

**PROFESSIONALSERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND DUNAWAY ASSOCIATES, LLC
FOR THE FIRST & COIT COMMUNITY PARK PHASE I PROJECT 2122-PK**

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

WITNESSETH:

WHEREAS, Town desires to obtain professional services in connection with the **First & Coit Community Park Phase I Project 2122-PK**, hereinafter called "Project";

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

1. **Term of Agreement.** This Agreement shall become effective on the date of its execution by both Parties, and shall continue in effect thereafter until terminated as provided herein.

2. **Services to be Performed by Consultant.** The Parties agree that Consultant shall perform such services as are set forth and described in **Exhibit A - Scope of Services** and incorporated herein as if written word for word. All services provided by Consultant hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of their profession. In case of conflict in the language of Exhibit A and this Agreement, this Agreement shall govern and control. Deviations from the Scope of Services or other provisions of this Agreement may only be made by written agreement signed by all Parties to this Agreement.

3. **Prompt Performance by Consultant.** Consultant shall perform all duties and services and make all decisions called for hereunder promptly and without unreasonable delay as is necessary to cause Consultant's services hereunder to be timely and properly performed. Notwithstanding the foregoing, Consultant agrees to use diligent efforts to perform the services described herein and further defined in any specific task orders, in a manner consistent with these task orders; however, the Town understands and agrees that Consultant is retained to perform a professional service and such services must be bound, first and foremost, by the principles of sound professional judgment and reasonable diligence.

4. **Compensation of Consultant.** Town agrees to pay to Consultant for satisfactory completion of all services included in this Agreement a total lump sum fee of one million ninety-one thousand six hundred dollars (**\$1,091,600.00**) for the Project as set forth and described in **Exhibit B - Compensation Schedule** and incorporated herein as if written word for word. Lump sum fees shall be billed monthly based on the percentage of completion. Hourly not to exceed fees shall be billed monthly based on hours of work that have been completed. Direct Costs for expenses such as mileage, copies, scans, sub-consultants, and similar costs are included in fees and shall be billed as completed.

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

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

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

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

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

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

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

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

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

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

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

Dunaway Associates, LLC
Chris Wilde, Chief Executive Officer
550 Bailey Avenue, Suite 400
Fort Worth, TX 76107
cwilde@dunaway.com

Town of Prosper
Harlan Jefferson, Town Manager
PO Box 307
Prosper, TX 75078
harlan_jefferson@prospertx.gov

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

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

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

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

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

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

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

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

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

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

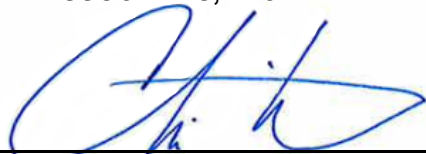
19. **“Anti-Israel Boycott” Provision.** In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott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

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

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

DUNAWAY ASSOCIATES, LLC

TOWN OF PROSPER, TEXAS

By: 

Signature

By: _____
Signature

Chris Wilde
Printed Name

Harlan Jefferson
Printed Name

Chief Executive Officer
Title

Town Manager
Title

March 21, 2022
Date

Date

**EXHIBIT A
SCOPE OF SERVICES**

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND DUNAWAY ASSOCIATES, LLC
FOR THE FIRST & COIT COMMUNITY PARK PHASE I PROJECT 2122-PK**

I. PROJECT DESCRIPTION

Perform professional design services for Phase 1 of park improvements

II. TASK SUMMARY

Task A. Data Collection & Topographic Survey

Task B. Phase I Conceptual Alternative

Task C. Schematic Design

Task D. Design Development

Task E. Final Construction Documents

Task F. Bid Phase

Task G. Construction Phase

Task H. Erosion Control Plan(s)

III. DELIVERABLES

Task A – Data Collection & Topographic Survey	Existing Conditions Base Map, Kick Off Mtg, Topographic Survey
Task B – Phase I Conceptual Alternative	Conceptual Alternative, Cost Opinion, Presentation, Concept Plan
Task C – Schematic Design	SD Drawings, Preliminary OPC, Geotechnical Report
Task D – Design Development	DD Drawings, TOC for Technical Specs
Task E Final Construction Documents	95% CD Drawings, 95% Specs, 100% CD Drawings, 100% Specs
Task F – Bid Phase	Prepare addendum if required.
Task G – Construction Phase	Final Reports, Submittals, Shop Drawings, Punch List, As-builts
Task H – Erosion Control Plan(s)	Provide Plan to CMAR for SWPPP

PROPOSAL FOR PROFESSIONAL SERVICES
For
FIRST AND COIT COMMUNITY PARK PHASE I
Prosper, Texas

March 16, 2022

I. PROJECT DESCRIPTION

Dunaway Associates, L.P. (“Dunaway”) will perform professional design services for the Town of Prosper (“Town”) for improvements at First and Coit Community Park Phase I (“Park”). This work will be guided by the Sexton Park Final Master Plan, as previously developed by Dunaway on December 4, 2015. Dunaway will prepare final construction documents for the Park improvements for the purpose of a Construction Manager at Risk (CMAR) publicly bidding the work in accordance with Town standards.

Dunaway’s scope of services includes professional topographic survey, landscape architectural, architectural and engineering services. This scope of services and fee schedule is based upon an approved program and approximate total construction budget of \$11,800,000.

II. SCOPE OF SERVICES

A. Data Collection & Topographic Survey

1. The Town will provide Dunaway existing base data information and electronic files for on-site and off-site conditions including, but not limited to: above and below ground utilities as-built drawings; easements; surveys; property lines; roadways; creek drainage; vegetation, etc.
2. Dunaway will provide an existing conditions Topographic Survey of the approximate 75-acre site. This survey will include the approximate middle of Coit Road, East First Street, and Equestrian Way, and to the southern edge of the pond area on the north. One-foot interval contours will be developed based upon the results of the measurements taken. Existing visible above-ground utility facilities will be located and depicted on the face of the survey along with any other visible improvements situated within the defined area. Town benchmarks (or other benchmarks) will be used as the basis of the vertical datum for this survey. The horizontal datum for this survey will be NAD83, Texas Central Zone, 4202 (State Plane Coordinate System). The dripline of the tree masses along the creek will be

located, but not all the individual trees within this massing. For other areas on the site, trees 6-inches dbh and greater will be located, identified, and shown on the face of the survey.

3. Based upon base data information and electronic files as provided by the Town, as well as the existing conditions Topographic Survey, Dunaway will prepare existing conditions base maps.
4. Dunaway team members will attend one (1) kick-off meeting with Town representatives to discuss and confirm points of contact, technical criteria & requirements, the initial park development program, the overall project schedule & milestones, and the process for reviews by the Town.
5. While in Town for item A.4, Dunaway team members will perform one (1) site review with Town representatives to observe the current conditions at the Park, both on-site and off-site, and the areas for proposed development.

TASK A – Deliverables:

- Existing conditions base map in PDF format
- Kick-off meeting notes in PDF format
- Topographic Survey in PDF format

B. Phase I Conceptual Alternative

1. Dunaway will assemble the previous master plan files (2015), new base map, and concept imagery for a work session with Town staff and other representatives. Dunaway will facilitate a phone conference to discuss program priorities, initial staff ideas, potential theming, construction budget range for Phase I, etc. During this work session, a final list of program priorities will be agreed upon.
2. Based on the final program priorities identified in the group phone conference, Dunaway will prepare one (1) Conceptual Alternative for Phase I development. The Conceptual Alternative will include theming for the overall complex, as well as the possible phasing options.
3. Dunaway will prepare an overall Cost Opinion for the one (1) Conceptual Alternative.
4. Dunaway will attend one (1) meeting with Town staff to review the Conceptual Alternative and Cost Opinion.
5. Dunaway will prepare a consensus Concept Plan & Phasing Plan based upon input and approval by the Town.

6. Dunaway will assist Town staff in presenting the consensus Concept Plan & Phasing Plan to the Town Council.

TASK B – Deliverables:

- One (1) Conceptual Alternative in PDF format
- One (1) Cost Opinion in PDF format
- Powerpoint presentation in PDF format
- Consensus Concept Plan in PDF format

C. Schematic Design

1. Based upon the approved Concept Plan, Dunaway will prepare Schematic Design drawings for the proposed Park improvements. The Schematic Design drawings will consist of a preliminary site plan and separate graphics as necessary to show the conceptual configuration of key program elements.
2. In conjunction with the Schematic Design drawings, Dunaway will prepare a Preliminary Opinion of Probable Construction Cost for the proposed improvements.
3. Dunaway will attend one (1) meeting with Town representatives to review the Schematic Design Plans and Preliminary Opinion of Probable Construction Cost. This meeting will confirm the overall design and obtain Town approval before proceeding into the Design Development phase of work. If the Town chooses to increase the program and construction budget, Dunaway will review with the Town the required additional fees necessary to cover the increase in scope of work. Dunaway will not proceed into the Design Development phase until the final program and budget allocations have been approved in writing by the Town.
4. Based on the approved Schematic Design Plans & program, Dunaway will coordinate with a geotechnical engineer subconsultant for conducting site borings in the areas for proposed development. The geotechnical engineer will provide detailed analysis and recommendations/report to the Dunaway team. Dunaway will use the provided geotechnical report for the final design elements.

TASK C – Deliverables:

- Schematic Design Drawings in hard copy and PDF format
- Preliminary Opinion of Probable Cost
- Geotechnical report in PDF format

D. Design Development

1. Based upon approval of the Schematic Design Plans from the Town, Dunaway will prepare Design Development drawings for the proposed Park improvements. The Design Development drawings will be prepared at an approximate 50% level of completion of Construction Documents.
2. The Town and the CMAR will provide to Dunaway all front end documents, contracts, insurance requirements, general conditions, etc. for preparing the technical specifications.
3. Dunaway will prepare a preliminary Table of Contents for technical specifications.
4. Dunaway will submit the Design Development drawings and Table of Contents for the technical specifications to the Town and the CMAR for review and approval.
5. Dunaway will attend one (1) meeting with Town representatives and the CMAR to review the Design Development submittal. The Town will provide, in writing to Dunaway, all review comments for the Design Development submittal. Dunaway will obtain these comments and approval from the Town prior to proceeding into the Final Construction Documents. Dunaway will also provide a photometric plan for the proposed sports field lighting.

TASK D – Deliverables:

- Design Development Drawings in hard copy and PDF format
- List of Technical Specifications Sections (Table of Contents) in hard copy and PDF format

E. Final Construction Documents

1. Based upon approval from the Town for the Design Development submittal, Dunaway will prepare Final Construction Documents at an approximate 95% level of completion. The Construction Documents will be comprised of both the drawings and the technical specifications.
2. Based upon the 95% Construction Documents, Dunaway will assist the CMAR in their preparation of a final opinion of probable construction cost for the proposed Park improvements.
3. Dunaway will submit the 95% Construction Documents to the Town and the CMAR for final review and comments. The Town will provide Dunaway final, written comments for all revisions requested for the 95% Construction Documents.

4. Dunaway will attend one (1) meeting with Town representatives and the CMAR to review the 95% Construction Documents submittal and Town review comments. At this meeting, the Town will provide final comments, including those from various Town departments, to be included in the 100% Construction Documents.
5. At the 95% Construction Documents stage, Dunaway will submit required plans to the Town of Prosper DRC for review and comment leading to approval. It is anticipated this submittal will include the Plat (see A.6 above) and Site Plan Application with required exhibits. It is Dunaway's understanding that the Town of Prosper Park Dept. staff will manage the overall DRC review process and will attend all meetings as required by the DRC. Dunaway understands this process may delay or postpone final documents and plan production and that the Town will work to progressively pursue resolution to any such items preventing plan approval, and Dunaway will respond to require changes in like manner.
6. Dunaway will prepare final 100% Construction Documents for the CMAR to utilize in publicly bidding the project.
7. Dunaway will submit the final Construction Documents to a Town-approved, independent reviewer for the required Texas Department of Licensing and Regulation (TDLR) accessibility review.

TASK E – Deliverables:

- 95% Construction Drawings in hard copy and PDF format
- 95% Technical Specifications in hard copy and PDF format
- Final (100%) Construction Drawings in hard copy, PDF, and AutoCAD format
- Final (100%) Technical Specifications in hard copy and PDF format

F. Bid Phase

1. Dunaway will attend a pre-bid meeting with Town representatives, the CMAR, and the potential bidders.
2. Dunaway will assist the CMAR in preparing addendum(s), if required, during the bid

G. Construction Phase

1. Dunaway will assist the Town and CMAR by attending a maximum of eighteen (18) progress meetings during construction to evaluate completion of work by the Contractors. Should the number of requested meetings increase, such time can be provided by Dunaway (or subconsultants) as an additional service as requested and approved by the Town in writing. The CMAR will be responsible for the day-to-day administration of the construction contract.
2. Dunaway will prepare a written Field Report, as necessary, for key meetings attended during the construction of the project.
3. Dunaway will process and log submittal and shop drawing reviews as submitted by the CMAR during the construction process.
4. Dunaway will assist the Town and CMAR in attending one (1) final project walk-through to review the completion of work, as well as one (1) walk-through prior to substantial completion. Dunaway will provide written comments to the CMAR to utilize in preparing a final “punch list” for work to be completed by the contractors.

TASK G – Deliverables:

- Field Report in hard copy and PDF format
- Submittals & Shop Drawing reviews
- Final “Punch List” in hard copy and PDF format
- As-built drawings (from contractor’s notes) in CAD and PDF format

H. Erosion Control Plan(s)

In conjunction with the completion of the Final Construction Documents, Dunaway will prepare Erosion Control Plan(s) and provide to CMAR for their use in preparing a Stormwater Pollution Prevention Plan (SWPPP) for the proposed site development.

III. BASIS OF COMPENSATION

Dunaway Associates, L.P. will provide the above-described Scope of Services for a Lump Sum fee of one million ninety-one thousand six hundred dollars (\$1,091,600.00).

A. Data Collection & Topographic Survey	\$99,515
• Data Collection (\$14,515)	
• Topographic Survey (\$85,000)	
B. Phase I Conceptual Alternative	\$29,030
C. Schematic Design	\$87,900
• Schematic Design (\$62,900)	
• Geotechnical (\$25,000)	
D. Design Development	\$270,930
E. Final Construction Documents	\$551,530
F. Bid Phase	\$9,675
G. Construction Phase	\$29,020
H. Erosion Control Plan(s)	\$4,000

Total Professional Services	\$1,081,600
Reimbursable Expenses (Not to Exceed)	\$10,000
TOTAL	\$1,091,600

Reimbursable expenses will be additional to the Professional Services cost. These expenses include, but may be limited to such items as: reproduction costs, computer plotting, printing, mounting, travel/mileage, travel/tolls, copies, photography, meals, mail/couriers/deliveries, etc. Reimbursable expenses will be paid for at cost times a 1.10 multiplier.

IV. ADDITIONAL SERVICES

Additional services, not included in this Scope of Services, will be negotiated with the Town as necessary. Compensation will be based upon either a mutually agreed lump sum fee or on an hourly basis. Additional services must receive written authorization from the Town before being performed.

V. ASSUMPTIONS

- A. The Town has designated a construction budget for the Phase I design program of approximately \$11,800,000. Should this construction budget increase or decrease, or should the Town request a substantial number of alternate bid items be included in the construction document package, Dunaway and the Town will reevaluate this Scope of Services and determine the basis of compensation in accordance with revisions to the design services.

This Scope of Services is based upon the Sexton Park Final Master Plan, dated December 4, 2015, as prepared by Dunaway. The Town has identified the following program priorities for Phase I development:

- Lighted Pickleball courts (4-8 courts)
 - Lighted Tennis Courts (4)
 - Lighted Baseball/Softball Complex (artificial turf or natural grass)
 - Parking
 - Irrigation Pond and Well
 - Inclusive Playground
 - Concession Stand with Restroom
 - Restroom near playground
 - Large Pavilion for rental
 - Sprayground
 - Entry sign
 - Wayfinding
 - Hike & Bike Trail
 - Site Furnishings
- B. The Town will provide as expeditiously as possible all base information and electronic files which it currently has in its possession and as necessary to complete the Scope of Services as described herein. All information provided by the Town is assumed to be accurate and complete, unless otherwise indicated by the Town. Any information required to complete this Scope of Services that cannot be readily provided by the Town will remain the responsibility of the Town.

- C. This Scope of Services does not include any as-built surveys or easements by separate instrument.
- D. This scope of services does not include Construction Staking Services.
- E. This Scope of Services does not include any services associated with preparing an Environmental Assessment (EA) or Environmental Impact Statement (EIS). It is not anticipated that the project will require any environmental services.
- F. This Scope of Services does not include and hydrology/hydraulic analysis, floodplain analysis, etc. for the existing creek/pond.
- G. This Scope of Services does not include any water agency coordination or permitting with agencies such as US Army Corps of Engineers, TCEQ, FEMA, etc.
- H. This Scope of Services does not include any services associated with preparing a Cultural Resource Survey and/or coordination with the Texas Historical Commission (THC).
- I. This Scope of Services does not include any services for traffic studies or transportation engineering/planning studies. However, Dunaway will provide a vehicle routing exhibit depicting the EMS/fire access.
- J. Dunaway will provide graphics/exhibits to the Town as developed during the design phases and utilized for public input meetings. This Scope of Services does not include specialty marketing materials to be utilized by the Town for such items as brochures, flyers, posters, 3D animations, videos, etc.
- K. It is anticipated that the CMAR will pay for all required governmental processing fees, public notice advertising costs, and printing of bid documents/plans for bidding and construction.
- L. It is anticipated that the Phase I park design will be prepared as one bid package. If additional bid packages are required by the Town for phasing breakouts, Dunaway and the Town will reevaluate this Scope of Services to address additional fees not covered in this Scope of Services.
- M. It is assumed that the CMAR will be responsible for producing all preliminary as-built drawings required for this project. From this information, Dunaway will provide

the Town electronic drawings (CAD and PDF format) with information & notes provided by the CMAR.

VI. COST ESTIMATES

Any Opinion of Probable Construction Cost (OPCC) provided by Dunaway will be on a basis of experience and judgment, but since it has no control over market conditions of bidding procedures, Dunaway cannot warrant that bids or ultimate construction costs will not vary from these OPCC. Dunaway will coordinate OPCC with the CMAR at various steps within the project.

**EXHIBIT B
COMPENSATION SCHEDULE**

**PROFESSIONALSERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND DUNAWAY ASSOCIATES, LLC
FOR THE FIRST & COIT COMMUNITY PARK PHASE I PROJECT 2122-PK**

I. COMPENSATION SCHEDULE

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed		
Task A – Data Collection & Topographic Survey	April-May 2022	\$99,515
Task B – Phase I Conceptual Alternative	April-May 2022	\$29,030
Task C – Schematic Design	June-July 2022	\$87,900
Task D – Design Development	Aug-Sept 2022	\$270,930
Task E – Final Construction Documents	Oct-Dec 2022	\$551,530
Task F – Bid Phase	Jan-Feb 2023	\$9,675
Task G – Construction Phase	TBD/Town	\$29,020
Task H – Erosion Control Plan(s)	Dec 2022	\$4,000
Total Compensation		\$1,081,600

II. COMPENSATION SUMMARY

Basic Services (Lump Sum)	Amount
Task A – Data Collection & Topographic Survey	\$99,515
Task B – Phase I Conceptual Alternative	\$29,030
Task C – Schematic Design	\$87,900
Task D – Design Development	\$270,930
Task E – Final Construction Documents	\$551,530
Task F – Bid Phase	\$9,675
Task G – Construction Phase	\$29,020
Task H – Erosion Control Plan(s)	\$4,000
Total Basic Services:	\$1,081,600

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

Direct Expenses	Amount
Expenses	\$10,000
Total Direct Expenses:	\$10,000

EXHIBIT C INSURANCE REQUIREMENTS

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

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

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

B. MINIMUM LIMITS OF INSURANCE

Service Provider shall maintain throughout contract limits not less than:

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

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

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

D. OTHER INSURANCE PROVISIONS

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

1. General Liability and Automobile Liability Coverages

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

2. Workers Compensation and Employer's Liability Coverage:

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

3. All Coverages:

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

4. Professional Liability and / or Errors and Omissions:

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

E. ACCEPTABILITY OF INSURERS

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

F. VERIFICATION OF COVERAGE

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

Certificate holder to be listed as follows:

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

**EXHIBIT E
CONFLICT OF INTEREST QUESTIONNAIRE**

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor doing business with local governmental entity		
<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	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p>	<p>Date Received</p>	
<p>2 <input type="checkbox"/> 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.)</p>		
<p>3 Name of local government officer about whom the information is being disclosed.</p> <p align="center">_____</p> <p align="center">Name of Officer</p>		
<p>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.</p> <p>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?</p> <p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>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?</p> <p align="center"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>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.</p>		
<p>6 <input type="checkbox"/> 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).</p>		
<p>7</p> <p align="center">_____ Signature of vendor doing business with the governmental entity</p> <p align="right">_____ Date</p>		