td>Total Basic Services Fee</td> <td align="right">\$173,500</td> </tr> </table>					1. Research and Data, including Geotechnical Report	\$14,000	2. Design Survey/Construction Control Survey	\$33,000	3. Preliminary Design	\$52,000	4. Final Design	\$60,400	5. Bid Phase	\$ 9,600	6. Construction Administration	\$ 4,500	Total Basic Services Fee	\$173,500
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**CITY OF PLANO
COUNCIL AGENDA ITEM**

Special Services	
a. ROW edge definition and Temp. Construction Esmt. <u>Descriptions and Drawings (assuming 5 easements)</u>	<u>\$6,500</u>
Total Special Services	\$6,500
 Total Fee	 \$180,000
<p>Funding is available from the 2009-10 Community Investment Program and \$1,018,325 from NCTCOG. Staff feels the fee is reasonable for this project estimated to cost \$1,700,000.</p>	
List of Supporting Documents: Location Map; Engineering Services Agreement	Other Departments, Boards, Commissions or Agencies N/A

PARK BOULEVARD AND US 75 PEDESTRIAN CROSSING

PROJECT NO. 5737

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **FREESE AND NICHOLS, INC.**, a **TEXAS** Corporation, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **PARK BOULEVARD AND US 75 PEDESTRIAN CROSSING** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

WHEREAS, the Engineer desires to render such engineering services for the City upon the terms and conditions provided herein.

NOW, THEREFORE, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. Employment of the Engineer

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.

II. Scope of Services

The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City.

III. Schedule of Work

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the

reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

IV. Compensation and Method of Payment

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

V. Information to be Provided by the City

The City agrees to furnish, prior to commencement of work, all that information requested by Engineer and available in City's files.

VI. Insurance

Engineer agrees to meet all insurance requirements, and to require all consultants who perform work for Engineer to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

Engineer agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Engineer shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Engineer's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

VII. INDEMNITY

THE ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ENGINEER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE ENGINEER, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR

ENTITIES FOR WHICH THE ENGINEER IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ENGINEERS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ENGINEER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ENGINEER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ENGINEER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

VIII. Independent Contractor

Engineer covenants and agrees that Engineer is an independent contractor and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

IX. Assignment and Subletting

The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

X. Audits and Records/Prohibited Interest

The Engineer agrees that at any time during normal business hours and as often as City may deem necessary, Engineer shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

XI. Contract Termination

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

XII. Engineer's Opinion of Probable Construction Costs

The parties recognize and agree that any and all opinions of probable construction costs prepared by Engineer in connection with the Project represent the best judgment of Engineer as a design professional familiar with the construction industry, but that the Engineer does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Engineer.

XIII. Ownership of Documents

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this

Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

XIV. Complete Contract

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XV. Mailing of Notices

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano
Public Works & Engineering Department
P.O. Box 860358
Plano, TX 75086-0358

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Freese and Nichols, Inc.
1701 North Market Street, Suite 500 LB 51
Dallas, TX 75202
Attn: Kevin R. Johnson

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

XVI. Miscellaneous

A. Paragraph Headings:

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

B. Contract Interpretation:

Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

C. Venue/Governing Law:

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. Exclusive venue shall lie in Collin County, Texas.

D. Successors and Assigns:

City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

E. Severability:

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

CONTINUED ON NEXT PAGE

F. Effective Date:

This Agreement shall be effective from and after execution by both parties hereto.

SIGNED on the date indicated below.

FREESE AND NICHOLS, INC.
A **TEXAS** Corporation

DATE: _____

BY: _____
Tricia H. Hatley, P.E.
PRINCIPAL

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **TRICIA H. HATLEY, P.E., PRINCIPAL**, of **FREESE AND NICHOLS, INC.**, a **TEXAS** corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **THOMAS H. MUEHLENBECK, CITY MANAGER**, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

**EXHIBIT A
SCOPE OF SERVICES**

PARK BOULEVARD AT US 75 – PEDESTRIAN CROSSING

PROJECT NO. 5737

PROJECT DESCRIPTION:

This project includes preliminary and final design related professional engineering services for a concrete pedestrian trail of varying width from 8 feet to 12 feet, to run from the Parker Road DART station, south along both sides of Archerwood Street, west along Park Boulevard, crossing US 75 to a connection to the existing Chisholm Bike Trail on Spring Creek, approximately 4,900 linear feet total. Design will include shifting the driving lanes and reducing the median in Park Boulevard at the US 75 crossing.

Special Design Considerations

BASIC SERVICES:

A. Design Standards

1. This project shall be designed in accordance with the following:
 - Geodetic Monumentation Manual
 - Manual for Right-of-Way Management
 - Storm Drainage Design Manual
 - Erosion & Sediment Control Manual
 - Thorough Fare Standards Rules & Regulations
 - Manual for the Design of Water & Sanitary Sewer Lines
 - Standard Construction Details
 - Barrier Free Ramp Details
 - NCTCOG Standard Specifications for Public Works Construction
 - Special Provisions to NCTCOG Standard Specifications for Public Works Construction
 - Sample Plan Set
2. All plans submitted to the City for final acceptance shall be signed and sealed by a Texas registered professional in accordance with state law.

B. Research and Data Collection

1. Meet with City of Plano engineering staff and obtain design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project area.
2. Meet with the City of Plano project manager and conduct an on-site review and walk through.

C. Geotechnical Investigations

1. Provide a geotechnical report for the areas of retaining wall construction.

D. Design Survey

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, buildings, fence lines, trees -4 inches in diameter and larger, edges of pavements and all other visible features to the project control baseline. Existing utility structures shall be located and referenced by utility name (i.e. TXU Elec., Verizon Telephone, Atmos Gas, Etc.)
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), and other improvements as needed within the project areas for the design.
5. Provide trail cross sections of an adequate length (30 – 50 feet) to show existing surface elevations required for proposed grade design, at fifty-foot (50') intervals relative to the project baseline and at all drives, street intersections, drainage channels or other areas of significance. Provide street cross sections along the portion of Park Blvd where the median will be shifted, at 50' intervals and areas of design importance. Cross sections are for project design review and quantity takeoffs and will be a part of the final construction plan set.
6. When underground utilities are exposed, tie to project control baseline.
7. Identify the street address and legal description (lot, block, addition) of all adjacent properties to the proposed construction and show on the drawings.
8. Survey and elevation work and information shown on plans shall extend an adequate distance to provide data for design.
9. City shall coordinate with all franchise utilities in the area to obtain their records relating to the location of their facilities in the project area.

E. Preliminary Design

1. Prepare preliminary construction plans. Prepare the following sheets (22" x 34" size) at the engineering scale indicated:
 - Cover sheet.
 - Project layout control sheet(s). Scale 1" = 100'. Quantity sheet (sheet by sheet breakdown of all quantities)
 - Typical sections and detail sheets.
 - Paving plan & profile sheets for trail and street improvements. Note that all drives, sidewalk and barrier free ramps must be ADA compliant. Scale 1" = 20': H; 1" = 5': V.
 - Grading/retaining wall plans 1"=10'. Cross sections of the retaining walls at appropriate intervals and areas of design importance
 - Construction phasing and temporary traffic control sheets. Scale 1" = 40'.
 - SWPPP sheets meeting EPA and City of Plano requirements. Scale 1" = 40'. Plan view portion can be included in the paving plans. A separate plan sheet for details is required. Surface curb inlet protection shall not be used for existing curb inlets on existing thoroughfare pavement areas. Use "Depressed Back of Curb Sediment Trap" instead of silt fence to prevent silt onto roadway. Use "Pavement Replacement Sediment Trap" for areas where pavement will be removed for pavement widening. Use "Organic Filter Tube" instead of silt fence to prevent silt onto private

property. Use City Word file form for "City of Plano CIP Projects – SWPPP Operator Requirements" as part of SWPPP. A separate plan sheet is required for this item.

- Landscape and irrigation plan sheets. Scale 1" = 20'.
 - Street Lighting Plans. Scale 1" = 40'. Plans will show existing and proposed street light locations, pull boxes and conduits. Contractor will install new foundations, pull boxes and conduit.
 - Cross-sections. Scale 1" = 20':H; 1" = 2':V.
2. The City shall coordinate with affected utilities such as water, gas, telephone, cable TV and electric to verify the location of their facilities located in the design survey.
 3. Prepare outline of any special technical specifications needed for the project (if any).
 4. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
 5. Submit six (6) sets of preliminary plans and one (1) set of an outline of special technical specifications and preliminary statement of probable construction cost to the City for review.
 - Engineering
 - Public Works
 - Inspectors
 - Transportation
 - Parks
 - File
 6. Meet with City staff to discuss City comments on preliminary plans, specifications and cost estimates.
 7. City shall distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.
 8. Incorporate TxDOT design standards into the plans for the area crossing US 75. Revise plans as required to address comments by TxDOT. The City engineering dept will make the submittals to and retrieve comments from TxDOT.

F. Final Design

1. Revise preliminary plans incorporating comments from the City.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize special technical specifications and special conditions (if any).
5. Incorporate standard details (those not included in "City of Plano Standard Construction Details") into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit four (4) sets of pre-final plans and one (1) set of special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans and bid documents.

9. Submit three (3) sets of final black line prints, three (3) bound copies of the bid documents and one (1) single-sided unbound original bid document set to the City.
10. Attend a utility coordination meeting to start relocation process with affected franchise utilities. The City shall distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities. The City shall coordinate relocation of franchise utilities impacted by the project.

G. Bid Phase Services

1. Assist the City staff in advertising for bids.
2. Furnish plans and specifications for bidding. Cost for these to be recouped by non-refundable deposit from contractors. Maintain a list of plan holders.
3. Furnish plans and bid documents for up to four (4) plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
4. Prepare and distribute addenda to bid documents as necessary.
5. Assist City staff as required in bid opening. Submit list of plan holders to the City, 48-hours prior to the bid letting.
6. Submit a CD-ROM disk of the bid set plans in a PDF format.
7. Provide bid tabulation to the City within four (4) working days of the bid letting.
8. Evaluate the low and second low bidders. Prepare letter of recommendation to the City for awarding a contract to the lowest responsible bidder within four (4) working days of the bid letting.
9. Assist City staff in a pre-construction conference.
10. Furnish eleven (11) sets of full-size and four (4) sets of half-size final construction plans and seven (7) sets of the contract documents manual to the City for construction.

H. Construction Administration

1. Provide written responses to requests for information or clarifications during construction.
2. Prepare plan and quantity revisions as required for change orders. The City will prepare the actual change order form and get it executed by the contractor.
3. Assist the City staff in conducting the final inspection.
4. Recommend final acceptance of work when acceptable.
5. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one black line set to the City and two (2) CD-ROM disks containing scanned images of the 22" x 34" final "as constructed" black line drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc). Each file shall be named in numeric order.
6. In performing these services, Engineer will endeavor to protect City in providing these services however, it is understood that Engineer does not guarantee the Contractor's performance, nor is Engineer responsible for supervision of the Contractor's operation and employees. Engineer shall not

be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. Engineer shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

I. Construction Control Survey

1. Set vertical and horizontal control stakes for construction at 500' intervals, and a minimum of one at each end of the project.

SPECIAL SERVICES:

A. Right-of-way Definition

1. Establish the ROW location adjacent to the proposed location of the trail. No ROW acquisition is proposed for this project.

B. Easement Surveying

1. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for five (5) parcels of Temporary Construction Easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
2. Prepared exhibits with the field notes first and drawings second. Each parcel shall have its own separate numbers.
3. The City shall perform all coordination with property owners and tenants.

**EXHIBIT B
COMPLETION SCHEDULE**

PARK BLVD PEDESTRIAN CROSSING

PROJECT NO. 5737

	Activity	Completion Time (Working Days)	Cumulative Time (Working Days)
1.	Notice to Proceed	3	3
2.	Research and Data Collection	15	18
3.	Design Survey	20	38
4.	Preliminary Design	20	58
5.	City Review	10	68
6.	Final Design (Pre-Final Submittal) / ROW & Easement Documents	20	88
7.	City Review	10	98
8.	Final Design / Documents for Bidding	20	118
9.	City Review	10	128
10.	Advertise for Bids	15	143
11.	Receive Bids	1	144
12.	Recommendation	3	147
13.	Prepare Council Agenda	5	152
14.	Council Award	5	157
15.	Prepare / Execute Contract	20	177
16.	Schedule Preconstruction	10	187
17.	Notice to Proceed	5	192
18.	Construction	200	392

Engineer completion times are based on working days (Monday through Friday, excluding City holidays) starting at Notice to Proceed or receipt of City reviews.

**EXHIBIT C
PAYMENT SCHEDULE**

PARK BLVD PEDESTRIAN CROSSING

PROJECT NO. 5737

- A. **Not to Exceed:** The total fee for Basic Services in Exhibit A shall be computed on the basis of the Schedule of Charges but shall not exceed One Hundred Eighty Thousand Dollars (\$180,000).

<u>WORK STAGE SUBMITTAL OR COMPLETION</u>	<u>TOTAL</u>
1. Research and Data, including Geotechnical Report	\$14,000
2. Design Survey/Construction Control Survey	\$33,000
3. Preliminary Design	\$52,000
4. Final Design	\$60,400
5. Bid Phase	\$ 9,600
6. Construction Administration	\$ 4,500
Total Basic Services Fee	\$173,500

Special Services

a. ROW edge definition and Temp. Construction Esmt. Descriptions and Drawings (assuming 5 easements)	\$6,500
Total Special Services	\$6,500

Total Fee **\$180,000**

Note: Construction Control Survey is included in Design Survey total.

If FNI sees the Scope of Services changing so that Additional Services are needed, FNI will notify OWNER for OWNER's approval before proceeding. Additional services shall be computed based on the Schedule of Charges.

- B. **Schedule of Charges for Additional Work:**

<u>POSITION</u>	<u>MIN</u>	<u>MAX</u>
PRINCIPAL	225	285
GROUP MANAGER	205	285
SENIOR ENGINEER	150	245
ENGINEER (PE)	115	170
ENGINEER (EIT)	85	130
HYDROLOGIST	65	150
ELECTRICAL ENGINEER	85	200
MECHANICAL ENGINEER	85	200
SENIOR ENVIRONMENTAL SCIENTIST	115	220
ENVIRONMENTAL SCIENTIST	60	130
ARCHITECT (AIA)	105	245
ARCHITECT INTERN	60	120
LANDSCAPE ARCHITECT	115	145
SENIOR URBAN PLANNER	125	200
URBAN PLANNER	70	120

SR. CONSTRUCTION CONTRACT ADMINISTRATOR	110	195
CONSTRUCTION CONTRACT ADMINISTRATOR	75	150
GIS COORDINATOR	90	130
GIS ANALYST	60	130
DESIGNER	90	145
TECHNICIAN	65	120
OPERATIONS ANALYST / ACCOUNTING SPECIALIST	80	140
CONTRACT / REGIONAL ADMINISTRATOR	75	115
WORD PROCESSING/SECRETARIAL	55	90
CO-OP / INTERN	45	75

The ranges and individual salaries will be adjusted annually.

EXPENSES

Plotting

Bond	\$2.50 per plot copy
Color	\$5.75 per plot copy
Other	\$5.00 per plot

Printing

Offset and Xerox Copies/Prints	\$0.10 per side
Color Copies/Prints	\$0.50 per side
Binding	\$5.75 per book

Travel

50¢ per mile

Computer

Computer Usage \$10.00/hour

OTHER DIRECT EXPENSES

Other direct expenses are reimbursed at actual cost times multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office, and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, tests, and other work required to be done by independent persons other than staff members.

EXHIBIT "D"
ENGINEERING
INSURANCE

INSURANCE: (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

1. General Insurance Requirements:

- 1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

NOTE: The words "endeavor to" and "but failure to mail such notice shall impose no obligation to liability of any kind upon the company, its agents or representatives" are to be eliminated from the cancellation provision of standard ACORD certificates of insurance.

- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
 - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. Engineer's Insurance - "Occurrence" Basis:

- 2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
 - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
 - i. General aggregate limit is to apply per project;
 - ii. Premises/Operations;
 - iii. Actions of Independent Contractors;
 - iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;
 - v. Personal Injury Liability including coverage for offenses related to employment;
 - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.
 - 2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

- 2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

3.0 Engineer's Insurance – Claims Made

Professional Errors and Omissions

The Engineer shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate of \$2,000,000

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

Coverages Required

Limits (Figures Denote Minimums)

<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	<u>\$500,000</u> combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input checked="" type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____ BI & PD each occurrence

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **FREESE AND NICHOLS, INC.** (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

Name of Consultant

By: _____
Signature

Print Name

Title

Date

STATE OF TEXAS §
§
COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2010.

Notary Public, State of Texas