

WHEREAS, City and Consultant desire to amend the Agreement for the purpose of: (i) extending and/or clarifying the Scope of Services for the Project (defined in the Agreement); (ii) revising the individual line items in the Project Budget Summary (defined in the Agreement); and (iii) revising Consultant's Fee (defined in the Agreement); and

WHEREAS, City and Consultant desire to amend the Agreement on the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, the mutual benefits to be obtained hereby and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Consultant agree as follows:

1. **Amendment to Agreement Article 1, Section 1.2, Scope of Services** - Article 1, Section 1.2 of the Agreement is hereby amended as follows:

"1.2 Scope of Services – The parties agree that Consultant shall perform such services as are set forth and described in **Exhibit A** and **Exhibit H** hereto, which are incorporated herein by reference for all purposes ("Scope of Service"). The parties understand and agree that deviations or modifications to the Scope of Services described in **Exhibit A** and **Exhibit H**, in the form of written amendments, may be authorized from time to time by City ("Change Orders").

2. **Amendment to Agreement Article 1, Section 1.3, Schedule of Work** - Article 1, Section 1.3 of the Agreement is hereby amended as follows:

"1.3 Schedule of Work – Consultant agrees to commence work immediately upon the execution of this Agreement, and to proceed diligently with said work to completion as described in **Exhibit A**, **Exhibit B** and **Exhibit I** hereto, which are incorporated herein by reference for all purposes."

3. **Amendment to Agreement Article 3, Section 3.1, Compensation for Consultant's Services** - Article 3, Section 3.1 of the Agreement is hereby amended as follows:

"3.1 Compensation for Consultant's Services – As described in "Article 1, Consultant's Services," compensation for this Project shall be: (a) on a lump sum basis, for an amount not-to-exceed **Five Hundred Ten Thousand, Eight Hundred Forty and No/100 Dollars (\$510,840.00)** ("Consultant's Fee"); and (b) paid in

accordance with this Article 3 and the Project Budget Summary as set forth in **Exhibit B** and **Exhibit I**.

4. **Amendment to Agreement Article 3, Section 3.1.1, Completion of Record Documents** – Article 3, Section 3.1.1 of the Agreement is hereby amended as follows:

“3.1.1 Completion of Record Documents – City and Consultant agree that the completion of Record Documents and/or “As-Built” Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by the City prior to payment. Completion of the Record Documents and/or “As-Built” documents shall be included in the Consultant’s Fee and considered to be within the Scope of Services defined under this Agreement.” The electronic formatting shall be consistent with the standards established in **Exhibit C**, City of Frisco Guidelines for Computer Aided Drafting and Design (“CADD”).

5. **Amendment to Agreement Article 3, Section 3.2, Direct Expenses** – Article 3, Section 3.2 of the Agreement is hereby amended as follows:

“3.2 Direct Expenses – Direct Expenses are included in the Consultant’s Fee as described in Article 3.1 and include actual reasonable and necessary expenditures made by the Consultant and the Consultant’s employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as set forth in **Exhibit B** and **Exhibit I** and consistent with **Exhibit D**, Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to City for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by the City for errors in submittals for reimbursement may be deducted from the Consultant’s subsequent payment for services; provided, however this shall not be City’s sole and exclusive remedy for said over-payment.”

6. **Amendment to Agreement Article 3, Section 3.4, Invoices** - Article 3, Section 3.2 of the Agreement is hereby amended as follows:

“3.4 Invoices – No payment to Consultant shall be made until Consultant tenders an invoice to City. Consultant shall submit monthly invoices for services rendered, based upon the actual percentage of work complete at the time the invoice is prepared, or are to be mailed to City immediately upon completion of each

individual task listed in **Exhibit B** and **Exhibit I**. On all submitted invoices for services rendered and work completed on a monthly basis, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but is not limited to, employee timesheets, invoices for work obtained from other parties, and receipts and/or log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.”

7. **Amendment to Agreement, Article 4, Section 4.1, Ownership of Documents** – Article 4, Section 4.1 of the Agreement is hereby amended as follows:

“**4.1 Documents Property of City** – The Project is the property of City, and Consultant may not use the documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any materials for any other purpose not relating to the Project without City’s prior written consent. City shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in **Exhibit A** and **Exhibit H**. Upon completion of the work, or any earlier termination of this Agreement under Article 3 and/or Article 8 of this Agreement, Consultant will revise plans, data, documents, maps, and any other information as defined in **Exhibit A** and **Exhibit H** to reflect changes while working on the Project through the date of completion of the work, as solely determined by City, or the effective date of any earlier termination of this Agreement under Article 3 and/or Article 8 of this Agreement, and promptly furnish the same to City in an acceptable electronic format. All such reproductions shall be the property of City who may use them without Consultant’s permission for any purpose relating to the Project, including, but not limited to, completion of the Project, and/or additions, alterations, modifications, and/or revisions to the Project. Any reuse of the documents not relating to the Project shall be at City’s own risk.”

8. **Entire Agreement** – This Amendment Number One, including the exhibits hereto labeled “H”, “I”, “J” and “K”, all of which are incorporated herein for all purposes, and the Agreement, including the exhibits thereto, constitute the entire agreement of the parties regarding the subject matter hereof. There are no oral understandings or agreements between the parties regarding the subject matter hereof. This Amendment Number One may not be amended, supplemented and/or modified except by written agreement duly executed by both parties. The following exhibits are attached hereto and made a part of the Agreement:

Exhibit H, Scope of Additional Services;

Exhibit I, Additions to Project Budget Summary;

Exhibit J, Affidavit; and

Exhibit K, Conflict of Interest Questionnaire, Form CIQ.

9. **Counterparts** – This Amendment Number One may be executed in a number of identical counterparts. If so executed, each such counterpart is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute the Amendment Number One. An electronic mail or facsimile signature will also be deemed to constitute an original if properly executed.
10. **Controlling Agreement** – To the extent any provision contained in this Amendment Number One conflicts with the Agreement, this Amendment Number One and the Agreement shall prevail in that order.
11. **Defined Terms/Ratification of Agreement** – Any term not defined herein shall be deemed to have the meaning ascribed to it under the Agreement. Except as expressly amended hereby, all of the terms, provisions, covenants and conditions of the Agreement are hereby ratified and confirmed and shall continue in full force and effect.
12. **Authority to Execute** – The individuals executing this Amendment Number One hereby represent and warrant that they are empowered and duly authorized to so execute this Amendment Number One on behalf of the parties they represent.
13. **Governing Law/Venue** – This Amendment Number One is performable in Collin County, Texas, and the venue for any action related directly or indirectly to this Amendment Number One or in any manner connected therewith shall be in Collin County, Texas. This Amendment Number One shall be construed under the laws of the State of Texas.
14. **Assignment and Subletting** – This Amendment Number One may not be assigned or sublet except as authorized in Paragraph 12.2 of the Agreement.
15. **Successors and Assigns** – City and Consultant, and their respective partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives and administrators are hereby bound to the terms and conditions of this Amendment Number One.

16. **Savings/Severability** – Should any part, term or provision of this Amendment Number One or any document required herein to be executed or delivered be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby; provided that the essential provisions for each party remain valid, binding, and enforceable.
17. **Execution/Consideration** – This Amendment Number One is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
18. **Headings** – The headings of the various sections of this Amendment Number One are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
19. **Immunity** – The parties acknowledge and agree that, in executing and performing this Amendment Number One, City has not waived, nor shall be deemed hereby to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Amendment Number One, the parties do not create any obligations, express or implied, other than those set forth herein.
20. **Additional Representations** – Each signatory represents this Amendment Number One has been read by the party for which this Amendment Number One is executed and that such party has had the opportunity to confer with its counsel.
21. **Miscellaneous Drafting Provisions** – This Amendment Number One shall be deemed drafted equally by all parties hereto. The language of all parts of this Amendment Number One shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply.
22. **No Third Party Beneficiaries** – Nothing in this Amendment Number One shall be construed to create any right in any third party not a signatory to this Amendment Number One, and the parties do not intend to create any third party beneficiaries by entering into this Amendment Number One.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Amendment Number One and caused this Amendment Number One to be effective on the date set forth in the introductory clause of this Amendment Number One.

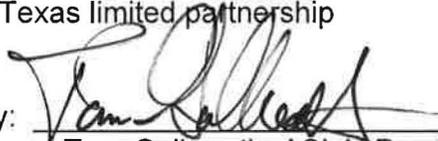
CITY:

City of Frisco, Texas,
a home-rule municipality

By: _____
George Purefoy, City Manager

CONSULTANT:

Dunaway Associates L.P.,
a Texas limited partnership

By:  _____
Tom Galbreath, ASLA, President

APPROVED AS TO FORM:



Abernathy, Roeder, Boyd and Hullett, P.C.
Ryan D. Pittman, City Attorneys

EXHIBIT H
SCOPE OF ADDITIONAL SERVICES

The following additional services are added to and incorporated into the Agreement and the Amendment Number One as provided herein:

I. PROJECT DESCRIPTION

This Amendment Number One consists of providing median landscaping and irrigation on Coit Road between Main Street and Lyndhurst Drive.

III. TASK SUMMARY – BASIC SERVICES

A. Data Collection

1. **Survey Services** Consultant shall provide the additional services: (Main Street to Lyndhurst Drive) - Engineer shall furnish a survey field party to collect all field information necessary to prepare complete and detailed plans, specifications, and contract documents consistent with prevailing engineering standards. This field information shall be based on NAD-83 datum. As all work shall be within City right-of-way, no right-of-entries are anticipated.

- a. Field Survey – The Engineer shall direct the work of the field party to perform the following:

1. Establish control using City primary control and benchmarks. Permanent control points will be set in concrete at approximate and will define the X, Y and Z coordinates for the Project. The permanent control points shall be set outside the limits of construction (if possible) and shall be a 5/8" iron rod set with a plastic cap. The control points shall be tied to the City benchmarks via a differential level.
2. Establish the proposed centerline or a suitable reference base line on the ground as required by City.
3. Obtain natural ground elevations and cross-sections every fifty feet (50') for the entire width of the median.
4. Make a complete topographic survey of all existing features above ground level that would or could affect proposed construction. These features shall include, but are not limited to, above-ground utility appurtenances, manholes (including invert elevations), structures, bridges, culverts, retaining walls, trees, curbs, pavements, sidewalks, fences, points of curvature (PC's), points of tangents (PT's), and points of intersections (PI's). Also, all other topographical features which would be of interest to the property owner in discussing the plans with the City must be shown accurately. The limits of survey shall be the median between Main Street and Lyndhurst Drive.

EXHIBIT H
SCOPE OF ADDITIONAL SERVICES

5. Locate underground utilities or structures that may be within the limits of the Project. Such utilities include but are not limited to wastewater, water, gas, electric, storm sewer, telephone, and television cable. Consultant will contact 1-800-DIG-TESS or individual utility companies to mark existing underground utilities in the field and shall show such utilities on the base map either based upon field locations or available construction as-builts.

D. FINAL DESIGN/CONSTRUCTION PLANS - Consultant shall provide the additional services: Consultant shall provide the additional services: As part of the 90%/100% submittals described in the Agreement the engineer shall furnish the following additional sheets:

10. **Traffic Control Plan** – Standard City of Frisco and TxDOT details will be used to control traffic on a majority of this project. Plan sheets will be produced to detail traffic control at intersections, where lane transitioning may occur to facilitate construction of this project.
11. **Erosion Control Plan** - The Engineer will prepare the Erosion Control Plan according to the current City criteria, which will be incorporated into the SWPPP.

IV. TASK SUMMARY, ADDITIONAL SPECIAL SERVICES

Consultant shall provide the additional services:

C. Landscaping and Irrigation

1. Concept Landscape Plan - Dunaway will produce preliminary conceptual planting design exhibits for review by the Client for the median on Coit Road between Main Street and Lyndhurst Drive. The conceptual drawings will include studies and recommendations for median street trees and sod.
2. Dunaway will produce detailed planting construction documents based on the approved conceptual design, taking into consideration any comments from the Client. Dunaway will produce Planting plans at an appropriate scale indicating plant location, species, quantity, size, etc. The plans will be produced under the supervision of a licensed Landscape Architect and will be suitable for submittal to the appropriate municipal agency and for bidding. The planting construction documents will include plans, details and specifications.
3. Upon completion and approval of the final Planting Design, Dunaway will produce irrigation plans indicating irrigation component locations and installation details for heads, valves, piping, controllers, etc., which will be prepared to a level consistent with submission to the appropriate municipal agency and for construction. The plans will be produced under

EXHIBIT H
SCOPE OF ADDITIONAL SERVICES

the supervision of a licensed Irrigator to a scale appropriate to the level of detail required for the project. The irrigation construction documents will include plans, appropriate design calculations, details and specifications.

**EXHIBIT I
ADDITIONS TO PROJECT BUDGET SUMMARY**

Exhibit "B" to the Agreement is hereby amended as follows:

I. Basic Services

A. Data Collection	\$ 63,380.00
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<i>Total Basic Services (Lump Sum)</i>	<u>\$ 436,130.00</u>
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II. Special Services

D. Landscaping and Irrigation	\$ 30,640.00
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<i>Total Special Services (Cost Plus, Not-To-Exceed)</i>	<u>\$ 74,710.00</u>
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<u><i>Project Budget, Grand Total (Not-To-Exceed)</i></u>	<u>\$ 510,840.00</u>
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EXHIBIT I
ADDITIONS TO PROJECT BUDGET SUMMARY

UPDATED PROJECT BUDGET SUMMARY

Task	Task	Original Agreement	Amendment #1	Amendment #2	TOTAL
I	Basic Services				
A.	Data Collection	59,880.00	3,500.00		63,380.00
B.	Geotechnical Investigation	11,230.00			11,230.00
C.	Conceptual Design	77,160.00			77,160.00
D.	Right-of-Way Documents	26,520.00			26,520.00
E.1	Final Design/Construction Plans, Paving, Drainage, Lighting	177,760.00			177,760.00
E.2	Final Design/Construction Plans - Water	27,100.00			27,100.00
E	Bid Phase Services	17,100.00			17,100.00
F	Construction Admin	23,990.00			23,990.00
G	Completion of Record Docs	11,890.00			11,890.00
II	Special Services				
	SUE Level B	13,440.00			13,440.00
	SUE Level A	10,000.00			10,000.00
	Landscape and Irrigation	25,840.00	4,800.00		\$30,640.00
	Channel Analysis and Recommendation	20,630.00			20,630.00
Grand Total		502,540.00	8,300.00		510,840.00

**EXHIBIT G
CONFLICT OF INTEREST QUESTIONNAIRE, FORM CIQ**

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity	FORM CIQ
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<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	OFFICE USE ONLY
	Date Received

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

Dunaway Associates, LP

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.) N/A

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

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.

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

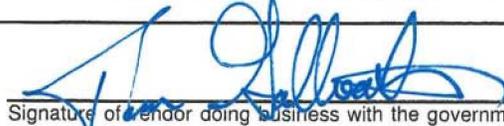
B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

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. N/A

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



 Signature of vendor doing business with the governmental entity

 October 21, 2016
 Date