

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE AGREEMENT BETWEEN THE TOWN OF ADDISON AND DUNAWAY ASSOCIATES LLC, FOR PROFESSIONAL ENGINEERING SERVICES FOR PLAT AND EASEMENT DIGITIZING AND MAPPING IN AN AMOUNT NOT TO EXCEED \$70,000.00, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. The Agreement between the Town of Addison and Dunaway Associates LLC, for professional engineering plat and easement digitizing and mapping in an amount not to exceed \$70,000.00, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

SECTION 2. This Resolution shall take effect from and after its date of adoption.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas on this the **13th** day of **JULY 2021**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

City Attorney

EXHIBIT A

**AGREEMENT
BETWEEN
THE TOWN OF ADDISON, TEXAS (TOWN)
AND
DUNAWAY ASSOCIATES, LLC (CONSULTANT)
FOR
PROFESSIONAL ENGINEERING SERVICES**

Made as of the ____ day of _____ in the year 2021,

BETWEEN the Town: The Town of Addison, Texas
 5300 Belt Line Road
 Dallas, Texas 75254
 Telephone: (972) 450-7000

and the Consultant: Dunaway Associates, LLC
 550 Bailey Avenue, Suite 400
 Fort Worth, Texas, 76107
 Telephone: (817) 335-1121

for the following Project: **Plat and Easement Digitizing and Mapping**

The Town and the Consultant agree as set forth below.

THIS AGREEMENT is made and entered by and between the **Town of Addison, Texas**, a Home-Rule Municipal Corporation, hereinafter referred to as "Town," and Dunaway Associates, LLC a Texas Limited Liability Company, hereinafter referred to as "Consultant," to be effective from and after the date as provided herein, hereinafter referred to as the "Agreement."

WHEREAS, the Town desires to engage the services of the Consultant to provide professional GIS Services pertaining to improving the completeness and accessibility of the Town's infrastructure information and critical Town documents, which shall include but not be limited to, scanning the Town's plat map data and easement maps, and linking those easements and maps for access in Addison's GIS environment, hereinafter referred to as the "Project"; and

WHEREAS, the Consultant desires to render such professional GIS services for the Town upon the terms and conditions provided herein.

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**ARTICLE 1
CONSULTANT'S SERVICES**

- 1.1 **Employment of the Consultant** – The Town hereby agrees to retain the Consultant to perform professional GIS services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement.
- 1.2 **Scope of Services** – The parties agree that Consultant shall perform such services as are set forth and described in **Exhibit “A,”** which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or modifications to the scope of services described in Exhibit “A,” in the form of written change orders, may be authorized from time to time by the Town. In the event of a conflict between any term or condition contained in Exhibit “A” and this Agreement, this Agreement shall control.
 - 1.2.1 **Requirement of Written Change Order** – “Extra” work, or “claims” invoiced as “extra” work, or “claims” which have not been issued as a duly executed, written change order by the Addison City Manager, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the Addison City Council's authorization for the Addison City Manager to execute said change order.
 - 1.2.2 **DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE ADDISON CITY MANAGER.** Project Managers, Superintendents, and/or Inspectors of the Town are not authorized to issue verbal or written change orders.
- 1.3 **Schedule of Work** – The Consultant agrees to commence work immediately upon the execution of this Agreement and receipt of written Notice to Proceed, and to proceed diligently with said work to completion as described in the Compensation Schedule / Project Billing / Project Budget attached hereto as **Exhibit “B”** and incorporated herein by reference for all purposes, but in no event shall the Project be completed any later than **six (6) months from the effective date herein.**

- 1.4 **Failure to Meet Established Deadlines** – Consultant acknowledges that time is of the essence in the performance of services under this Agreement as set forth in the Detailed Scope of Work included in Exhibit “A”.

ARTICLE 2 THE TOWN'S RESPONSIBILITIES

Town shall do the following in a timely manner so as not to delay the services of Consultant:

- 2.1 **Project Data** – The Town shall furnish required information that is currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and the Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 **Town Project Manager** – The Town shall designate, when necessary, a representative authorized to act on the Town’s behalf with respect to the Project (the “Project Manager”). The Town or such authorized representative shall examine the documents submitted by the Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of the Consultant’s services. The Project Manager is not authorized to issue verbal or written change orders for “extra” work or “claims” invoiced as “extra” work.

ARTICLE 3 CONSULTANT'S COMPENSATION

- 3.1 **Compensation for Consultant's Services** – As described in “Article 1, Consultant’s Services,” compensation for this Project shall be on a Type of Payment Basis not to exceed **SEVENTY THOUSAND and 00/100 Dollars (\$70,000.00)**, (“Consultant's Fee”) and shall be paid in accordance with Article 3 and the Executive Fee Summary as set forth in Exhibit “A.” **The final five percent (5%) of the Consultant's Fee, or THREE THOUSAND FIVE HUNDRED and 00/100 Dollars (\$3,500.00), shall not be paid until the Consultant has completed all of the services described in Exhibit “A” and delivered to the Town all of the documents, plans, data, maps, and/or other information required in Exhibit “A”.**
- 3.1.1 **Completion of Record Documents** – Town and Consultant agree that the completion of the Record Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by the Town prior to payment of the **final five percent (5%) of the Consultant's Fee, or THREE**

THOUSAND FIVE HUNDRED and 00/100 Dollars (\$3,500.00).

The electronic formatting shall be consistent with the standards established in Town of Addison Guidelines for Computer Aided Design and Drafting ("CADD"). Completion of the Record Documents shall be included in the Consultant's Fee and considered to be within the Scope of Services defined under this Agreement.

- 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 stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit "B," and consistent with **Exhibit "C."** Town of Addison Guidelines for Direct Expenses, General and Administrative Markup, and Travel and Subsistence Expenses. The Consultant shall be solely responsible for the auditing of all Direct Expenses, including the subcontractors, prior to submitting to the Town for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment for services; provided, however this shall not be the Town's sole and exclusive remedy for said overpayment.
- 3.3 **Invoices** – No payment to Consultant shall be made until Consultant tenders an invoice to the Town. Invoices are to be mailed to Town immediately upon completion of each individual task listed in Exhibit "A." On all submitted invoices, 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.
- 3.4 **Timing of Payment** – Town shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by Town to Consultant is considered to be received upon mailing of payment by Town. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.5 **Disputed Payment Procedures** – In the event of a disputed or contested billing by Town, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. Town shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the

twenty-first (21st) calendar day after the date the Town receives the invoice. Town shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of the Consultant, Town shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of Article 3.5. If a dispute is resolved in favor of the Town, Consultant shall submit to Town a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid Town in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. Town agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.

- 3.6 **Failure to Pay** – Failure of the Town to pay an invoice, for a reason other than upon written notification as stated in the provisions of Article 3.6 to the Consultant within sixty (60) days from the date of the invoice shall grant the Consultant the right, in addition to any and all other rights provided, to, upon written notice to the Town, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to Town, in accordance with Chapter 2251, Subchapter “D” (“Remedy for Nonpayment”) of the *Texas Government Code*. The Town shall not be required to pay any invoice submitted by the Consultant if the Consultant breached any provision(s) herein.
- 3.7 **Adjusted Compensation** – If the Scope of the Project or if the Consultant’s services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of the Consultant’s compensation shall be equitably adjusted as approved by Town. Any additional amounts paid to the Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.
- 3.8 **Project Suspension** – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of Town in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to Town all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is

resumed after being suspended for more than three (3) months, the Consultant's compensation shall be equitably adjusted as approved by the Town. Any additional amounts paid to the Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

ARTICLE 4 OWNERSHIP OF DOCUMENTS

- 4.1 **Documents Property of the Town** – The Project is the property of the Town, 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 Town's prior written consent. Town shall be furnished with such reproductions of the Project, plans, data, documents, maps, and any other information as defined in Exhibit "A." Upon completion of the work, or any earlier termination of this Agreement under Article 8, Consultant will revise plans, data, documents, maps, and any other information as defined in Exhibit "A" to reflect changes while working on the Project and promptly furnish the same to the Town in an acceptable electronic format. All such reproductions shall be the property of the Town who may use them without the 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.
- 4.2 **Documents Subject to Laws Regarding Public Disclosure** – Consultant acknowledges that Town is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Consultant (and Consultant's professional associates and/or Sub-consultants) under this Agreement are instruments of service in respect of the Project and property of the Town and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (*Texas Government Code*, Chapter 552) and any other applicable laws requiring public disclosure of the information contained in said documents.

ARTICLE 5 CONSULTANT'S INSURANCE REQUIREMENTS

- 5.1 **Required Professional Liability Insurance** – Consistent with the terms and provisions of **Exhibit "D,"** Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, a professional liability (errors and omissions) insurance policy with a company that maintains a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s), authorized to transact

business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

5.2 **Required General Liability Insurance** – Consistent with the terms and provisions of Exhibit “D,” Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, a general liability insurance policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for each occurrence, and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. Such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, or ten (10) days for non-payment of premium, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

5.3 **Required Workers Compensation Insurance** – Consistent with the terms and provisions of Exhibit “D,” Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to Town, all Statutory Workers Compensation Insurance as required by the laws of the State of Texas. Such insurance policy shall be with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent service(s), and authorized to transact business in the State of Texas. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to Town at least thirty (30) days prior to cancellation, non-

renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

- 5.4 **Circumstances Requiring Umbrella Coverage or Excess Liability Coverage** – If Project size and scope warrant, and if identified on the checklist located in Exhibit “D,” Town of Addison Contractor Insurance Requirements, Consultant shall maintain, at no expense to the Town, an umbrella coverage or excess liability coverage insurance policy with a company that maintains a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s), authorized to transact business in the State of Texas, in an amount of Two Million and 00/100 Dollars (\$2,000,000.00). Consistent with the terms and provisions of Exhibit “D,” such policy shall name the Town, its officers, agents, representatives, and employees as additional insured as to all applicable coverage. Such policy shall provide for a waiver of subrogation against the Town for injuries, including death, property damage, or any other loss to the extent that the same is covered by the proceeds of the insurance. Such policy shall require the provision of written notice to the Town at least thirty (30) days prior to cancellation, non-renewal, or material modification of any policies, evidenced by return receipt or United States Certified Mail. Consultant shall furnish Town with certificates evidencing such coverage prior to commencing work on the Project.

ARTICLE 6 CONSULTANT’S ACCOUNTING RECORDS

Records of Direct Expenses and expenses pertaining to services performed in conjunction with the Project shall be kept on the basis of generally accepted accounting principles. Invoices will be sent to the Town as indicated in Article 3.4. Copies of employee time sheets, receipts for direct expense items and other records of Project expenses will be included in the monthly invoices.

ARTICLE 7 AUDITS AND RECORDS / PROHIBITED INTEREST / VENDOR DISCLOSURE

The Consultant agrees that at any time during normal business hours and as often as the Town may deem necessary, Consultant shall make available to representatives of the Town for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the Town to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, and for a period of four (4) years from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Consultant agrees that it is aware of the prohibited interest requirement, which is repeated on the Affidavit, attached hereto as **Exhibit "E"** and incorporated herein for all purposes, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit attached hereto as Exhibit "E". Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

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

If the Agreement is required to go to the City Council for approval, then the Consultant shall execute and deliver to the Town the Form 1295 Certificate of Interested Parties, as required by section 2252.908, Texas Government Code, as amended, prior to the Town's execution of this Agreement.

ARTICLE 8 TERMINATION OF AGREEMENT / REMEDIES

Town may, upon thirty (30) days written notice to Consultant, terminate this Agreement, for any reason or no reason at all, before the termination date hereof, and without prejudice to any other remedy it may have. If Town terminates this Agreement due to a default of and/or breach by Consultant and the expense of finishing the Project exceeds the Consultant's Fee at the time of termination, Consultant waives its right to any portion of Consultant's Fee as set forth in Article 3 herein and agrees to pay any costs over and above the fee which the Town is required to pay in order to finish the Project. On any default and/or breach by Consultant, Town may elect not to terminate the Agreement, and in such event it may make good the deficiency in which the default consists, and deduct the costs from the Consultant's Fee due Consultant as set forth in Article 3 herein. If Town terminates this Agreement and Consultant is not in default of the Agreement, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of the Town in accordance with the provisions of this Agreement prior to termination.

In the event of any termination, Consultant shall deliver to Town all finished and/or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs and/or any items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

**ARTICLE 9
DISPUTE RESOLUTION / MEDIATION**

In addition to all remedies at law, the parties may resolve/mediate any controversy, claim or dispute arising out of or relating to the interpretation or performance of this Agreement, or breach thereof, by voluntary mediation to be conducted by a mutually acceptable mediator.

**ARTICLE 10
INDEMNITY**

CONSULTANT SHALL HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENTS), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT, ITS OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND/OR ARISING OUT OF PROFESSIONAL SERVICES PROVIDED BY CONSULTANT PURSUANT TO THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF THE TOWN (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONSULTANT AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONSULTANT, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. THIS INDEMNIFICATION SHALL EXTEND TO THE PAYMENT OR REIMBURSEMENT OF THE TOWN'S REASONABLE ATTORNEY'S FEES AND ASSOCIATED COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE CONSULTANT'S LIABILITY.

CONSULTANT SHALL PROMPTLY NOTIFY TOWN OF THE DEFENSE COUNSEL RETAINED BY CONSULTANT IN FULFILLING ITS OBLIGATION HEREUNDER, AND TIMELY NOTIFY TOWN OF ANY AND ALL LEGAL ACTIONS TAKEN BY THE DEFENSE COUNSEL REGARDING ANY AND ALL CLAIMS.

THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE 11 NOTICES

Consultant agrees that all notices or communications to Town permitted or required under this Agreement shall be delivered to Town at the following address:

**City Manager
Town of Addison, Texas
5300 Belt Line Road
Dallas, Texas, 75254
Telephone: (972) 450-7000**

Town agrees that all notices or communication to Consultant permitted or required under this Agreement shall be delivered to Consultant at the following address:

**Dunaway Associates L.L.C.
Matt Patyk, Senior Discipline Lead, Associate
550 Bailey Avenue, Suite 400
Fort Worth, Texas, 76107
Telephone: (817) 647-5508
Email: mpatyk@dunaway.com**

Any notice provided in writing under the terms of this Agreement by either party to the other shall be in writing and may be effected by registered or certified mail, return receipt requested.

All notices or communication required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is postmarked by the sending party. Each party may change the address to which notice may be sent to that party by giving notice of such change to the other party in accordance with the provisions of this Agreement.

ARTICLE 12 MISCELLANEOUS

- 12.1 **Complete Agreement** – This Agreement, including the exhibits hereto labeled “A” through “F,” all of which are incorporated herein for all purposes, constitute the entire Agreement by and between the parties regarding the subject matter hereof and supersedes all prior and/or contemporaneous written and/or oral understandings. This Agreement

may not be amended, supplemented, and/or modified except by written agreement duly executed by both parties. The following exhibits are attached below and made a part of this Agreement:

12.1.1 Exhibit "A," Scope of Services.

12.1.2 Exhibit "B," Compensation Schedule / Project Billing / Project Budget.

12.1.3 Exhibit "C," Town of Addison Guidelines for Direct Expenses; General and Administrative Markup; Travel and Subsistence Expenses.

12.1.4 Exhibit "D," Town of Addison Contractor Insurance Requirements.

12.1.5 Exhibit "E," Affidavit.

12.1.6 Exhibit "F", Conflict of Interest Questionnaire, Form CIQ.

In the event there are conflicting terms or requirements between this Agreement and any of the Exhibits "A" through "F", this Agreement shall control then Exhibit "C," then Exhibit "D," then Exhibit "E," then Exhibit "F," then Exhibit "A," and then Exhibit "B."

12.2 **Assignment and Subletting** – The Consultant agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the Town. The Consultant further agrees that the assignment or subletting or any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Consultant of its full obligations to the Town as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Consultant, and there shall be no third-party billing.

12.3 **Successors and Assigns** – Town and Consultant, and their partners, assigns, successors, subcontractors, executors, officers, agents, employees, representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

12.4 **Severability** – In the event of a term, condition, or provision of this Agreement is determined to be invalid, illegal, void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been contained herein.

- 12.5 **Venue** – This entire Agreement is performable in Dallas County, Texas and the venue for any action related directly or indirectly, to this Agreement or in any manner connected therewith shall be in Dallas County, Texas, and this Agreement shall be construed under the laws of the State of Texas.
- 12.6 **Execution / Consideration** – This Agreement is executed by the parties hereto without coercion or duress for any substantial consideration, the sufficiency of which is forever confessed.
- 12.7 **Authority** – The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for an on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the other party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.
- 12.8 **Waiver** – Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.
- 12.9 **Headings** – The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.
- 12.10 **Multiple Counterparts** – This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- 12.11 **Sovereign Immunity** – The parties agree that the Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.
- 12.12 **Additional Representations** – Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had the opportunity to confer with its counsel.
- 12.13 **Miscellaneous Drafting Provisions** – This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement 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.

12.14 **No Third-Party Beneficiaries** – Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third-party beneficiaries by entering into this Agreement.

12.15 **No Boycott Israel** – Pursuant to Texas Government Code Chapter 2271, Consultant's execution of this Agreement shall serve as verification that the Consultant does not presently boycott Israel and will not boycott Israel during the term of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest day as reflected by the signatures below.

Effective Date: _____

TOWN:
Town of Addison, Texas

By: _____
Wesley S. Pierson, City Manager

Date: _____

CONSULTANT:
Dunaway Associates, LLC

By:  _____

Name: Matt Patyk, CPSWQ, CFM

Title: Senior Discipline Lead | Associate

Date: July 6, 2021

STATE OF TEXAS

§
§
§

COUNTY OF DALLAS

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Wesley S. Pierson**, Town of Addison, Texas City Manager, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of _____, 2021.

Notary Public In and For the State of Texas
My commission expires: _____

STATE OF TEXAS

§
§
§

COUNTY OF TARRANT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Matt Patyk**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 6 day of July, 2021.



Leigh Ann Underwood

Notary Public In and For the State of Texas
My commission expires: 04/30/2025

Exhibit "A"
Scope of Services
Agreement by and between the Town of Addison, Texas (Town)
and Dunaway Associates, LLC
to perform Professional GIS Services for
Addison Digital Plan Room



Mr. Kingsley Obinna, GISP
GIS Manager – Information Technology
Town of Addison
P.O. Box 9010
Addison, Texas 75001

Via e-mail: kobinna@addisontx.gov

Reference: Proposal for Professional GIS Services
Town of Addison – Plat and Easement Digitizing and Mapping

Mr. Obinna:

Thank you for the opportunity to submit this proposal for professional GIS services to support the GIS services at the Town of Addison. Based on our conversations, we believe the following scope of services will meet your needs for Plat and Easement mapping:

- Plat Mapping, utilizing existing plot map data to digitize and link within the existing Addison enterprise GIS system.
- Easement Mapping, utilizing existing easement maps to digitize and link within the existing Addison enterprise GIS system.
- Improving the completeness and accessibility of the Town's infrastructure information.
- Reducing the quantity and response time of Requests for Information (RFIs) by improving access time to critical Town documents.

We look forward to working with the Town of Addison and welcome the opportunity to discuss any aspect of our proposal, recommended course of action and costing in order to finalize a mutually beneficial agreement. If you wish to proceed as proposed, please execute this document in the space provided below and return it to Dunaway.

Should you have any questions or need additional information, please do not hesitate to contact me at (817) 647-5508 or by email at mpatyk@dunaway.com.

Sincerely,

Matt Patyk, CPSWQ, CFM
Senior Discipline Lead, Associate
Dunaway Associates, LLC

Corporate: 1500 West Avenue, Suite 400 • Fort Worth, Texas 76102 • Phone: 817.522.8121 • Fax: 817.522.7437 • www.dunaway.com
Home: 817.522.8121 • info@dunaway.com • www.dunaway.com

ABOUT DUNAWAY

Dunaway provides a full suite of GIS services in support of various market sectors across the US, including municipalities, education, healthcare, residential, and commercial developments. Dunaway is an Esri Business Partner with an Esri ArcGIS Online Specialty certification.



Dunaway offers GIS strategy and support services needed for the ongoing planning, maintenance, support, and advancement of our client's GIS programs.



Dunaway may be requested to assist with, but not limited to, the following on-call services and tasks:

- Data Creation, Conversion, and Migration
- Strategic Assessment and Planning
- System Support and Management
- User Training
- Application Creation and Deployment
- Field Data Collection and Validation
- Staff Augmentation

PROJECT UNDERSTANDING

The Town of Addison maintains a number of Plat and Easement drawings stored within Addison offices. Digitizing this data will provide easier access to the data while reclaiming space used to store these files.

The benefits of digital archiving:

- **Accessibility** – Operations personnel and contractors will be able to access documents and drawings from any computer with a network connection.
- **Compatibility** – All files, including drawings, are stored in the easy-to-use, platform-friendly, non-proprietary PDF format. Any computer, laptop, or PDA with the free Adobe Reader program can view and search the files.
- **Usefulness** – All documents and drawings are searchable through indexing and text recognition.
- **Storage Reduction** – The documentation and drawings are stored on the Town of Addison network.
- **Durability** – There is no longer a concern about lost documents, torn pages, or crumpled drawings. Data is stored on the Town of Addison network.

Executive Fee Summary

Dunaway proposes the scope of work services **not to exceed the fee of \$70,000**. A fee schedule of digitizing per sheet is detailed below. Dunaway will utilize a third-party scanning company for item 02, when scanning of paper documents is needed.

The Town of Addison will be able to allocate the expenditure of the above fee as they see fit based on the stakeholder priorities and document availability based on the following fee schedule:

- 01. Plat and Easements – Mapping and Document Linking Only \$2.50 per sheet
- 02. Plat and Easements – Scanning, Cataloging, Mapping, and Linking ... \$9.50 per sheet

Total Services Not to Exceed \$70,000

Sample Pricing:

Dunaway will adjust efforts based on Addison staff's needs and priorities. Below are two examples of potential work breakdowns and cost structures.

Example 1:

- Task 1: 28,000 sheets mapped and linked.....\$70,000 Total

Example 2:

- Task 1: 20,001 sheets mapped and linked.....\$50,002.5
 - Task 2: 2,105 sheets scanned, cataloged, mapped, linked.....\$19,997.5
- Example Total: \$70,000

Fee

Dunaway proposes to provide the scope of work described below for a fee as shown above plus direct expenses and any applicable State Sales Tax. All administrative and application fees required by review authorities will be paid by the Client and are not included in Dunaway's proposed fee. Please find attached to this proposal our Standard Terms & Conditions for professional services, which is also part of this proposal.

DETAILED SCOPE OF WORK

The scope of work consists of scanning or using existing PDFs of Addison's Plat and Easement sheets. Those documents will be mapped and linked to the appropriate map AOI for access in Addison's GIS environment.

01. Plat and Easements – Mapping and Document Linking Only

Dunaway will acquire the Town's existing PDF plan sets, forgoing the need for document scanning. Dunaway will create the project Area of Interest for each Plat and Easement. GIS files will be updated with proper information for each easement and plat such as, but not limited to, type, size, year easement granted, etc. Dunaway will link each plan sheet to the corresponding map AOI dataset and in GIS.

02. Plat and Easements – Scanning, Cataloging, Mapping, and Linking

Dunaway will acquire and manage the scanning of and Plat and Easement documents that need to be scanned to PDF. A third-party scanning and cataloging company will be utilized by Dunaway to expedite scanning. Digital plans will be delivered to the Town via an FTP site within 1 year of project execution.

As part of this task, Dunaway will pickup the plan sets and deliver to the third-party scanning company, as needed, and return them to the Town after scanning. The documents will be digitally scanned per the specifications listed below.

1. Scan hard copy drawings into a PDF File.
2. Scan all drawings with OCR to make searchable.
3. All drawings shall be de-skewed and scaled.
4. All documents will be compatible with operating systems supported by the Adobe Reader software.
5. All documents will be capable of being copied to a PC, laptop, iPad/Tablet, or server with no additional costs or fees.
6. One (1) copy of the updated plan room will be available via an FTP site.

7. One (1) copy of the archived documents will be retained by Dunaway and/or the third-party scanning company to provide offsite storage protection. (Unless we are directed not to retain a backup copy).
8. Should a drawing(s) removed from the client's site be needed by the client during scanning, the drawing(s) shall be made immediately available electronically.
9. All documents will be printable. The printing area will range from a zoomed view on a single page to all pages.
10. All hard-copy drawings after scanning shall be returned to the client in the same order they were received. Less stapling and rebinding.

This proposal does NOT include organizing, additional indexing or TAB marking. These options can be provided as additional services. Documents that are over stapled or heavily damaged may incur additional charges for time. This proposal is based on all paper documents being in good condition and do not require extensive repair or cleanup. An additional, separate cost may be incurred based on document conditions, including but not limited to if they are torn, water damaged, or heavily stapled (more than 3 per set).

Dunaway shall notify the Town of any files with major damage and of any expected associated costs to repair prior to any document repair work commences. The Town shall provide approval to proceed prior to any major repair work commencing.

Dunaway will catalog the plan sheets by plan set, and include the core project information, such as project number, name, date, and subdivision.

Only those services specifically mentioned in the Scope of Work section are offered as part of this proposal.

ADDITIONAL SERVICES (Not Included in Proposal)

The following is a list of some, but not necessarily all, of the services that can be useful or required for a project of this type. The listed services have not been included in this proposal. Dunaway can provide or sub-consult many of these services if desired by the Client. If the Client determines any of these services is desired, Dunaway can either amend this proposal to incorporate the desired service or services or recommend other actions to cover the needs as expressed.

1. Civil engineering, structural engineering, planning, landscape architecture design services.
2. Interior GIS services and data creation, including floor plans, AEDs, fire panels, security cameras, door classifications, etc.
3. Field Data Collection and Validation
4. Campus safety and security facility assets.

5. Property inventory and easement mapping.
6. Parking lots and spaces.
7. High resolution aerial imagery.
8. Annual maintenance

If this proposal meets with your approval, please sign below and return one copy to our office as our notice to proceed. We appreciate the opportunity to assist you with this project and look forward to its success.

Respectfully submitted,

DUNAWAY ASSOCIATES, LLC.,
a Texas limited liability company

Agreed & Accepted

TOWN OF ADDISON



 Matt Patyk, CPSWQ, CFM
 Senior Discipline Lead, Associate

By: _____

Name: _____

Title: _____

Date: _____



 Kervin Campbell, PE
 Civil Engineering Executive | Principal

Attachment: Standard Terms & Conditions

MAP/eas/lau



STANDARD TERMS & CONDITIONS

These Standard Terms & Conditions are attached to and fully incorporated into the Base Contract. The Base Contract, together with these Standard Terms and Conditions, is sometimes called this "Agreement" herein.

- I. **Basis of Compensation.** Professional Services shall be billed monthly and based upon either a percent complete for lump sum tasks or Dunaway Associates, LLC's Standard Hourly Bill Rate Schedule. This Schedule is updated annually in January.

2021 STANDARD HOURLY BILL RATES SCHEDULE	
STAFF TYPE	HOURLY BILL RATE
Administrative.....	\$90.00 - \$160.00
Information Systems.....	\$110.00 - \$121.00
Marketing/Business Development.....	\$95.00 - \$276.00
Financial.....	\$125.00 - \$286.00
Civil Technician.....	\$100.00 - \$121.00
Civil Designer.....	\$65.00 - \$143.00
Graduate Engineer.....	\$125.00 - \$143.00
Project Engineer.....	\$140.00 - \$226.00
Managing Engineer.....	\$170.00 - \$193.00
Technical Engineer.....	\$190.00 - \$286.00
Project Surveyor.....	\$155.00 - \$171.00
Survey Party Chief.....	\$125.00 - \$160.00
Survey Technician.....	\$90.00 - \$132.00
Survey Field Assistant.....	\$70.00 - \$88.00
GIS.....	\$100.00 - \$171.00
Planner.....	\$105.00 - \$231.00
Landscape Architect Intern.....	\$105.00 - \$116.00
Landscape Designer.....	\$115.00 - \$127.00
Landscape Architect.....	\$115.00 - \$165.00
Environmental Scientist.....	\$110.00 - \$154.00
Intern.....	\$75.00 - \$93.00
Discipline Lead.....	\$145.00 - \$270.00
Engagement Manager.....	\$215.00 - \$350.00
Line of Business Manager/Executive.....	\$250.00 - \$320.00
Regional Manager/Executive.....	\$265.00 - \$292.00
Managing Partner.....	\$375.00 - \$420.00
Chairman/President.....	\$475.00 - \$540.00
- II. **Limitation of Liability.** To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability in the aggregate of Dunaway Associates, LLC and Dunaway Associates, LLC's offices, directors, partners, employees, agents and Dunaway Associates, LLC's Subconsultants, and any of them, to Client and anyone claiming by, through or under Client, for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in anyway related to the Project or this Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Dunaway Associates, LLC or Dunaway Associates, LLC's offices, director, partners, employees, agents or Dunaway Associates, LLC's Subconsultants or any of them, shall not exceed the total compensation received by Dunaway Associates, LLC under this Agreement.
- III. **No Consequential Damages.** Notwithstanding any other provision of this Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or Dunaway Associates, LLC, their employees, agents, or subconsultants. Consequential damages include, but are not limited to, loss of use and loss of profit.
- IV. **No Duties to Third Parties.** The services to be performed by Dunaway Associates, LLC under this Agreement are intended solely for the benefit of the Client. Nothing contained herein shall confer any rights upon or create any duties on the part of Dunaway Associates, LLC toward any person or persons not a party to this Agreement including, but not limited to any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of them.
- V. **Claims Limited to Insurance Coverage.** The Client and Dunaway Associates, LLC waive all rights for damages, each against the other and against the contractor, subconsultants, agents, and employees of the other, but only to the extent covered by properly insurance during or after construction, except such rights as they may have to the proceeds of such insurance. The Client and Dunaway Associates, LLC each shall require similar waivers from their contractors, subconsultants, and agents.
- VI. **General Contractor Duties and Responsibilities.** Neither the professional activities of Dunaway Associates, LLC, nor the presence of Dunaway Associates, LLC or his or her employees and subconsultants at a construction site, shall relieve the General Contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, technique or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. Dunaway Associates, LLC and his or her personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Client agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor. The Client also agrees that the Client, Dunaway Associates, LLC and Dunaway Associates, LLC's Subconsultants shall be indemnified and shall be made additional insureds under the General Contractor's general liability insurance policy.
- VII. **Cancellation.** It is understood that this Agreement may be canceled at any time by the Client and payment shall be due based on the method of computation in Section I only on Work performed or expenses incurred to date of cancellation.
- VIII. **Payments and Interest.** Client recognizes that prompt payment of Dunaway Associates, LLC's Invoices is an essential aspect of the overall consideration Dunaway Associates, LLC requires for providing service to Client. Client agrees to pay all charges not in dispute within 30 days of date of invoice. All accounts past due 60 days from date of invoice shall pay interest at the rate of 18% (1.5% per month), or maximum allowable by law, whichever is lower, of the past due amount per month.

STANDARD TERMS & CONDITIONS

Page 2 of 2

- IX. Cessation of Services.** If Client, for any reason, fails to pay the undisputed portion of Dunaway Associates, LLC's invoices within 30 days of invoice date, Dunaway Associates, LLC has the right to cease work on the project and Client shall waive any claim against Dunaway Associates, LLC for cessation of services, and shall defend and indemnify Dunaway Associates, LLC from and against any claims for injury or loss stemming from Dunaway Associates, LLC's cessation of service. Client shall also pay Dunaway Associates, LLC the cost associated with premature project demobilization. In the event the project is reinitiated, Client shall also pay the cost of re-mobilization and shall renegotiate appropriate contract terms and conditions, such as those associated with budget, schedule or scope of service.
- X. Legal Action.** Subject in all respects to the other provisions of this Agreement, in the event legal action is necessary to enforce the payment terms of this Agreement, the prevailing party in any such action shall be entitled to collect any judgment or settlement sum due, plus reasonable attorney's fees, court costs and other reasonable expenses incurred by the prevailing party in connection with such collection action.
- XI. Dispute Resolution and Termination.** In the event any bill or portion thereof, is disputed by Client, Client shall notify Dunaway Associates, LLC within 10 days of receipt of the bill in question, and Client and Dunaway Associates, LLC shall work together to resolve the matter within 60 days of its being called to Dunaway Associates, LLC's attention. If resolution of the matter is not obtained within 60 days, either party may terminate this Agreement in accordance with conditions indicated in the termination of agreement clause specified in Section VII.
- XII. Mediation.** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and Dunaway Associates, LLC agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. The Client and Dunaway Associates, LLC further agree to include a similar mediation provision in all agreements with independent contractors and subcontractors retained for the Project and to require all independent contractors and subcontractors also to include a similar mediation provision in all agreements with their subcontractors, subcontractors, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.
- XIII. Surveying Regulations.** Land Surveying in the State of Texas is regulated by the Texas Board of Professional Engineers and Land Surveyors, 1917 S. Interstate 35, Austin, Texas 78741, telephone number (512) 440-7725.
Dunaway Associates, LLC Survey Firm Registration #10098100
Dunaway LLC Survey Firm Registration #10055900
- XIV. Reimbursable Expenses.** Other charges which may apply to the Client's project include:
- A. Expenses included in 28. Administrative Fees: mileage, parking, tolls, internet printing, airfare, postage, FedEx/UPS, courthouse records, fax, certificates, on the job meals, traveling time, field supplies, and other local travel expenses.
 - B. All direct non-labor expenses, including fees paid on behalf of Client, not advertising, airfare, lodging, and rentals are charged at actual cost.
 - C. For services not offered as a part of Dunaway Associates, LLC's normal services, the Client may, at his option, contract directly with the third party for such services or through Dunaway Associates, LLC. If such contracts are made through Dunaway Associates, LLC, a service charge of 10% will be added to the net amount of such contracts.
- Dunaway reserves the right to amend this fee policy at any given time.
- XV. Certifications, Guarantees and Warranties.** Dunaway Associates, LLC shall not be required to evaluate any document that would result in its certifying, guaranteeing or warranting the existence of conditions, whose existence Dunaway Associates, LLC cannot ascertain.
- XVI. Assignment.** Neither party to this Agreement shall heretofore, subject to assign any rights or duties under or interest in this Agreement, including but not limited to income that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subcontractors, normally contemplated by the Consultant as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.
- XVII. Miscellaneous.**
- A. **Intellectual Property.** The drawings, specifications and any other work products (including but not limited to software programs and electronic media) of any description prepared by Dunaway Associates, LLC for this project shall remain the property of Dunaway Associates, LLC and Dunaway Associates, LLC shall retain all common law, statutory and other reserved rights, including the copyright, where applicable.
 - B. **Entire Agreement.** This Agreement is the entire agreement between the parties with respect to the subject matter of this Agreement and shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and assigns.
 - C. **Counterparts.** This Agreement shall be executed with one or more separate counterparts, each of which, when so executed, shall, together, constitute and be one in the same instrument.
 - D. **Governing Law and Venue.** This Agreement shall be governed by, and construed in accordance with the substantive laws of the State of Texas and the parties hereto agree and consent that venue for all purposes shall be in Tarrant County, Texas.
 - E. **Proprietary Information.** The terms stated in the proposal are valid only if executed by both parties within 30 days from the date of the proposal.
- XVIII. News Publicity.** Dunaway Associates, LLC has the right to photograph the above named project and to use the photos in the promotion of the professional practice of Dunaway Associates, LLC through advertising, public relations, brochures or other marketing materials. Should additional photos be needed in the future, the Client agrees to provide reasonable access to the project.

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dunawayassociates.com

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

**Agreement by and between the Town of Addison ("Town")
and Dunaway Associates, LLC
to perform Professional GIS Services for
Addison Plat and Easement Digitizing and Mapping**

I. COMPENSATION SCHEDULE / PROJECT BILLING SUMMARY.

TASK TO BE COMPLETED	DOLLAR AMOUNT
Plat and Easements – Mapping and Document Linking Only	\$2.50 / sheet
Plat and Easements – Scanning, Cataloging, Mapping and Linking	\$9.50 / sheet
Total Lump Sum Fee	
<hr/>	
<u>TOTAL CONSULTANT'S FEE (NOT-TO-EXCEED)</u>	<u>\$70,000.00</u>

EXHIBIT "C"
TOWN OF ADDISON GUIDELINES FOR DIRECT EXPENSES; GENERAL AND ADMINISTRATIVE MARKUP; TRAVEL AND SUBSISTENCE EXPENSES

I. **CONSULTANT'S RESPONSIBILITY**. The Consultant shall be solely responsible for the auditing of all direct expense, approved markup (general and/or administrative), and approved travel and/or subsistence charges, including those to be included under a sub-contract, prior to the Town for reimbursement, and Consultant shall be responsible for the accuracy thereof. Any overpayment by the Town for errors in submittals for reimbursement may be deducted from the Consultant's subsequent payment(s) for services; however, this shall not be the Town's sole and exclusive remedy for said overpayment.

II. **GUIDELINES FOR DIRECT EXPENSES**.

A. **Local Transportation** – Transportation in connection with the Project, when such transportation is not a function of routine performance of the duties of the Consultant in connection with the Project, and when such transportation exceeds beyond fifty (50) miles from the Project site, shall be reimbursed at a standard mileage rate consistent with that as issued, and periodically revised, by the United States Internal Revenue Service (IRS). Under no circumstances shall Town reimburse Consultant at a higher standard mileage rate or pay additional markup on charges for local transportation. Completion of Town's Standard Mileage Log is required for submittal of these charges for reimbursement, including justification for each submitted expense.

Under no circumstances are charges associated with rental cars for local transportation eligible for reimbursement by Town. Toll road subscriptions or toll plaza receipts are not reimbursable. Consultant agrees to place these standards in all subcontracts for work on the Project.

B. **Supplies, Material, Equipment** – Town shall reimburse the actual cost of other similar direct Project-related expenses, which are duly presented in advance and approved by Town's Project Manager in writing.

C. **Commercial Reproduction** – Town shall reimburse the actual cost of reproductions, specifically limited to progress prints prepared for presentation to Town at each phase of progress, and final Construction Documents prepared for distribution at bidding phase, provided that the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the Town. Consultant shall provide such documentation to Town for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

D. **In-House Reproduction** - Consultant shall make arrangements with the Town for prior approval of in-house reproduction rates prior to submitting these expenses for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number or reproductions, the

date, time, description, the approved standard rate, and a justification for each submitted expense for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.

- E. **Commercial Plotting** – Town shall reimburse the actual cost of plots, specifically limited to final documents, provided the Consultant has duly obtained at least three (3) quotations from commercial firms and has chosen the best value for the Town. Consultant shall provide such documentation to Town for review prior to submitting these expenses for reimbursement. Consultant agrees to place these standards in all subcontracts for work on the Project.
- F. **In-House Plotting** – Consultant shall make arrangements with Town for prior written approval of in-house plotting rates prior to submitting these charges for reimbursement. Town shall provide Consultant with a standard format for documenting these charges. Completion of the Town's reproduction log is required as a prerequisite for payment, including the number of plots, the date, time, description, the approved standard rate, and a justification for each submitted charge for reimbursement.
- G. **Communications** – Reimbursement for expenses relating to electronic communications shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project. Telephone service charges including office or cellular phones, WATTS, or Metro line services or similar charges are not reimbursable.
- H. **Postage, Mail, and Delivery Service** – Town shall reimburse the actual cost of postage and delivery of Instruments of Service, provided the Consultant duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the Town, which may require comparison of delivery costs offered by three (3) or more sources or methods of delivery, which at a minimum shall include U.S. Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Consultant and/or the Consultant's employees. Consultant agrees to place these standards in all subcontracts for work on the Project.
- I. **Meals and Other Related Charges** – Meals or any other related expenses are not reimbursable unless incurred outside a fifty (50) mile radius of the Project, and then only reimbursable for the actual cost subject to compliance with the Town's currently adopted policy. Non-allowable costs include, but are not limited to, charges for entertainment, alcoholic beverages, and gratuities.

III. GUIDELINES FOR GENERAL AND ADMINISTRATIVE MARKUP.

- 1. **Requirement of Prior Approval** – Consultant may be allowed to charge a General and/or Administrative Markup on work completed if Consultant can clearly define to Town specifically what costs are included in the markup calculation. To apply

General and/or Administrative Markup, Consultant must also document to Town what costs would be considered direct costs. Town shall issue approval in writing to allow Consultant to charge General and/or Administrative Markup. Town reserves the right to reject any and all requests for General and/or Administrative Markup.

IV. GUIDELINES FOR TRAVEL AND SUBSISTENCE EXPENSES.

1. **Adherence to Currently Adopted Town Travel Policy** – Unless otherwise stated within this Agreement, reimbursements shall be governed by the same travel policies provided for Town employees according to current adopted policy. All lodging and meals are reimbursed in accordance with IRS rules and rates as shown on the U.S. General Services Administration website for the Town: <http://www.gsa.gov/portal/category/21287>.
2. Prior to performance under this Agreement, Consultant shall request, and the Town shall provide the provisions and the restrictions that apply to out-of-Town reimbursements.

EXHIBIT "D"
TOWN OF ADDISON CONTRACTOR INSURANCE REQUIREMENTS

REQUIREMENTS

Contractors performing work on TOWN OF ADDISON property or public right-of-way shall provide the TOWN OF ADDISON a certificate of insurance or a copy of their insurance policy(s) (and including a copy of the endorsements necessary to meet the requirements and instructions contained herein) evidencing the coverages and coverage provisions identified herein within ten (10) days of request from TOWN OF ADDISON. Contractors shall provide TOWN OF ADDISON evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. Work shall not commence until insurance has been approved by TOWN OF ADDISON.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must have a A.M. Best's rating A-:VII or greater.

Listed below are the types and minimum amounts of insurances required and which must be maintained during the term of the contract. TOWN OF ADDISON reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

TYPE OF INSURANCE	AMOUNT OF INSURANCE	PROVISIONS
1. Workers' Compensation Employers' Liability to include: (a) each accident (b) Disease Policy Limits (c) Disease each employee	Statutory Limits per occurrence Each accident \$1,000,000 Disease Policy Limits \$1,000,000 Disease each employee \$1,000,000	TOWN OF ADDISON to be provided a <u>WAIVER OF SUBROGATION AND 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-:VII rated or above.
2. Commercial General (Public) Liability to include coverage for: a) Bodily Injury b) Property damage c) Independent Contractors d) Personal Injury e) Contractual Liability	Bodily Injury/Property Damage per occurrence \$1,000,000, General Aggregate \$2,000,000 Products/Completed Aggregate \$2,000,000, Personal Advertising Injury per occurrence \$1,000,000, Medical Expense 5,000	TOWN OF ADDISON to be listed as <u>ADDITIONAL INSURED</u> and <u>provided 30 DAY NOTICE OF CANCELLATION</u> or material change in coverage. Insurance company must be A-:VII rated or above.

<p>3. Business Auto Liability to include coverage for:</p> <p>a) Owned/Leased vehicles</p> <p>b) Non-owned vehicles</p> <p>c) Hired vehicles</p>	<p>Combined Single Limit</p> <p>\$1,000,000</p>	<p><u>TOWN OF ADDISON to be listed as ADDITIONAL INSURED and provided 30 DAY NOTICE OF CANCELLATION or material change in coverage.</u></p> <p>Insurance company must be A:VII-rated or above.</p>
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Certificate of Liability Insurance forms (together with the endorsements necessary to meet the requirements and instructions contained herein) shall be submitted to the Finance Department by fax at: **(972) 450-7096** or emailed to: **sglickman@addisontx.gov**. Questions regarding required insurance should be directed to the Purchasing Manager.

With respect to the foregoing insurance,

1. All liability policies shall contain no cross-liability exclusions or insured versus insured restrictions applicable to the claims of the Town of Addison.
2. All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison, Texas of any material change in the insurance coverage.
3. All insurance policies shall be endorsed to the effect that the Town of Addison, Texas will receive at least thirty (30) days' notice prior to cancellation or non-renewal of the insurance.
4. All insurance policies, which name the Town of Addison, Texas as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
5. Insurance must be purchased from insurers that are financially acceptable to the Town of Addison and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Upon request, Contractor shall furnish the Town of Addison with complete copies of all insurance policies certified to be true and correct by the insurance carrier.

This form must be signed and returned with your quotation. You are stating that you do have the required insurance and if selected to perform work for TOWN OF ADDISON, will provide the certificates of insurance (and endorsements) with the above requirements to TOWN OF ADDISON within 10 working days.

A CONTRACT/PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE AND APPROVAL OF INSURANCE.

AGREEMENT

I agree to provide the above described insurance coverages within 10 working days if selected to perform work for TOWN OF ADDISON. I also agree to require any subcontractor(s) to maintain insurance coverage equal to that required by the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The

Town accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

Project/Bid# _____

Company: _____

Printed Name: _____

Signature: _____ **Date:**

AGENCY CUSTOMER ID: DUNAASS-01

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Higginbotham Insurance Agency, Inc.		NAMED INSURED Dunaway Associates LLC 550 Bailey Ave, #400 Fort Worth TX 76107	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM.

FORM NUMBER: 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Umbrella is follow form of General Liability, Auto Liability, and Employers Liability (Hartford Casualty Insurance Co Pol #84WBGAD4SCF Eff 6/16/2021 to 6/16/2022)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/8/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Risk Strategies 12801 North Central Expy. Suite 1710 Dallas, TX 75243	CONTACT NAME: Joe Bryant
	PHONE (A/C, No. Ext): (214) 323-4602 FAX (A/C, No): (214) 503-8899 E-MAIL ADDRESS: certificatedallas@risk-strategies.com
INSURED Dunaway Associates, LLC 550 Bailey Avenue Suite 400 Fort Worth TX 76107	INSURER(S) AFFORDING COVERAGE NAIC #
	INSURER A: Hartford Insurance Company of MidW 37478
	INSURER B: XL Specialty Insurance Company 37885
	INSURER C:
	INSURER D:
	INSURER E:


COVERAGES **CERTIFICATE NUMBER: 62219444** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	84WBGAD4SCF	6/16/2021	6/16/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability	<input checked="" type="checkbox"/>	DPR9977078	4/28/2021	4/28/2022	Per Claim \$5,000,000 Annual Aggregate \$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty (30) day notice of cancellation in favor of certificate holder on all policies. A waiver of subrogation is shown in favor of the certificate holder on all policies as required by written contract.

CERTIFICATE HOLDER City of Addison 16801 Westgrove Dr. Addison TX 75001	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  Joe Bryant
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EXHIBIT "E"
AFFIDAVIT

THE STATE OF Texas §
THE COUNTY OF Tarrant §
§

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

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

- Ownership of 10% or more of the voting shares of the business entity.
- Ownership of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty-Five Thousand and 00/100 Dollars (\$25,000.00).
- A relative of mine has substantial interest in the business entity or property that would be affected by my business decision of the public body of which I am a member.
- Other: _____
- None of the Above.

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

Signed this 6 day of July, 2021.

[Signature]

Signature of Official / Title

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

Sworn to and subscribed before me on this 6 day of July, 2021.



Leigh Ann Underwood

Notary Public in and for the State of Texas
My commission expires: 4/30/2025

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

FORM CIQ

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

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

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

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

OFFICE USE ONLY

Date Received

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

None

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

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

None

 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

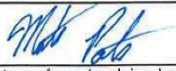
B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

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.

None

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

July 6, 2021

 Date

Local Government Officers Town of Addison, Texas

For purposes of completion of the required Conflict of Interest Questionnaire for the Town of Addison Texas (required by all Vendors who submit bids/proposals), Local Government Officers are:

Mayor: Joe Chow

Council
Members: Guillermo Quintanilla, Mayor Pro Tempore
Paul Walden, Deputy Mayor Pro Tempore
Tom Braun, Council Member
Lori Ward, Council Member
Kathryn Wheeler, Council Member
Marlin Willesen, Council Member

City Manager: Wesley S. Pierson