

Rev. 4/19

**PROFESSIONAL SERVICES AGREEMENT**

STATE OF TEXAS §

COUNTY OF GUADALUPE

This Agreement is entered into by City of Seguin, Texas, hereinafter called "Client" and Freese and Nichols, Inc., hereinafter called "FNI." In consideration of the Agreements herein, the parties agree as follows:

- I. **EMPLOYMENT OF FNI:** In accordance with the terms of this Agreement, Client agrees to employ and compensate FNI to perform professional services in connection with the Project. The Project is described as a Comprehensive Plan.
- II. **SCOPE OF SERVICES:** FNI shall render professional services in connection with Project as set forth in Attachment SC – Scope of Services and Responsibilities of Client which is attached to and made a part of this Agreement.
- III. **COMPENSATION:** Client agrees to pay FNI for all professional services rendered under this Agreement. FNI shall perform professional services as outlined in the "Scope of Services" for a lump sum fee of Three-Hundred Six Thousand One Hundred Thirty Dollars, \$306,130.

If FNI's services are delayed or suspended by Client, or if FNI's services are extended for more than 60 days through no fault of FNI, FNI shall be entitled to equitable adjustment of rates and amounts of compensation to reflect reasonable costs incurred by FNI in connection with such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

- IV. **TERMS AND CONDITIONS OF AGREEMENT:** The Terms and Conditions of Agreement as set forth as Attachment TC – Terms and Conditions of Agreement shall govern the relationship between the Client and FNI.

Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and FNI, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and FNI and not for the benefit of any other party.

This Agreement constitutes the entire Agreement between Client and FNI and supersedes all prior written or oral understandings.

This contract is executed in two counterparts. IN TESTIMONY HEREOF, Agreement executed:

**Freese and Nichols, Inc.**

**City of Seguin, TX**

DocuSigned by:  
 By: Wendy Shabay  
 32200FB34BC24B4...  
 Wendy Shabay  
 Print Name and Title

By: \_\_\_\_\_  
 \_\_\_\_\_  
 Print Name and Title

Date: 6/10/2021

Date: \_\_\_\_\_

DocuSigned by:  
 ATTEST: LaToya Goodwin  
 3038E3C09B4D48B...

ATTEST: \_\_\_\_\_

## SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

### ARTICLE I

**BASIC SERVICES:** FNI shall render the following professional services in connection with the development of the Project:

#### PROJECT UNDERSTANDING:

The City of Seguin (Client, City) is engaging FNI to prepare a local comprehensive plan consistent with standards, procedures and best management practices in Texas. The project planning area will encompass the existing Seguin city limits and extraterritorial jurisdiction (ETJ) as identified by the City.

The City is also engaging FNI to prepare a downtown master plan consistent with standards, procedures and best management practices in Texas. The project planning area will be further defined within the project, but will be generally consistent with the existing Main Street Program Boundary.

#### SCOPE OF SERVICES:

Tasks prepared as part of this planning effort may occur concurrently or sequentially where appropriate, or in some cases may deviate from the sequence shown in this Scope of Services document.

### **PHASE 1: COMPREHENSIVE PLAN**

#### **Task 1: Project Management and Quality Control**

Perform general project management and control project quality, progress and budget for the scoped period of completion, including the FNI's monthly reporting and invoicing requirements, monthly status meetings with the City, and similar efforts. This will support both the Comprehensive Plan and Downtown Master Plan.

Deliverables:

- Monthly one-page reports
- Monthly project management meetings

#### **Task 2: Engagement and Meetings**

**For all engagement efforts described below, the City and FNI may mutually agree to reassign meetings and engagement methods for other forms of outreach with similar effort to leverage other opportunities in the community or allow for other creative approaches as established in the Public Engagement Plan mutually agreed to by the City and FNI. This includes digital and socially-distant alternatives should the City and FNI deem such approaches necessary or preferred due to external factors such as public health emergencies.** Efforts will be made to coordinate outreach to align with other community events to reach broader audiences, with attention toward tailoring the outreach to align with the atmosphere of the event. A Public Engagement Plan will be prepared, agreed to, and finalized.

1. Staff Initiation Conference Call (1 meeting, totaling 1 hour)

A conference call or virtual meeting with City staff will take place at the beginning of the project to

familiarize all parties with the scope, project schedule, project kick-off, data request needs and timing, invoicing, communication and key staff, and other significant considerations.

2. Kick-off Meeting and Study Area Tour (1 meeting and study area tour, totaling 8 hours)

Attend one (1) kick-off meeting with the City. The purpose of the meeting will be to build upon discussions of the staff initiation conference call.

Immediately following the Kick-off Meeting, participate in one (1) site tour of the study area to provide spatial context to conversations about the City's challenges and opportunities. This will include a tour of Downtown Seguin at a more granular level. If unable to conduct this as an in-person tour, the City will provide a recommended tour route and key information elements. FNI and the City may also mutually agree to other approaches, such as a virtual study area tour.

3. CPAC Meetings (6 meetings, 2 hours each)

CPAC Meetings will allow for the review of key components of the plan in detail, to explore possible scenarios, to debrief public participation efforts, and to receive direction on plan issues and topics. Such sessions will include an agenda, any necessary maps and handouts for review, and key tasks for review and comment.

4. Stakeholder Meetings (2 days, 8 hours per day)

A total of two (2) days of stakeholder meetings are proposed during the project. These meetings shall be scheduled as back-to-back meetings, if possible, to ensure continuity in the discussion, with logical breaks between sessions. Stakeholder meetings specific to downtown are discussed within Phase 2, but perspectives on downtown will also be captured during the comprehensive plan stakeholder conversations as well.

5. Community Workshops, Open Houses or Other Engagement Effort (3 efforts at 2 hours each)

Three (3) community workshops, open houses or other engagements with similar level of effort, as established in the Public Engagement Plan, will be held during the process to identify issues and opportunities and gather feedback on citizens' visions for the City. At a minimum, one (1) of these engagements will be virtual (see subsection 8, below). These efforts will support both the Comprehensive Plan and the Downtown Master Plan.

6. Meetings-in-a-Box

FNI will prepare up to three digital meeting-in-a-box kits for the City to produce to support individuals and neighborhood/community groups interested in leading engagement efforts on their own to support the comprehensive and downtown plan efforts.

7. Interactive Project Website and Virtual Engagement (1 website, 1 survey)

- a. Establish an interactive project website that supports integrated community engagement tools, such as virtual idea walls for brainstorming, interactive mapping for geographic feedback, virtual town halls and open houses, feature-rich online surveys, participatory budgeting in a seamless platform supportive of desktop and mobile access.

- b. Develop at least one (1) non-scientific online community survey with the assistance of the City during the course of the project, outside of any survey component included as a feedback tool within a virtual open house.
- c. Establish branding for use throughout the planning process and on all documents, both for the Comprehensive Plan and the Downtown Master Plan.

Deliverables:

- a. Project website with described capabilities
- b. Meetings, events and engagements, and their associated support materials, as described
- c. Summaries of each engagement activity, consolidated as an appendix to the plan

**Task 3: Draft Introduction and Community Snapshot**

1. Baseline Analysis
  - a. Study a historic timeline of the City, including major events impacting physical development of the community.
  - b. Analyze historic population and related growth trends and patterns.
  - c. Explain patterns and impacts of demographic information collected. Demographic data will be based upon the most recent U.S. Census American Community Survey data available at the time Notice to Proceed is given by the City.

2. Planning Context

The following are elements to be documented in order to establish the planning context:

- a. Review past and ongoing planning efforts conducted by the City.
- b. Evaluate regional initiatives, including activities of adjacent cities.
- c. Conduct a physical features assessment, including topography, floodplains, developed/undeveloped land, natural features, sensitive environmental areas and other physical implications that impact growth and development.
- d. Evaluate implications of public health emergencies and specifically the COVID-19 pandemic on the City's planning context.

Deliverables:

- Draft introduction plan element
- Draft community snapshot plan element

**Task 4: Draft Vision, Guiding Principles**

## 1. Community Vision

Develop a vision statement based on an assessment of City feedback regarding goals and vision, an understanding of existing community constraints, and a summary of public input and feedback.

## 2. Guiding Principles

Develop guiding principles based on analysis, community input and feedback received at the beginning of the process. Goals will be set within each chapter element.

## Deliverables:

- Draft vision plan element

**Task 5: Draft Land Use, Neighborhoods and Housing**

## 1. Existing Land Use Analysis

Assess the land use characteristics of the City, including:

- a. Analysis of types of land use (color-coded by category) and quantified by acres.
- b. Discussion of existing development patterns and land use relationships, both opportunities and constraints.

## 2. Future Land Use Plan

Update the future land use plan, taking into account existing land use information, neighborhood compatibility, current zoning regulations, economic development strategies, past development patterns and active developments, infill and redevelopment opportunities. Create a graphic depiction of the community's future using place type districts similar to the current future land use plan. The plan will consider the following:

- a. Location of future residential, non-residential, mixed uses, open space and institutional land uses along with associated intensities.
- b. Location of natural and building environment characteristics of the City to promote conservation, appropriate use and protection of both natural and cultural resources that should be considered when making future development decisions.
- c. Location of future land uses along major transportation and transit corridors along with associated intensities, with consideration towards transit-oriented development.
- d. Equity and geographic disparities, and approaches to resolving those disparities.
- e. High-level economic productivity through development and redevelopment strategies.

- f. Compatibility of adjacent uses and contexts to provide transitions and buffering.

3. Metrics, Consequences and Tradeoffs

Develop future scenario data and metrics to understand consequences and tradeoffs to different future development patterns, which may include land consumption, energy use, water use, walk accessibility, transit accessibility, transportation, emissions, household costs, fiscal performance, and risk and resilience. Discuss high-level fiscal considerations.

4. Urban Form and Overlay Districts

- a. Assess and provide recommendations on the urban form of the City including compact development, districts, corridors, activity centers and open space networks.
- b. Assess methods and approaches to support mixed-use development at a variety of scales and intensities.
- c. Analyze and propose where use of overlay districts can be used to accomplish objectives, outlining policies and boundaries for proposed districts.

5. Population Patterns

- a. Update the projected growth rate and population projections for the City based upon historical growth patterns and future growth considerations, derived from FNI expertise and other professional sources, such as the Texas Water Development Board and Metropolitan Planning Organization.
- b. Evaluate shifting population patterns and trends to increase understanding of the City's stage of growth and development relative to likely build-out.

6. Neighborhood and Housing Assessment

- a. Evaluate neighborhoods at a high-level in terms of completeness: where residents have easy, convenient access to many of the places and services they use daily including grocery stores, restaurants, schools and parks, without relying heavily on a car.
- b. Identify a variety of existing and recommended neighborhood and housing programs to address any emerging issues and reinvestment needs.
- c. Explore housing typologies to address compatibility with character while allowing for incremental change, such as the use of accessory dwellings, townhomes and a variety of building type formats and other forms of housing responsive to market interest and need.

7. Neighborhood/Small Area Planning Framework Guidance

Evaluate approaches to create a policy foundation for neighborhood and small area planning supportive of compatible redevelopment and revitalization.

8. Preservation and Design

- a. Assess the City's ongoing efforts in historic preservation, including areas of emerging historical significance.
- b. Develop policies that address community gateways, community image, and the preservation of character-giving community elements.

The above may take the form of district-based recommendations.

Deliverables:

- Draft land use, neighborhoods and housing plan element as described, including goals, objectives and actions

**Task 6: Public Investments (Transportation/Mobility, Facilities, Parks and Infrastructure)**

Elements within Task 6 are expected to have separate, standalone plans in the future. These plans, however, rely upon the comprehensive plan to determine appropriate broad policy directions and content in a way that responds appropriately to anticipated/desired future development conditions. This element seeks to establish the framework for these independent plan efforts.

1. Integration of Water and Wastewater Utility Master Plans

Identify and discuss implications for the City's infrastructure resulting from plan direction for land use and development intensity, integrating existing Water and Wastewater Master Plans as applicable.

2. Integration of Transportation Master Plans

Identify and discuss implications for the City's transportation and mobility systems resulting from plan direction for land use and development intensity, integrating existing transportation master plans as applicable.

3. Stormwater Infrastructure

Identify and discuss issues related to stormwater/drainage, focusing on the municipal separate stormwater system and conveyance of water efficiently from storm events, treatment of runoff to preserve natural assets and the environment, regional approaches, and positioning the City for efficient operations and maintenance into the future.

4. Integration of Facilities and Parks Plans

Identify and discuss implications for the City's community facilities and services, such as police, fire and parks, resulting from plan direction for land use and development intensity, integrating and applying recently adopted plans.

Deliverables:

- Draft public investments plan element as described, including goals, objectives and actions

**Task 7: Economic Resiliency**

1. Evaluate economic approaches and challenges in the City and Region, including those brought about by the coronavirus, to develop strategies to build economically resilient and diverse communities.
2. Analyze the broad factors influencing new development, redevelopment and tourism activity in the City, focusing on complete neighborhoods and equitable access to economic opportunity while addressing density needs and variables that influence the vibrancy of commercial corridors and nodes.
3. Examine the high level economic and tax impacts of the major components of the Plan, providing the City with a sense of how much new job activity and incremental revenue will be captured over the next 10 to 20 years.
4. Recommendations and findings will take into consideration the City's position within the Region's competitive economic development environment, seeking to identify those attributes that can distinguish the City and bring about the desired quality of life.
5. Identify strategies to balance and bridge the gap between current market demand, long-term desired state or aspiration goals of the community, and financial resources required to accelerate preferred development if the market is not yet aligned. Analysis and recommendations regarding alignment of market to vision may alternatively be addressed in Phase 2 Task 7 economic development.

## Deliverables:

- Draft economic resiliency plan element as described, including goals, objectives and actions

**Task 8: Draft Implementation**

Provide an implementation plan structured into a coordinated action program The implementation plan will outline priorities in a matrix format, primarily by:

1. Reviewing the various policies and related recommendations from each plan element, including recommended changes to development regulations to align with the plan.
2. Dividing the policies and related recommendations into applicable implementation techniques/actions, such as regulatory actions, programs, and intergovernmental partnerships, to create an overall Action Plan.
3. Prioritizing the implementation techniques/actions into appropriate time periods.
4. Establishing appropriate metrics from which to gauge the effectiveness of the strategies implemented and progress toward full plan implementation.

## Deliverables:

- Draft implementation plan element as described

**Task 9: Preparation of Final Documents**



1. Draft Report

- a. Prepare a draft Comprehensive Plan Report (Draft 1) that will document the planning process and aforementioned tasks. Individual draft plan elements will be sent throughout the planning process. The draft will be provided to the City, CPAC and other parties the City wishes to include for review and comments. The City will consolidate comments from staff, CPAC and others on Draft 1, and provide one set of consolidated comments within two (2) weeks of submission. FNI will provide a comment review meeting to clarify any comments.
- b. Prepare a revised draft Comprehensive Plan Report (Draft 2) to address the comments and revisions from Draft 1. This draft will serve as the draft for approval consideration by the Planning and Zoning Commission and City Council.

2. Final Report and Deliverables

- a. Produce an “as adopted” final report to incorporate any changes made during the adoption process by City Council.
- b. Provide deliverable in digital format (PDF), including both text and mapping, such that it will be easily reproducible. Electronic files of the final Comprehensive Plan will be provided to the City. The plan will be prepared in Adobe InDesign.

3. Plan Mapping

All mapping created will use ESRI’s ArcGIS software and other necessary rendering software. It is assumed that the City will provide all necessary base mapping data in compatible electronic format in order to generate necessary mapping.

## **PHASE 2: DOWNTOWN MASTER PLAN**

### **Task 1: Project Management and Quality Control**

Project management and quality control are combined with the same task for the Comprehensive Plan, above.

### **Task 2: Engagement and Meetings**

**Downtown Master Plan engagement will be coordinated with the Comprehensive Plan, and Comprehensive Plan engagement will consider Downtown from citywide perspectives. The elements below represent focused engagement targeting Downtown interests.**

**The City and FNI may mutually agree to reassign meetings and engagement methods for other forms of outreach with similar effort to leverage other opportunities in the community or allow for other creative approaches as established in the Public Engagement Plan mutually agreed to by the City and FNI. This includes digital and socially-distant alternatives should the City and FNI deem such approaches necessary or preferred due to external factors such as public health emergencies.** Efforts will be made to coordinate outreach to align with other community events to reach broader audiences, with attention toward tailoring the outreach to align with the atmosphere of the event. A Public Engagement Plan will be prepared, agreed to, and finalized.

1. Staff Initiation Conference Call

The conference call or virtual meeting with City staff will take place at the beginning of the project in conjunction with the Comprehensive Plan effort to familiarize all parties with the scope, project schedule, project kick-off, data request needs and timing, invoicing, communication and key staff, and other significant considerations.

2. Kick-off Meeting and Study Area Tour

In coordination with the Comprehensive Plan effort, attend one (1) kick-off meeting with the City. The purpose of the meeting will be to build upon discussions of the staff initiation conference call.

Immediately following the Kick-off Meeting, participate in one (1) site tour of the study area to provide spatial context to conversations about the City's challenges and opportunities. This will include a tour of Downtown Seguin at a more granular level. If unable to conduct this as an in-person tour, the City will provide a recommended tour route and key information elements. FNI and the City may also mutually agree to other approaches, such as a virtual study area tour.

3. Main Street Advisory Board Meetings (4 meetings, 2 hours each)

Main Street Advisory Board Meetings will allow for the review of key components of the Downtown Master Plan in detail, to debrief public participation efforts, and to receive direction on plan issues and topics. Such sessions will include an agenda, any necessary maps and handouts for review, and drafts of key tasks for review and comment.

4. Stakeholder Meetings (2 days, 8 hours per day)

A two (2) days of stakeholder meetings are proposed during the project. These meetings shall be scheduled as back-to-back meetings, if possible, to ensure continuity in the discussion, with logical breaks between sessions. Stakeholder meetings associated with the Comprehensive Plan will also capture perspectives on downtown from a broader, citywide perspective. Initial stakeholders will seek perspectives from city staff, elected officials, chambers of commerce (and similar business associations), property owners, business owners and other interested parties. Subsequent stakeholders will focus on business strategy resources, such as key business owners, UTSA and Texas State University Small Business Development Centers, chambers of commerce (and similar business associations), Seguin's EDC, and other organizations.

5. Public Meetings (3 efforts at 2 hours each)

Prepare presentation materials for up to three (3) public meetings in formats to be determined as established in the Public Engagement Plan. At a minimum, one (1) of these engagements will be virtual. Downtown plan efforts will be briefed during comprehensive plan engagement as well.

6. Miscellaneous Engagement and Tactical Implementation Support (40 hours effort, as identified)

FNI will provide up to forty (40) hours of miscellaneous public engagement, such as event attendance and on-the-ground implementation support to property owners and other downtown stakeholders.

7. Interactive Project Website and Virtual Engagement (1 website, 1 survey)

- a. This element will be in conjunction with the Comprehensive Plan effort.
- b. Develop at least one (1) non-scientific online community survey with the assistance of the City during the course of the project, dedicated to the Downtown Master Plan.

**Task 3: Snapshot**

1. Inventory and analyze existing land use, transportation and urban design conditions within the downtown study area, documenting building and design conditions.

2. Review the study area's physical framework, such as:

- Land use patterns, parking areas and green spaces
- Traffic and transportation framework
- Pedestrian facilities
- Historic structures
- Vacant and underutilized parcels
- Frontage quality

3. Review the study area's regulatory and policy framework, such as:

- Existing regulations and effects on development
- Current financial and regulatory boundaries, including tax increment reinvestment zones

and other special districts

4. Review the study area's ownership and land assembly framework, such as:
  - Existing assessed or appraised values
  - Public/institutionally owned lands
5. Expanding upon Phase 1 Task 7, prepare an economic and market analysis that will support identification of economic development potential and how downtown is likely to evolve. Identify gaps and opportunities, appropriate market niches for retail, commercial, residential, tourism, and social/cultural uses.
6. Prepare a map of opportunities and constraints affecting downtown revitalization, including a summary of strengths, weaknesses, opportunities and threats (challenges).
7. Prepare a map depicting level of redevelopment and change likely, supporting identification of catalyst projects and informing revitalization strategies.

**Task 1 Deliverables:**

Summary of findings from all sub-elements of Task 1, including an opportunities/constraints map and map depicting level of redevelopment to be included as part of the Draft and Final Plan.

**Task 4: Vision and Goals**

1. Integration of Engagement

FNI will summarize feedback received from the public and steering committee to reflect quantitative and qualitative assessment of the study area. This may be placed in a plan appendix for ease of reading.

2. Community Vision

Based on an assessment of the existing goals and objectives of the City, an understanding of existing community constraints, and a summary of public input and feedback, the community's vision will be developed.

3. Goals

FNI will develop goals based on analysis, community input and feedback received at the beginning of the process.

**Task 2 Deliverables:**

Summary of findings from all sub-elements of Task 2 to be included as part of the Draft and Final Plan, including summaries of community input and surveys.

**Task 5: Revitalization Plan and Implementation**

1. Develop a revitalization program focusing on the development of strategies, policies and programs for recruitment, retention and expansion of business, leveraging of historic resources, activation and redevelopment within the Study Area consistent with findings.
2. Identify potential projects and opportunities for improving and enhancing public and private efforts to promote recreation, accessibility, tourism and a sense of community, character and identity.
3. Prepare a character/form plan depicting categories of development intensities, building types and other appropriate characteristics in an urban condition. Incorporate information from downtown element of current thoroughfare plan.
4. Prepare one (1) illustrative master plan to depict base information with catalyst infill graphics for proposed infill buildings by land use/form type, key public spaces/streetscapes, key open space locations and key planning strategies. It is not envisioned the entire study area locations will include conceptual master plan graphics. The illustrations will include an aerial base with infill graphics for proposed infill buildings.
5. Prepare up to two (2) renderings to illustrate low aerial and eye-level perspectives, as well as zoomed-in designs, creating visual representations of the Plan's vision and key catalyst opportunities.
6. Identify zoning, parking policy and other regulatory recommendations.
7. Develop a place management strategy based on a multi-stakeholder approach to improve locations, harnessing the skills, experiences and resources of those in the private, public and volunteer sectors.
8. Develop an action plan to address policies and related recommendations. Identify 20-30 short-to-medium term strategies based on observation, research, and conversations with the community. This will include approximate timelines, budgets, and responsibility matrices for 3-5 implementable action items that can serve as focal points for the next 1-12 months. Recommendations may include:
  - a. Activation of downtown parks, sidewalks and storefronts
  - b. Temporary "popup" use of vacant or underutilized storefronts
  - c. Capital Improvement Projects
  - d. Beautification and Art
  - e. COVID-19 appropriate (if needed) public space and event recommendations
  - f. Low-cost branding, marketing and social media strategies
  - g. Policy recommendations to support local development

Identify responsible parties, prioritization and best-fit approaches to financing, including incentive policy recommendations best-suited to various plan implementation elements. This excludes drafting legal preliminary and project plans for financing districts as those efforts can vary and should be tailored to the specific approach

Task 3 Deliverables:

Summary of findings from all sub-elements of Task 3 to be included as part of the Draft and Final Plan.

**Task 6: Preparation of Final Documents**

1. Draft Report

- a. Individual draft plan elements will be sent throughout the planning process. The City will consolidate comments from staff, Main Street Advisory Board and others and provide one set of consolidated comments per plan element to the FNI within two (2) weeks of submission.
- b. Prepare a draft Plan Report (Draft 1) that will document the planning process and aforementioned tasks. Individual draft plan elements will be sent throughout the planning process. The draft will be provided to the City, Main Street Advisory Board and other parties the City wishes to include for review and comments. The City will consolidate comments from staff, Advisory Board and others on Draft 1, and provide one set of consolidated comments within two (2) weeks of submission. FNI will provide a comment review meeting to clarify any comments.
- c. Prepare a revised draft Comprehensive Plan Report (Draft 2) to address the comments and revisions from Draft 1. This draft will serve as the draft for approval consideration by the Planning and Zoning Commission and City Council.

2. Final Report and Deliverables

- a. Produce an “as adopted” final report to incorporate any changes made during the adoption process by City Council.
- b. Provide deliverable in digital format (PDF), including both text and mapping, such that it will be easily reproducible. Electronic files of the final Comprehensive Plan will be provided to the City. The plan will be prepared in Adobe InDesign.

3. Plan Mapping

All mapping created will use ESRI’s ArcGIS software and other necessary rendering software. It is assumed that the City will provide all necessary base mapping data in compatible electronic format in order to generate necessary mapping.

ARTICLE II

**ADDITIONAL SERVICES:** Additional Services to be performed by FNI, if authorized by City, which are not included in the above described basic services, are described as follows:

- A. Printing and binding of documents in addition to those identified in ARTICLE II will be billed in accordance with the rates outlined in Attachment CO. FNI, following a request for assistance from the City, will prepare an estimate for approval by the City prior to initiating work.
- B. Making revisions to drawings or other report documents when such revisions are 1) not consistent with approvals or instructions previously given by City or 2) due to other causes not solely within the control of FNI.
- C. Meeting or trips in excess of the number of meetings included in Article I for coordination meetings, public meetings or other activities. Additional meetings requested by the City in excess of those included in Article I will be billed hourly in accordance with the rates outlined in Attachment CO.
- D. Preparation of new impact fees or impact fee updates for water, wastewater, roadway or drainage under Chapter 395.
- E. Preparation of water, wastewater or drainage master plans.
- F. Preparation of new or updated zoning ordinance, subdivision ordinance and other development regulations, including unified development codes.
- G. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications, including MPO applications.
- H. Preparing data and reports for assistance to City in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- I. Revisions, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- J. Providing basic or additional services on an accelerated time schedule. This includes cost for overtime wages of employees and FNIs, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the City.
- K. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services agreement.
- L. Providing document revisions in excess of those outlined in Article I.

ARTICLE III

**TIME OF COMPLETION:** FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services within **fifteen (15) months of the notice to proceed.**

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in City or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and will be based upon rates outlined in Attachment CO.



ARTICLE IV

**RESPONSIBILITIES OF OWNER:** City shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Provide meeting space and coordinate equipment needs, room set up, and logistics for meetings outlined in Article I.
- B. Provide information from all previous and current studies and projects (as available) that may affect the outcome of the Plan. This information will be provided in digital format when possible and available.
- C. Provide the most recently updated digital base map and aerial imagery of the planning area for use during the comprehensive plan preparation process. These files will be in the form of GIS file types native to ESRI ArcGIS.
- D. Contact meeting invitees for stakeholder and public meeting(s). This includes email, mail, newsletter or other forms of notification.
- E. Examine and provide prompt feedback on all submittals, draft reports, sketches, drawings, and other documents presented by FNI within a reasonable time so as not to delay the services of FNI. City comments should be consolidated with clear and concise edits, preferably typed for legibility.
- F. Designate in writing a person to act as City’s representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define City’s policies and decisions with respect to FNI’s services for the Project.
- G. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- H. Bear all costs incident to compliance with the requirements of this Article IV.

ARTICLE V

**DESIGNATED REPRESENTATIVES:** FNI designates the following representatives:

FNI’s Project Representative	Name: Chance Sparks, AICP, CNU-A
	E-mail: Chance.sparks@freese.com
	Phone: 512-617-3156

FNI’s Accounting Representative	Name: Stephanie Kirchstein
	E-mail: Stephanie.kirchstein@freese.com
	Phone: 214-217-2212

Plan Elements	Comprehensive Plan	Downtown Plan	Total	Notes
<b>Comprehensive Plan Elements (Phase 1)</b>				
1-1 Project Management, QA/QC	\$11,566			Covers both plans, but consolidated under comprehensive plan for funding sources and uses.
1-2 Engagement, Meetings	\$44,493			These are the engagement elements dedicated to the comp plan in itemized fashion within the scope.
1-3 Intro and Snapshot	\$9,143		\$9,143	
1-4 Vision and Guiding Principles	\$4,874		\$4,874	
1-5 Land Use, Housing and Neighborhoods	\$25,592		\$25,592	Aspects of this are also housed within economic resiliency related to fiscal and economic relationships; downtown plan is likely to inform housing and neighborhoods due to surroundings
1-6 Public Investments (trans, infra, parks, facilities)	\$9,143		\$9,143	
1-7 Economic Resiliency	\$61,667		\$61,667	Includes economic/market contribution to Land Use, overall economic development element, and the economic/market component for downtown (combined more for our tracking purposes)
1-8 Implementation	\$8,011		\$8,011	
1-9 Final Documents	\$7,019		\$7,019	
<b>Downtown Plan Elements (Phase 2)</b>				
2-2 Engagement, Meetings		\$21,306		These are the engagement elements dedicated to the downtown plan in itemized fashion within the scope
2-3 Existing Conditions and Catalyst Analysis		\$19,275	\$19,275	
2-4 Vision and Goals		\$11,256	\$11,256	
2-5 Revitalization Plan		\$48,546	\$48,546	This will feed information into the comprehensive plan to some extent, related to land use and housing
2-6 Downtown Implementation		\$17,619	\$17,619	
2-7 Final Documents		\$6,619	\$6,619	
<b>Total</b>	<b>\$181,508</b>	<b>\$124,621</b>	<b>\$306,129</b>	

**COMPENSATION**

Compensation to FNI for Basic Services in Attachment SC shall be the lump sum of Three Hundred Six Thousand One Hundred Thirty Dollars (\$306,130).

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify CLIENT for CLIENT's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

<b>Position</b>	<b>Hourly Rate</b>	
	<b>Min</b>	<b>Max</b>
Professional 1	72	134
Professional 2	90	140
Professional 3	109	202
Professional 4	137	217
Professional 5	165	310
Professional 6	177	354
Construction Manager 1	81	159
Construction Manager 2	97	171
Construction Manager 3	149	199
Construction Manager 4	183	258
CAD Technician/Designer 1	66	131
CAD Technician/Designer 2	93	143
CAD Technician/Designer 3	118	186
Corporate Project Support 1	47	112
Corporate Project Support 2	66	155
Corporate Project Support 3	93	236
Intern / Coop	38	97

**Rates for In-House Services and Equipment**

<b>Mileage</b>	<b>Bulk Printing and Reproduction</b>		<b>Equipment</b>	
		<b>B&amp;W</b>	<b>Color</b>	
Standard IRS Rates	Small Format (per copy)	\$0.10	\$0.25	Valve Crew Vehicle (hour) \$75
	Large Format (per sq. ft.)			Pressure Data Logger (each) \$200
<b>Technology Charge</b>	Bond	\$0.25	\$0.75	Water Quality Meter (per day) \$100
\$8.50 per hour	Glossy / Mylar	\$0.75	\$1.25	Microscope (each) \$150
	Vinyl / Adhesive	\$1.50	\$2.00	Pressure Recorder (per day) \$100
	Mounting (per sq. ft.)	\$2.00		Ultrasonic Thickness Guage (per day) \$275
	Binding (per binding)	\$0.25		Coating Inspection Kit (per day) \$275
				Flushing / Cfactor (each) \$500
				Backpack Electrofisher (each) \$1,000
				<u>Survey Grade</u> <u>Standard</u>
				Drone (per day) \$200 \$100
				GPS (per day) \$150 \$50

**OTHER DIRECT EXPENSES:**

Other direct expenses are reimbursed at actual cost times a multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.10. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

**These ranges and/or rates will be adjusted annually in February. Last updated February 2021.**

**TERMS AND CONDITIONS OF AGREEMENT**

1. **DEFINITIONS:** The term Client as used herein refers to the City of Seguin, TX. The term FNI as used herein refers to Freese and Nichols, Inc., its employees and agents, and its subcontractors and their employees and agents. As used herein, Services refers to the professional services performed by FNI pursuant to the Agreement.
2. **CHANGES:** Client, without invalidating the Agreement, may order changes within the general scope of the work required by the Agreement by altering, adding to and/or deducting from the work to be performed. If any change under this clause causes an increase or decrease in FNI's cost of, or the time required for, the performance of any part of the Services, an equitable adjustment will be made by mutual agreement and the Agreement modified in writing accordingly.
3. **TERMINATION:** The obligation to provide Services under this Agreement may be terminated by either party upon 10 days' written notice. In the event of termination, FNI will be paid for all Services rendered and reimbursable expenses incurred to the date of termination and, in addition, all reimbursable expenses directly attributable to termination.
4. **CONSEQUENTIAL DAMAGES:** In no event shall FNI or its subcontractors be liable in contract, tort, strict liability, warranty, or otherwise for any special, indirect, incidental or consequential damages, such as loss of product, loss of use of the equipment or system, loss of anticipated profits or revenue, non-operation or increased expense of operation or other equipment or systems.
5. **INFORMATION FURNISHED BY CLIENT:** Client will assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project. FNI shall have no liability for defects or negligence in the Services attributable to FNI's reliance upon or use of data, design criteria, drawings, specifications or other information furnished by Client and Client agrees to indemnify and hold FNI harmless from any and all claims and judgments, and all losses, costs and expenses arising therefrom. FNI shall disclose to Client, prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications or other information furnished by Client to FNI that FNI may reasonably discover in its review and inspection thereof.
6. **INSURANCE:** FNI shall provide Client with certificates of insurance with the following minimum coverage:

<p><b>Commercial General Liability</b></p> <p>General Aggregate      \$2,000,000</p> <p><b>Automobile Liability (Any Auto)</b></p> <p>CSL                              \$1,000,000</p>	<p><b>Workers' Compensation</b></p> <p>As required by Statute</p> <p><b>Professional Liability</b></p> <p>\$3,000,000 Annual Aggregate</p>
--	--
7. **SUBCONTRACTS:** If, for any reason and at any time during the progress of providing Services, Client determines that any subcontractor for FNI is incompetent or undesirable, Client will notify FNI accordingly and FNI shall take immediate steps for cancellation of such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in the Agreement shall create any contractual relation between any subcontractor and Client.
8. **OWNERSHIP OF DOCUMENTS:** All drawings, reports, data and other project information developed in the execution of the Services provided under this Agreement shall be the property of Client upon payment of FNI's fees for Services. FNI may retain copies for record purposes. Client agrees such documents are not intended or represented to be suitable for reuse by Client or others. Any reuse by Client or by those who obtained said documents from Client without written verification or adaptation by FNI, will be at Client's sole risk and without liability or legal exposure to FNI, or to FNI's independent associates or consultants, and Client shall indemnify and hold harmless FNI and FNI's independent associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle FNI to further reasonable compensation. FNI may reuse all drawings, report data and other project information in the execution of the Services provided under this Agreement in FNI's other activities. Any reuse by FNI will be at FNI's sole risk and without liability or legal exposure to Client, and FNI shall indemnify and hold harmless Client from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom.
9. **POLLUTANTS AND HAZARDOUS WASTES:** It is understood and agreed that FNI has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substance or condition at the site, if any, and its compensation hereunder is in no way commensurate with the potential risk of injury or loss that may be caused by exposures to such substances or conditions. The parties agree that in performing the Services required by this Agreement, FNI does not take possession or control of the subject site, but acts as an invitee in performing the Services, and is not therefore responsible for the existence of any pollutant present on or migrating from

07-20

ATTACHMENT TC

the site. Further, FNI shall have no responsibility for any pollutant during clean-up, transportation, storage or disposal activities.

10. **OPINION OF PROBABLE COSTS:** FNI will furnish an opinion of probable project development cost based on present day cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by FNI hereunder will be made on the basis of FNI's experience and qualifications and represent FNI's judgment as an experienced and qualified design professional. It is recognized, however, that FNI does not have control over the cost of labor, material, equipment or services furnished by others or over market conditions or contractors' methods of determining their prices.
11. **CONSTRUCTION REPRESENTATION:** If required by the Agreement, FNI will furnish construction representation according to the defined scope for these services. FNI will observe the progress and the quality of work to determine in general if the work is proceeding in accordance with the Contract Documents. In performing these services, FNI will report any observed deficiencies to Client, however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for the supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or the safety precautions and programs incident to the work of the Contractor. FNI 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. If Client designates a Resident Project Representative that is not an employee or agent of FNI, the duties, responsibilities and limitations of authority of such Resident Project Representative will be set forth in writing and made a part of this Agreement before the Construction Phase of the Project begins.
12. **GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:** Client agrees to include provisions in the General Conditions of the Construction Contract that require Contractor to include FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by Contractor for the Project (except workers' compensation and professional liability policies); and (2) as an indemnified party in the Contractor's indemnification provisions where the Owner is named as an indemnified party.
13. **PAYMENT:** Progress payments may be requested by FNI based on the amount of Services completed. Payment for the Services of FNI shall be due and payable upon submission of a statement for Services to CLIENT and in acceptance of the Services as satisfactory by the Client. Statements for Services shall not be submitted more frequently than monthly. Any applicable new taxes imposed upon Services, expenses and charges by any governmental body after the execution of this Agreement will be added to FNI's compensation.

If Client fails to make any payment due FNI for services and expenses within 30 days after receipt of FNI's statement for services therefore, the amounts due FNI will be increased at the rate of 1 percent per month from said 30th day, and, in addition, FNI may, after giving 7 days' written notice to Client, suspend services under this Agreement until FNI has been paid in full, all amounts due for services, expenses and charges.

14. **ARBITRATION:** No arbitration, arising out of or relating to this Agreement, involving one party to this Agreement may include the other party to this Agreement without their approval.
15. **SUCCESSORS AND ASSIGNMENTS:** Client and FNI each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and FNI are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

Neither Client nor FNI shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent FNI from employing such independent associates and consultants as FNI may deem appropriate to assist in the performance of Services hereunder.

16. **PURCHASE ORDERS:** If a Purchase Order is used to authorize FNI's Services, only the terms, conditions/instructions typed on the face of the Purchase Order shall apply to this Agreement. Should there be any conflict between the Purchase Order and the terms of this Agreement, then this Agreement shall prevail and shall be determinative of the conflict.