

FIRST AMENDMENT TO PROFESSIONAL SERVICES CONTRACT

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES CONTRACT, entered into this ___ day of _____, 2022 (hereinafter, the “Effective Date”), by and between the City of Manor, Texas, a home rule municipal corporation (hereinafter, the “City”) and Freese and Nichols, Inc., a Texas corporation (hereinafter, the “Consultant”). The City and the Consultant may at times be referred to as the “Parties.”

RECITALS

WHEREAS, the City and the Consultant entered into that certain professional services contract dated the 17th day of February, 2021 (hereinafter, the “Contract”); and

WHEREAS, the Consultant has been unable to meet the 15-month schedule outlined in the Contract; and

WHEREAS, the Consultant has agreed to return \$183,074.35 of the \$288,258 lump sum payment under the Contract; and

WHEREAS, the Consultant has proposed an **Engagement and Delivery Schedule** (Attached hereto as **Exhibit A** and incorporated by reference herein) to create benchmarks to be achieved and trigger payment of the \$183,074.35; and

WHEREAS, the City and the Consultant now wish to amend the Contract to accomplish the above.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree to the following:

1. **Refund.** The Consultant shall pay to the City the amount of \$183,074.35 of the fee paid to the Consultant under the Contract under the schedule provided herein (hereinafter, the “Remaining Contract Amount”).
2. **Compensation for tasks completed.** The Remaining Contract Amount will be paid back to the Consultant upon the timely performance of deliverables as described in the **Scope of Services and Compensation Table** attached hereto as **Exhibit B** and incorporated by reference herein. Compensation will be paid only upon review and acceptance of the tasks by the City.
3. **Time of completion.** The prompt completion of the deliverables under the Scope of Services and Compensation Table is critical to the City. Suspension or abandonment in providing the deliverables under the Scope of Services and Compensation Table shall be grounds for dismissal of the Consultant and termination of the Contract without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Consultant prior to the time of termination.
4. **Weekly reports.** Consultant is required to provide weekly reports detailing the activities of the Consultant and progress towards achieving the deliverables on **Exhibit B**. Failure to provide weekly reports shall be considered a suspension of tasks and shall be

grounds for dismissal of the Consultant and termination of the Contract without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Consultant prior to the time of termination.

5. **Entire Agreement.** This Amendment, together with the Contract, set forth the entire understanding of the parties and supersedes all prior agreements and understandings, whether written or oral, with respect to the subject matter hereof.
6. **Effect of the Amendment.** The Parties agree that, except as modified hereby, the Contract remains valid, binding, and in full force and effect. If there is any conflict or inconsistency between this Amendment and the Contract, this Amendment will control and modify the Contract.
7. **Counterparts.** This Amendment may be executed in any number of counterparts, including, without limitation, facsimile counterparts, with the same effect as if the parties had signed the same document, and all counterparts will constitute one and the same agreement.
8. **Statutory Verifications.**
 - a. To the extent this Amendment constitutes a contract for goods or services within the meaning of Section 2271.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, the Consultant represents that neither the Consultant nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Consultant (i) boycotts Israel or (ii) will boycott Israel through the term of this Amendment. The terms “boycotts Israel” and “boycott Israel” as used in this paragraph have the meanings assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code, as amended.
 - b. To the extent the Amendment constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Governmental Code, as amended, solely for the purposes of compliance with Chapter 2252 of the Texas Governmental Code, and except to the extent otherwise required by applicable federal law, Consultant represents that the Consultant nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Consultant is a company listed by the Texas Comptroller Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.
 - c. The Consultant hereby verifies that it and its parent’s company, wholly or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of the Amendment. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and to the extent such section is not inconsistent with a governmental entity’s constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing or investment of funds. As used in the foregoing verification, “boycott energy company” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil-based energy and does not commit or pledge to meet environmental standards

beyond federal and state law: or (B) does business with a company described as by the preceding statement in (A).

- d. The Consultant hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association during the term of this Amendment. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” means: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; but does not include (a) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; or (b) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

[SIGNATURE PAGES FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the Effective Date.

CITY OF MANOR
A Texas municipal corporation

By: _____
Christopher Harvey, Mayor

Attest:

By: _____
Lluvia T. Almaraz, City Secretary

FREESE AND NICHOLS, INC.
A Texas corporation

By: _____

Name: _____

Title: _____

EXHIBIT A
ENGAGEMENT AND DELIVERY SCHEDULE
(SEE ATTACHED)

EXHIBIT B
ENGAGEMENT AND DELIVERY SCHEDULE
(SEE ATTACHED)