



21-0991

**TITLE:** Consider/Discuss/Act on a Resolution Authorizing the City Manager to Execute a Supplemental Agreement with Freese and Nichols, Inc. for Professional Engineering Services for the Construction Inspection Services for Public Infrastructure in the Trinity Falls Municipal Utility District Development and Related TCEQ Bond Inspections

**COUNCIL GOAL:** Operational Excellence  
(2B: Balance available resources to accommodate the growth and maintenance needs of the city)

**MEETING DATE:** November 2, 2021

**DEPARTMENT:** Development Services / Engineering

**CONTACT:** Nick Ataie, P.E., Engineering CIP Manager

**RECOMMENDED CITY COUNCIL ACTION:**

- Approval of Resolution.

**ITEM SUMMARY:**

- This Resolution authorizes a supplemental agreement with Freese and Nichols, Inc. to provide additional professional engineering services for the Construction Inspection Services for Public Infrastructure in the Trinity Falls Municipal Utility District Development and Related TCEQ Bond Inspections for an increase in the not to exceed fee by \$196,711.82 (from \$440,000.00) for a total aggregate contract amount, inclusive of any additional supplemental agreements, not to exceed \$636,711.82.

**BACKGROUND INFORMATION:**

- Trinity Falls Holdings LP ("Trinity Falls"), an entity controlled by The Johnson Development Corp., is the assignee and successor-in-interest to CH-B Trinity Falls, LP, and is developing property pursuant to the 2012 Development Agreement, as currently amended, between CH-B Trinity Falls, LP and the City of McKinney, Texas ("City") with the original effective date of December 4, 2012 ("Development Agreement").

- Section 3.7 of the Second Amendment of the Development Agreement requires the City to engage one or more “Certified Inspectors,” as defined therein, to inspect the construction or installation of all Public Infrastructure in accordance with the approved plans and specifications and the Governing Regulations and to provide Texas Commission on Environmental Quality (“TCEQ”) bond submittal reports prepared in accordance with procedures to be adopted by McKinney Municipal Utility District No. 1 (“MUD #1”) and McKinney Municipal Utility District No. 2 (“MUD #2”) and TCEQ’s bond submittal requirements (the “Inspection Services”).
- Per the terms of the Development Agreement, the cost of Certified Inspectors is to be paid by Trinity Falls.
- Freese and Nichols, Inc. (“FNI”) submitted a response to RFQ 17-58 for Miscellaneous Construction Inspection services. They were selected as the most qualified firm by City Council on August 15, 2017.
- FNI will continue to provide two Certified Inspectors to perform the inspection services under their current contract.
- The original FNI professional services contract (executed April 15, 2020) and associated City of McKinney resolution (No. 2020-03-034) established a not to exceed aggregate contract in the amount of \$440,000.
- Trinity Falls, as required per their development agreement, is required to escrow payment for third party construction inspection services on an annual basis based on estimated cost for inspection services provided by Freese and Nichols, Inc.
- These developer escrow funds cover all billing costs associated with third-party construction inspection services contracted through the City in accordance with the development agreement.
- The current aggregate developer escrow received by the City to date for these inspection services is \$1,042,147.32. Of this amount a total of \$636,771.82 is expected to be expended under the current FNI professional services contract between April 15, 2020 and April 14, 2022 which exceeds the previously established not to exceed aggregate contract in the amount of \$440,000.
- An “Additional Services Agreement” has been drafted for execution, pending approval of this item, which will increase the capped FNI professional services contract amount at the actual received escrowed funds from the developer as of the contract execution date. There is no proposed change to the scope of services or billing rates previously established.
- As the developer escrows additional funds to cover the cost of continued third-party construction inspection, this agreement will be amended accordingly with additional city council action required for any changes in the capped contract value.

**FINANCIAL SUMMARY:**

- This Resolution authorizes a supplemental agreement with Freese and Nichols, Inc., for an increase in the not to exceed contract amount from \$440,000.00 to a total aggregate contract amount, inclusive of any additional supplemental agreements, not to exceed \$636,711.82.
- Funding from McKinney Municipal Utility District No. 1 has been received for these services and is included in the City's general fund and designated for this purpose (Account #001-0000-220.33-00).

**BOARD OR COMMISSION RECOMMENDATION:**

- N/A

**SUPPORTING MATERIALS:**

[Resolution](#)