

CONTRACT FOR GOODS AND/OR SERVICES

THIS AGREEMENT ("Agreement"), made this ____ day of _____ 20__, between the Town of Frisco, a Colorado home rule municipal corporation, hereinafter referred to as "FRISCO" and Design Workshop, Inc., a Colorado corporation, as an independent contractor, hereinafter referred to as "CONTRACTOR," provides as follows:

ARTICLE I **SCOPE OF SERVICES**

Section 1.1 Services: CONTRACTOR agrees to perform the work, personal services and/or furnish the necessary equipment, supplies or materials in accordance with and/or as described in Attachment A hereto, hereinafter referred to as the "Project" or the "Scope of Services." Attachment A hereto is hereby incorporated by reference and made a part of this Agreement.

Section 1.2 Scope of Services: FRISCO agrees to retain CONTRACTOR to complete the Project. CONTRACTOR shall commence work upon direction to proceed and complete the Project on or before January 1, 2025. Additional services beyond those listed in Attachment A, if requested, shall be provided only when authorized in writing by FRISCO.

Section 1.3 Independent Contractor: CONTRACTOR shall at all times control the means and manner by which CONTRACTOR performs the work, subject to FRISCO's right to monitor, evaluate and improve such work. CONTRACTOR shall at all times be and act as an independent contractor and not as an employee of FRISCO.

Section 1.4 Warranty of Contractor: CONTRACTOR warrants that title to all services, materials and equipment covered and paid for under this Agreement will pass to FRISCO either by incorporation in the Project or upon the receipt of payment by CONTRACTOR, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances; and that no services, materials or equipment paid for under this Agreement will have been acquired by CONTRACTOR, or by any other person performing services at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by CONTRACTOR or such other person.

ARTICLE II **ADMINISTRATION OF THIS AGREEMENT**

Section 2.1 Project Performance: In consideration of the compensation provided for in this Agreement, CONTRACTOR agrees to perform or supply the Project, in accordance with generally accepted standards and practices of the industry, and warrants all materials incorporated in the Project to be free from defect of material or workmanship and conform strictly to the specifications, drawings or samples specified or

furnished. This Section 2.1 shall survive any inspection, delivery, acceptance or payment by FRISCO.

Section 2.2 Oversight: All of the work associated with the Project shall be performed under the direction of Emily Weber, Principal Planner; it is expressly understood and agreed that some of the work may have commenced prior to the formal execution of this Agreement, in which event such work is incorporated into the Project and is deemed to have been and is authorized by this Agreement.

Section 2.3 Ownership and Use of Documents:

(a) Any documents prepared by CONTRACTOR, and copies thereof furnished to other parties are for use solely with respect to this Project. They are not to be used by any other contractor or subcontractor on other projects or for additions to this Project outside the scope of the work without the specific written consent of FRISCO. Other contractors and subcontractors are authorized to use and reproduce applicable portions of the documents prepared by the CONTRACTOR appropriate to and for use in the execution of their work under this Agreement. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the documents prepared by CONTRACTOR.

(b) CONTRACTOR, and any subcontractor or supplier or other person or organization performing or furnishing any work for the Project under a direct or indirect contract with FRISCO (i) shall not have or acquire any title to or ownership rights in any of any documents (or copies of documents) prepared in connection with the Project by a design professional and (ii) shall not reuse any of such documents or copies for extensions of the Project or any other project without written consent of FRISCO and the design professional and specific written verification or adaption by the design professional.

(c) Notwithstanding the provisions of Sections 2.3(a) and (b) above, FRISCO reserves the right to utilize any documents generated in connection with the Project by CONTRACTOR for other projects, provided that CONTRACTOR is not held liable for future project applications other than the Project described pursuant to this Agreement. FRISCO shall not convey any such documents generated by CONTRACTOR to a third party or use any such documents in a manner adverse to the CONTRACTOR.

Section 2.4 Insurance:

(a) CONTRACTOR agrees to procure and maintain, at its own cost, the following policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by CONTRACTOR under this Agreement or arising as a result of this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law.

(b) Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall name FRISCO, its employees and agents as additional insureds and shall include the following provisions: (i) severability of interest; (ii) waiver of subrogation; and (iii) cross liability endorsement.

(c) Workers' Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this Agreement, and Employers' Liability insurance with minimum limits of SIX HUNDRED THOUSAND DOLLARS (\$600,000) each accident, SIX HUNDRED THOUSAND DOLLARS (\$600,000) disease - policy limit, and SIX HUNDRED THOUSAND DOLLARS (\$600,000) disease - each employee. Evidence of qualified self-insured status may be substituted for the Workers' Compensation requirements of this Section 2.4(c).

(d) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of CONTRACTOR's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If CONTRACTOR has no owned automobiles, the requirements of this Section 2.4(d) shall be met by each employee of CONTRACTOR providing services to FRISCO under this Agreement.

(e) The insurance policies required by Sections 2.4(a), (b) and (d) shall name FRISCO, its employees and agents as additional insureds. No additional insured endorsement to a policy shall contain any exclusion for bodily injury or property damage arising from completed operations.

(f) Every policy required under this Section 2.4 shall be primary insurance, and any insurance carried by FRISCO, its officers, or its employees, or carried by or provided through any insurance pool of FRISCO, shall be excess and not contributory insurance to that provided by CONTRACTOR. CONTRACTOR shall be solely responsible for any deductible losses under any policy required above. Any insurance policy required under this Agreement shall be written by a responsible company.

(g) Prior to commencement of this Agreement, CONTRACTOR shall provide FRISCO with a certificate of insurance completed by CONTRACTOR's insurer as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect. The certificate shall identify this Agreement and shall provide that the coverage afforded under the policies shall not be canceled, terminated or

materially changed until at least thirty (30) days' prior written notice has been given to FRISCO. The completed certificate of insurance shall be sent to:

Town of Frisco
P.O. Box 4100
Frisco, Colorado 80443
Attn: James Gorham

(h) CONTRACTOR shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of CONTRACTOR's failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amount, duration or type. Failure on the part of CONTRACTOR to procure or maintain policies providing the required coverage, conditions and minimum limits shall constitute a material breach of contract upon which FRISCO may immediately terminate this Agreement, or at its discretion FRISCO may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by FRISCO shall be repaid by CONTRACTOR to FRISCO upon demand, or FRISCO may withhold the cost of the premiums from any monies due to CONTRACTOR from FRISCO.

(i) The parties hereto understand and agree that FRISCO is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as from time to time amended, or otherwise available to FRISCO, its officers, or its employees.

Section 2.5 Indemnification:

(a) CONTRACTOR shall indemnify and hold harmless FRISCO and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from this Agreement, provided that any such claim, damage, loss or expense (1) is attributable to copyright infringement, bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any subcontractor of CONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to any person described in this Section 2.5(a).

(b) In any and all claims against FRISCO or any of its agents or employees by any employee of CONTRACTOR, any subcontractor of CONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose act any of them may be liable, the indemnification obligation under this Section 2.5 shall not be limited in any way by any limitation on the amount or type of damages, compensation or

benefits payable by or for CONTRACTOR or any subcontractor under worker's or workman's compensation actions, disability benefit acts or other employee benefit acts.

Section 2.6 Subcontractor: CONTRACTOR shall, as soon as practicable after the signing of this Agreement, notify FRISCO in writing for FRISCO's approval, of any subcontractors who may be involved in the Project and the general scope of work to be performed by each subcontractor.

Section 2.7 Termination of Agreement:

(a) This Agreement shall terminate: (a) at such time as the work described in the Scope of Services is completed and the requirements of this Agreement are satisfied, (b) on November 1, 2024, or (c) upon FRISCO providing CONTRACTOR with seven (7) days advance written notice, whichever occurs first. After termination, FRISCO shall pay CONTRACTOR for all work previously authorized and completed prior to the date of termination. If, however, CONTRACTOR has substantially or materially breached this Agreement, FRISCO shall have any remedy or right of set-off available at law and equity. If this Agreement is terminated for any reason other than cause prior to completion of the Scope of Services, any use of documents by FRISCO thereafter shall be at FRISCO's sole risk, unless otherwise consented to by CONTRACTOR. This Agreement may be terminated by CONTRACTOR upon thirty (30) days' written notice, provided that such termination is based upon a substantial failure by FRISCO to perform in accordance with the terms in this Agreement. In the event of such termination, FRISCO will pay CONTRACTOR for all services performed to date of termination. If payment is otherwise due upon completion, FRISCO will pay CONTRACTOR for the pro rata value of the completed portion of the Project that will be incorporated into the Project. FRISCO will require the release of all lien rights as a condition of such payment.

(b) Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution Article X, Section 20. Notwithstanding any other provision of this Agreement, FRISCO's obligations under this Agreement are subject to annual appropriation by the Town Council of FRISCO. Any failure of a Town Council annually to appropriate adequate monies to finance FRISCO's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to CONTRACTOR of any failure to appropriate such adequate monies.

Section 2.8 Binding Effect: FRISCO and CONTRACTOR each bind itself, its successors and assigns to the other party to this Agreement with respect to all rights and obligations under this Agreement. Neither FRISCO nor CONTRACTOR shall assign or transfer its interest in this Agreement without the written consent of the other.

Section 2.9 Notice and Communications: Any notice to the parties required under this Agreement shall be in writing, delivered to the person designated below for the parties at the indicated address unless otherwise designated in writing. Only mailing by

United States mail or hand-delivery shall be utilized. Facsimile and/or e-mail addresses are provided for convenience only.

FRISCO:

Town of Frisco
P.O. Box 4100
Frisco, Colorado 80443
Attn: Emily Weber
Electronic mail:
EmilyW@TownofFrisco.com

CONTRACTOR:

Design Workshop, Inc.
22860 Two Rivers Road, Suite 102
Basalt, CO 81621
Attn: Jessica Garrow
Electronic mail:
jgarrow@designworkshop.com

ARTICLE III **RESPONSIBILITIES OF FRISCO**

Section 3.1 Project Materials: FRISCO shall make available data related to the Project, including design specifications, drawings and other necessary information. Data so furnished to CONTRACTOR shall be furnished at no cost, and shall be returned to FRISCO at the earliest possible time.

Section 3.2 Access to Property and Records: FRISCO shall provide CONTRACTOR with access to public property as required and necessary to complete the contract. To the extent required by law, FRISCO and CONTRACTOR agree to make this Agreement and any related records available for public disclosure pursuant to any open records law, including, without limitation, the Colorado Open Records Act, C.R.S. §§ 24-72-101, *et seq.* CONTRACTOR agrees to hold FRISCO harmless from the disclosure of any records that FRISCO reasonably believes it is legally required to disclose.

Section 3.3 FRISCO's Representative: FRISCO shall designate, in writing, a representative who shall have authority to act for FRISCO with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define FRISCO's policies and decisions with respect to materials, equipment, elements and systems pertinent to CONTRACTOR's services.

Section 3.4 Verbal Agreement or Conversation: No verbal agreement or conversation with any officer, agent or employee of FRISCO, either before, during or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained, nor shall such verbal agreement or conversation entitle CONTRACTOR to any additional payment whatsoever under the terms of this Agreement.

ARTICLE IV **COMPENSATION FOR SERVICES**

Section 4.1 Compensation: CONTRACTOR shall be compensated for services as described in Attachment B hereto. Attachment B hereto is hereby incorporated by reference and made a part of this Agreement.

Section 4.2 Payment: FRISCO shall pay CONTRACTOR monies due under this Agreement within thirty (30) days after invoice date, provided such amounts are not in dispute or the subject of setoff.

ARTICLE V
MISCELLANEOUS

Section 5.1 Colorado Law: This Agreement is to be governed by the laws of the State of Colorado.

Section 5.2 Amendments; Change Orders: This Agreement may only be amended, supplemented or modified in a written document signed by both parties.

Section 5.3 Counterparts: This Agreement may be executed in two or more counterparts, using manual or facsimile signature, each of which shall be deemed an original and all of which together shall constitute one and the same document.

Section 5.4 No Third Party Benefit: This Agreement is between FRISCO and CONTRACTOR and no other person or organization shall be entitled to enforce any of its provisions or have any right under this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed and executed this Agreement the day first written above.

FRISCO

By: _____
Name: Hunter Mortensen
Title: Mayor

Attest:

Stacey Nell, Town Clerk

CONTRACTOR

By: _____
Name: _____
Title: _____

ATTACHMENT A

SCOPE OF WORK

Project Scope

The scope of work will include, at a minimum, the following tasks:

Task 1: Public & Stakeholder Engagement: Preliminary planning and community engagement initiatives will be performed to engage all sectors of the community. Development and management of the public input process will include public meetings, both in-person and/or virtual, with elected and appointed boards, strategic stakeholder groups and citizens. The focus will be to identify key resources and opportunities, challenges, values that the community wishes to preserve, and principles that should direct implementation and development of a shared future development vision.

Task 2: Community Assessment: The consultant shall complete a comprehensive analysis of the existing land use, developable land area, housing, infrastructure, parks, natural hazards, and other comprehensive plan elements within the existing Town boundary. The consultant shall consider future trends and conditions that will impact the Town of Frisco. These include economic, demographic, housing, social and environment-related, and community resiliency issues. Anticipating and planning for future adaptation in these sectors is a critical component of this project.

Task 3: Future Needs & Trends Analysis: This task will focus on analysis of development trends, growth patterns and community need as well as the economic impacts these trends will have on the Town. The consultant will review and analyze data and trends, including current conditions and future projections of potential population growth, local economy, land use, utilities, recreational resources, transportation, and other public infrastructure.

Task 4: Alternatives Development: The consultant shall focus on integrating findings from earlier tasks and providing creative solutions to the challenges and opportunities. Using the data gathered, the consultant will provide an analysis applying different growth scenarios and options for each area of the Plan. The consultant will create recommendations for the proper mix of land uses for long-term financial sustainability, affordable housing incentive programs, enhancement and expansion of transportation networks and pedestrian corridors, and increase accessibility to parks and open space. The elements identified in the Town's current Community Plan will be revised to include: Land Use, Housing, Transportation, Recreation, Public Service and Utilities, Water, and Resiliency.

Task 5: Plan Document Articulation:

After information is compiled and alternatives analyzed, the Consultant will draft the plan for presentation to the Town. The Consultant shall deliver a user-friendly Comprehensive Plan in written and electronic form with graphics, diagrams, pictures, tables, and other appropriate narrative content and realistic implementation strategies that are appropriate and achievable.

The Town of Frisco has received a grant award from Colorado Department of Local Affairs (DOLA). The Comprehensive Plan shall comply with C.R.S. 31-23-206 and shall also comply with DOLA requirements that include:

- The plan must assess and address housing needs of current and future residents at all levels of affordability. It must include locally-appropriate goals, strategies, and actions to promote affordable housing development. This work must use the best available data (e.g., State Demography Office data or a recent housing needs assessment).
- Risks of natural and human-caused hazards to life, property, and public resources, and consideration of their impact to vulnerable communities. Include goals, strategies, and/or actions to address and mitigate these hazards.
- In the spirit of the state's goal to engage with disproportionately impacted communities (C.R.S. 24-4-109), the plan must use an environmental justice lens, particularly when it comes to the impacts of hazards, resources, and amenities to promote equitable outcomes.
- The plan must address the community's water supply and water quality goals. Per C.R.S. 31-23-206(1)(d) and 30-28-106(3)(a)(IV), the community must:
 - Consult and coordinate with local water provider(s),
 - Include water conservation policies, and
 - Identify in the plan water supplies and facilities sufficient to meet public and private infrastructure needs reasonably anticipated or identified in the planning process.
- The plan must include an action plan that prioritizes actions necessary to implement the plan, creates a timeline for implementation, and assigns responsibility for actions.

Town Staff also expects that one of the outcomes of the new comprehensive plan will be increasing goals for renewable energy through future Unified Development Code modifications. Overall, reducing carbon footprint will be a positive side-effect of the community plan and future UDC modifications. These modifications would include goals/strategies for transportation, reducing parking requirements, and increasing sustainability and energy code requirements.

Task 6: Comprehensive Plan Adoption: The consultant will present the plan at a public hearing with the Planning Commission and Town Council to officially adopt it.

Task 7: Three Mile Plan Adoption: The consultant will update the Three Mile Plan which was last updated in 2018.

ATTACHMENT B

COMPENSATION

Task 1: Public Participation - Engaging with Frisco Stakeholders and Community	
Task 1.1 Engagement Strategic Kick-Off (SKO)	\$2,240
Task 1.2 Community Engagement Plan	\$1,930
Task 1.3 Community Working Group	\$10,320
Task 1.4 Engagement Window 1: Vision and Values - Where are we going?	\$10,200
Task 1.5 Roundtable Focus Groups	\$10,920
Task 1.6 Engagement Window 2: Trends and Trade-offs - How will we get there?	\$6,040
Task 1.7 Planning Commission Meetings	\$3,900
Task 1 Fees	\$41,650
Task 2: Existing Conditions Assessment - Where are we today?	
Task 2.1 Project Strategic Kick-Off (SKO)	\$6,810
Task 2.2 Project Management	\$8,730
Task 2.3 Past Plans Review	\$5,320
Task 2.4 Existing Conditions and Trends Assessment	\$25,590
Task 2 Fees	\$46,450
Task 3: Future Needs and Trends - Where are we headed?	
Task 3.1 Market Understanding of Growth Potential and Trends	\$11,630
Task 3.2 Community Vision and Values	\$4,050
Task 3 Fees	\$15,680
Task 4: Alternatives - How might we get there?	
Task 4.1 Scenarios and Trade-offs Analysis	\$19,190
Task 4.2 Future Land Use Map	\$6,040
Task 4.3 Three Mile Plan	\$8,220
Task 4.4 Strategy Framework	\$11,290
Task 4 Fees	\$44,740
Task 5: Plan Document - A Vision for the Town of Frisco	
Task 5.1 Document Templates	\$1,930
Task 5.2 Comprehensive Plan Development (70% Draft)	\$18,060
Task 5.3 Three Mile Plan (70% Draft)	\$11,490
Task 5.4 Comment Resolution	\$5,290
Task 5 Fees	\$32,770
Task 6: Comprehensive Plan and Three Mile Plan - Adoption	
Task 6.1 Final Plan (95%)	\$5,750
Task 6.2 Planning Commission Meeting	\$2,180
Task 6.3 Town Council Adoption	\$2,180
Task 6.4 Final Plan	\$1,530
Task 6 Fees	\$10,110
Total Fees	
Total Labor Fees	\$192,930
Reimbursable Expenses	\$7,070
Total Fees	\$200,000