

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.
FOR THE COMPREHENSIVE PLAN UPDATE**

This Agreement for Professional Services, hereinafter called "Agreement," is entered into by the **Town of Prosper, Texas**, a municipal corporation, duly authorized to act by the Town Council of said Town, hereinafter called "Town," and **Freese and Nichols, Inc.**, a company authorized to do business in Texas, acting through a duly authorized officer, hereinafter called "Consultant," relative to Consultant providing professional services to Town. Town and Consultant when mentioned collectively shall be referred to as the "Parties."

W I T N E S S E T H:

WHEREAS, Town desires to obtain professional services in connection with the **Comprehensive Plan Update**, hereinafter called "Project";

For the mutual promises and benefits herein described, Town and Consultant agree as follows:

1. **Term of Agreement.** This Agreement shall become effective on the date of its execution by both Parties, and shall continue in effect thereafter until terminated as provided herein.
2. **Services to be Performed by Consultant.** The Parties agree that Consultant shall perform such services as are set forth and described in **Exhibit A - Scope of Services** and incorporated herein as if written word for word. All services provided by Consultant hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of their profession. In case of conflict in the language of Exhibit A and this Agreement, this Agreement shall govern and control. Deviations from the Scope of Services or other provisions of this Agreement may only be made by written agreement signed by all Parties to this Agreement.
3. **Prompt Performance by Consultant.** Consultant shall perform all duties and services and make all decisions called for hereunder promptly and without unreasonable delay as is necessary to cause Consultant's services hereunder to be timely and properly performed. Notwithstanding the foregoing, Consultant agrees to use diligent efforts to perform the services described herein and further defined in any specific task orders, in a manner consistent with these task orders; however, the Town understands and agrees that Consultant is retained to perform a professional service and such services must be bound, first and foremost, by the principles of sound professional judgment and reasonable diligence.
4. **Compensation of Consultant.** Town agrees to pay to Consultant for satisfactory completion of all services included in this Agreement a total fee of One Hundred Eight Thousand Five Hundred Dollars (\$108,500.00) for the Project as set forth and described in **Exhibit B - Compensation Schedule** and incorporated herein as if written word for word. Lump sum fees shall be billed monthly based on the percentage of completion. Hourly not to exceed fees shall be billed monthly based on hours of work that have been completed. Direct Costs for expenses such as mileage, copies, scans, sub-consultants, and similar costs are included in fees and shall be billed as completed.

Consultant agrees to submit statements to Town for professional services no more than once per month. These statements will be based upon Consultant's actual services performed and reimbursable expenses incurred, if any, and Town shall endeavor to make prompt payments. Each statement submitted by Consultant to Town shall be reasonably itemized to show the amount of work performed during that period. If Town fails to pay Consultant

within sixty (60) calendar days of the receipt of Consultant's invoice, Consultant may, after giving ten (10) days written notice to Town, suspend professional services until paid.

Nothing contained in this Agreement shall require Town to pay for any work that is unsatisfactory as reasonably determined by Town or which is not submitted in compliance with the terms of this Agreement.

The Scope of Services shall be strictly limited. Town shall not be required to pay any amount in excess of the original proposed amount unless Town shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

5. **Town's Obligations.** Town agrees that it will (i) designate a specific person as Town's representative, (ii) provide Consultant with any previous studies, reports, data, budget constraints, special Town requirements, or other pertinent information known to Town, when necessitated by a project, (iii) when needed, assist Consultant in obtaining access to properties necessary for performance of Consultant's work for Town, (iv) make prompt payments in response to Consultant's statements and (v) respond in a timely fashion to requests from Consultant. Consultant is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Town or Town's representatives.

6. **Ownership and Reuse of Documents.** Upon completion of Consultant's services and receipt of payment in full therefore, Consultant agrees to provide Town with copies of all materials and documents prepared or assembled by Consultant under this Agreement and that Town may use them without Consultant's permission for any purpose relating to the Project. Any reuse of the documents not relating to the Project shall be at Town's risk. Consultant may retain in its files copies of all reports, drawings, specifications and all other pertinent information for the work it performs for Town.

7. **Town Objection to Personnel.** If at any time after entering into this Agreement, Town has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Town has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

8. **Insurance.** Consultant shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement applicable insurance policies as described in **Exhibit C - Insurance Requirements** and incorporated herein as if written word for word. Consultant shall submit to Town proof of such insurance prior to commencing any work for Town.

9. **Indemnification.** **CONSULTANT DOES HEREBY COVENANT AND AGREE TO RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS OFFICIALS, OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES AND INVITEES FROM AND AGAINST LIABILITY, CLAIMS, SUITS, DEMANDS AND/OR CAUSES OF ACTION, (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES AND COSTS OF LITIGATION), WHICH MAY ARISE BY REASON OF DEATH OR INJURY TO PROPERTY OR PERSONS BUT ONLY TO THE EXTENT OCCASIONED BY THE NEGLIGENT ACT, ERROR OR OMISSION OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, INVITEES OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS AGREEMENT.**

IN THE EVENT THAT TOWN AND CONSULTANT ARE CONCURRENTLY NEGLIGENT, THE PARTIES AGREE THAT ALL LIABILITY SHALL BE CALCULATED ON A COMPARATIVE BASIS OF FAULT AND RESPONSIBILITY AND THAT NEITHER PARTY SHALL BE REQUIRED TO DEFEND OR INDEMNIFY THE OTHER PARTY FOR THAT PARTY'S NEGLIGENT OR INTENTIONAL ACTS, ERRORS OR OMISSIONS.

10. **Notices.** Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail to the following addresses:

Freese and Nichols, Inc.
Daniel Harrison, Project Manager
2711 Haskell Avenue, Suite 3300
Dallas, Texas 75204
Daniel.harrison@freese.com

Town of Prosper
Ron K. Patterson, Interim Town Manager
PO Box 307
Prosper, TX 75078
rpatterson@prospertx.gov

11. **Termination.** The obligation to provide further services under this Agreement may be terminated by either Party in writing upon thirty (30) calendar days notice. In the event of termination by Town, Consultant shall be entitled to payment for services rendered through receipt of the termination notice.

12. **Sole Parties and Entire Agreement.** This Agreement shall not create any rights or benefits to anyone except Town and Consultant, and contains the entire agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

13. **Assignment and Delegation.** Neither Town nor Consultant may assign its rights or delegate its duties without the written consent of the other Party. This Agreement is binding on Town and Consultant to the extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Town officer, employee or agent.

14. **Texas Law to Apply; Successors; Construction.** This Agreement shall be construed under and in accordance with the laws of the State of Texas. It shall be binding upon, and inure to the benefit of, the Parties hereto and their representatives, successors and assigns. Should any provisions in this Agreement later be held invalid, illegal or unenforceable, they shall be deemed void, and this Agreement shall be construed as if such provision had never been contained herein.

15. **Conflict of Interest.** Consultant agrees that it is aware of the prohibited interest requirement of the Town Charter, which is repeated in **Exhibit D - Conflict of Interest Affidavit** and incorporated herein as if written word for word, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit included in the exhibit. Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as **Exhibit E - Conflict of Interest Questionnaire** and incorporated herein as if written word for word.

16. **Venue.** The Parties herein agree that this Agreement shall be enforceable in Prosper, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Collin County, Texas.

17. **Mediation.** In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

18. **Prevailing Party.** In the event a Party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled

to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

19. **"Anti-Israel Boycott" Provision.** In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Agreement that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

20. **Signatories.** Town warrants and represents that the individual executing this Agreement on behalf of Town has full authority to execute this Agreement and bind Town to the same. Consultant warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Consultant to same.

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the _____ day of _____, 20____.

FREESE AND NICHOLS, INC.

TOWN OF PROSPER, TEXAS

By: 
Signature

Wendy Bonneau
Printed Name

Vice President/Principal
Title

09/06/2022
Date

By: _____
Signature

Ron K. Patterson
Printed Name

Interim Town Manager
Title

Date

EXHIBIT A SCOPE OF SERVICES

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC. FOR THE COMPREHENSIVE PLAN UPDATE

I. PROJECT DESCRIPTION

A community's comprehensive Plan generally can be defined as a long-range planning tool that is intended for use by municipal staff, decision-makers and citizens to direct the growth and physical development of the community for 10 to 20 years or more. In 2012, the Town adopted a Comprehensive Plan which included extensive community outreach, a definition of the Town's vision, and a detailed analysis of all facets of the Town's departments including Future Land Use, Transportation, and Infrastructure. Since that time, the Town has made tremendous strides toward implementing the Plan and many of its priorities. This project aims to make minor updates to the Comprehensive Plan, focusing on the Future Land Use and implementation matrix to help guide the Town over the next decade. The objective of this planning process will be to involve the community, gather feedback and create an Update to the 2012 Plan that will guide the growth and development of Prosper. We propose the Plan be conducted in three phases to provide the greatest positive impact for the Town:

1. Community Snapshot and Verification of Goals
2. Recommendations
3. Report, Implementation and Adoption

Project Area: The project area for the Prosper Comprehensive Plan will include Prosper's town limits and extraterritorial jurisdiction.

The scope of services includes the following tasks and is not in chronological order:

II. TASK SUMMARY

Phase One: Community Snapshot and Verification of Goals

Task 1 – Community/Committee Outreach

- 1.1 Comprehensive Plan Advisory Committee: The Town will appoint a Comprehensive Plan Advisory Committee (CPAC) that will meet with FNI and Town staff throughout the planning process. While the exact membership of the CPAC is at the discretion of the Town, the CPAC should consist of two Town Council members, two Planning and Zoning Commission members, and one person who could be an elected official, appointed official, resident, or a business owner. The CPAC, Town, and FNI will meet up to three (3) times at key milestones throughout the course of the project.
- 1.2 Planning and Zoning Commission Meeting: FNI will attend one (1) Planning and Zoning Commission meeting to present the Plan, be available for P&Z questions, and for the Plan's recommendation to Town Council.

Task 2 – Community Snapshot

2.1 Baseline Analysis: The Baseline Analysis is intended to provide background information about the Town of Prosper. This is vital to the planning process because without the knowledge of where the Town is today, assessing what it can be in the future becomes increasingly difficult. The majority of data for this effort will be gathered through Town sources and updated charts will be included in the Plan.

1. Historic Trends, Population Growth and Demographic Profile
 - a. Historical population and related growth trends will be analyzed.
 - b. Demographic profile will consist of age, gender, ethnicity, income, and household type.

The population projections utilized within the Future Land Use Plan and the other components of the Comprehensive Plan will be derived from this information.

The demographic information will use the latest Census or Esri data available at the time of contract execution.

2.2 Existing Land Use Analysis: The relationships of existing and future land uses will shape the character and quality of life of the community for many years to come. The Town will provide FNI with an Existing Land Use Map in GIS format. FNI will update the Existing Land Use Table in the Comprehensive Plan. Assessment of the land use characteristics will also be updated once data gathering has been completed. The existing land use inventories (conducted using a base map of the Town provided by Prosper, the county, or a similar entity) will include:

1. Analysis of types of land use (color-coded by category) quantified by acres;
2. Analysis of types of land use correlated to Prosper's population (for future projection purposes);
3. Discussion of existing development patterns;
4. Discussion of existing land use relationships, both positive and negative.

2.3 Planning Context: An understanding of the planning context will help to set the framework for which general planning decisions can be made. The following are elements to be documented in order to establish the planning context:

1. Evaluate existing planning documents;
2. Review past and ongoing planning efforts conducted by the Town;
3. Evaluate regional initiatives; and
4. Coordinate with ongoing updates to other plans.

Task Product: The Community Snapshot will be a compilation of written information, supported with charts and tables, explaining the importance and meaning of the facts as they relate to the Town of Prosper and the Comprehensive Plan. Maps graphically depicting applicable information will include the following elements: (1) Population growth and demographic snapshot, (2) existing transportation/ thoroughfare routes, (3) existing land use analysis, and (4) physical limitations of the Town. FNI will use existing data from the 2012 if still applicable.

Task 3 – Vision and Goals

3.1 The current Comprehensive Plan defines a Vision with many Goals and Objectives. For the purposes of this Update, FNI will use the current Vision as a starting point. Goals will be verified and Objectives will be updated only as necessary.

Task Product: The results of the Vision, Goals, and Objectives work effort will be a written list of updated goals and objectives to guide the remainder of the comprehensive planning process.

Phase Two: Plans and Recommendations

Task 4 – Future Land Use Plan

1.1 Prosper's Future Land Use Plan is a policy document which is intended to guide Town staff and officials as they make decision on where, when and how the Town should grow. Development of a land use plan, which is understandable to citizens, Town staff, the Planning and Zoning Commission and Town Council, will ensure that a cohesive and unified vision for Prosper is presented to developers and property owners as future development and redevelopment occurs within the community. The mission is to build a land use scenario based upon the community's vision resulting in the development of a Future Land Use Plan Map that conveys the community's development and redevelopment objectives. This portion of the Comprehensive Plan will take into account existing land use information, current zoning regulations, economic development objectives, past development patterns and infill and redevelopment opportunities and will integrate them into an understandable graphic depiction of the community's future.

- **Future Land Use Types Defined:** A key component of the Future Land Use Plan is the definition and discussion of future land use types, including any new types of land use that may be applicable within the Town. Discussions of the types of land uses will include associated character guidelines, preferred locations, and general density guidelines (for residential uses).
- **Multifamily Development:** The current housing market conditions in the region have created a high demand for multifamily developments. The Town will continue to be presented with numerous proposals for multifamily development within the Town's limits. The relationships and ratios between single-family and multifamily within the Town's overall housing stock is an important element for the Future Land Use Plan to define. This element will provide the Town guidance regarding where multifamily developments should occur and how many multifamily units should be planned within the Town.
- **Drive-Throughs:** The commercial market in the region is continuing to grow, which places a demand on vacant properties to develop. Most of the Town's residents use vehicles to travel about their daily lives. Additionally, many people throughout the region pass through the Town on their way to their homes and places of work. With large traffic volumes, there is a high demand for businesses to provide goods and services using drive-through facilities. These drive-through facilities may pose issues related to traffic circulation, appearance, and noise. As a quality of life issue, the Plan will address these facilities and provide best practices for their inclusion in developments.
- **Land Use Projections:** Land use projections, based upon projected growth scenario, will be calculated. Land use projections will depict the acreage by land use type as reflected within the Future Land Use Plan Map.
- **Ultimate Capacity and Population Projections:** The ultimate capacity of Prosper, based upon the Future Land Use Plan Map, will be calculated in order to provide a general carrying capacity. Additionally, FNI will develop a new projected growth rate for the Town based upon historical growth patterns and future growth considerations. The combination of the ultimate capacity and population projections will help guide decisions pertaining to infrastructure, parks, public facilities and other Capital Improvement Program items.
- **Future Land Use Plan Map:** The Future Land Use Plan will culminate with the depiction of color-coded land uses within the Town's planning area. The Plan will consider the following:
 1. Location of future residential, non-residential, open space and public land uses;
 2. Location of environmentally sensitive areas or barriers that should be considered when making future development decisions; and
 3. Location of future land uses along major transportation corridors.

Task Product: The results of the Future Land Use Plan section of the Comprehensive Plan will be a Future Land Use Plan map, supported and explained with text, charts and tables. Text descriptions will also describe recommendations and proposed guidelines for various types of land uses for the Town to consider when making future land use decisions.

Task 5 – Neighborhood and Community Livability

5.1 Livability refers to the many tangible and intangible characteristics of Prosper that contribute to the Town's quality of life. This section is intended define and create recommendations on what the Town of Prosper should consider to maintain and improve the quality of life for its residents. The CPAC and public input will be used as the basis for identifying and defining the amenities desired by residents for Prosper. This task can be a stand-alone chapter or included as part of the Future Land Use Chapter.

Task Product: Update of the Neighborhood and Community Livability Section. It is anticipated that this section would only be a minor update to include current trends and any discrepancies from the last Plan.

Task 6 – Transportation and Infrastructure

6.1 Transportation and Infrastructure are important elements of the Comprehensive Plan. However, the transportation network is generally set and infrastructure plans are being done by others. FNI will fold in existing and on-going plans from the Town for the purposes of this exercise. Transportation and other infrastructure needs raised during the process that are not already addressed in other plans will be incorporated in the implementation plan.

Task Product: Full transportation and infrastructure plans are not a part of this effort.

Task 7-Market Analysis

7.1 A recent market analysis was performed as part of the Downtown Plan. FNI will build on that market analysis and assess other major changes in the market due to major planned and constructed developments since the last Plan. A high-level market analysis will be performed to inform the future land use plan and inform potential projects for implementation.

Task Product: High-level market analysis.

Phase Three: Report and Implementation

Task 8-Report and Implementation

8.1 Draft Report: FNI will prepare one (1) draft Comprehensive Plan draft that will document the planning process. It will present a clear narrative with accompanying graphics and figures, as necessary, to describe the intentions of the community. The draft will be provided to the Town, CPAC and other parties the Town wishes to include for review and comments. The Town shall provide one consolidated set of edits. FNI will incorporate comments and proceed to prepare implementation items.

- Implementation Plan: The Implementation Plan will be structured into a coordinated action program so that Town leaders, staff, and other decision-makers can easily identify the steps that are necessary to achieve the vision for the Town that is described within the Comprehensive Plan. The Implementation Plan will outline priorities primarily by:

1. Reviewing the various policies and related recommendations from each Plan element;
2. Dividing the policies and related recommendations into applicable implementation techniques/actions – an overall Action Plan – such as regulatory actions, programs, and intergovernmental partnerships; and
3. Prioritizing the implementation techniques/actions into appropriate time frames.

Task Product: The Implementation Plan will represent the initial action plan to take Plan policies and related recommendations from vision to reality, and will include practical and specific steps for implementing the Comprehensive Plan within the near-term (i.e., 2023-2033) and within a longer-term planning horizon (2033-2043).

- Plan Chapters: The culmination of the planning process will result in a Comprehensive Plan document containing the following elements:
 1. Executive Summary
 2. Chapter 1: Community Snapshot
 3. Chapter 2: Vision and Goals- minor update
 4. Chapter 3: Future Land Use
 5. Chapter 4: Transportation Plan - not included
 6. Chapter 5: Market Analysis
 7. Chapter 6: Infrastructure Assessment - not included
 8. Chapter 7: Implementation

Task Product: The results of the Comprehensive Plan documentation will be: A print- ready, high-quality PDF of the final Comprehensive Plan, and all electronic files needed to print, recreate, or edit the plan document, including mapping data, shared via electronic file transfer.

Task 9: Adoption:

9.1 FNI team members will present the project scope, process, findings and recommendations at one (1) Planning and Zoning Commission meeting and one (1) Town Council meeting as part of the adoption process.

III. DELIVERABLES

| | |
|------------------------------------------------|-----------------------------------------|
| Task 1 – Community/Committee Outreach | All Meeting Effort |
| Task 2 – Community Snapshot | Updated Community Snapshot |
| Task 3 – Vision and Goals | Updated Community Vision Chapter |
| Task 4 – Future Land Use | Updated Future Land Use Chapter |
| Task 5 – Neighborhood and Community Livability | Updated Future Land Use Chapter |
| Task 6 – Transportation and Infrastructure | Transportation and Infrastructure Plans |
| Task 7-Market Analysis | Market Analysis |
| Task 8-Report and Implementation | Implementation Plan |
| Task 9-Adoption | Final Plan Coordination and Document |

**EXHIBIT B
COMPENSATION SCHEDULE**

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS
FOR THE 2023 COMPREHENSIVE PLAN UPDATE PROJECT (PRP22XYZ)**

I. COMPENSATION SCHEDULE

| Task | Completion Schedule | Compensation Schedule |
|-----------------------------------------------------|--------------------------------|----------------------------------|
| Notice-to-Proceed | Sept. 2022 | |
| Task 1a - Community / Committee Outreach / Meetings | Oct 2022 | \$11,000.00 |
| Task 1a - Community / Committee Outreach / Meetings | Feb. 2023 | \$11,000.00 |
| Task 1a - Community / Committee Outreach / Meetings | July 2023 | \$12,000.00 |
| Task 2 - Baseline Analysis | Oct.2022 | \$7,500.00 |
| Task 3 - Vision and Goals | Nov. 2022 | \$3,000.00 |
| Task 4 - Future Land Use Plan | Feb 2023 | \$15,000.00 |
| Task 5 - Neighborhood and Community Livability | March 2023 | \$5,000.00 |
| Task 6 - Transportation and Infrastructure | March 2023 | \$500.00 |
| Task 7 - Market Analysis | March 2023 | \$10,000.00 |
| Task 8 - Report and Implementation | May 2023 | \$25,000.00 |
| Task 9 - Adoption Process | July 2023 | \$3,000.00 |
| Total Compensation | | \$103,000 |

II. COMPENSATION SUMMARY

| Basic Services (Lump Sum) | Amount |
|---------------------------------------------------|------------------|
| Task 1 - Community/ Committee Outreach / Meetings | \$34,000.00 |
| Task 2 - Baseline Analysis | \$7,500.00 |
| Task 3 - Vision and Goals | \$3,000.00 |
| Task 4 - Future Land Use Plan | \$15,000.00 |
| Task 5 - Neighborhood and Community Livability | \$5,000.00 |
| Task 6 - Transportation and Infrastructure | \$500.00 |
| Task 7 - Market Analysis | \$10,000.00 |
| Task 8 - Report and Implementation | \$25,000.00 |
| Task 9 - Adoption Process | \$3,000.00 |
| Total Basic Services: | \$103,000 |

| Special Services (Hourly Not-to-Exceed) | Amount |
|------------------------------------------------|---------------|
| None | \$0 |

| | |
|--------------------------------|------------|
| Total Special Services: | \$0 |
|--------------------------------|------------|

| Direct Expenses | Amount |
|-------------------------------|----------------|
| Technology Charges | \$4,800 |
| Mileage | 350 |
| Meals | 250 |
| Printing | 100 |
| Total Direct Expenses: | \$5,500 |

EXHIBIT C

INSURANCE REQUIREMENTS

Service provider shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the service provider. A certificate of insurance meeting all requirements and provisions outlined herein shall be provided to the Town prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable, except for professional liability.
2. Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.
4. Professional Liability, also known as Errors and Omissions coverage.

B. MINIMUM LIMITS OF INSURANCE

Service Provider shall maintain throughout contract limits not less than:

1. Commercial General Liability: \$500,000 per occurrence /\$1,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:
 - a. Premises / Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Personal Injury
 - e. Broad Form Property Damage
2. Workers Compensation and Employer's Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 each accident, \$300,000 Disease- Policy Limit, and \$100,000 Disease- Each Employee.
3. Automobile Liability: \$500,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired, and non-owned autos.
4. Professional Liability aka Errors and Omissions: \$500,000 per occurrence and in the aggregate.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductible or self-insured retentions in excess of \$10,000 must be declared to and approved by the Town.

D. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the provider, products and completed operations of the provider, premises owned, occupied or used by the provider. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.
- b. The provider's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the provider's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.
- d. The provider's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the insured's limits of liability.

2. Workers Compensation and Employer's Liability Coverage:

The insurer shall agree to waive all rights of subrogation against the Town, its officers, officials, employees and volunteers for losses arising from work performed by the provider for the Town.

3. All Coverages:

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

4. Professional Liability and / or Errors and Omissions:

"Claims made" policy is acceptable coverage, which must be maintained during the course of the project, and up to two (2) years after completion and acceptance of the project by the Town.

E. ACCEPTABILITY OF INSURERS

The Town prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than **A- VI**, or better.

F. VERIFICATION OF COVERAGE

Service Provider shall provide the Town with certificates of insurance indicating the coverages required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

Certificate holder to be listed as follows:

Town of Prosper
P.O. Box 307
Prosper, TX 75078

EXHIBIT D
CONFLICT OF INTEREST AFFIDAVIT

PROFESSIONAL SERVICES AGREEMENT

BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS
FOR THE 2023 COMPREHENSIVE PLAN UPDATE PROJECT (PRP22XYZ)

THE STATE OF TEXAS

§

COUNTY OF

Tarrant

§

§

I, WENDY BONNEAU, a member of the Consultant team, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

- ☐ Ownership of 10% or more of the voting shares of the business entity.
- ☐ Ownership of \$25,000.00 or more of the fair market value of the business entity.
- ☐ Funds received from the business entity exceed 10% of my income for the previous year.
- ☐ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least \$25,000.00.
- ☐ A relative of mine has substantial interest in the business entity or property that would be affected by my decision of the public body of which I am a member.
- ☐ Other: _____
- ☒ None of the Above.

Upon filing this affidavit with the Town of Prosper, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of the public body which took action on the agreement.

Signed this 6th day of September, 2022

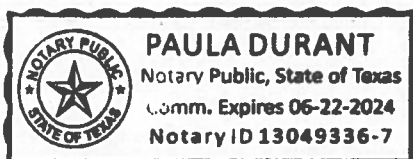
Wendy Bonneau/Principal
Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared Wendy Bonneau and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 6th day of September, 2022

Paula Durant
Notary Public in and for the State of Texas

My Commission expires: 6-22-2024



CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor doing business with local governmental entity**

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Freese and Nichols, Inc.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

N/A

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Stephanie Stephenson
Signature of vendor doing business with the governmental entity

09/06/2022

Date



FREEAND-02

KSUTTON

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/6/2022

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).

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

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 |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|----------------|-------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab. GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: | | | 42UUNOL5238 | 10/23/2021 | 10/23/2022 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$ |
| B | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <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 | | | 42UENOL5558 | 10/23/2021 | 10/23/2022 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ |
| C | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 | | | 42 XHU OL 5747 | 10/23/2021 | 10/23/2022 | EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ |
| D | <input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY 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 | | N / A | 42WBOL6H3F | 10/23/2021 | 10/23/2022 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |
| E | <input checked="" type="checkbox"/> Professional Liab. | | | AEH008214422 | 10/23/2021 | 10/23/2022 | Per Claim \$ 5,000,000 |

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: Comprehensive Plan Update PSA

The Town, its officers, officials, employees, boards and commissions and volunteers are 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. General Liability, Auto

CERTIFICATE HOLDER

CANCELLATION

| | |
|--------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Town of Prosper, TX PO Box 307 Prosper, TX 75078 | 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 |



ADDITIONAL REMARKS SCHEDULE

| | | |
|------------------------------------|-----------------------------|-----------------------------------------------------------------------------------------------------------|
| AGENCY Ames & Gough | | NAMED INSURED Freese and Nichols, Inc. 801 Cherry Street, Suite 2800 Fort Worth, TX 76102 |
| POLICY NUMBER SEE PAGE 1 | | |
| CARRIER SEE PAGE 1 | NAIC CODE SEE P 1 | EFFECTIVE DATE: SEE PAGE 1 |

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:

Liability, Umbrella Liability and Workers Compensation policies include a Waiver of Subrogation in favor of the Additional Insured where permissible by state law 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.