

**PROFESSIONAL SERVICES
SUPPLEMENTAL AGREEMENT # 01
FOR
<Kelly Lane and Murchison Mallard Park>**

**STATE OF TEXAS §
 §
COUNTY OF TRAVIS §**

This Supplemental Agreement No. 01 to a contract for Professional Services is made by and between the City of Pflugerville, Texas ("City") and Dunaway Associates, LLC ("Consultant"). City and Consultant may be referred to herein singularly as "Party" or collectively as the "Parties."

WHEREAS, the City and Consultant executed an Agreement for Professional Services ("Agreement") on the 13th day of August, 2021 for the Kelly Lane and Murchison Mallard Park project ("Project") in the amount of \$374,163.00; and

WHEREAS, the City and Consultant desire to enter into a Supplemental Agreement # 01 for Professional Services for the Project in the amount of \$97,748.00 (Not to exceed), on the 4th day of February, 2022 to add Environmental Services to the Agreement; and

WHEREAS, it has become necessary to amend the Agreement to modify the provisions for the Scope of Services and Compensation; and

WHEREAS, it is necessary for the City to amend its agreements from time to time to comply with changes in state law relating to contracts of municipalities.

NOW, THEREFORE, premises considered, the City and the Consultant agree that said Agreement is amended as follows:

1.

Article III. Scope of Services and Exhibit A, shall be amended as set forth in the attached addendum to Exhibit A.

Article IV. Compensation to Consultant and Exhibit C (Fee Schedule), shall be amended by increasing by \$97,748.00 the amount payable under the Agreement for a total of \$471,911.00, as shown by the attached Addendum to Exhibit C (Fee Schedule).

2.

Except as amended hereby as indicated above, the terms of the Agreement shall remain unchanged and in full force and effect.

EXECUTED and AGREED to as of the dates indicated below.

**CITY OF
PFLUGERVILLE**

CONSULTANT



(Signature)

(Signature)

Printed Name: Sereniah Breland

Printed Name: Bryan Mask

Title: City Manager

Regional
Title: Manager/Principal

Date: _____

Date: January 26, 2022

APPROVED AS TO FORM:

Charles E. Zech
City Attorney
DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.



Exhibit C

AUTHORIZATION FOR CONTRACT AMENDMENT

Date: January 27, 2022 **Amendment No.:** 1 **Dunaway Project No.:** 7396.001/7396.002

Project Name: Kelly Lane Park and Mallard Pond/Murchison Park, Pflugerville, TX

Attn: Patricia Davis, M.S.C.E., P.E., City Engineer

Client: City of Pflugerville

Email Address: projects@pflugervilletx.gov

Services covered by this authorization shall be performed in accordance with the original Agreement dated July 9, 2021.

	Lump Sum Services	Hourly Services	Total Fee
ORIGINAL CONTRACT AMOUNT	\$374,163.00	\$0.00	\$374,163.00
CONTRACT AMENDMENT #1 AMOUNT (Kelly Lane Park):	\$1,080.00	\$46,894.00	\$47,974.00
CONTRACT AMENDMENT #1 AMOUNT (Mallard Pond/Murchison Park):	\$1,080.00	\$48,694.00	\$49,774.00
TOTAL REVISED CONTRACT AMOUNT:	\$376,323.00	\$95,588.00	\$471,911.00

Client hereby requests and authorizes Dunaway Associates, L.P. (Dunaway) to perform the following additional services:

DETAILED SCOPE OF WORK

Reference Attached Addendum to EXHIBIT "A" – Supplement #1

1. **Additional Coordination/Meetings – Kelly Lane Park** – Dunaway will provide additional coordination and attend review meetings for the Additional Environmental Scope. (\$1,080 total fee this task)

Project Manager Landscape Architecture – (\$180/hr) – 6 hours * \$180 = \$1,080

2. **Additional Coordination/Meetings – Mallard Pond/Murchison Park** – Dunaway will provide additional coordination and attend review meetings for the Additional Environmental Scope. (\$1,080 total fee this task)

Project Manager Landscape Architecture – (\$180/hr) – 6 hours * \$180 = \$1,080

If the proposed scope of this amendment meets with your approval, please sign below and return one copy to our office as our notice to proceed.

Respectfully submitted,

DUNAWAY ASSOCIATES, L.L.C.
a Texas limited liability company

Agreed & Accepted

City of Pflugerville

Bryan Kye Mask, RLA, ASLA
Regional Manager-Central Texas
Principal

By: _____

Name: _____

Title: _____

Date: _____

Attachments: Addendum to Exhibit "A" –
Supplement #1

BKM/tll



ADDENDUM TO EXHIBIT “A”

Supplement #1

Scope of Professional Services

Kelly Lane Park (B007396.001) & Murchison

Park Improvements (B007396.002)

City of Pflugerville, Texas

General Scope

This Supplement #1 scope of work is being submitted to Dunaway based on email correspondence from the City of Pflugerville dated 12/9/21. The City has requested submission of full environmental services associated with the Project. The subject environmental services were removed from the original contract at the election of the City. The terms and conditions of this supplement #1 will adhere to the original design agreement dated 10/11/21. It is understood the City will authorize tasks 3.1 and 3.2 upon immediate approval from the City Council. Tasks 3.3 and 3.4 are not authorized for initiation until formal direction by the City.

Additional Scoped Items include:

TASK 3: ENVIRONMENTAL SERVICES

The U.S. Army Corps of Engineers (USACE) regulates under Section 404 of the Clean Water Act (Section 404) the placement of fill material in waters of the United States (WOTUS). Aquatic resources on the subject tracts may be considered WOTUS to the extent of the ordinary high-water mark (OHWM), and adjacent wetlands where present. The placement of fill material within WOTUS for construction of trails, access roads, parking lots, and/or other parks features will require a Section 404 permit from the USACE, likely *Nationwide Permit 42 – Recreational Facilities (NWP 42)*.

3.1 Wetland Delineation and Preliminary Jurisdictional Determination

Engineer proposes to perform on-the-ground delineation within the subject tracts to identify the limits of WOTUS, including wetlands, as defined in the United States Army Corps of Engineers (USACE) “Wetland Delineation Manual, Technical report Y-87-1” and the “Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains Region (Version 2.0)”. This task includes the following:

- Employing GPS surveying techniques per USACE Fort Worth District operating procedures to delineate the limits of potential waters of the United States (WOTUS) and/or wetlands.
- Completion of wetland data forms and on-site photography for representative site features.
- Preparation of draft and final reports describing the methodology and results of the investigation, so that the report may satisfy the jurisdictional determination requirement for any future permits. Geographic Information Systems (GIS) shapefiles of the field data collected shall be provided with the final report.
- Permitting Assessment memorandum - Engineer will evaluate preliminary design and calculate impacts to determine the appropriate permitting mechanism. If the proposed project does not trigger pre-construction notification under an applicable nationwide permit, this memorandum will serve as documentation of compliance with the Nationwide Permit Program and Regional/General Conditions. If proposed project impacts trigger pre-construction notification or a Standard Individual Permit, additional effort will be necessary to facilitate authorization of a Section 404 Permit for the project.

3.2 Threatened and Endangered Species Habitat Assessment

Engineer proposes to conduct a threatened and endangered species and habitat (T&E) assessment within full Project limits by performing literature review of federal- and state-listed threatened and endangered species for Travis County and evaluating the study area for suitable habitat for identified species. The investigation shall also include a search request from the Texas Natural Diversity Database (TXNDD). TXNDD is a record of occurrences for rare plant and animal resources that is based upon the best available information to Texas Parks and Wildlife Department (TPWD). Engineer will obtain official species information from United States Fish and Wildlife Service (US Fish & Wildlife) Information for Planning and Consultation (IPaC). The TXNDD and IPaC data are to support determinations of potential species occurrence for the site and provide specific information where available. Since an absence in the TXNDD data does not equate to absence of a species on the site, general observations during field visits shall also be utilized. Engineer will prepare a T & E effects determination for species potentially occurring within the study area which will include:

- Whether preferred habitat or designated critical habitat for any listed species is present within the project area
- Whether any listed species are likely to be present
- Whether the project affects or has the potential to affect federal-listed species.

3.3 Cultural Resources Coordination

Because the project is being developed by the City of Pflugerville, a political sub-entity of the State of Texas, it falls under purview of the Antiquities Code of Texas (Title 9, Chapter 191 of the Texas Natural Resources Code), which requires the Texas Historical Commission (THC) to review actions that have the potential to impact archeological historic properties within the public domain. In addition, the proposed project may require authorization by U.S. Army Corps of Engineers Galveston District (USACE) pursuant to Section 404 of the Clean Water Act, thereby triggering compliance with Section 106 of the National Historic Preservation Act (Section 106). In order to enable the City to meet Antiquities Code of Texas and Section 106 requirements, Engineer will conduct an intensive archeological survey within the project area. The work will include the following tasks:

- **Antiquities Permit Application-** Background research will be performed to determine whether any archeological historic properties listed on or eligible for the National Register of Historic Places (NRHP) or designation as a State Antiquities Landmark (SAL) are documented within or adjacent to the project area and if any previous archeological surveys have been performed in the area. Background research will also include a review of local soil, geologic and land use data to evaluate the potential for buried and undisturbed archeological historic properties in the project area. An Antiquities Permit application will be prepared and submitted to the Texas Historical Commission (THC) for review along with a Research Design that summarizes the results of the background research and methodology developed for the field survey.
- **Archeological Survey-** Upon receipt of the Antiquities Permit number assigned to the project by the THC, an intensive archeological survey will be conducted within the proposed project footprint. The field survey will conform to the Council of Texas Archeologists Archeological Survey Standards for Texas and be conducted in portions of the project area that have not been previously surveyed. Shovel tests will be done on a judgmental basis and conducted where the project area exhibits potential to contain buried archaeological deposits.
- **Reporting-** Engineer will prepare and submit a draft report that summarizes the findings of the archeological survey. The report will provide recommendations regarding additional archeological work with appropriate justifications and conform to the Secretary of the Interior's Guidelines for Archaeology and Historic Preservation. Following a period of City review and comment, the draft report will be submitted to USACE and THC for review. After addressing any agency comments, Engineer will submit a final report to the City, USACE and THC.
- **Curation-** Pursuant to 13 TAC 26.17, and after acceptance of the final report by the THC, all field records, photographs, and collected artifacts will be prepared for permanent curation at the Center for Archaeological Studies located at Texas State University in San Marcos, Texas.

3.4 Section 404 Nationwide Permit Pre-Construction Notification

Engineer will prepare and submit pre-construction notification documents to the USACE for written verification that the proposed activities (repair/replacement of intake structure, temporary coffer dam around intake structure during construction, repair/replacement of the outfall pipe, and temporary construction access across the existing spillway) may proceed under the applicable nationwide permit (likely NWP 42). The contents of a pre-construction notification include:

- Name, address and telephone numbers of the prospective permittee
- Location of the proposed project
- A description of the proposed project; the project’s purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure
- Delineation of waters of the United States
- Compensatory mitigation plan (Not anticipated but will be required for loss of aquatic resources greater than 0.10 acre), this task assumes a conceptual mitigation plan project impacts and debit calculations for purchase of mitigation bank credits. This task does not include the preparation of a permittee responsible mitigation plan
- Threatened and endangered species assessment
- Cultural resources assessment.

FEE SCHEDULE

Compensation for all services shall be Time and Materials and paid for all services required for work stated under Tasks 3 above. An estimate of effort has been provided below, if additional effort is required the Engineer shall first obtain formal approval from the Client before any additional effort is invoiced.

TASK	FEE
Kelly Lane Park	
Task 3.1 - Wetland Delineation and Preliminary Jurisdictional Determination	\$ 19,086.00
Task 3.2 - Threatened and Endangered Species Habitat Assessment	\$ 4,380.00
Task 3.3 - Cultural Resources Coordination	\$ 15,028.00
Task 3.4 - Section 404 Nationwide Permit Pre-Construction Notification	\$ 8,400.00
Kelly Lane Total	\$ 46,894.00
Murchison Mallard Park	
Task 3.1 - Wetland Delineation and Preliminary Jurisdictional Determination	\$ 19,806.00
Task 3.2 - Threatened and Endangered Species Habitat Assessment	\$ 4,380.00
Task 3.3 - Cultural Resources Coordination	\$ 16,108.00
Task 3.4 - Section 404 Nationwide Permit Pre-Construction Notification	\$ 8,400.00
Murchison Mallard Total	\$ 48,694.00

Fees Associated with Kelly Lane Park Environmental Task

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total	Total Direct	
PHASE	TASK DESCRIPTION	Half Project Manager Enter Rate Below (Row 11)	Half Proj Eng II (PE) Enter Rate Below (Row 11)	Half Proj Eng I (Pa) Enter Rate Below (Row 11)	Half ET Enter Rate Below (Row 11)	Half CADD TECH Enter Rate Below (Row 11)	Half Survey Mgr (RPLS) Enter Rate Below (Row 11)	Half SUE/SurveyTech Enter Rate Below (Row 11)	Half Survey Crew (2 man) Enter Rate Below (Row 11)	Half ENV Service Mgr Enter Rate Below (Row 11)	Half ENV Scientist II Enter Rate Below (Row 11)	Half ENV Scientist I Enter Rate Below (Row 11)	Half Arch Investigator Enter Rate Below (Row 11)	Half Field Arch Enter Rate Below (Row 11)	Half Admin Enter Rate Below (Row 11)	Labor Hours	Labor Costs	
		\$ 236.00	\$ 193.00	\$ 130.00	\$ 118.00	\$ 85.00	\$ 264.00	\$ 134.00	\$ 187.00	\$ 210.00	\$ 135.00	\$ 90.00	\$ 170.00	\$ 82.00	\$ 85.00			
4.0	ENVIRONMENTAL SERVICES (ADDITIONAL SERVICE): (Potential Environmental Services may include the following)																	
4.10	Advanced Consultation with the Texas Historical Commission requirements as needed;										1.00	10.00		58.00	44.00		113.00	\$ 15,028.00
4.20	Compliance with Construction Stormwater General Permit (TPDES);	2.00	8.00							2.00	16.00						34.00	\$ 5,856.00
4.30	Review of State and Federal Threatened and Endangered species;									2.00	16.00	20.00					38.00	\$ 4,380.00
4.40	Environmental Site Assessment as needed; and									1.00	8.00	8.00					17.00	\$ 2,010.00
4.50	Consultation and compliance review under Section 404 Clean Water Act.									5.00	54.00	56.00					115.00	\$ 13,380.00
4.60	Comply and/or coordinate with TxDOT as necessary									4.00	24.00	24.00					52.00	\$ 6,240.00
	Task 4 Hours	2.00	8.00	-	-	-	-	-	-	21.00	128.00	108.00	58.00	44.00	-		369.00	\$ 46,894.00
	Task 4 Estimated Labor Costs	\$ 472.00	\$ 1,544.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,410.00	\$ 17,280.00	\$ 9,720.00	\$ 9,860.00	\$ 3,608.00	\$ -		\$ 46,894.00	

Fees Associated with Murchison/Mallard Pond Park Environmental Task

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total	Total Direct	
PHASE	TASK DESCRIPTION	Half Project Manager Enter Rate Below (Row 11)	Half Proj Eng II (PE) Enter Rate Below (Row 11)	Half Proj Eng I (Pa) Enter Rate Below (Row 11)	Half ET Enter Rate Below (Row 11)	Half CADD TECH Enter Rate Below (Row 11)	Half Survey Mgr (RPLS) Enter Rate Below (Row 11)	Half SUE/SurveyTech Enter Rate Below (Row 11)	Half Survey Crew (2 man) Enter Rate Below (Row 11)	Half ENV Service Mgr Enter Rate Below (Row 11)	Half ENV Scientist II Enter Rate Below (Row 11)	Half ENV Scientist I Enter Rate Below (Row 11)	Half Arch Investigator Enter Rate Below (Row 11)	Half Field Arch Enter Rate Below (Row 11)	Half Admin Enter Rate Below (Row 11)	Labor Hours	Labor Costs	
		\$ 236.00	\$ 193.00	\$ 130.00	\$ 118.00	\$ 85.00	\$ 264.00	\$ 134.00	\$ 187.00	\$ 210.00	\$ 135.00	\$ 90.00	\$ 170.00	\$ 82.00	\$ 85.00			
4.0	ENVIRONMENTAL SERVICES (ADDITIONAL SERVICE): (Potential Environmental Services may include the following)																	
4.10	Advanced Consultation with the Texas Historical Commission requirements as needed;										1.00	10.00		58.00	44.00		121.00	\$ 16,108.00
4.20	Compliance with Construction Stormwater General Permit (TPDES);	2.00	8.00							2.00	16.00						42.00	\$ 6,576.00
4.30	Review of State and Federal Threatened and Endangered species;									2.00	16.00	20.00					38.00	\$ 4,380.00
4.40	Environmental Site Assessment as needed; and									1.00	8.00	8.00					17.00	\$ 2,010.00
4.50	Consultation and compliance review under Section 404 Clean Water Act.									5.00	54.00	56.00					115.00	\$ 13,380.00
4.60	Comply and/or coordinate with TxDOT as necessary									4.00	24.00	24.00					52.00	\$ 6,240.00
	Task 4 Hours	2.00	8.00	-	-	-	-	-	-	21.00	136.00	116.00	58.00	44.00	-		385.00	\$ 48,694.00
	Task 4 Estimated Labor Costs	\$ 472.00	\$ 1,544.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,410.00	\$ 18,360.00	\$ 10,440.00	\$ 9,860.00	\$ 3,608.00	\$ -		\$ 48,694.00	