



City of Austin
Capital Contracting Office
Certificate of Exemption

DATE: 05/25/2018

DEPT: Watershed Protection and
Parks and Recreation

TO: Rolando Fernandez,
Capital Contracting Officer

FROM: Eric D. Loucks, PE

PHONE: 512-974-2534

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

This Certification of Exemption is executed and filed with the Capital Contracting Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)

- ☐ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
- ☒ a procurement necessary to preserve or protect the public health or safety of municipality's residents
- ☒ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
- ☐ a procurement for personal, professional, or planning services
- ☐ a procurement for work that is performed and paid for by the day as the work progresses
- ☐ a purchase of land or right-of-way
- ☐ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for

equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits

- ☐ a purchase of rare books, papers, and other library materials for a public library
- ☐ paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
- ☐ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

Shoal Creek Slope Failure Freese & Nichols

☐ payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212

☐ personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for

cooperative purchasing administered by a regional planning commission established under Chapter 391

☐ services performed by blind or severely disabled persons

☐ goods purchased by a municipality for subsequent retail sale by the municipality

☐ electricity

☐ advertising, other than legal notices

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.

Shoal Creek Slope Failure Freese & Nichols

4. Please attach any documentation that supports this exemption.

According to the attached preliminary assessment, the following conditions exist at the site of the landslide:

- a. "The slope failure has pushed the west bank of Shoal Creek (along the impacted area) into the creek, creating a near full constriction of the creek at several locations." Subsequent analysis by WPD Watershed Engineering staff has indicated that this constriction in Shoal Creek increases potential flood heights. The current condition of the slope failure would exacerbate flood depths on N. Lamar Blvd and cause increased flood risk to nearby commercial buildings.
- b. "Loose/unstable material exists at the toe and the escarpment area. Both areas should be considered a safety hazard independent of ongoing slope movements." The entire landslide area is unstable and additional movement is possible at any time, particularly if there is rainfall or stormwater runoff onto the material. Heavy rainfall can occur at any time of the year in Austin. The possibility of additional earth movement at this location is a major safety concern because N. Lamar Blvd and adjacent park areas are heavily used by pedestrians, cyclists and automobiles.

5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).

To minimize the risk of additional slope movement, the City will design and construct a new storm drain system along Wooldridge Drive and Gaston Avenue in Austin, TX to prevent stormwater from discharging onto the unstable slope. Freese and Nichols, Inc. has the appropriate experience and expertise to complete the design and has indicated they have the resources to proceed immediately. The City has contracted with Freese and Nichols, Inc. in the past and received good value for the price paid.


6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Freese and Nichols, Inc. which will cost approximately \$200,000 plus a \$ 50,000 contingency for a total contract amount not to exceed \$250,000 (Provide estimate and/or breakdown of cost).

Recommended
Certification

 5/25/18
Eric D. Loucks, PE, Supervising Engineer Date
Watershed Protection Department

Approved
Certification

 5/25/18
Michael L. Personett, Director Date
Watershed Protection Department

 5/25/18
Joe Pantalon, Interim Assistant City Manager Date

**Shoal Creek Slope Failure
Freese & Nichols**

Elaine Hart 7/20/2018
Chief Financial Officer/or designee Date

Capital Contracting

Adam Cohen 7/20/18
Contract Relations Division Manager Date

Exemption Authorized
(if applicable)

[Signature] 7/20/18
Capital Contracting Officer or designee Date

08/29/16