



**Agenda**  
**Prosper Town Council Meeting**  
Prosper Town Hall, Council Chambers  
250 W. First Street, Prosper, Texas  
Tuesday, September 26, 2023  
**6:15 PM**

Welcome to the Prosper Town Council Meeting.

Citizens may watch the meeting live by using the following link: [www.prospertx.gov/livemeetings](http://www.prospertx.gov/livemeetings)

**Addressing the Town Council:**

Those wishing to address the Town Council must complete the Public Comment Request Form located on the Town's website or in the Council Chambers.

**If you are attending in person**, please submit this form to the Town Secretary or the person recording the minutes for the Board/Commission prior to the meeting. When called upon, please come to the podium, and state your name and address for the record.

**If you are watching online**, please submit this form to the Town Secretary prior to 4:00 p.m. on the day of the meeting in order for your comments to be read into the record. The Town assumes no responsibility for technical issues beyond our control.

In compliance with the Texas Open Meetings Act, the Town Council/Board/Commission may not deliberate or vote on any matter that does not appear on the agenda. The Council/Board/Commission, however, may provide statements of fact regarding the topic, request the topic be included as part of a future meeting, and/or refer the topic to Town staff for further assistance.

Citizens and other visitors attending Town Council meetings shall observe the same rules of propriety, decorum, and good conduct applicable to members of the Town Council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the Town Council or while attending the meeting shall be removed from the room, if so directed by the Mayor or presiding officer, and the person shall be barred from further audience before the Town Council during that session. Disruption of a public meeting could constitute a violation of Section 42.05 of the Texas Penal Code.

**Call to Order/ Roll Call.**

**Invocation, Pledge of Allegiance and Pledge to the Texas Flag.**

**Announcements of recent and upcoming events.**

**Presentations.**

1. Presentation of a Proclamation to members of the Prosper Police and Fire Departments declaring October 3, 2023, as National Night Out. (MLS)
2. Presentation of a Proclamation to members of the Prosper Fire Rescue declaring the month of October 2023 as Fire Prevention month. (MLS)
3. Presentation of a Proclamation declaring the month of October 2023 as National Breast Cancer Awareness month. (MLS)

**CONSENT AGENDA:**

Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.

4. Consider and act upon the minutes from the September 12, 2023, Town Council Work Session meeting. (MLS)
5. Consider and act upon the minutes from the September 12, 2023, Town Council Regular meeting. (MLS)
6. Consider acceptance of the July 2023 monthly financial report. (CL)
7. Consider and act upon purchasing a sanitary sewer easement at 302 N Parvin Street from property owner, David Maya; and authorize the Town Manager to execute documents for same. (FJ)
8. Consider and act upon an amendment to the Town's Interlocal Agreements with Collin County for facility construction, use of an animal shelter, and animal control services for the 2024 fiscal year. (DH)
9. Consider and act upon approving a Services Agreement with Gray Reed Advisory Services, LLC, d/b/a GRPR, for Strategic Communications Planning and Crisis Communications Services, and authorize the Town Manager to execute the same. (RB)
10. Consider and act upon an ordinance to rezone 73.4± acres from Agriculture (A), a portion of Planned Development-40 (PD-40), and a portion of Single Family-12.5 (SF-12.5) to Planned Development-Single Family (PD-SF), generally to allow for a residential development, located on the southeast corner of Prosper Trail and Teel Parkway. (Z21-0010) (DH)
11. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Prosper 100 LP, Prosper Hills LLC, and the Town of Prosper relative to Prosper Hills, as described in Planned Development-123 (PD-123). (DEVAGREE-23-0012) (DH)
12. Consider and act upon authorizing the Town Manager to execute a Water Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the extension of water lines to serve the Park Place, Prosper Hills, and Prosper Meadows developments. (HW)
13. Consider and act upon authorizing the Town Manager to execute a Thoroughfare Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the construction of Teel Parkway, Prosper Trail, and Legacy Drive to serve the Park Place, Prosper Hills, and Prosper Meadows developments. (HW)
14. Consider and act upon authorizing the Town Manager to execute a Wastewater Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, and the Town of Prosper, Texas, related to the extension of a wastewater line to serve the Park Place and Prosper Hills developments. (HW)

- [15.](#) Consider and act upon authorizing the Mayor to execute an Amendment to Ultimate Boundary Line Agreement between the City of McKinney, Texas, and the Town of Prosper, Texas, related to the maintenance of improvements along Christie Farms Boulevard in the City of McKinney to serve the Christie Farms development. (HW)
- [16.](#) Consider and act upon an ordinance amending the Town's Subdivision Ordinance by amending Subpart (1) of Section (D), "Plat Required," of Section 10.03.004, "Applicability," to Comply with Revised Language contained in House Bill No. 3699; amending Subsection (B) of Section 10.03.034, "Director of Development Services," relative to Authorizing the Director of Development Services to Approve or Deny Plats; amending Section 10.03.063, "30-day Time Frame for Plat Approvals," to Reflect that the Right to 30-day Action for Plat Applications Begins on the Filing Date and One or More 30-day Extensions shall be authorized; adding a Definition of "Filing Date," amending the Definitions of "Approval" and "Plat," and repealing the definitions of "Administratively Complete" and "Official Submission Date," contained in Section 10.03.192, "Words and Terms Defined"; providing that the phrase "Official Submission Date" shall be replaced with the phrase "Filing Date" in Sections 10.03.084(f)(2) and 10.03.085(h)(2). (TW)
- [17.](#) Conduct a public hearing to consider and act upon an ordinance Amending Chapter 1, "General Provisions, Administration and Procedures," of the Town's Zoning Ordinance, by Amending Subpart (E) of Subsection 7.11, "Amortization of Nonconforming Uses or Structures," of Section 7, "Nonconforming Uses and Structures," by Providing for Amortization Procedures consistent with Senate Bill 929, and Subpart (A), "Zoning Changes," of Subsection 8.2, "Public Hearing and Notice," of Section 8, "Changes and Amendments to all Zoning Ordinances and Districts and Administrative Procedures," by Providing for Notices relative to a Change in a Zoning Regulation that Could Result in a Nonconforming Use, Consistent with Senate Bill 929. (TW)
- [18.](#) Consider and act upon whether to direct staff to submit a written notice of appeals on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plans including Prosper Business Park. (DH)

### **CITIZEN COMMENTS**

The public is invited to address the Council on any topic. However, the Council is unable to discuss or take action on any topic not listed on this agenda. Please complete a "Public Comment Request Form" and present it to the Town Secretary prior to the meeting. Please limit your comments to three minutes. If multiple individuals wish to speak on a topic, they may yield their three minutes to one individual appointed to speak on their behalf. All individuals yielding their time must be present at the meeting, and the appointed individual will be limited to a total of 15 minutes.

### **REGULAR AGENDA:**

Pursuant to Section 551.007 of the Texas Government Code, individuals wishing to address the Council for items listed as public hearings will be recognized when the public hearing is opened. [If you wish to address the Council, please fill out a "Public Comment Request Form" and present it to the Town Secretary, preferably before the meeting begins.]

### **Items for Individual Consideration:**

- [19.](#) Conduct a public hearing and consider and act upon a request to rezone 0.2± acres from Single Family-15 (SF-15) to Downtown Retail (DTR), for Mitchell Addition, Block 3, Lot

3D, located on the southwest corner of West Seventh Street and North Coleman Road. (ZONE-23-0016) (DH)

- [20.](#) Consider and act upon a resolution establishing loan terms between the Utility Fund and the Solid Waste Fund for financing the purchase of solid waste and recycling carts. (RBS)
- [21.](#) Receive an update on the Lakewood Preserve Park project. (DB)
- [22.](#) Consider and act upon Contract Amendment #1 to a Professional Services Agreement with Dunaway Associates, LLC, for additional design services related to the development of Raymond Community Park. (DB)
- [23.](#) Consider and act upon an agreement with Nancy Lieberman Charities (NLC) for the installation of a Dream Court at Tanner's Mill Park and authorize the Town Manager to execute the same. (DB)
24. Discuss and consider Town Council Subcommittee reports. (DFB)

**Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.**

**EXECUTIVE SESSION:**

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

*Section 551.087 – To discuss and consider economic development incentives and all matters incident and related thereto.*

*Section 551.072 – To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.*

*Section 551.074 – To discuss and consider personnel matters and all matters incident and related thereto.*

*Section 551.074 - To discuss appointments to the Board of Adjustment/Construction Board of Appeals, Parks & Recreation Board, Library Board, Prosper Economic Development Corporation Board, Planning & Zoning Commission, and the Community Engagement Committee, and all matters incident and related thereto.*

**Reconvene in Regular Session and take any action necessary as a result of the Closed Session.**

**Adjourn.**

**CERTIFICATION**

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted at Prosper Town Hall, located at 250 W. First Street, Prosper, Texas 75078, a place convenient and readily accessible to the general public at all times, and said Notice was posted by 5:00 p.m., on Friday, September 22, 2023, and remained so posted at least 72 hours before said meeting was convened.

\_\_\_\_\_  
Michelle Lewis Sirianni, Town Secretary

\_\_\_\_\_  
Date Notice Removed

Pursuant to Section 551.071 of the Texas Government Code, the Town Council reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

**NOTICE**

Pursuant to Town of Prosper Ordinance No. 13-63, all speakers other than Town of Prosper staff are limited to three (3) minutes per person, per item, which may be extended for an additional two (2) minutes with approval of a majority vote of the Town Council.

**NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:** The Prosper Town Council meetings are wheelchair accessible. For special services or assistance, please contact the Town Secretary's Office at (972) 569-1011 at least 48 hours prior to the meeting time.



## MINUTES

Item 4.

**Prosper Town Council Work Session**  
Prosper Town Hall – Council Chambers  
250 W. First Street, Prosper, Texas  
Tuesday, September 12, 2023

### **Call to Order/ Roll Call.**

The meeting was called to order at 5:05 p.m.

#### **Council Members Present:**

Mayor David F. Bristol  
Councilmember Amy Bartley  
Councilmember Chris Kern  
Councilmember Charles Cotten

#### **Council Members Absent:**

Mayor Pro-Tem Craig Andres  
Deputy Mayor Pro-Tem Marcus E. Ray  
Councilmember Jeff Hodges

#### **Staff Members Present:**

Mario Canizares, Town Manager  
Michelle Lewis Sirianni, Town Secretary  
Terry Welch, Town Attorney  
Bob Scott, Deputy Town Manager  
Chuck Ewings, Assistant Town Manager  
Robyn Battle, Executive Director  
Hulon Webb, Engineering Director  
Dan Heischman, Assistant Director of Engineering Services  
David Hoover, Development Services Director  
Frank Jaromin, Director of Public Works  
Tristan Cisco, Environmental Coordinator  
Travis Kvaal, Senior Backflow Inspector  
Stuart Blasingame, Fire Chief

### **Items for Individual Consideration**

**1. Discuss an update to the Backflow Prevention Ordinance. (FJ)**

Mr. Jaromin stated that the suggested updates to the ordinance include the changes to TCEQ regulations, recent updates that were made to the Town's Irrigation Ordinance and clarifies differences between Customer Service Inspections performed by the Town versus a third party for private well customers. It was noted that the backflow addresses commercial customers.

No further questions and/or comments were made.

**2. Discuss an update to the Fats, Oil, and Grease (FOG) Outreach Plan Ordinance. (FJ)**

Ms. Cisco presented noting the items that are being removed from the ordinance, and the updates which reflect the reference to the most recently adopted 2021

International Plumbing Code (IPC), and grease traps/interceptors information. Ms. Cisco added that grease traps are currently inspected quarterly with approximately 150 grease traps within the Town.

No further questions and/or comments were made.

**3. Discuss amendments to the Master Fee Schedule. (DHeischman)**

Mr. Heischman stated these amendments are a result of recent HB 3492 passed in the legislative session. The changes relate to the authority of municipalities to impose certain value-based fees and require disclosure of certain information related to subdivision construction. Mr. Heischman reviewed what the Town currently charges versus what is proposed based on new legislation, as well as a residential and commercial comparison of collected fees based on changes. Mr. Heischman noted that the Town will reevaluate the changes and come back in six to nine months with any requested changes.

The Town Council noted their concerns of the impact this may have on a smaller developer/development.

**Adjourn.**

The meeting was adjourned at 5:23 p.m.

These minutes were approved on the 26<sup>th</sup> day of September 2023.

**APPROVED:**

\_\_\_\_\_  
**David F. Bristol, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Michelle Lewis Sirianni, Town Secretary**



**MINUTES**  
**Prosper Town Council Meeting**  
Prosper Town Hall, Council Chambers  
250 W. First Street, Prosper, Texas  
Tuesday, September 12, 2023

**Call to Order/ Roll Call.**

The meeting was called to order at 6:22 p.m.

**Council Members Present:**

Mayor David F. Bristol  
Mayor Pro-Tem Craig Andres  
Deputy Mayor Pro-Tem Marcus E. Ray  
Councilmember Amy Bartley  
Councilmember Chris Kern  
Councilmember Charles Cotton

**Council Members Absent:**

Councilmember Jeff Hodges

**Staff Members Present:**

Mario Canizares, Town Manager  
Michelle Lewis Sirianni, Town Secretary  
Terry Welch, Town Attorney  
Bob Scott, Deputy Town Manager  
Chuck Ewings, Assistant Town Manager  
Robyn Battle, Executive Director  
Mary Ann Moon, Economic Development Director  
David Hoover, Development Services Director  
Hulon Webb, Director of Engineering  
Dan Heischman, Assistant Director of Engineering Services  
Pete Anaya, Assistant Director of Engineering Services  
Chris Landrum, Finance Director  
Whitney Rehm, Grants Administrator  
Frank Jaromin, Director of Public Works  
Leigh Johnson, IT Director  
James Edwards, Human Resources Director  
Todd Rice, Communications Manager  
Kellen Land, Help Desk Technician  
Doug Kowalski, Police Chief  
Scott Brewer, Assistant Police Chief  
Stuart Blasingame, Fire Chief

**Invocation, Pledge of Allegiance and Pledge to the Texas Flag.**

Jason McConnell with Prosper United Method Church led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

**Announcements of recent and upcoming events.**

Councilmember Kern made the following announcements:

Thank you to all those who attended Paws on Broadway this past Saturday. A special thanks to the staff and volunteers for their hard work on such a fun event.

Thank you to everyone who attended the annual 9/11 remembrance ceremony held by the Prosper Fire Rescue yesterday. It was a very special remembrance ceremony and memorial honoring those we lost and that were affected by this tragic day.

A new resident mixer is being held by the Town for those who have moved to Prosper in the last six months on Thursday, September 28 from 4:00 to 7:00 p.m. on the south lawn of Town Hall. Residents will get an opportunity to meet staff and their neighbors. There will be entertainment for the kids and refreshments for the family.

National Night Out will be held on Tuesday, October 3 from 6 pm-9 pm. Prosper PD, Prosper ISD PD, Prosper Fire Rescue, and First Responder Volunteers will be driving to neighborhoods that want to participate. Sign up today by visiting [www.prospertx.gov/nationalnightout](http://www.prospertx.gov/nationalnightout).

Join us for “Celebrate Prosper” on Saturday, October 7 at Frontier Park. Come relax outdoors and enjoy entertainment, food and fun with neighbors and friends. This is a free event presented by the Parks and Recreation Department with the support of Sponsors and community partners. For more information, visit the Special Events page under the Parks and Recreation Department.

Registration is now open for the annual Prosper Veterans Day 5K & Fun Run. This event held on Saturday, November 11 is a salute to the men and women who have served in our nation’s military. All proceeds benefit the Prosper Veterans Memorial at Frontier Park. Register today by visiting [prospertx.gov/veteransday5k](http://prospertx.gov/veteransday5k).

Mayor Bristol thanked the team who put on Freedom Fest for making it an outstanding success.

### **Presentations.**

1. **Presentation of THRIVES coins to members of the Engineering Department for outstanding performance. (DFB)**

Mayor Bristol presented a THRIVES coin(s) to members of the Engineering, Public Works, and the Communications Department for their recent efforts in assuring the First Street Road project was complete prior to the opening of the new high school.

### **CONSENT AGENDA:**

Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda at the request of Council Members or staff.

2. **Consider and act upon the minutes from the August 22, 2023, Town Council Regular meeting. (MLS)**
3. **Consider and act upon the minutes from the August 29, 2023, Town Council Special meeting. (MLS)**
4. **Consider acceptance of the April, May, and June 2023 monthly financial reports. (CL)**
5. **Consider and act upon adopting the FY 2023-2024 Prosper Economic Development Corporation Budget. (MM)**
6. **Consider and act upon adopting Ordinance 2023-59 repealing existing Section I, “Construction Permits and Fees,” and Section II, “Reserved,” contained in Appendix A, “Fee Schedule,” of the Town’s Code of Ordinances and replacing**

them with a new Section I, "Engineering Inspection Fees," and a new Section II, "Building Permits/Inspection Fees". (DHeischman)

7. **Consider and act upon a Façade Plan for a Restaurant, on 1.7± acres, located south of Lovers Lane and west of South Preston Road. The property is zoned Planned Development-67 (PD-67) Gates of Prosper. (DEVAPP-23-0129) (DH)**
8. **Consider and act upon whether to direct staff to submit a written notice of appeals on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plans including Prestonwood Baptist Church and Outback Steakhouse. (DH)**

Mayor Pro-Tem Andres made a motion to approve items 2 through 8. Councilmember Cotten seconded that motion. Motion carried with a 6-0 vote.

### **CITIZEN COMMENTS**

No comments were made.

### **Items for Individual Consideration:**

9. **Conduct a public hearing to receive public input, consider such input, and consider and act upon Ordinance 2023-60 adopting the Fiscal Year (FY) 2023-2024 Annual Operating and Capital Project Funds budgets and five-year Capital Improvement Program for the fiscal year beginning October 1, 2023, and ending September 30, 2024. (RBS/CL)**

Mr. Scott provided a recap of the proposed budget highlighting operating funds, capital projects, revenue sources within the General Fund, and personnel and compensation changes. Mr. Webb outlined capital dedicated projects and construction projects for the proposed upcoming budget year based on the Capital Improvement Subcommittee recommendations.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

The Town Council discussed reducing debt and monies within the Capital Dedicated Fund in order to reduce the tax rate, as well as opportunities to plan ahead and prioritize future needs.

*The Town Council took a brief recess at 7:27 p.m.*

*The Town Council reconvened back into regular session at 7:38 p.m.*

The Town Council had further discussions on the proposed budget and means by which the tax rate could be reduced.

Councilmember Kern made a motion to accept the proposed 2023-2024 budget except to reallocate capital monies back into the capital dedicated fund (Interim Community Center) so that those funds are put towards the retirement of debt in 2024. Deputy Mayor Pro-Tem Ray seconded that motion.

After further discussion, Councilmember Kern withdrew his motion and Deputy Mayor Pro-Tem Ray withdrew his second.

Councilmember Cotten made a motion to approve Ordinance 2023-60 adopting the Fiscal Year (FY) 2023-2024 Annual Operating and Capital Project Funds budgets and five-year Capital Improvement Program for the fiscal year beginning October 1, 2023, and ending September 30, 2024. Councilmember Bartley seconded that motion.

Councilmember Bartley – In Favor  
 Councilmember Kern – In Favor  
 Mayor Pro-Tem Andres – In Favor  
 Councilmember Cotten – In Favor  
 Deputy Mayor Pro-Tem Ray – In Favor  
 Mayor Bristol – In Favor

Motion carried with a 6-0 roll call vote.

**10. Conduct a public hearing to consider and act upon Ordinance 2023-61 adopting a tax rate of \$0.51 per \$100 valuation for fiscal year 2023-2024. (CL)**

Mr. Scott stated same comments apply.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

Councilmember Cotten made a motion to approve Ordinance 2023-61 adopting the property tax rate be increased by the adoption of a tax rate of \$0.51, which is effectively a 13.8 percent increase in the tax rate. Deputy Mayor Pro-Tem Ray seconded that motion.

Councilmember Cotten – In Favor  
 Deputy Mayor Pro-Tem Ray – In Favor  
 Mayor Bristol – In Favor  
 Mayor Pro-Tem Andres – In Favor  
 Councilmember Kern – In Favor  
 Councilmember Bartley – In Favor

Motion carried with a 6-0 roll call vote.

**11. Ratifying the property tax increase in the budget for fiscal year (FY) 2023-2024. (CL)**

Councilmember Bartley made a motion to ratify the property tax increase in the budget for fiscal year (FY) 2023-2024. Councilmember Cotten seconded that motion. Motion carried with a 6-0 vote.

**12. Discuss and consider Town Council Subcommittee reports. (DFB)**

Mayor Bristol stated the Legislative Subcommittee met and will be continuing monthly meetings. Mayor Pro-Tem Andres noted that there could be one or two special sessions in the future.

The CIP Subcommittee also met regarding the upcoming fiscal year projects.

**Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.**

Deputy Mayor Pro-Tem Ray requested an update regarding the areas of Town that will need new landscaping and/or plant materials. Councilmember Bartley added she would also like an update regarding the businesses that need their landscaping fixed.

Councilmember Cotten would like to consider changes to the Sign Ordinance.

**EXECUTIVE SESSION:**

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

*Section 551.087 – To discuss and consider economic development incentives and all matters incident and related thereto.*

*Section 551.072 – To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.*

*Section 551.074 – To discuss and consider personnel matters and all matters incident and related thereto.*

*Section 551.074 - To discuss appointments to the Board of Adjustment/Construction Board of Appeals, Parks & Recreation Board, Library Board, Prosper Economic Development Corporation Board, Planning & Zoning Commission, and the Community Engagement Committee, and all matters incident and related thereto.*

The Town Council recessed into Executive Session at 7:59 p.m.

**Reconvene in Regular Session and take any action necessary as a result of the Closed Session.**

The Town Council reconvened into Regular Session at 8:19 p.m.

Mayor Pro-Tem Andres made a motion to approve a Right-of-Way Dedication Agreement and to ratify the Town Manager's execution and approval of a Right-Of-Way Dedication Agreement between the Town of Prosper, Texas and Godwin Investments Ltd. Councilmember Bartley seconded that motion. Motion carried with a 5-0 vote. Mayor Bristol was not present during the vote.

**Adjourn.**

The meeting was adjourned at 8:21 p.m.

These minutes were approved on the 26<sup>th</sup> day of September 2023.

**APPROVED:**

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**David F. Bristol, Mayor**

ATTEST:

Michelle Lewis Sirianni, Town Secretary

DRAFT



## FINANCE

**To: Mayor and Town Council**

**From: Chris Landrum, Finance Director**

**Through: Mario Canizares, Town Manager  
Bob Scott, Deputy Town Manager**

**Re: July 2023 Monthly Financial Report**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider acceptance of the July 2023 monthly financial report.

**Description of Agenda Item:**

The Town Charter requires the submission of monthly financial reports to the Town Council. In summary, both revenues and expenditures are within the expected ranges and no unexpected events have occurred that require significant changes in original projections.

The attached monthly financial report for July 2023 was prepared in the old format. This format is not particularly “user friendly” and staff is looking to reformat the monthly financial reports after the ERP software conversion.

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Monthly Financial Report – July 31, 2023

**Town Staff Recommendation:**

Town staff recommends Town Council vote to accept submission of the monthly financial report for the period July 2023 in compliance with the requirements of the Town Charter.

**Proposed Motion:**

I move to accept the April through June 2023 Monthly Financial Report in compliance with charter requirements.



# MONTHLY FINANCIAL REPORT

## as of July 31, 2023

### Cash/Budgetary Basis

Prepared by  
Finance Department

September 26, 2023

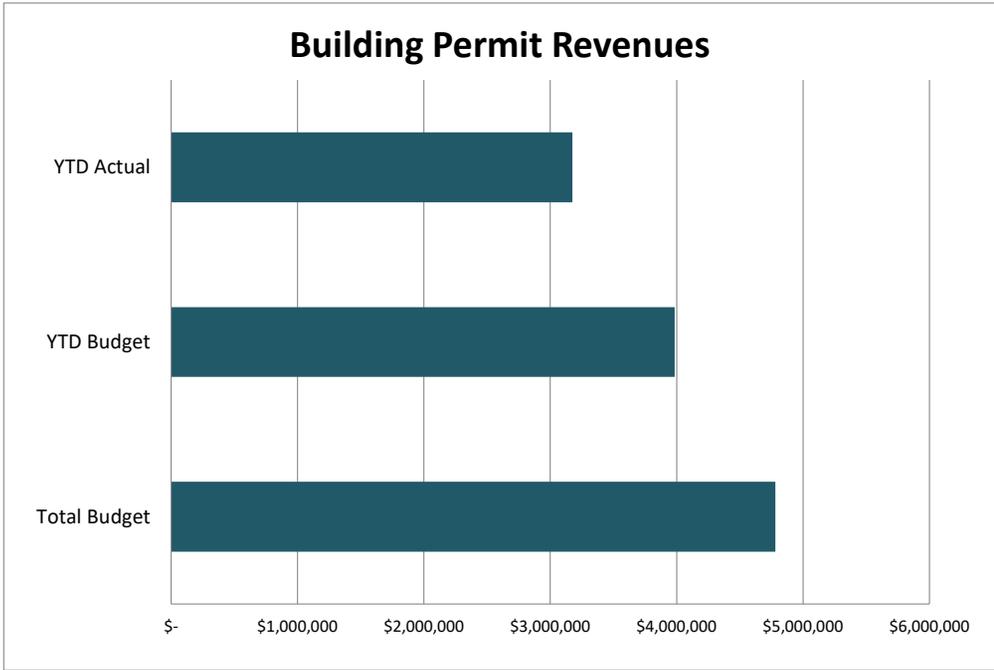
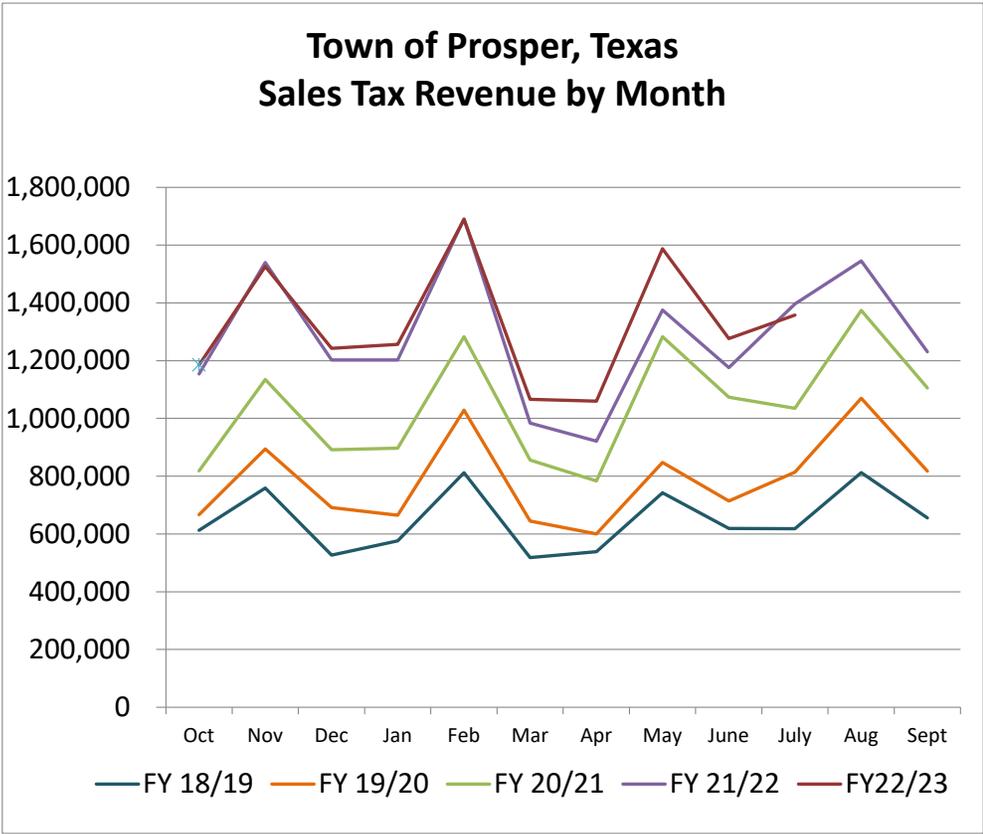
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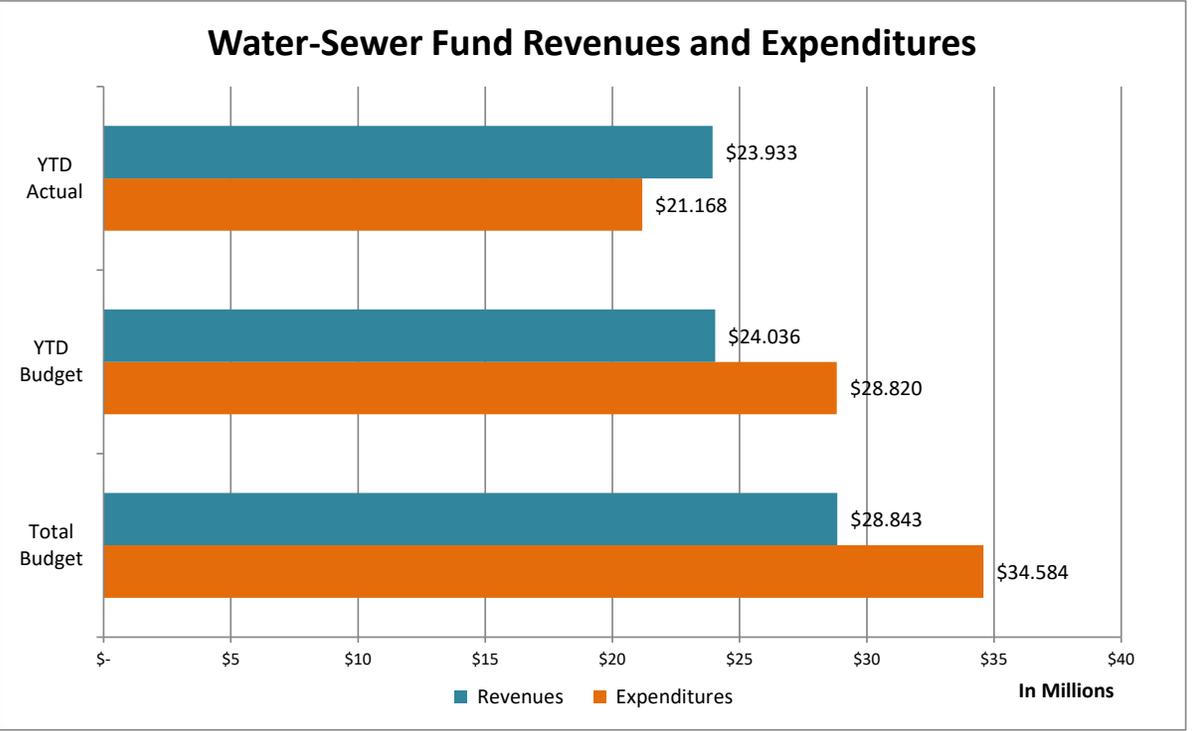
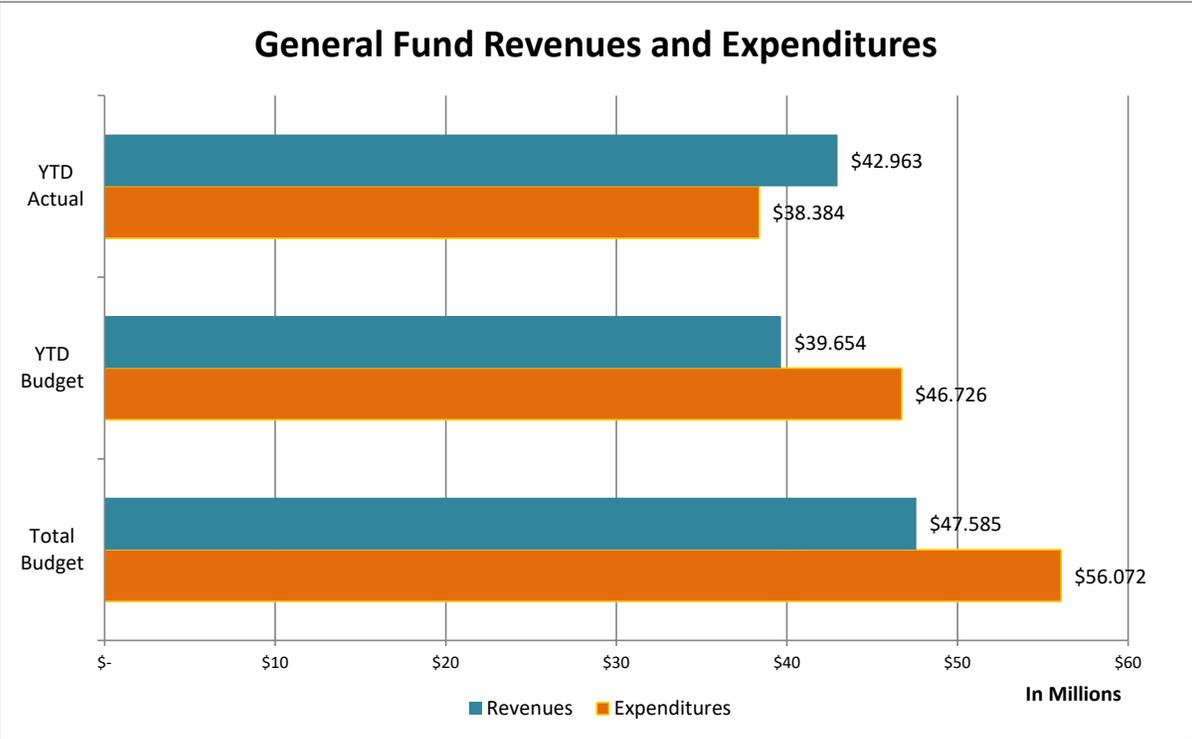
# MONTHLY FINANCIAL REPORT

## July 2023

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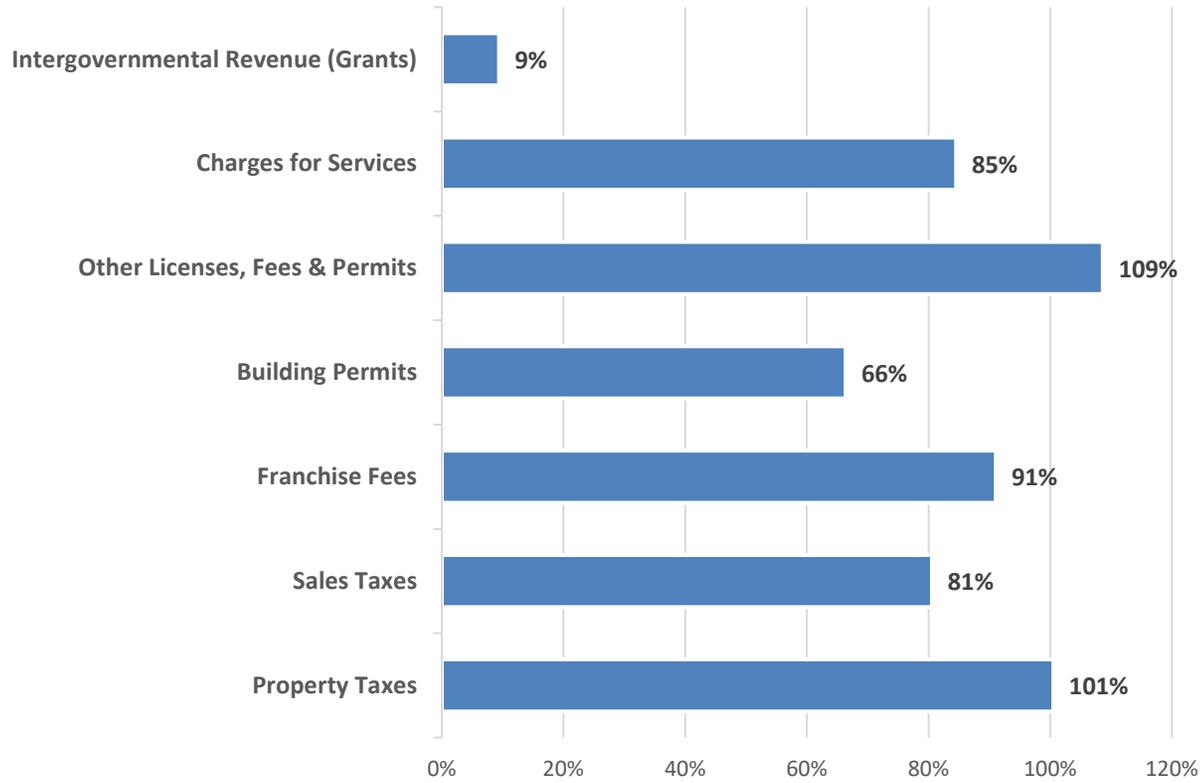
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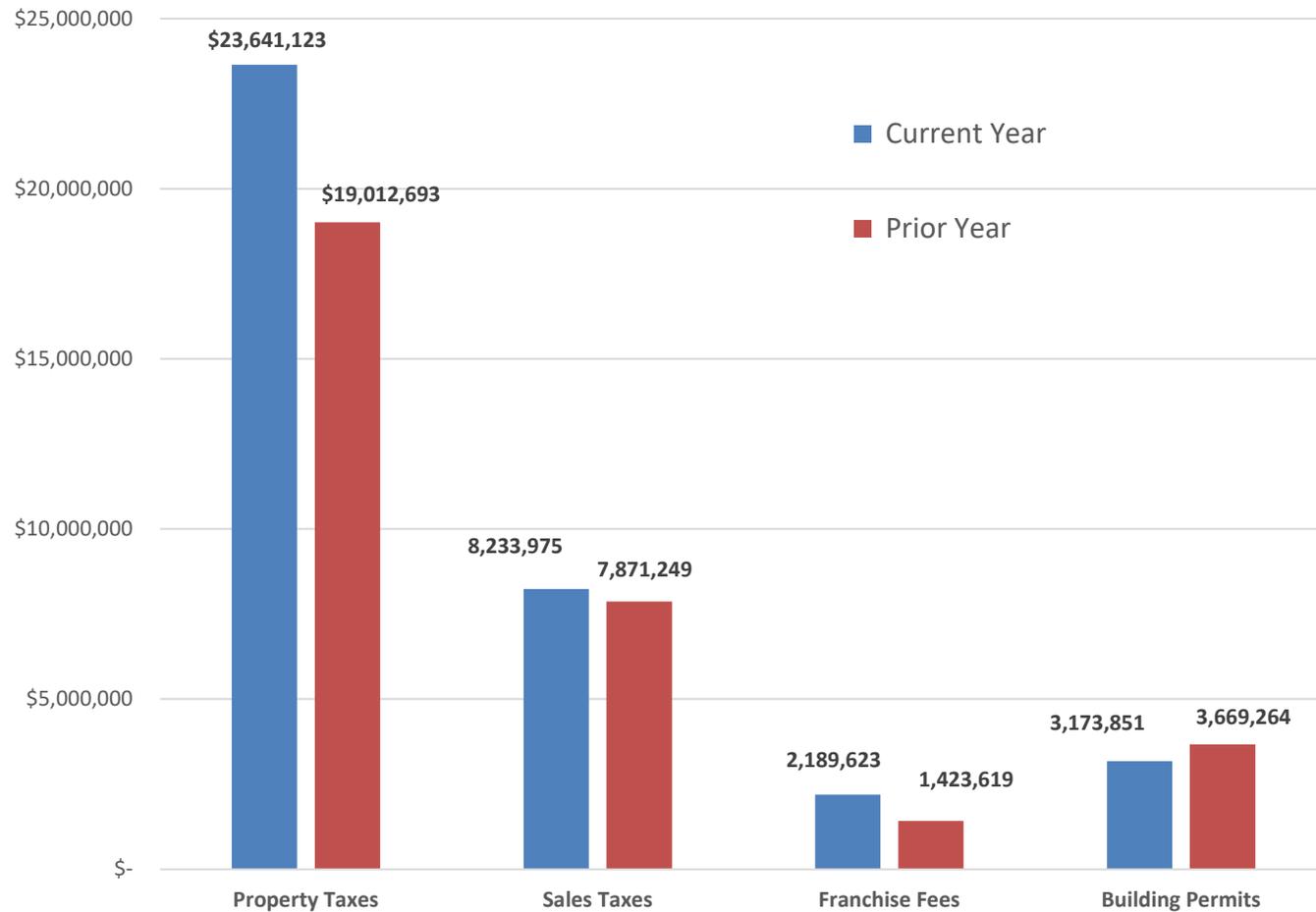


## GENERAL FUND YTD REVENUE % OF ANNUAL BUDGET



# GENERAL FUND REVENUE

## Current YTD to Prior Year YTD Actual Comparison



**TOWN OF PROSPER, TEXAS**  
**MONTHLY FINANCIAL REPORT**  
**July 31, 2023**  
**Expected Year to Date Percent 83.33%**

**WATER-SEWER FUND**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Water Charges for Services	\$ 17,557,737	\$ 500,000	\$ 18,057,737	\$ 14,034,341	\$ -	\$ 4,023,396	78%		\$ 13,681,895	3%
Sewer Charges for Services	9,462,990	200,000	9,662,990	8,506,040	-	1,156,950	88%		7,924,124	7%
Licenses, Fees & Permits	377,705	30,000	407,705	348,323	-	59,382	85%		321,702	8%
Utility Billing Penalties	186,900	-	186,900	155,461	-	31,439	83%		148,664	5%
Interest Income	60,000	-	60,000	368,074	-	(308,074)	613%		33,954	984%
Other	467,427	-	467,427	520,862	-	(53,435)	111%		422,183	23%
Transfer In	-	-	-	-	-	-	0		-	0%
<b>Total Revenues</b>	<b>\$ 28,112,759</b>	<b>\$ 730,000</b>	<b>\$ 28,842,759</b>	<b>\$ 23,933,100</b>	<b>\$ -</b>	<b>\$ 4,909,659</b>	<b>83%</b>		<b>\$ 22,532,523</b>	<b>6%</b>
<b>EXPENDITURES</b>										
Administration	\$ 1,558,936	\$ 199,091	\$ 1,758,027	\$ 1,154,673	\$ 37,757	565,597	68%		1,009,784	14%
Debt Service	4,354,465	-	4,354,465	1,850,739	-	2,503,726	43%	1	4,463,500	-59%
Water Purchases	9,605,940	-	9,605,940	7,960,362	-	1,645,578	83%		5,367,950	48%
Sewer Management Fee	3,854,505	-	3,854,505	3,535,651	-	318,854	92%		2,945,997	20%
Public Works	11,604,745	382,678	11,987,423	5,550,370	389,421	6,047,632	50%		4,740,030	17%
Transfer Out	2,877,339	146,650	3,023,989	1,116,192	-	1,907,797	37%		833,900	34%
<b>Total Expenses</b>	<b>\$ 33,855,930</b>	<b>\$ 728,419</b>	<b>\$ 34,584,349</b>	<b>\$ 21,167,987</b>	<b>\$ 427,178</b>	<b>\$ 12,670,330</b>	<b>62%</b>		<b>\$ 19,361,162</b>	<b>9%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ (5,743,171)</b>	<b>\$ 1,581</b>	<b>\$ (5,741,590)</b>	<b>\$ 2,765,113</b>					<b>\$ 3,171,361</b>	
Beginning Working Capital October 1			12,669,408	\$ 12,669,408						
Ending Working Capital			<u>\$ 6,927,818</u>	<u>\$ 15,434,521</u>						

Notes

1 Annual debt service payments are made in February and August.

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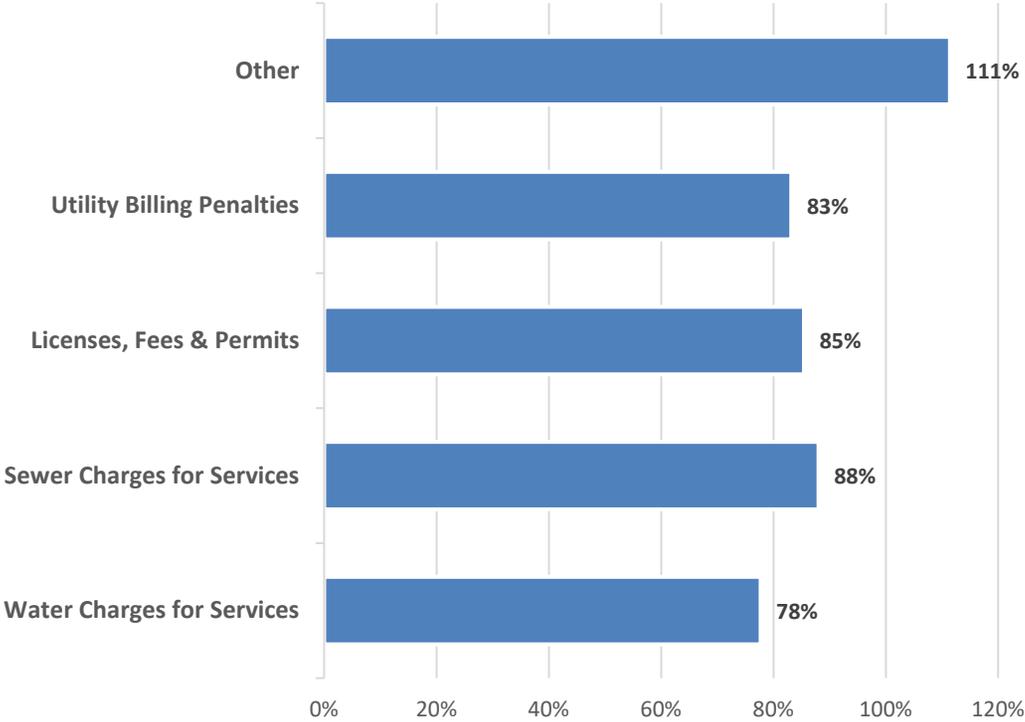
**WATER-SEWER FUND**

	Jul-23		Jul-22		Growth % Change
	WATER	SEWER	WATER	SEWER	
# of Accts Residential	12,524	11,821	11,713	10,979	7.28%
# of Accts Commercial	439	395	412	367	7.06%
Consumption-Residential	213,013,480	79,329,020	268,583,920	78,349,803	-15.74%
Consumption-Commercial	31,393,550	15,581,260	30,511,570	15,067,690	3.06%
Consumption-Commercial Irrigation	40,949,580		51,361,740		-20.27%
Avg Total Res Water Consumption	16,992		22,900		-25.80%
Billed (\$) Residential	\$ 1,432,894	\$ 722,330	\$ 1,852,409	\$ 693,245	-15.34%
Billed (\$) Commercial	\$ 290,497	\$ 128,313	\$ 280,941	\$ 124,167	3.38%
Billed (\$) Commercial Irrigation	\$ 374,457		\$ 475,130		-21.19%
<b>Total Billed (\$)</b>	<b>\$ 2,097,848</b>	<b>\$ 850,643</b>	<b>\$ 2,608,480</b>	<b>\$ 817,411</b>	<b>-13.94%</b>

	Average Total Residential Water Consumption by Month			
	FY2023	FY2022	Four Year Average	Cumulative Average
	October	20,110	16,543	14,882
November	11,190	11,256	10,010	24,892
December	6,273	7,850	7,663	32,554
January	8,049	6,936	6,159	38,713
February	5,914	7,385	6,618	45,331
March	5,839	6,006	6,335	51,665
April	10,053	8,613	8,838	60,503
May	14,092	13,130	10,904	71,407
June	14,281	13,330	13,121	84,527
July	16,992	22,900	17,334	101,861
August		27,840	22,933	124,794
September		15,450	18,824	143,618
<b>TOTAL (gal)</b>	<b>112,793</b>	<b>157,239</b>	<b>143,618</b>	

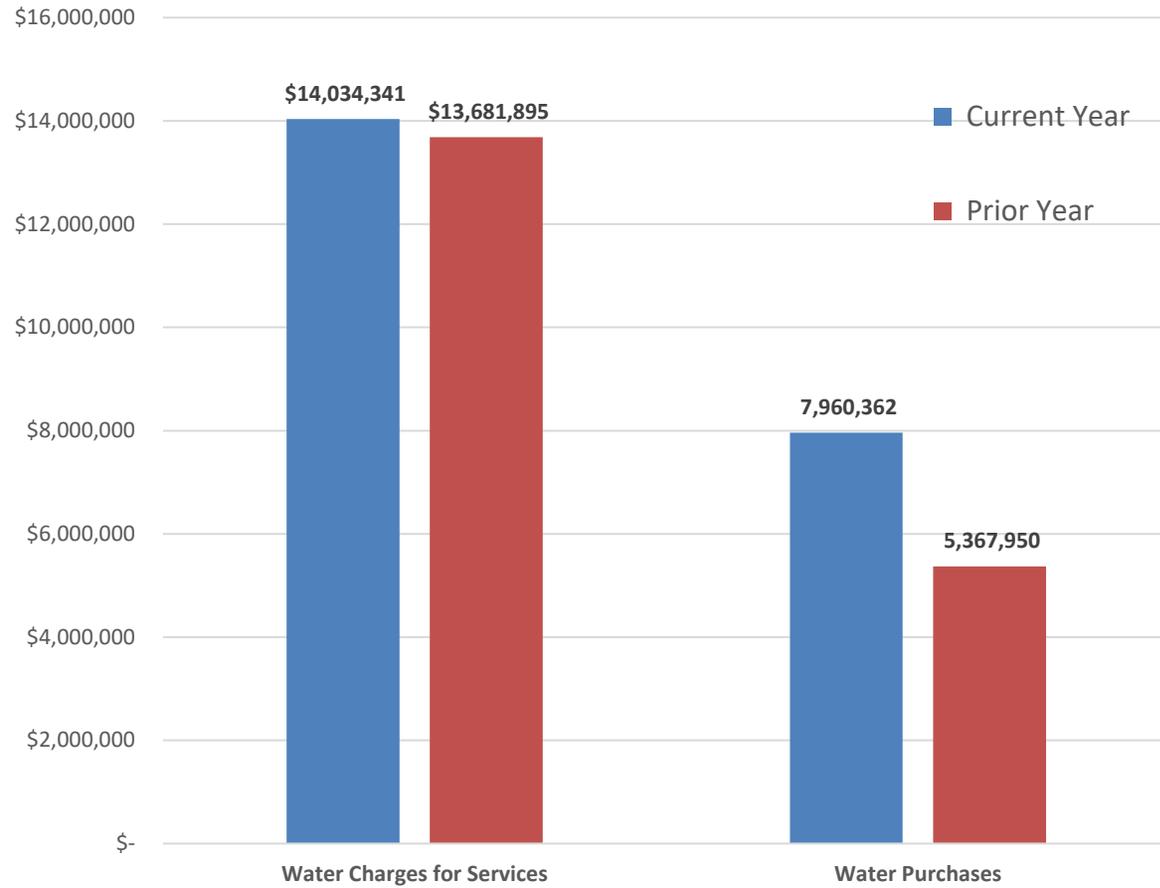
	Rainfall			
	FY2023	FY2022	Average	Cumulative
October	5.65	2.60	4.56	4.56
November	5.82	2.92	3.07	7.63
December	3.43	0.76	2.84	10.47
January	1.29	0.20	2.62	13.09
February	4.51	2.15	3.05	16.14
March	2.69	2.62	3.92	20.06
April	1.20	5.90	3.97	24.03
May	3.62	8.01	5.65	29.68
June	2.35	1.90	4.07	33.75
July	0.47	0.41	2.27	36.02
August		5.08	2.83	38.85
September		0.26	2.76	41.61
<b>Annual</b>	<b>31.03</b>	<b>32.81</b>	<b>41.61</b>	

# WATER/SEWER REVENUE YTD % OF ANNUAL BUDGET



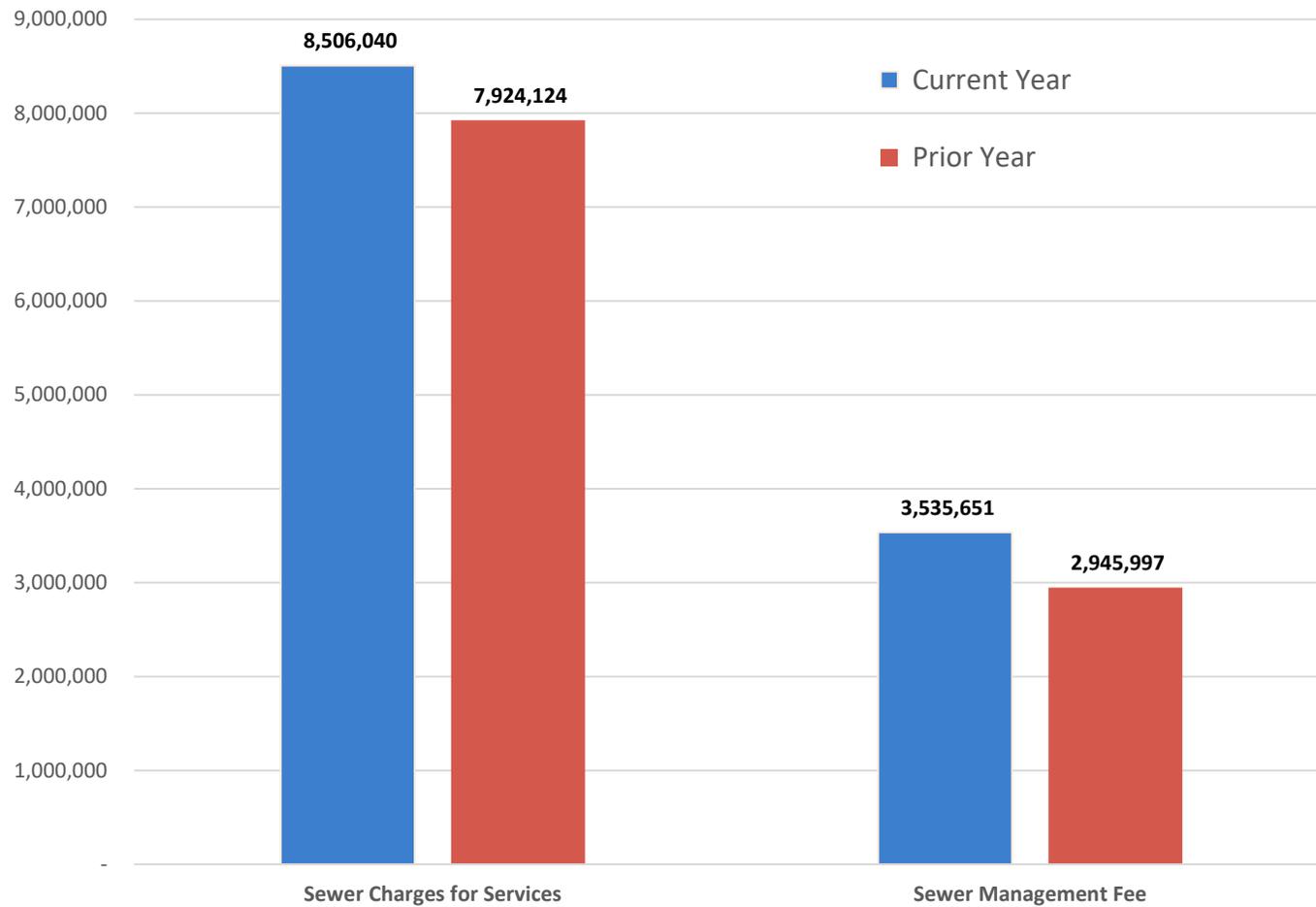
# WATER REVENUE AND EXPENSE

## Current YTD to Prior Year YTD Actual Comparison



## SEWER REVENUE AND EXPENSE

### Current YTD to Prior Year YTD Actual Comparison



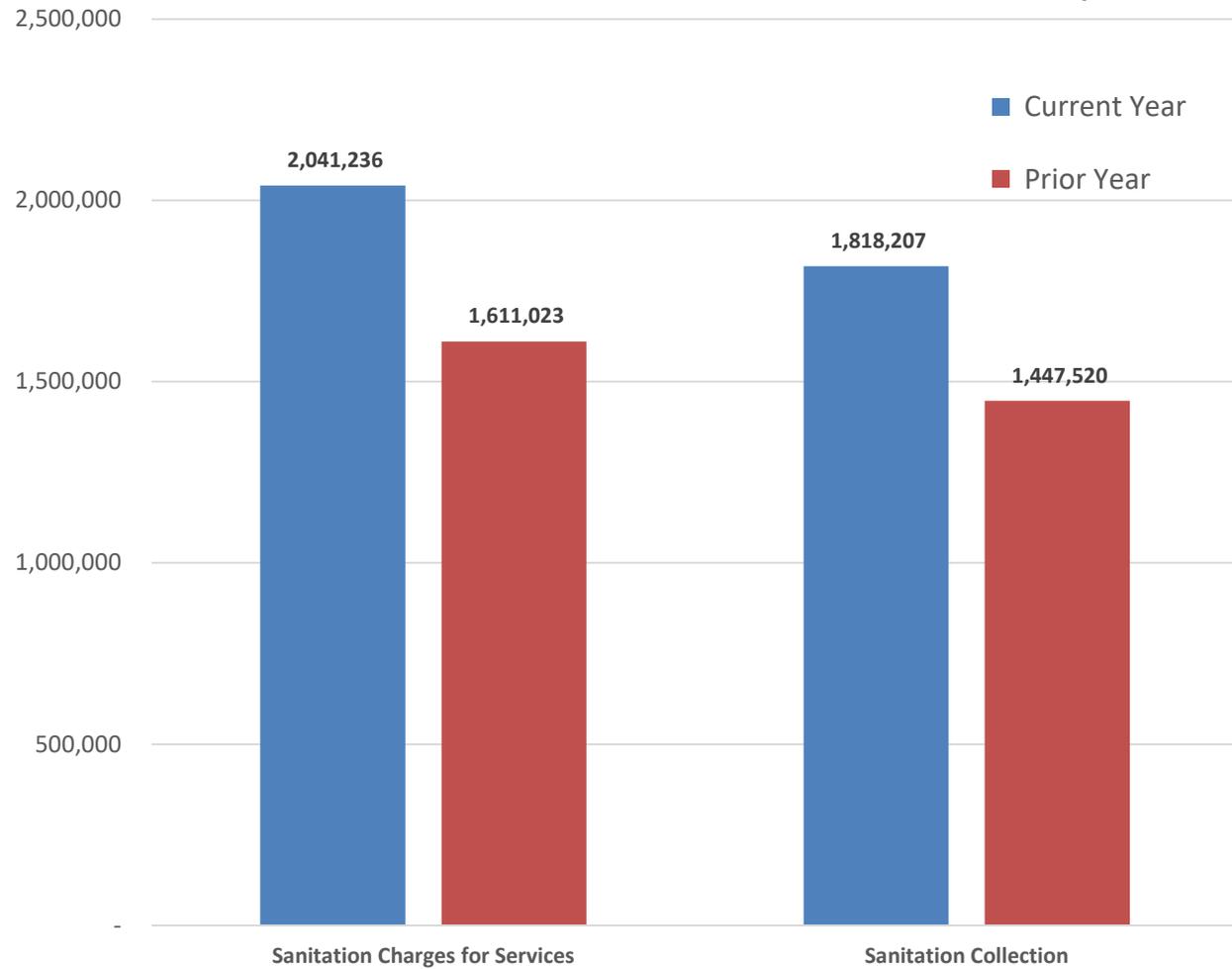
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**SOLID WASTE FUND**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Sanitation Charges for Services	2,158,200	-	2,158,200	2,041,236	-	116,964	95%		1,611,023	27%
Interest Income	-	-	-	2,587	-	(2,587)	0%		-	0%
Transfer In	1,750,000	-	1,750,000	-	-	1,750,000	0%		-	0%
<b>Total Revenues</b>	<b>\$ 3,908,200</b>	<b>\$ -</b>	<b>\$ 3,908,200</b>	<b>\$ 2,043,823</b>	<b>\$ -</b>	<b>\$ 1,864,377</b>	<b>52%</b>		<b>\$ 1,611,023</b>	<b>27%</b>
<b>EXPENDITURES</b>										
Administration	\$ 1,750,000	\$ -	\$ 1,750,000	\$ 49,426	\$ 574	1,700,000	3%		-	0%
Sanitation Collection	2,158,200	-	2,158,200	1,818,207	-	339,993	84%		1,447,520	26%
Transfer Out	-	-	-	-	-	-	0%		-	0%
<b>Total Expenses</b>	<b>\$ 3,908,200</b>	<b>\$ -</b>	<b>\$ 3,908,200</b>	<b>\$ 1,867,633</b>	<b>\$ 574</b>	<b>\$ 2,039,993</b>	<b>48%</b>		<b>\$ 1,447,520</b>	<b>29%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 176,190</b>					<b>\$ 163,502</b>	
Beginning Working Capital October 1				\$ -						
Ending Working Capital			<u>\$ -</u>	<u>\$ 176,190</u>						

Notes

### SOLID WASTE REVENUE AND EXPENSE Current YTD to Prior Year YTD Actual Comparison



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**DEBT SERVICE FUND**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Property Taxes-Delinquent	\$ 75,000	\$ -	\$ 75,000	\$ 163,824	\$ -	\$ (88,824)	218%		\$ 67,071	144%
Property Taxes-Current	12,605,972	-	12,605,972	13,118,364	-	(512,392)	104%	1	10,414,651	26%
Taxes-Penalties	-	-	-	41,592	-	(41,592)	0%		35,932	16%
Interest Income	20,000	-	20,000	132,506	-	(112,506)	663%		14,330	825%
Transfer In	-	-	-	-	-	-	0%		428,581	-100%
<b>Total Revenues</b>	<b>\$ 12,700,972</b>	<b>\$ -</b>	<b>\$ 12,700,972</b>	<b>\$ 13,456,285</b>	<b>\$ -</b>	<b>\$ (755,313)</b>	<b>106%</b>		<b>\$ 10,960,565</b>	<b>23%</b>
<b>EXPENDITURES</b>										
Professional Services	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%		\$ 9,500	-100%
Bond Administrative Fees	20,000	0	20,000	500	0	19,500	3%		1,040	-52%
2013 GO Refunding Bond	180,000	0	180,000	0	0	180,000	0%		0	0%
2014 GO Bond Payment	315,000	0	315,000	0	0	315,000	0%		0	0%
2015 GO Bond Payment	1,309,200	0	1,309,200	1,309,200	0	-	100%		1,220,300	7%
2015 CO Bond Payment	465,000	0	465,000	465,000	0	-	100%		445,000	4%
2016 GO Debt Payment	0	0	0	0	0	-	0%		0	0%
2016 CO Debt Payment	80,000	0	80,000	80,000	0	-	100%	2	70,000	14%
2017 CO Debt Payment	85,000	0	85,000	85,000	0	-	100%		70,000	21%
2018 GO Debt Payment	145,000	0	145,000	145,000	0	-	100%		145,000	0%
2018 CO Debt Payment	475,000	0	475,000	475,000	0	-	100%		455,000	4%
2019 CO Debt Payment	399,806	0	399,806	399,806	0	-	100%		381,123	5%
2019 GO Debt Payment	160,000	0	160,000	160,000	0	-	100%		155,000	3%
2020 CO Debt Payment	255,000	0	255,000	255,000	0	-	100%		245,000	4%
2021 CO Debt Payment	245,000	0	245,000	245,000	0	-	100%		310,000	-21%
2021 GO Debt Payment	1,225,000	0	1,225,000	1,225,000	0	-	100%		1,925,000	-36%
2022 GO Debt Payment	1,890,000	0	1,890,000	1,890,000	0	-	100%		0	0%
Bond Interest Expense	5,662,157	0	5,662,157	2,785,327	0	2,876,830	49%		2,238,972	24%
<b>Total Expenditures</b>	<b>\$ 12,911,163</b>	<b>\$ -</b>	<b>\$ 12,911,163</b>	<b>\$ 9,519,833</b>	<b>\$ -</b>	<b>\$ 3,391,330</b>	<b>74%</b>		<b>\$ 10,260,935</b>	<b>-7%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ (210,191)</b>	<b>\$ -</b>	<b>\$ (210,191)</b>	<b>\$ 3,936,452</b>					<b>\$ 699,631</b>	
Beginning Fund Balance October 1			683,357	683,357					2,619,367	
Ending Fund Balance Current Month			<u>\$ 473,166</u>	<u>\$ 4,619,809</u>					<u>\$ 3,318,998</u>	

**Notes**

- 1 Property taxes are billed in October and the majority of collections occur December through February.
- 2 Annual debt service payments are made in February and August.

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**CRIME CONTROL AND PREVENTION SPECIAL PURPOSE DISTRICT**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Sales Tax - Town	\$ 2,741,662	\$ -	\$ 2,741,662	\$ 2,197,361	\$ -	\$ 544,301	80%		\$ 2,087,537	5%
Interest Income	1,200	-	1,200	(1,290)	-	2,490	-108%		919	-240%
Other	-	-	-	-	-	-	0%		-	0%
<b>Total Revenue</b>	<b>\$ 2,742,862</b>	<b>\$ -</b>	<b>\$ 2,742,862</b>	<b>\$ 2,196,071</b>	<b>\$ -</b>	<b>\$ 546,791</b>	<b>80%</b>		<b>\$ 2,088,455</b>	<b>5%</b>
<b>EXPENDITURES</b>										
Personnel	\$ 2,711,865	\$ -	\$ 2,711,865	\$ 2,347,479	\$ -	\$ 364,386	87%		\$ 1,740,845	35%
Other	1,200	-	1,200	(5,462)	-	6,662	-455%		520	-1151%
<b>Total Expenditures</b>	<b>\$ 2,713,065</b>	<b>\$ -</b>	<b>\$ 2,713,065</b>	<b>\$ 2,342,017</b>	<b>\$ -</b>	<b>\$ 371,049</b>	<b>86%</b>		<b>\$ 1,741,365</b>	<b>34%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ 29,797</b>	<b>\$ -</b>	<b>\$ 29,797</b>	<b>\$ (145,945)</b>					<b>\$ 347,090</b>	
Beginning Fund Balance October 1			453,711	453,711					302,439	
Ending Fund Balance Current Month			<u>\$ 483,508</u>	<u>\$ 307,766</u>					<u>\$ 649,529</u>	

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**FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES SEPCIAL PURPOSE DISTRICT**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Sales Tax - Town	\$ 2,710,483	\$ -	\$ 2,710,483	\$ 2,195,114	\$ -	\$ 515,369	81%		\$ 2,083,116	5%
Interest Income	600	-	600	1,760	-	(1,160)	293%		571	208%
Other	-	-	-	-	-	-	0%		-	0%
<b>Total Revenue</b>	<b>\$ 2,711,083</b>	<b>\$ -</b>	<b>\$ 2,711,083</b>	<b>\$ 2,196,874</b>	<b>\$ -</b>	<b>\$ 514,209</b>	<b>81%</b>		<b>\$ 2,083,687</b>	<b>5%</b>
<b>EXPENDITURES</b>										
Personnel	\$ 2,682,642	\$ -	\$ 2,682,642	\$ 2,180,833	\$ -	\$ 501,809	81%		\$ 1,851,716	18%
Other	2,400	-	2,400	(5,462)	-	7,862	-228%		520	-1151%
<b>Total Expenditures</b>	<b>\$ 2,685,042</b>	<b>\$ -</b>	<b>\$ 2,685,042</b>	<b>\$ 2,175,371</b>	<b>\$ -</b>	<b>\$ 509,671</b>	<b>81%</b>		<b>\$ 1,852,236</b>	<b>17%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ 26,041</b>	<b>\$ -</b>	<b>\$ 26,041</b>	<b>\$ 21,503</b>					<b>\$ 231,451</b>	
Beginning Fund Balance October 1			457,409	457,409					203,982	
Ending Fund Balance Current Month			<u>\$ 483,450</u>	<u>\$ 478,912</u>					<u>\$ 435,433</u>	

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**VEHICLE AND EQUIPMENT REPLACEMENT FUND**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Grant Revenue	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%		\$ -	0%
Other Reimbursements	150,000	-	150,000	-	-	150,000	0%		-	0%
Interest Income	25,000	-	25,000	146,723	-	(121,723)	587%		13,293	1004%
Charges for Services	1,385,257	-	1,385,257	1,154,381	-	230,876	83%		975,165	18%
Total Revenue	\$ 1,560,257	\$ -	\$ 1,560,257	\$ 1,301,104	\$ -	\$ 259,153	83%		\$ 988,458	32%
<b>EXPENDITURES</b>										
Vehicle Replacement	\$ 754,100	\$ 69,135	\$ 823,235	\$ 137,570	\$ 568,169	\$ 117,496	86%		\$ 557,530	-75%
Equipment Replacement	170,906	-	170,906	9,461	170,387	(8,942)	105%		-	0%
Technology Replacement	293,200	120,277	413,477	125,090	236,187	52,200	87%		199,390	-37%
Total Expenditures	\$ 1,218,206	\$ 189,412	\$ 1,407,618	\$ 272,121	\$ 974,743	\$ 160,753	89%		\$ 756,920	-64%
REVENUE OVER (UNDER) EXPENDITURES	\$ 342,051	\$ (189,412)	\$ 152,639	\$ 1,028,983					\$ 231,538	
Beginning Fund Balance October 1			3,957,862	3,957,862					3,957,862	
Ending Fund Balance Current Month			<u>\$ 4,110,501</u>	<u>\$ 4,986,845</u>					<u>\$ 4,189,400</u>	

Notes

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**STORM DRAINAGE UTILITY FUND**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Storm Drainage Utility Fee	\$ 825,000	\$ -	\$ 825,000	\$ 716,133	\$ -	\$ 108,867	87%		\$ 664,232	8%
Drainage Review Fee	3,000	-	3,000	6,300	-	(3,300)	210%		3,628	74%
Interest Income	1,800	-	1,800	(3,465)	-	5,265	-193%		1,585	-319%
Transfer In	-	-	-	-	-	-	0%		531,449	-100%
Other Revenue	-	-	-	2,096	-	(2,096)	0%		-	0%
<b>Total Revenue</b>	<b>\$ 829,800</b>	<b>\$ -</b>	<b>\$ 829,800</b>	<b>\$ 721,064</b>	<b>\$ -</b>	<b>\$ 108,736</b>	<b>87%</b>		<b>\$ 1,200,894</b>	<b>-40%</b>
<b>EXPENDITURES</b>										
Personnel Services	\$ 181,914	\$ -	\$ 181,914	\$ 138,523	\$ -	\$ 43,391	76%		\$ 121,430	14%
Debt Service	217,575	-	217,575	149,610	-	67,965	69%	2	736,206	-80%
Operating Expenditures	288,177	82,706	370,883	115,534	35,651	219,698	41%		58,606	97%
Transfers Out	107,996	-	107,996	89,997	-	17,999	83%	1	726,757	-88%
<b>Total Expenses</b>	<b>\$ 795,662</b>	<b>\$ 82,706</b>	<b>\$ 878,368</b>	<b>\$ 493,665</b>	<b>\$ 35,651</b>	<b>\$ 349,052</b>	<b>60%</b>		<b>\$ 1,642,999</b>	<b>-70%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ 34,138</b>	<b>\$ (82,706)</b>	<b>\$ (48,568)</b>	<b>\$ 227,400</b>					<b>\$ (442,104)</b>	
Beginning Working Capital October 1			816,012	816,012					632,579	
Ending Working Capital Current Month			<u>\$ 767,444</u>	<u>\$ 1,043,412</u>					<u>\$ 190,475</u>	

Notes

- 1 Capital project funds are transferred as needed; General fund transfers are made monthly.
- 2 Annual debt service payments are made in February and August.

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**PARK DEDICATION AND IMPROVEMENT FUNDS**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>										
Park Dedication-Fees	\$ 964,000	\$ -	\$ 964,000	\$ 205,514	\$ -	\$ 758,486	21%		\$ 755,378	-73%
Park Dedication - Transfers In	-	-	-	-	-	-	0%		-	0%
Park Improvements	873,000	-	873,000	144,000	-	729,000	16%		299,766	-52%
Contributions/Grants	200,550	-	200,550	-	-	200,550	0%		-	0%
Interest-Park Dedication	2,000	-	2,000	30,322	-	(28,322)	1516%		4,478	577%
Interest-Park Improvements	4,050	-	4,050	27,837	-	(23,787)	687%		3,592	675%
<b>Total Revenue</b>	<b>\$ 2,043,600</b>	<b>\$ -</b>	<b>\$ 2,043,600</b>	<b>\$ 407,674</b>	<b>\$ -</b>	<b>\$ 1,635,926</b>	<b>20%</b>		<b>\$ 1,063,215</b>	<b>-62%</b>
<b>EXPENDITURES</b>										
Pecan Grove Park	-	798,971	798,971	749,736	97,810	(48,575)	106%		-	0%
Windsong Neighborhood Park	100,000	-	100,000	-	-	100,000	0%		-	0%
Capital (Misc. small projects)	-	-	-	-	-	-	0%		12,362	-100%
Transfers Out	-	-	-	-	-	-	0%		-	0%
<b>Total Expenses</b>	<b>\$ 100,000</b>	<b>\$ 798,971</b>	<b>\$ 898,971</b>	<b>\$ 749,736</b>	<b>\$ 97,810</b>	<b>\$ 51,425</b>	<b>94%</b>		<b>\$ 12,362</b>	<b>5965%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ 1,943,600</b>	<b>\$ (798,971)</b>	<b>\$ 1,144,630</b>	<b>\$ (342,062)</b>						
Beginning Fund Balance October 1			2,140,734	2,140,734					2,660,035	
Ending Fund Balance Current Month			<u>\$ 3,285,364</u>	<u>\$ 1,798,672</u>					<u>\$ 2,660,035</u>	

**TOWN OF PROSPER, TEXAS**  
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**Expected Year to Date Percent 83.33%**

**TIRZ #1 - BLUE STAR**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>									
Impact Fee Revenue:									
Water Impact Fees	\$ -	\$ -	\$ -	\$ -	\$ -	0%		\$ 259,800	-100%
Wastewater Impact Fees	-	-	-	283,566	(283,566)	0%		586,197	-52%
East Thoroughfare Impact Fees	200,000	-	200,000	-	200,000	0%		1,323,566	-100%
Property Taxes - Town (Current)	824,243	-	824,243	810,076	14,167	98%		612,991	32%
Property Taxes - Town (Rollback)	-	-	-	-	-	0%		-	0%
Property Taxes - County (Current)	184,704	-	184,704	172,956	11,748	94%		144,308	20%
Sales Taxes - Town	1,024,068	-	1,024,068	763,126	260,942	75%		697,810	9%
Sales Taxes - EDC	857,656	-	857,656	639,118	218,538	75%		584,416	9%
Interest Income	6,000	-	6,000	71,236	(65,236)	1187%		5,616	1168%
Transfer In	-	-	-	-	-	0%		-	0%
Total Revenue	\$ 3,096,671	\$ -	\$ 3,096,671	\$ 2,740,078	\$ 356,593	88%		\$ 4,214,704	-35%
<b>EXPENDITURES</b>									
Professional Services	\$ 6,000	\$ -	\$ 6,000	\$ -	\$ 6,000	0%		\$ -	0%
Developer Rebate	3,090,671	-	3,090,671	3,607,318	(516,647)	117%		5,229,934	-31%
Transfers Out	-	-	-	-	-	0%		-	0%
Total Expenses	\$ 3,096,671	\$ -	\$ 3,096,671	\$ 3,607,318	\$ (510,647)	116%		\$ 5,229,934	-31%
REVENUE OVER (UNDER) EXPENDITURES			\$ -	\$ (867,240)				\$ (1,015,229)	
Beginning Fund Balance October 1			1,392,520	1,392,520				301,260	
Ending Fund Balance Current Month			<u>\$ 1,392,520</u>	<u>\$ 525,280</u>				<u>\$ (713,969)</u>	

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**TIRZ #2**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
<b>REVENUES</b>									
Property Taxes - Town (Current)	\$ 33,166	\$ -	\$ 33,166	\$ 33,061	\$ 105	100%		\$ 154,136	-79%
Property Taxes - Town (Rollback)	-	-	-	-	-	0%		-	0%
Property Taxes - County (Current)	7,432	-	7,432	7,059	373	95%		30,280	-77%
Sales Taxes - Town	-	-	-	-	-	0%		-	0%
Sales Taxes - EDC	-	-	-	-	-	0%		-	0%
Interest Income	75	-	75	1,363	(1,288)	1818%		134	919%
<b>Total Revenue</b>	<b>\$ 40,673</b>	<b>\$ -</b>	<b>\$ 40,673</b>	<b>\$ 41,483</b>	<b>\$ (810)</b>	<b>102%</b>		<b>\$ 184,551</b>	<b>-78%</b>
<b>EXPENDITURES</b>									
Professional Services	\$ -	\$ -	\$ -	\$ -	-	0%		\$ -	0%
Developer Rebate	40,673	-	40,673	41,006	(333)	101%		184,549	-78%
Transfers Out	-	-	-	-	-	0%		-	0%
<b>Total Expenditures</b>	<b>\$ 40,673</b>	<b>\$ -</b>	<b>\$ 40,673</b>	<b>\$ 41,006</b>	<b>\$ (333)</b>	<b>101%</b>		<b>\$ 184,549</b>	<b>-78%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>			\$ -	\$ 478				\$ 2	
Beginning Fund Balance October 1			24,835	24,835				25,189	
Ending Fund Balance Current Month			<u>\$ 24,835</u>	<u>\$ 25,313</u>				<u>\$ 25,191</u>	

TOWN OF PROSPER, TEXAS  
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WATER IMPACT FEES FUND

Project Budget	Current Year Original Budget	Current Year Budget Adjustment	Current Year Amended Budget	Current Year Actual	Current Year Encumbrances	Current Remaining Budget Balance	Prior Years Expenditure	Project Budget Balance
<b>REVENUES</b>								
Impact Fees Water	\$ 3,500,000	\$ -	\$ 3,500,000	\$ 2,651,857				
Interest Income	45,000	-	45,000	176,671				
Total Revenues	<u>\$ 3,545,000</u>	<u>\$ -</u>	<u>\$ 3,545,000</u>	<u>\$ 2,828,529</u>				
<b>EXPENDITURES</b>								
<b>Developer Reimbursements</b>								
Cambridge Park Estates	-	0	-	0	180,350	-	(180,350)	-
Parks at Legacy Developer Reimb	250,000	250,000	-	250,000	-	-	250,000	-
Star Trail Developer Reimb	367,000	367,000	-	367,000	639,029	-	(272,029)	-
Victory at Frontier Developer Reimb	42,000	42,000	-	42,000	-	-	42,000	-
Westside Developer Reimb	-	-	-	-	16,047	-	(16,047)	-
TVG Windsong Developer Reimb	625,000	625,000	-	625,000	1,083	-	623,917	-
Total Developer Reimbursements	<u>\$ 1,284,000</u>	<u>\$ 1,284,000</u>	<u>\$ -</u>	<u>\$ 1,284,000</u>	<u>\$ 836,510</u>	<u>\$ -</u>	<u>\$ 447,490</u>	<u>\$ -</u>
<b>Capital Expenditures</b>								
12" Water Line - DNT	200,000	24,250	85,042	109,292	31,573	53,697	24,022	90,708
Lower Pressure Plane Easements	1,500,000	1,400,000	-	1,400,000	95	-	1,399,905	-
Lower Pressure Plane	3,100,000	3,200,000	-	3,200,000	-	-	3,200,000	-
Impact Fee Study	100,000	-	-	-	8,338	91,662	(100,000)	-
Total Projects	<u>\$ 4,900,000</u>	<u>\$ 4,624,250</u>	<u>\$ 85,042</u>	<u>\$ 4,709,292</u>	<u>\$ 40,006</u>	<u>\$ 145,359</u>	<u>\$ 4,523,927</u>	<u>\$ 90,708</u>
Transfer to CIP Fund	-	-	-	-	-	-	-	-
Total Transfers Out	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Total Expenditures	<u>\$ 6,184,000</u>	<u>\$ 5,908,250</u>	<u>\$ 85,042</u>	<u>\$ 5,993,292</u>	<u>\$ 876,515</u>	<u>\$ 145,359</u>	<u>\$ 4,971,417</u>	<u>\$ 90,708</u>
REVENUE OVER (UNDER) EXPENDITURES			\$ (2,448,292)	\$ 1,952,013				
Beginning Fund Balance October 1			4,366,761	4,366,761				
Ending Fund Balance Current Month			<u>\$ 1,918,469</u>	<u>\$ 6,318,774</u>				

TOWN OF PROSPER, TEXAS  
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WASTEWATER IMPACT FEES FUND

Project Budget	Current Year Original Budget	Current Year Budget Adjustment	Current Year Amended Budget	Current Year Actual	Current Year Encumbrances	Current Remaining Budget Balance	Prior Years Expenditure	Project Budget Balance	
<b>REVENUES</b>									
Impact Fees Wastewater	\$ 1,750,000	\$ -	\$ 1,750,000	\$ 1,800,280					
Interest Income	14,625	-	14,625	84,834					
Upper Trinity Equity Fee	300,000	-	300,000	270,500					
<b>Total Revenues</b>	<b>\$ 2,064,625</b>	<b>\$ -</b>	<b>\$ 2,064,625</b>	<b>\$ 2,155,614</b>					
<b>EXPENDITURES</b>									
<b>Developer Reimbursements</b>									
TVG Westside Utility Developer Reimb	350,000	350,000	-	350,000	251,704	-	98,296	-	98,296
Prosper Partners Utility Developer Reimb	100,000	100,000	-	100,000	-	-	100,000	-	100,000
Frontier Estates Developer Reimb	25,000	25,000	-	25,000	1,366	-	23,634	-	23,634
LaCima Developer Reimb	20,000	20,000	-	20,000	-	-	20,000	-	20,000
LaCima #2 Interceptor Agreement	-	-	-	-	-	-	-	-	-
Brookhollow Developer Reimb	100,000	100,000	-	100,000	19,754	-	80,246	-	80,246
TVG Windsong Developer Reimb	700,000	700,000	-	700,000	400,946	-	299,054	-	299,054
All Storage Developer Reimb	50,000	50,000	-	50,000	9,030	-	40,970	-	40,970
Legacy Garden Developer Reimb	60,000	60,000	-	60,000	4,781	-	55,219	-	55,219
<b>Total Developer Reimbursements</b>	<b>\$ 1,405,000</b>	<b>\$ 1,405,000</b>	<b>\$ -</b>	<b>\$ 1,405,000</b>	<b>\$ 687,581</b>	<b>\$ -</b>	<b>\$ 717,419</b>	<b>\$ -</b>	<b>\$ 717,419</b>
<b>Capital Expenditures</b>									
Doe Branch Wastewater Lines	975,000	212,000	314,400	526,400	85,670	727,836	(287,106)	48,600	112,894
Impact Fee Study	100,000	-	-	-	8,338	91,662	(100,000)	-	-
<b>Total Projects</b>	<b>\$ 1,075,000</b>	<b>\$ 212,000</b>	<b>\$ 314,400</b>	<b>\$ 526,400</b>	<b>\$ 94,009</b>	<b>\$ 819,497</b>	<b>\$ (387,106)</b>	<b>\$ 48,600</b>	<b>\$ 112,894</b>
<b>Transfer to CIP Fund</b>									
<b>Total Transfers Out</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Expenditures</b>	<b>\$ 2,480,000</b>	<b>\$ 1,617,000</b>	<b>\$ 314,400</b>	<b>\$ 1,931,400</b>	<b>\$ 781,590</b>	<b>\$ 819,497</b>	<b>\$ 330,313</b>	<b>\$ 48,600</b>	<b>\$ 830,313</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>			<b>\$ 133,225</b>	<b>\$ 1,374,024</b>					
<b>Beginning Fund Balance October 1</b>			<b>2,733,394</b>	<b>2,733,394</b>					
<b>Ending Fund Balance Current Month</b>			<b>\$ 2,866,619</b>	<b>\$ 4,107,418</b>					

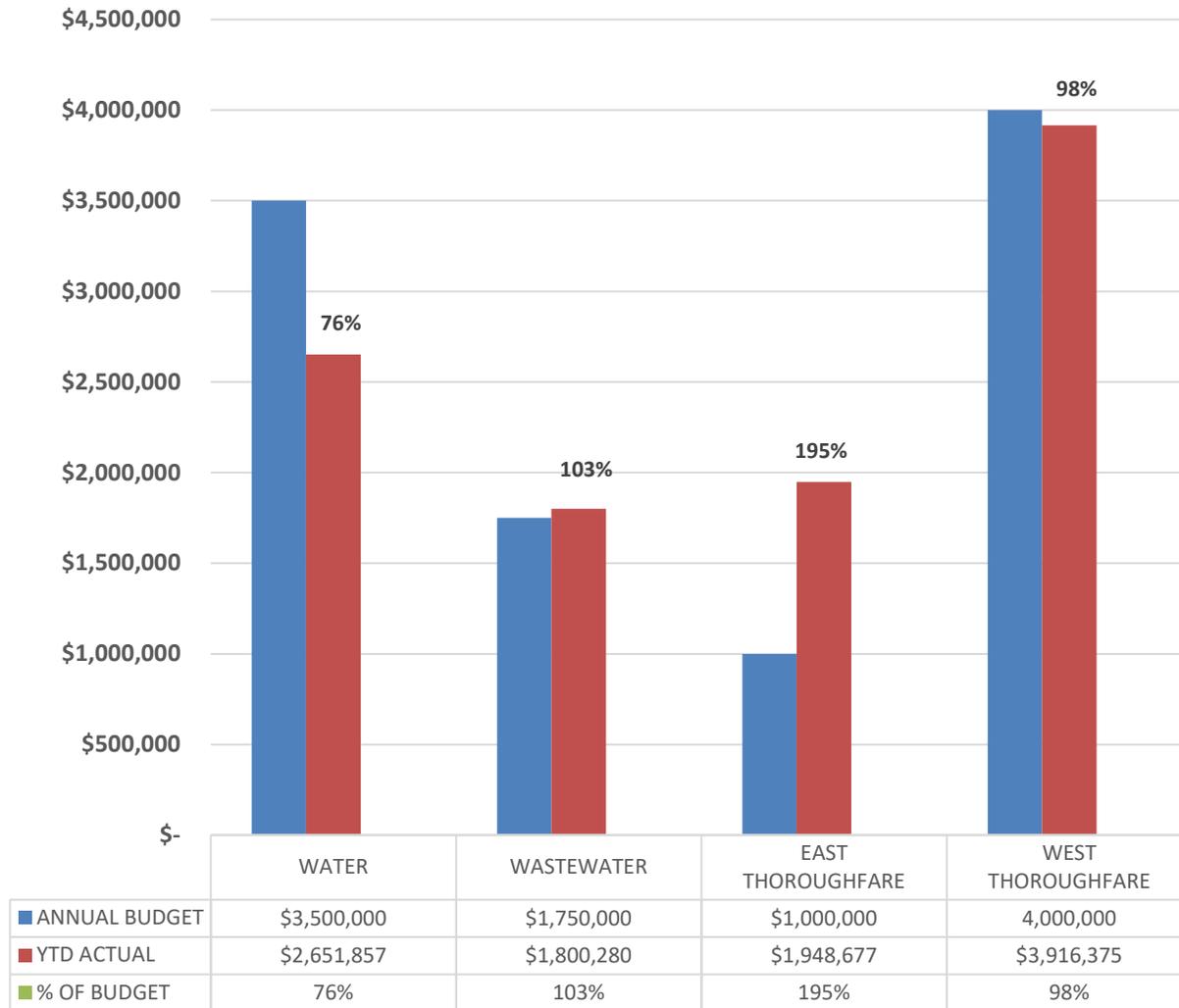
TOWN OF PROSPER, TEXAS  
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THOROUGHFARE IMPACT FEES FUND

Project Budget	Current Year Original Budget	Current Year Budget Adjustment	Current Year Amended Budget	Current Year Actual	Current Year Encumbrances	Current Remaining Budget Balance	Prior Years Expenditure	Project Budget Balance	
<b>REVENUES</b>									
East Thoroughfare Impact Fees	\$ 1,000,000	\$ -	\$ 1,000,000	\$ 1,948,677					
East Thoroughfare Other Revenue	-	-	-	-					
West Thoroughfare Impact Fees	4,000,000	-	4,000,000	3,916,375					
West Thoroughfare Other Revenue	-	-	-	-					
Interest-East Thoroughfare Impact Fees	14,000	-	14,000	87,619					
Interest-West Thoroughfare Impact Fees	45,000	-	45,000	131,638					
<b>Total Revenues</b>	<b>\$ 5,059,000</b>	<b>\$ -</b>	<b>\$ 5,059,000</b>	<b>\$ 6,084,310</b>					
<b>EXPENDITURES</b>									
<b>East</b>									
FM 1461 (SH289-CR 165)	175,000	175,000	-	175,000	77,074	-	97,927	154,147 (56,221)	
Coit Road (First - Frontier)	1,289,900	50,000	364,755	414,755	-	370,755	44,000	925,776 (6,630)	
Impact Fee Study	50,000	-	-	-	3,872	46,128	(50,000)	-	-
Cambridge Park Estates	-	-	-	-	174,494	-	(174,494)	-	(174,494)
Transfer to Capital Project Fund	1,820,000	1,820,000	-	1,820,000	235,447	-	1,584,553	-	1,584,553
<b>Total East</b>	<b>\$ 3,334,900</b>	<b>\$ 2,045,000</b>	<b>\$ 364,755</b>	<b>\$ 2,409,755</b>	<b>\$ 490,886</b>	<b>\$ 416,883</b>	<b>\$ 1,501,985</b>	<b>\$ 1,079,923</b>	<b>\$ 1,347,208</b>
<b>West</b>									
Teel 380 Intersection Improvements	100,000	0	1,000	1,000	358,413	1,615	(359,028)	100,985	(361,013)
Fishtrap (Elem-DNT)	6,600,000	6,600,000	-	6,600,000	-	-	6,600,000	-	6,600,000
Parks at Legacy Developer Reimb	500,000	500,000	-	500,000	552,531	-	(52,531)	-	(52,531)
Star Trail Developer Reimb	1,500,000	1,500,000	-	1,500,000	2,697,632	-	(1,197,632)	-	(1,197,632)
Tellus Windsong Developer Reimb	750,000	750,000	-	750,000	12,833	-	737,168	-	737,168
Legacy Garden Developer Reimb	200,000	200,000	-	200,000	-	-	200,000	-	200,000
Impact Fee Study	50,000	-	-	-	3,872	46,128	(50,000)	-	-
Transfer to Capital Project Fund	-	-	-	-	31,025	-	(31,025)	-	(31,025)
<b>Total West</b>	<b>\$ 9,700,000</b>	<b>\$ 9,550,000</b>	<b>\$ 1,000</b>	<b>\$ 9,551,000</b>	<b>\$ 3,656,305</b>	<b>\$ 47,743</b>	<b>\$ 5,846,951</b>	<b>\$ 100,985</b>	<b>\$ 5,894,966</b>
<b>Total Expenditures</b>	<b>\$ 13,034,900</b>	<b>\$ 11,595,000</b>	<b>\$ 365,755</b>	<b>\$ 11,960,755</b>	<b>\$ 4,147,191</b>	<b>\$ 464,626</b>	<b>\$ 7,348,937</b>	<b>\$ 1,180,908</b>	<b>\$ 7,242,175</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>				<b>\$ (6,901,755)</b>	<b>\$ 1,937,118</b>				
<b>Beginning Fund Balance October 1</b>				<b>10,678,812</b>	<b>10,678,812</b>				
<b>Ending Fund Balance Current Month</b>				<b>\$ 3,777,058</b>	<b>\$ 12,615,930</b>				

# IMPACT FEE REVENUE

YTD Actual to Annual Budget



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**SPECIAL REVENUE FUNDS**

	Original Budget	Budget Adjustment	Amended Budget	Current Year YTD Actual	Current Year Encumbrances	Current Remaining Budget Balance	YTD Percent	Note	Prior Year YTD Actual	Change from Prior Year
Police Donation Revenue	\$ 15,500	\$ -	\$ 15,500	\$ 20,357	\$ -	\$ (4,857)	131%		\$ 12,632	61%
Fire Donation Revenue	15,500	-	15,500	12,944	-	2,556	84%		12,456	4%
Child Safety Revenue	28,000	-	28,000	13,725	-	14,275	49%		14,187	-3%
Court Security Revenue	8,000	-	8,000	9,772	-	(1,772)	122%		6,038	62%
Court Technology Revenue	7,650	-	7,650	8,122	-	(472)	106%		5,072	60%
Municipal Jury revenue	150	-	150	194	-	(44)	129%		118	65%
Interest Income	2,425	-	2,425	26,137	-	(23,712)	1078%		2,340	1017%
Interest Income CARES/ARPA Funds	-	-	-	187,371	-	(187,371)	0%		10,139	1748%
Tree Mitigation	-	-	-	1,238,694	-	(1,238,694)	0%		22,400	5430%
Cash Seizure Forfeit	-	-	-	11,122	-	(11,122)	0%		-	0%
Miscellaneous	3,000	-	3,000	2,416	-	584	81%		2,997	-19%
CARES Act/ARPA Funding	3,045,165	-	3,045,165	-	-	3,045,165	0%		6,018	-100%
Transfer In	-	-	-	-	-	-	0%		-	0%
<b>Total Revenue</b>	<b>\$ 3,125,390</b>	<b>\$ -</b>	<b>\$ 3,125,390</b>	<b>\$ 1,530,853</b>	<b>\$ -</b>	<b>\$ 1,594,537</b>	<b>49%</b>		<b>\$ 94,398</b>	<b>1522%</b>
<b>EXPENDITURES</b>										
LEOSE Expenditure	\$ 17,500	\$ -	\$ 17,500	\$ 5,050	\$ -	\$ 12,450	29%		\$ -	0%
Court Technology Expense	-	-	-	-	-	-	0%		10,688	-100%
Court Security Expense	15,675	-	15,675	50	-	15,625	0%		360	-86%
Police Donation Expense	38,740	-	38,740	17,842	14,462	6,436	83%		24,425	-27%
Fire Donation Expense	5,387	5,000	10,387	8,546	-	1,841	82%		-	0%
Child Safety Expense	39,761	19,985	59,746	22,238	-	37,508	37%		2,706	722%
Tree Mitigation Expense	-	-	-	-	-	-	0%		33,600	-100%
Police Seizure Expense	12,995	-	12,995	4,457	-	-	34%		-	0%
CARES Act/ARPA Funding	-	-	-	-	-	-	0%		-	0%
Transfer Out (Tree Mitigation funds)	-	-	-	-	-	-	0%		366,400	-100%
<b>Total Expenses</b>	<b>\$ 130,058</b>	<b>\$ 24,985</b>	<b>\$ 155,043</b>	<b>\$ 58,183</b>	<b>\$ 14,462</b>	<b>\$ 73,860</b>	<b>47%</b>		<b>\$ 438,179</b>	<b>-87%</b>
<b>REVENUE OVER (UNDER) EXPENDITURES</b>	<b>\$ 2,995,332</b>	<b>\$ (24,985)</b>	<b>\$ 2,970,347</b>	<b>\$ 1,472,670</b>					<b>\$ (343,781)</b>	
Beginning Fund Balance October 1			817,219	817,219					567,535	
Ending Fund Balance Current Month			<u>\$ 3,787,566</u>	<u>\$ 2,289,889</u>					<u>\$ 223,754</u>	

Notes

TOWN OF PROSPER, TEXAS  
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CAPITAL PROJECTS FUND - GENERAL

	Project Budget	Current Year Original Budget	Current Year Budget Adjustment	Current Year Amended Budget	Current Year Actual	Current Year Encumbrances	Current Remaining Budget Balance	Prior Years Expenditure	Project Budget Balance
<b>REVENUES</b>									
Grants		\$ -	\$ -	\$ -	\$ -				
Contributions/Interlocal Revenue		-	1,700,000	1,700,000	-				
Bond Proceeds		-	-	-	-				
Interest Income		-	-	-	1,509,184				
Other Revenue		-	-	-	5,460				
Transfers In - General Fund		-	1,000,000	1,000,000	5,835,364				
Transfers In - Impact Fee Funds		-	-	-	266,472				
*Transfers In/Out - Bond Funds		-	-	-	-				
<b>Total Revenues</b>		<b>\$ -</b>	<b>\$ 2,700,000</b>	<b>\$ 2,700,000</b>	<b>\$ 7,616,480</b>				
<b>EXPENDITURES</b>									
Frontier Parkway BNSF Overpass	9,402,125	\$ -	-	-	56,849	-	(56,849)	9,345,276	(0)
West Prosper Roads	14,168,828	-	-	-	-	-	-	14,017,321	151,507
BNSF Quiet Zone First/Fifth	145,000	-	4,950	4,950	4,218	732	-	17,146	122,904
Coit Rd (First-Frontier) 4 Lns	800,000	-	-	-	649	-	(649)	-	799,351
First St (DNT to Coleman)	5,786,567	-	1,584,883	1,584,883	428,195	387,839	768,849	1,540,745	3,429,788
First Street (Elem-DNT) 4 Lanes	30,807,380	-	26,870,802	26,870,802	733,106	26,227,508	(89,812)	3,127,872	718,894
Preston Road / First Street Dual Left Turns (Design & Construct)	900,000	-	-	-	-	93,000	(93,000)	-	807,000
First St (Coit-Custer) 4 Lanes	27,260,000	-	22,840,969	22,840,969	9,761,258	13,256,431	(176,719)	2,744,075	1,498,237
Preston/Prosper Trail Turn Lane	900,000	-	-	-	116,879	52,067	(168,946)	-	731,054
Craig Street (Preston-Fifth)	450,000	-	148,005	148,005	131,773	28,733	(12,500)	175,595	113,900
First Street Section 1 & 4	778,900	-	5,000	5,000	5,000	-	-	382,323	391,577
First Street (Teel - Gee Road)	6,425,000	-	6,025,000	6,025,000	2,137,543	4,056,288	(168,832)	247	230,921
Gee Road (First Street - Windsong)	4,948,793	-	4,169,579	4,169,579	2,875,122	2,582,567	(1,288,110)	4,052	(512,949)
Teel (US 380 Intersection Improvements)	1,380,000	-	200,000	200,000	965,210	-	(765,210)	106,198	308,592
Coleman (Gorgeous - Prosper Trail)	1,500,000	-	740,906	740,906	301,996	438,910	-	120,534	638,561
Coleman (Prosper Trail - PHS)	720,000	-	-	-	-	-	-	-	720,000
Legacy (Prairie - First Street)	1,425,000	-	1,133,307	1,133,307	396,076	165,981	571,250	235,694	627,250
Coit/US 380 SB Turn Lanes	300,000	-	-	-	21,200	28,800	(50,000)	-	250,000
Safety Way	800,000	-	800,000	800,000	-	-	800,000	-	800,000
Gorgeous/McKinley	700,000	-	700,000	700,000	-	-	700,000	-	700,000
Renaming of Fishtrap Road to W. First Street	80,000	-	-	-	2,877	-	(2,877)	-	77,123
Gee Road (US 380-FM 1385)	1,700,000	-	1,700,000	1,700,000	-	1,655,000	45,000	-	45,000
First Street (Coleman)	500,000	-	500,000	500,000	209	-	499,791	-	499,791
Teel Parkway (US 380 - First Street Rd) NB 2 Lanes (Design)	750,000	-	135,700	135,700	104,015	33,550	(1,865)	82,943	529,492
<b>Total Street Projects</b>	<b>\$ 112,627,593</b>	<b>\$ -</b>	<b>\$ 67,559,101</b>	<b>\$ 67,559,101</b>	<b>\$ 18,042,175</b>	<b>\$ 49,007,405</b>	<b>\$ 509,522</b>	<b>\$ 31,900,019</b>	<b>\$ 13,677,995</b>
Turf Irrigation SH289	68,000	-	-	-	-	-	-	48,935	19,065
US 380 Median Design (Green Ribbon)	821,250	-	-	-	-	-	-	65,800	755,450
Whitley Place H&B Trail Extension	750,000	-	-	-	-	-	-	734,209	15,791
Tanner's Mill Phase 2 Design	1,396,400	-	688,651	688,651	685,039	4,000	(388)	696,070	11,291
Lakewood Preserve, Phase 2	3,845,000	-	-	-	-	131,477	(131,477)	-	3,713,523
Pecan Grove Ph II	907,500	-	4,352	4,352	1,393	2,959	-	66,105	837,043
Downtown Pond Improvements	120,000	-	-	-	-	-	-	11,760	108,240
Raymond Community Park	1,200,000	-	936,986	936,986	116,524	820,462	-	154,672	108,342
Coleman Median Landscape (Victory-Preston)	650,000	-	432,358	432,358	272,665	163,881	(4,188)	19,783	193,671
Prosper Trail Median Landscape	275,000	-	146,481	146,481	110,644	38,770	(2,934)	7,352	118,234
<b>Total Park Projects</b>	<b>\$ 10,033,150</b>	<b>\$ -</b>	<b>\$ 2,208,828</b>	<b>\$ 2,208,828</b>	<b>\$ 1,186,266</b>	<b>\$ 1,161,549</b>	<b>\$ (138,988)</b>	<b>\$ 1,804,685</b>	<b>\$ 5,880,649</b>

TOWN OF PROSPER, TEXAS  
MONTHLY FINANCIAL REPORT  
July 31, 2023

CAPITAL PROJECTS FUND - GENERAL

	Project Budget	Current Year Original Budget	Current Year Budget Adjustment	Current Year Amended Budget	Current Year Actual	Current Year Encumbrances	Current Remaining Budget Balance	Prior Years Expenditure	Project Budget Balance
PD Car Camera and Body worn Camera System	387,225	-	17,000	17,000	14,500	2,500	-	-	370,225
Station #3 Quint Engine	1,495,000	-	118,273	118,273	41,460	51,553	25,259	1,376,727	25,259
Station #3 Ambulance	495,000	-	79,251	79,251	5,746	30,827	42,677	415,749	42,677
Park Ops Vehicle	27,035	-	-	-	23,242	-	(23,242)	-	3,793
Awnings for Storage	19,800	-	300	300	-	300	-	11,100	8,400
Public Safety Complex, Phase 2-Design	1,578,290	-	205,380	205,380	185,374	19,396	610	1,373,520	-
Public Safety Complex, Phase 2-Dev Costs	647,325	-	555,818	555,818	21,173	11,375	523,270	91,507	523,270
Public Safety Complex, Phase 2-Construction	14,500,000	-	8,903,575	8,903,575	8,817,585	85,856	134	5,596,425	134
Public Safety Complex, Phase 2-FFE	1,274,385	-	1,224,224	1,224,224	870,141	118,211	235,871	50,161	235,871
Fire Engine Station 4 - FUNDS REALLOCATED	1,100,000	-	-	-	-	-	-	-	1,100,000
Fire Station #4 - Design	600,000	-	285,616	285,616	135,048	150,568	-	337,939	(23,555)
Fire Station #4 - Engine	1,250,000	-	117,557	117,557	40,169	51,672	25,716	1,132,443	25,716
Fire Station #4 - Ambulance	552,000	-	509,445	509,445	7,794	449,717	51,934	42,555	51,934
Fire Station #4 - Other Costs	400,000	-	-	-	-	-	-	8,250	391,750
Total Facility Projects	\$ 24,326,060	\$ -	\$ 12,016,439	\$ 12,016,439	\$ 10,162,233	\$ 971,976	\$ 882,230	\$ 10,436,376	\$ 2,755,474
Transfer Out	-	-	-	-	-	-	-	-	-
Total Expenditures	\$ 146,986,803	\$ -	\$ 81,784,368	\$ 81,784,368	\$ 29,390,674	\$ 51,140,931	\$ 1,252,763	\$ 44,141,080	\$ 22,314,118
REVENUE OVER (UNDER) EXPENDITURES				\$ (79,084,368)	\$ (21,774,194)				
Beginning Fund Balance (Restricted for Capital Projects) October 1				77,609,702	77,609,702				
Ending Fund Balance (Restricted for Capital Projects) Current Month				\$ (1,474,666)	\$ 55,835,508				

TOWN OF PROSPER, TEXAS  
 MONTHLY FINANCIAL REPORT  
 July 31, 2023

CAPITAL PROJECTS FUND-WATER/SEWER

Project Budget	Current Year Original Budget	Current Year Budget Adjustment	Current Year Amended Budget	Current Year Actual	Current Year Encumbrances	Current Remaining Budget Balance	Prior Year Expenditure	Project Budget Balance	
<b>REVENUES</b>									
Interest Income	\$ -	\$ -	\$ -	\$ 796,385					
Bond Proceeds	-	-	-	-					
Transfers In	-	146,650	146,650	176,743					
Transfers In - Impact Fee Funds	-	-	-	-					
Transfers In - Bond Funds	-	-	-	(0)					
Total Revenues	\$ -	\$ 146,650	\$ 146,650	\$ 973,127					
<b>EXPENDITURES</b>									
Lower Pressure Plane Pump Station Design	24,331,100	-	16,204,853	16,204,853	6,379,808	9,958,626	(133,582)	1,701,715	6,290,951
Custer Rd Meter Station/Water Line Relocation	3,869,563	-	826	826	48,276	-	(47,450)	3,832,735	(11,448)
Upper Doe Branch WW Line (Teel-PISD Stadium)	25,000	-	-	-	-	-	-	-	25,000
DNT Water Line Relocation (US 380 - First St)	146,650	-	146,650	146,650	-	146,650	-	-	-
Water Line Relocation Frontier	400,000	-	398,239	398,239	174,702	227,357	(3,819)	2,041	(4,099)
Total Water & Wastewater Projects	\$ 28,772,313	\$ -	\$ 16,750,568	\$ 16,750,568	\$ 6,602,786	\$ 10,332,633	\$ (184,851)	\$ 5,536,490	\$ 6,300,404
Frontier Park/Preston Lakes Drainage	1,085,000	-	148,379	148,379	140,960	7,419	0	648,022	288,599
Old Town Regional Pond #2	385,000	-	17,114	17,114	-	17,114	-	31,210	336,677
Total Drainage Projects	\$ 1,470,000	\$ -	\$ 165,493	\$ 165,493	\$ 140,960	\$ 24,532	\$ 0	\$ 679,232	\$ 625,276
Transfer out	-	-	-	-	-	-	-	-	-
Total Expenses	\$ 30,242,313	\$ -	\$ 16,916,060	\$ 16,916,060	\$ 6,743,746	\$ 10,357,165	\$ (184,851)	\$ 6,215,722	\$ 6,925,680
REVENUE OVER (UNDER) EXPENDITURES			\$ (16,769,410)	\$ (5,770,618)					
Beginning Fund Balance (Restricted for Capital Projects) October 1			40,601,835	40,601,835					
Ending Fund Balance (Restricted for Capital Projects) Current Month			\$ 23,832,425	\$ 34,831,217					



## Public Works

**To:** Mayor and Town Council

**From:** Frank E. Jaromin, P.E.

**Through:** Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager

**Re:** Sanitary Sewer Easement Purchase

Town Council Meeting – September 26, 2023

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider and act upon purchasing a sanitary sewer easement at 302 N Parvin Street from property owner, David Maya; and authorize the Town Manager to execute documents for same.

**Description of Agenda Item:**

The owner of 302 N Parvin Street has a wastewater line bisecting his property, creating issues with the building of his home. Since the wastewater line is not within an easement, Public Works staff will need to relocate the line. The owner, David Maya, has agreed to provide a 13-foot easement, 200 feet long, along the south property line. Located within the easement are several trees, existing form boards, and a retaining wall that needs removal. A minor adjustment to his house plan is also needed. The total cost for consideration of all items regarding the easement purchase is \$35,000.00. This amount is 79% of \$15/sf. Staff received an appraisal from Lowery Property Advisors, LLC.

Relocation of the wastewater line will be completed by Town crews and materials funded by existing resources.

**Budget Impact:**

The total cost of the easement purchase is \$35,000.00 and will be funded from Systems Improvements, account 200-5670-50-03.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Sanitary Sewer Easement & Temp Construction Easement

**Town Staff Recommendation:**

Town Staff recommends purchasing a wastewater line easement at 302 N Parvin Street from property owner, David Maya; and authorize the Town Manager to execute documents for same.

**Proposed Motion:**

I move to purchase a wastewater line easement at 302 N Parvin Street from property owner, David Maya; and authorize the Town Manager to execute documents for same.

“NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS’ LICENSE NUMBER.”

AFTER RECORDING, RETURN TO:

Town of Prosper  
Attn: Town Secretary  
250 W. First Street  
P.O. Box 307  
Prosper, TX 75078

**SANITARY SEWER EASEMENT & TEMP. CONSTRUCTION EASEMENT**

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN

That \_\_\_\_\_ (“Grantor”), whether one or more, for and in consideration of the sum of THIRTYFIVE THOUSAND DOLLARS (\$35,000.00) cash in hand to Grantor paid by the **TOWN OF PROSPER, TEXAS**, a Texas home-rule municipality, (“Grantee”) the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, SELL AND CONVEY unto Grantee the easement and right to construct, reconstruct, operate, repair, re-build, replace, relocate, alter, remove and perpetually maintain sanitary sewer facilities (“Facilities”), together with all incidental improvements, and all necessary laterals in, upon and across certain real property owned by Grantor and located in the Town of Prosper, Collin County, Texas, as more particularly described in and depicted on Exhibit “A”, attached hereto and incorporated herein for all purposes (“Easement Property”). Notwithstanding the foregoing, it is agreed that the Facilities shall not be constructed above the surface of the Easement Property, except other than as needed for clean-outs or manholes at a level even with the natural surface grade of the Easement Property. Furthermore, in installing, maintaining and operating the Facilities, Grantee shall not change the direction or flow of surface drainage of storm water over

the Easement Property.

TO HAVE AND TO HOLD the same perpetually unto the Grantee, its successors, and assigns, together with the right and privilege at all times to enter the Easement Property. Or any part of either thereof, for the purpose of constructing, reconstructing, altering, operating, relocating, and maintaining the Facilities, and all incidental improvements and for making connections therewith.

Grantor does hereby bind itself and its successors to WARRANT AND FOREVER DEFEND all and singular the Easement Property (but only during the term thereof) unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise.

Grantee, its successors and assigns, shall have the right to construct, reconstruct and perpetually maintain additional Facilities at all times in the future within the Easement Property. If Grantee for any reason is unable to access the Easement Property, then Grantor shall allow Grantee access to the Easement Property over Grantor's adjacent property as may be reasonably necessary for Grantee to access the Easement Property.

Grantee will at all times after doing any work in connection with the construction, operation or repair of the Facilities, restore the surface of the Easement Property as close to the condition in which it was found before such work was undertaken as is reasonably practicable, except for trees, shrubs and structures within the Easement Property that were removed as a result of such work.

There are no liens, attachments, or other monetary encumbrances which will affect the title or right of the Grantor to convey this easement to the Grantee for the purposes as described herein.

If such condition does exist, a signature with acknowledgment shall be included and made a part of this document conveying the rights and privileges contained herein.

The easement rights and privileges granted herein are non-exclusive, but Grantor covenants that Grantor will not convey any other easement or conflicting rights within the area covered by this grant which unreasonably interfere with Grantee's rights granted herein and provided all such other grants comply with all applicable local, state and federal laws, ordinances, rules, regulations and/or requirements, as they exist, may be amended or in the future arising. Grantee will not unreasonably deny a request to encroach on the Easement Property.

Further, Grantor shall not place any improvement or take any action, permanent or temporary, which may cause damage or jeopardize the integrity of the Facilities and/or which will affect and/or interfere, in any way except fencing within said easement, with the rights granted herein. Grantee, may, due to the necessity of repair and maintenance of the Facilities, remove and keep removed any and all improvements to the extent necessary to make repairs. Grantee will not be responsible for loss of improvements due to failure or maintenance of the Facilities.

This instrument shall be binding upon, and inure to the benefit of, Grantee and Grantor, and their respective successors or assigns.

This instrument may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

EXECUTED on the dates appearing in the acknowledgements below, however, to be effective on this \_\_\_\_ day of \_\_\_\_\_, 2023.

**GRANTOR:**

\_\_\_\_\_,  
a Texas \_\_\_\_\_

By: \_\_\_\_\_  
[INSERT AUTHORIZED SIGNATOR, TITLE]

AGREED AND ACCEPTED:  
***TOWN OF PROSPER, TEXAS***

By: \_\_\_\_\_  
Mario Canizares, Town Manager

THE STATE OF TEXAS    §  
                                      §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the \_\_\_\_\_ and duly authorized representative of \_\_\_\_\_, a Texas \_\_\_\_\_, and he executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

THE STATE OF TEXAS    §  
                                      §  
COUNTY OF COLLIN    §

BEFORE ME, the undersigned authority, on this day personally appeared **Mario Canizares, Town Manager** for and on behalf of the **TOWN OF PROSPER, TEXAS**, a Texas home-rule municipal corporation; he acknowledged to me he is the duly authorized representative of the Town of Prosper, Texas and that he executed said instrument for the purposes and consideration therein expressed and, in the capacity, therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

**JOINDER OF LIENHOLDER**

The undersigned, being the holder(s) of the lien against a portion of the Sanitary Sewer Easement Property evidenced by:

Vendor's Lien retained in Deed, dated \_\_\_\_\_, filed for record on \_\_\_\_\_ and recorded under Clerk's File No. \_\_\_\_\_, Real Property Records of Collin County, Texas, securing the payment of one certain promissory note of even date in the principal amount of \$ \_\_\_\_\_, payable to the order of \_\_\_\_\_, said note being additionally secured by Deed of Trust (with Security Agreement and Assignment of Rents) of even date therewith to \_\_\_\_\_, Trustee, filed for record on \_\_\_\_\_ and recorded under Clerk's File No. 2 \_\_\_\_\_, Real Property Records of Collin County, Texas, and subject to all of the terms, conditions and stipulations contained therein, including but not limited to any future indebtedness also secured by this lien; and

[ADDITIONAL LIENS AS SHOWN ON TITLE SEARCH].

hereby consents to the execution of the foregoing Sanitary Sewer Easement agrees that in the event of a foreclosure of the Easement Property or any portion thereof and/or the underlying property or any portion thereof (or deed in lieu thereof), the Sanitary Sewer Easement will remain in full force and effect and shall not be extinguished by such foreclosure (or deed in lieu thereof).

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

THE STATE OF TEXAS   §  
  §  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he/she acknowledged to me he/she is the \_\_\_\_\_ and duly authorized representative of \_\_\_\_\_, a Texas \_\_\_\_\_, and he/she executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

***EXHIBIT "A"***  
***Legal Description and Depiction of the Easement Property***

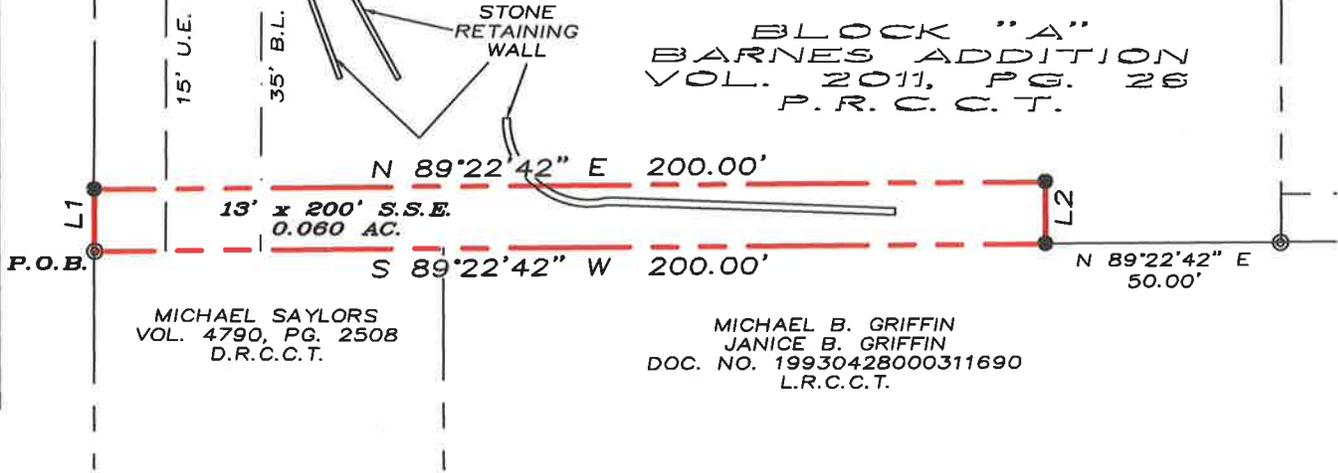
SANITARY SEWER ( \_\_\_\_\_ )

2

DAVID MAYA  
DOC. NO. 2019118001469080  
L.R.C.C.T.

BLOCK "A"  
BARNES ADDITION  
VOL. 2011, PG. 26  
P.R.C.C.T.

PARVIN STREET



MICHAEL SAYLORS  
VOL. 4790, PG. 2508  
D.R.C.C.T.

MICHAEL B. GRIFFIN  
JANICE B. GRIFFIN  
DOC. NO. 19930428000311690  
L.R.C.C.T.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 00°20'49" W	13.00'
L2	S 00°20'49" E	13.00'

LEGAL DESCRIPTION

Situated in the County of Collin, State of Texas, being a part of Lot 2 in Block "A" of Barnes Addition, according to the plat thereof recorded in Volume 2011, Page 26, Plat Records, Collin County, Texas, and the same tract of land described in the deed to David Maya, recorded in Doc. No. 2019118001469080, said Land Records, Collin County, Texas, and being described by metes and bounds as follows:

Beginning at a 1/2" steel rod found for the southwest corner of said Lot 2, common to the northwest corner of a tract of land described in the deed to Michael Saylor, recorded in Volume 4790, Page 2508, Deed Records, Collin County, Texas, and on the easterly right-of-way line of Parvin Street;

Thence North 00°20'49" West, with the westerly line of said Lot 2, and with the easterly right-of-way line of said Parvin Street, a distance of 13.00 feet to the northwest corner of the herein described tract of land;

Thence North 89°22'42" East, crossing said Lot 2, a distance of 200.00 feet to the northeast corner of the herein described tract of land;

Thence South 00°20'49" East, continuing across said Lot 2, a distance of 13.00 feet to the southeast corner of the herein described tract of land, and on the southerly line of said Lot 2, and on the northerly line of a tract of land described in the deed to Michael B. Griffin and Janice B Griffin, recorded in Document No. 19930428000311690, said Land Records, and from which a 1/2" steel rod found for the southeast corner of said Lot 2 bears North 89°22'42" East, a distance of 50.00 feet;

Thence South 89°22'42" West, with the southerly line of said Lot 2, and with the northerly line of said Griffin Tract, and with the northerly line of aforesaid Saylor Tract, a distance of 200.00 feet to the Point of Beginning and containing 0.060 acres of land, more or less.

JOB NO. 23080909



DOUGLAS W. UNDERWOOD,  
R.P.L.S. NO. 4709  
FIRM NO. 10006300

13' x 200'  
SANITARY SEWER  
EASEMENT



DRAFTING & SURVEYING, INC.  
3404 INTERURBAN ROAD  
DENISON, TEXAS 75023  
(903) 465-2351 FAX: (903) 465-2352

DATE: 08/29/2023  
DRAWN BY: BNH  
APPROVED BY: DWJ  
SCALE: 1" = 40'

DAVID MAYA



## PLANNING

**To: Mayor and Town Council**

**From: David Hoover, Director of Development Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Collin County Animal Shelter & Control Services ILA**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider and act upon an amendment to the Town’s Interlocal Agreements with Collin County for facility construction, use of an animal shelter, and animal control services for the 2024 fiscal year.

**Description of Agenda Item:**

The Town is being directed by Collin County to adopt Amendment 17 to the Town’s interlocal agreements with the county. The interlocal agreements will be renewed for a period of one (1) year, beginning October 1, 2023, through and including September 30, 2024, at the rate below:

Facility Construction and use of an Animal Shelter in Collin County – \$36,092.00  
 Animal Control Services – \$64,807.00

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Interlocal Agreement for Facility Construction and use of an Animal Shelter in Collin County
2. Interlocal Agreement for Animal Control Services

**Town Staff Recommendation:**

Town Staff recommends approval of the amendment to the Interlocal Agreements with Collin County for facility construction, use of an animal shelter, and animal control services for the 2024 fiscal year.

**Proposed Motion:**

Item 8.

I move to approve/deny an amendment to the Town's Interlocal Agreements with Collin County for facility construction, use of an animal shelter, and animal control services for the 2024 fiscal year.



Contract Modification Document

Office of the Purchasing Item 8.  
Collin County Administration Building  
2300 Bloomdale Rd, Ste 3160  
McKinney, TX 75071  
972-548-4165

Vendor: Town of Prosper  
P.O. Box 307  
Prosper, TX 75078  
\_\_\_\_\_

Contract No. 10100-09  
Contract: Interlocal Agreement for Facility  
Construction and use of an Animal  
Shelter in Collin County  
\_\_\_\_\_

**YOU ARE DIRECTED TO MAKE THE FOLLOWING MODIFICATION TO THIS CONTRACT**

Item #1      The agreement will be renewed for a period of one (1) year, beginning October 1, 2023, through and including September 30, 2024, at the rate below.

Item #2      Total Amount for fiscal year 2024:      \$36,092.00

Except as provided herein, all terms and conditions of the contract remain in full force and effect and may only be modified in writing signed by both parties.

Amendment No.17 has been accepted and authorized on \_\_\_\_\_ by authority of the Collin County Commissioners Court by Court Order No. \_\_\_\_\_ effective on \_\_\_\_\_.

ACCEPTED BY:

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
(Print Name)

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

Michelle Charnoski, NIGP-CPP, CPPB  
(Print Name)

TITLE: Purchasing Agent

DATE: \_\_\_\_\_





Contract Modification Document

Office of the Purchasing Item 8.  
Collin County Administration Building  
2300 Bloomdale Rd, Ste 3160  
McKinney, TX 75071  
972-548-4165

Vendor: Town of Prosper  
P.O. Box 307  
Prosper, TX 75078  
\_\_\_\_\_

Contract No. 10110-09  
Contract: Interlocal Agreement for Animal Control  
Services  
\_\_\_\_\_

**YOU ARE DIRECTED TO MAKE THE FOLLOWING MODIFICATION TO THIS CONTRACT**

Item #1      The agreement will be renewed for a period of one (1) year, beginning October 1, 2023, through and including September 30, 2024, at the rate below.

Item #2      Total Amount for fiscal year 2024:      \$64,807.00

Except as provided herein, all terms and conditions of the contract remain in full force and effect and may only be modified in writing signed by both parties.

Amendment No.17 has been accepted and authorized on \_\_\_\_\_ by authority of the Collin County Commissioners Court by Court Order No. \_\_\_\_\_ effective on \_\_\_\_\_.

ACCEPTED BY:

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
(Print Name)

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

Michelle Charnoski, NIGP-CPP, CPPB  
(Print Name)

TITLE: Purchasing Agent

DATE: \_\_\_\_\_





## COMMUNICATIONS & COMMUNITY ENGAGEMENT

**To: Mayor and Town Council**

**From: Robyn Battle, Executive Director**

**Through: Mario Canizares, Town Manager**

**Re: Communications Planning & Services**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider and act upon approving a Services Agreement with Gray Reed Advisory Services, LLC, d/b/a GRPR, for Strategic Communications Planning and Crisis Communications Services, and authorize the Town Manager to execute the same.

**Description of Agenda Item:**

GRPR supports the current Communications staff by providing the Town with crisis communication consulting services, media training, and on-call media relations services as needed. The firm has demonstrated a high level of responsiveness and has established a positive relationship with Town staff and officials.

The proposed Services Agreement will provide for continued services from October 1, 2023, through September 30, 2024, with an option for annual renewal.

**Budget Impact:**

The cost of services is \$5,000 per month (\$60,000 annually). Funding is available in the Communications Professional Services account 100-5410-10-06.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached Services Agreement as to form and legality.

**Attached Documents:**

1. GRPR Services Agreement

**Town Staff Recommendation:**

Town Staff recommends Council approve the Services Agreement with Gray Reed Advisory Services, LLC, d/b/a GRPR, for Strategic Communications Planning and Crisis Communications Services, and authorize the Town Manager to execute the same.

**Proposed Motion:**

I move to approve the Services Agreement with Gray Reed Advisory Services, LLC, d/b/a GRPR, for Strategic Communications Planning and Crisis Communications Services, and authorize the Town Manager to execute the same.

## SERVICES AGREEMENT

This Services Agreement is entered into by and between Gray Reed Advisory Services, LLC (“GRAS”) D/B/A GRPR, with its principal place of business located at 1300 Post Oak Blvd, Suite 2000, Houston, TX 77056, and The Town of Prosper, Texas (“Client”), with its principal address being 250 W. First Street, Prosper, Texas 75078, hereinafter sometimes referred to collectively as “Parties” or singularly as a “Party.”

### RECITALS

Client wishes to contract with GRPR to provide services in the field of Strategic Communications Planning and Crisis Communications Services, more particularly described in Appendix A to this Services Agreement;

This Agreement, Appendix A and the attached Terms and Conditions (collectively the “Agreement”) set forth the Parties’ responsibilities and obligations in connection with this engagement.

### TERMS

1. Scope of Services. GRPR will perform and implement, in whole or in part, the services detailed in Appendix A (“Services”), which are designed to accomplish the objectives of the Client. GRPR shall use its best efforts to perform the Services such that the results are satisfactory to the Client.
2. Contract Administration; Communications. GRPR will be responsible to Client for performing the Services under this Agreement. GRPR and Client agree to identify and maintain a mutually agreeable communications process to keep Client fully and currently informed concerning the activities of GRPR on behalf of Client. GRPR and Client agree that GRPR will work closely with other consultants, team members, and related organizations and individuals as designated by Client, and as necessary to accomplish the objectives of the Client.

GRPR Contact: Marc Rylander (mrylander@grprpublicaffairs.com)  
 Client Contact: Robyn Battle (ap@prospertx.gov)

Pricing. A monthly fee of \$5,000.00 from October 1, 2023 (“Effective Date”) through September 30, 2024 (“Termination Date”), with an option for annual renewal. Payment terms are Net 30.

3. Terms of Service and Termination. This Agreement will commence on the Effective Date. Either Party may terminate this Agreement without cause by providing the other Party 30 days’ notice in writing. Upon termination, Consultant will render Client an invoice and within 30 days after receipt of said invoice, Client shall pay Consultant in full whatever sums may be due for work performed.

- 4. Counterparts. This Agreement may be executed in counterparts by exchange of signature pages by mail, facsimile, email or other electronic means, each of which will be deemed an original and all of which will together constitute the same instrument.

By executing this Agreement, each signatory affirms that they have read, understand, and agree with its terms, and that each has the full power and authority to enter this Agreement on behalf of the entity for which they have signed.

For: Gray Reed Advisory Services, LLC D/B/A GRPR  
1300 Post Oak Blvd, Suite 2000  
Houston, TX 77056

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Marc Rylander

For: Town of Prosper, Texas  
250 W. First Street  
Prosper, Texas 75078  
TEL: 972-569-1011

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mario Canizares, Town Manager

## Appendix A

### TOWN OF PROSPER, TEXAS Communications Services Scope of Work

#### **Conduct ongoing assessment of the Town's current communication readiness, training, and processes, and make recommendations for action and improvement:**

GR PR Public Affairs Chief Communications Officer Marc Rylander will meet individually or collectively with the Mayor, Council, Town Manager, Executive Director(s), Police Chief, Fire Chief, Communications Manager, and others, as needed, to maintain strong and open communications which will help develop communication processes as the Town continues its exponential growth. From these meetings/discussions, an assessment will be made of current overall communications readiness and recommendations for improvement will follow.

#### **Conduct strategic consultation meetings with Town officials on crisis communication/issues management mitigation and response and prepare a minimum of one (1) annual tabletop exercise to expose staff and elected officials to different crisis scenarios.:**

GR PR Public Affairs will meet individually or collectively with the Town Manager, Executive Director, Police Chief, Fire Chief, Communications Manager, and others to identify current crisis communications protocol and, from that, work towards developing a comprehensive crisis communications strategy that will have immediate implementation.

GR PR Public Affairs will continually review crisis response as the Town experiences such occurrences and will conduct a minimum of one (1) annual crisis response exercise by September 30, 2023 to expose staff and elected officials to potential crisis threats or situations that could occur and might include mass casualties, loss of life, major structural damage, or loss of normal communications mediums.

#### **Maintain a media contact database for the Town of Prosper:**

GR PR Public Affairs will regularly review and update the media database for the Town of Prosper. While anyone is welcome to join this distribution list, a concerted effort will be placed on maintaining email information for correspondents, reporters, and writers who cover Collin County stories for the four network television affiliate stations, the two largest Spanish-speaking affiliates, the news radio stations in the area, and for the major Dallas and Collin County newspapers. Furthermore, this list will include elected officials and staff in their district offices, as well as any state or national media/press representatives who tend to cover news stories in this region.

#### **Training for Town staff and elected officials on non-crisis interaction with the media and on social media platforms (two or more sessions by September 30, 2023):**

GR PR Public Affairs will prepare and present materials for ongoing media and social media training sessions for all Town officials who have such interaction in their official capacities. This will include training sessions for elected officials, the Town Manager, Directors, Chiefs, and departmental communicators. These trainings will take place at a time determined by the Town Manager, and/or Executive Director.

**On-call media relations services in the event of a crisis:**

GR PR Public Affairs Chief Communications Officer Marc Rylander will serve as the backup on-call communications contact for the Town at all times. He will be ready to engage during any unplanned activity in the Town that could be press-worthy when contacted. In the event that the Communications Manager is off-duty, he will serve as the primary person on-call. He will work with the Town Manager, Executive Director, and Fire and Police Chiefs in Prosper (and surrounding communities, if applicable) during such situations to create and execute an immediate crisis communications strategy—within the structure of the Town of Prosper Crisis Communications Plan.

**In-person or virtual presence in the Town’s Emergency Operations Center (EOC):**

GR PR Public Affairs will be available to coordinate with Town officials and assist with any media activity on the scene or in an Emergency Operations location in the immediate aftermath any major police or fire event, catastrophic event, or natural disaster in the Town.

**Preparing and distributing public statements and media releases:**

GR PR Public Affairs will review and/or edit initial drafts of all press releases, media advisories, and statements issued by the Town during a crisis situation. They will work collectively with the Mayor and Council, Town Manager, Chiefs, Communications staff and/or Directors to maintain accuracy and consistency in statements that are issued for public distribution or as response to inquiries from credentialed media/press agencies.

**Coordinating press conferences and preparing Town spokespersons or elected officials for media interviews and/or press conferences:**

GR PR Public Affairs will organize, alert the press, and conduct press conferences for any acute newsworthy activities in the Town. They will communicate with the Town Manager, Communications staff, Police, and Fire Administration to coordinate and carry-out these meetings with the media/press. They will also be available to assist with any media activity on the scene at any police and/or fire event in the Town.

GR PR Public Affairs will train existing staff that currently functions or will function as the Public Information Officer(s), as well as anyone from the Town who would speak at a press conference on behalf of the Town of Prosper during the contracted period of this agreement. They will have ongoing communications with the media, organize media activity in the Town, determine what information will be distributed from the Town and to whom it will be distributed, and will monitor and provide input on any/all social media activity by the Town.

**Evaluate regular scheduled press/media, social media, and newsletter articles:**

GR PR Public Affairs will obtain Town events scheduling at a regularly scheduled meeting with the Communications staff and will evaluate messaging and media strategy related to Town events, as needed.

**Review websites and monitoring social media for updates and changes:**

The GR PR Public Affairs team will monitor and offer update suggestions of all electronic platforms of the Town. This includes, but is not limited to, websites and social media platforms.

These Terms and Conditions form an integral part of the Services Agreement (together, the “Agreement”) to which they relate and will apply to any subsequent services performed (“Services”).

Compliance: Gray Reed Advisory Services, LLC (“GRAS”) D/B/A GR||PR (“GRPR”), performs its services as an independent contractor for Client and complies with all federal, state and local laws. Each Party to the Agreement represents that it will comply with all laws, rules and regulations applicable to it in connection with the Services to be performed under the Agreement and to the extent authorized by Texas law, will indemnify and hold harmless the other Party for any liability arising out of its failure to comply with all federal, state and local laws.

Payment for Services: Fees for the Services provided hereunder are based on the commercial terms set forth in the applicable Agreement. Client will reimburse GRPR for actual expenses incurred by it in connection with the provision of Services as set forth on any invoices submitted to Client. Any invoice not paid in full by the tenth (10th) day of the month following the date of the statement is considered past due and may incur a late payment fee of two (2) percent of the unpaid balance for each month or portion of month in which it remains unpaid. Services may be halted on any overdue account and will resume upon payment, subject to the provisions in the Agreement.

Taxes on the Purchase of Services: Client will reimburse GRPR, pay directly to the appropriate tax authority, or timely file a valid tax exemption certificate for all transaction taxes including sales, use, value added, or similar taxes legally imposed upon the transactions arising hereunder. All such taxes become due when billed by GRPR to Client, or when assessed, levied, or billed by the appropriate taxing authority, even if such billing occurs subsequent to the expiration of this Agreement.

Client Data: GRPR will rely on the accuracy and completeness of any information, representations, and books and records (“Client Data”) provided to it by Client; GRPR has not been engaged to audit or verify Client Data and will not provide any assurances concerning the reliability, accuracy or completeness of such information. GRPR will be given sufficient access to the books, records, reports, and personnel of Client to perform the Services. Unless specifically so engaged, the Services are not intended to be relied upon to disclose errors, irregularities, or illegal acts, including fraud or defalcations that may exist; GRPR will, however, inform Client of any such matters that come to its attention. GRPR is not responsible either for updating nor for monitoring the use of the Services once they are completed.

No Third-Party Reliance: Any assessments made by GRPR as a part of its defined Services are designed to assist management of Client in carrying out their responsibilities, and the Services are intended solely for the benefit and use by Client. No third party will be a beneficiary of the Agreement or the Services, nor will Client cause or allow any other third party to use or rely upon GRPR’s performance of the Services. In its use of the Services, Client may not attribute them to or identify GRPR without its prior written consent and GRPR disclaims any liability for use of the Services by anyone other than Client from the use of Services. GRPR is providing Services for the internal use of Client only, which Client may use in any manner provided in the Agreement, and to the extent authorized by Texas law, Client will indemnify and hold harmless GRPR and its management, employees, and agents for any liability arising out of any use of the Services by any third party, which would be considered a material breach of the Agreement.

No Warranty; Limitations: GRPR warrants that (i) it will provide Services in good faith in accordance with applicable professional standards; (ii) it will comply with all applicable laws and regulations; and (iii) its work product will not infringe upon any third party’s patent, trademark, or other intellectual property rights. GRPR expressly disclaims any other warranty. Neither party shall be liable to the other for any consequential, indirect, or similar damages, including lost profits, lost data, loss of goodwill or business interruption as a result of the Services. In any action to enforce or for the breach of this Agreement, the prevailing party to such action shall be entitled to recover its reasonable and necessary attorneys’ fees. Except for damages related to violation of law, intellectual property infringement, gross negligence or intentional misconduct, the amount recoverable from either party for breach of this Agreement shall be limited to the net profits of GRPR performing services under the Services Agreement.

Indemnification and Insurance: To the extent authorized by Texas law, Client shall indemnify, defend, and hold harmless GRPR and its directors, officers, and employees from any and all claims arising from or in connection with the performance of Services, including but not limited to statutory violations, injury or death of any and all persons and from any and all damage to property. Client and GRPR warrant that they each carry workers' compensation, comprehensive liability, automobile, and other insurance with reasonable coverage and in reasonable amounts sufficient to insure against anticipated risks in connection with performing Services under this Agreement.

**Confidentiality:** GRPR agrees to maintain in confidence and not disclose or use any non-public, proprietary, or confidential information or know-how belonging to Client except as required by law or judicial process. Proprietary information refers to any information obtained from, or disclosed by, Client, or which was learned or discovered by GRPR in the performance of the Services, and which either is represented to be confidential by means of labeling or declaration or is by its nature reasonably understood to be confidential. Such proprietary information includes, but is not limited to, software, technical and business information relating to Client's inventions, or products, research and development, trade secrets, finances, customers, marketing, and future business plans. Client agrees that GRPR may use its name and logo in a client list used as marketing materials on its website or in its proposal packages.

Client agrees to maintain in confidence and protect any information obtained by it that contains proprietary or private information about GRPR or its employees or independent contractors, including but not limited to, billing rates, tools and methodologies, background information, background screening results and social security numbers.

**Ownership and Intellectual Property Rights:** All work products that GRPR creates, conceives, or develops in connection with performing Services ("Work Product") will be works made for hire owned exclusively by Client. To the extent GRPR utilizes its tools, methodologies, templates, playbooks or any other tangible or intellectual property in connection with the performance of Services hereunder, such property shall remain the sole and exclusive property of GRPR, and Client will be granted a perpetual, worldwide, nonexclusive, royalty free license to the extent necessary to use such property in connection with the Work Product. To the extent GRPR's work includes the creation or modification of any intellectual property in any medium including print, design, video, audio, digital or otherwise, upon completion of the work and expressly conditioned upon full payment of all fees and costs due, GRPR grants to Client limited usage rights of the final content as provided to Client. These rights shall include the right for Client to modify such work. Further, nothing contained in this Agreement prohibit GRPR from using any of its general knowledge, know-how and proprietary work product to perform similar services for others.

GRPR may retain copies of Work Product after the conclusion of Services for purposes of complying with laws and other requirements. GRPR will remain subject to the confidentiality obligations contained herein.

Client shall be solely responsible for ensuring any trademarks or domain names do not conflict with the rights of any third party. Client shall also be solely responsible for registering all such trademark or domain names and for taking any other necessary steps to protect such trademark or domain name, along with any related regulatory compliance. The costs of such screening of trademarks or domain names, registration, and other measures shall be born solely by Client. Client shall have sole responsibility for ensuring that trademarks, intellectual property or other content provided by Client to GRPR do not infringe on the rights of third parties, and to the extent authorized by Texas law, Client shall indemnify, save and hold harmless GRPR from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party alleging such infringement.

**Non-Solicitation of GRPR Employees:** During the term of this Agreement and for a period of one (1) year after the termination of this Agreement or the completion of the Services, Client will not solicit, induce, recruit or encourage, directly or indirectly, (nor will Client direct, encourage or assist anyone else to solicit, induce, recruit or encourage) any of the GRPR's employees or contractors to terminate or modify their relationship with GRPR.

**Termination of the Agreement:** This Agreement may be terminated by either Party upon thirty (30) days' prior written notice to the other Party. Any notice of termination shall be effective upon receipt. Upon such termination, Client is required to pay all fees then due and owing for Services performed up to termination by GRPR.

**Entire Agreement:** The Agreement represents the entire understanding between the Parties. In the event of any conflict between these Advisory Terms and Conditions and the Services Agreement, the terms of the Services Agreement will control.

**Governing Law and Dispute Resolution:** This Agreement shall be deemed to be made in the State of Texas and shall be governed by and construed in accordance with the laws of the State of Texas, exclusive of its choice of law provisions. The courts of the State of Texas sitting in Harris County, Texas shall have jurisdiction over any and all disputes arising from or pertaining to this Agreement. The Parties expressly waive any other venue to which they may be entitled by virtue of domicile or otherwise and irrevocably submit to the exclusive jurisdiction of the Harris County courts and waive the defense of inconvenient forum to the maintenance of any such action or proceeding in such venue.



## PLANNING

**To: Mayor and Town Council**

**From: David Hoover, Director of Development Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Planned Development Ordinance Prosper Hills**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider and act upon an ordinance to rezone 73.4± acres from Agriculture (A), a portion of Planned Development-40 (PD-40), and a portion of Single Family-12.5 (SF-12.5) to Planned Development-Single Family (PD-SF), generally to allow for a residential development, located on the southeast corner of Prosper Trail and Teel Parkway. (Z21-0010)

**Description of Agenda Item:**

On July 25, 2023, the Town Council approved the proposed rezoning request, by a vote of 7-0.

An ordinance has been prepared accordingly. The Development Agreement between the Town of Prosper and Prosper Hills, LLC, is also on the September 26, 2023, Town Council agenda for consideration.

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Ordinance
2. Ordinance Exhibits

**Town Staff Recommendation:**

Town Staff recommends approval of an ordinance to rezone 73.4± acres from Agriculture (A), a portion of Planned Development-40 (PD-40), and a portion of Single Family-12.5 (SF-12.5) to Planned Development-Single Family (PD-SF), generally to allow for a residential development, located on the southeast corner of Prosper Trail and Teel Parkway.

**Proposed Motion:**

I move to approve/deny an ordinance to rezone 73.4± acres from Agriculture (A), a portion of Planned Development-40 (PD-40), and a portion of Single Family-12.5 (SF-12.5) to Planned Development-Single Family (PD-SF), generally to allow for a residential development, located on the southeast corner of Prosper Trail and Teel Parkway.

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 2023-\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING THE ZONING ORDINANCE BY REZONING A TRACT OF LAND CONSISTING OF 73.4 ACRES, MORE OR LESS, SITUATED IN THE NETHERLY SURVEY, ABSTRACT NO. 962, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, FROM AGRICULTURE (A), A PORTION OF PLANNED DEVELOPMENT-40 (PD-40), AND A PORTION OF SINGLE-FAMILY 12.5 (SF-12.5) TO PLANNED DEVELOPMENT-123 (PD-123), DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that the Zoning Ordinance should be amended; and

**WHEREAS**, the Town of Prosper, Texas ("Prosper") has received a request (Case Z21-0010) from Prosper Hills, LLC ("Applicant"), to rezone 73.4 acres of land, more or less, Netherly Survey, Abstract No. 962, in the Town of Prosper, Denton County, Texas, and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes: and

**WHEREAS**, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

**WHEREAS**, all legal notices required for rezoning have been given in the manner and form set forth by law, and public hearings have been held on the proposed rezoning and all other requirements of notice and completion of such zoning procedures have been fulfilled; and

**WHEREAS**, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

### **SECTION 1**

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

### **SECTION 2**

Amendment to the Town's Zoning Ordinance. The Town's Zoning Ordinance is amended as follows: The zoning designation of the below described property containing 73.4 acres of land, more or less, in the Netherly Survey, Abstract No. 962, Town of Prosper, Denton County, Texas, and all streets, roads, and alleyways contiguous and/or adjacent thereto are hereby zoned as Planned Development-123 and being more particularly described in Exhibit A and Exhibit B, attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with (1) the Statement of Intent and Purpose, attached hereto as Exhibit C; (2) the Development Standards, attached hereto as Exhibit D, all of which are incorporated herein for all purposes as if set forth verbatim, subject to the following condition of approval by the Town Council:

1. Approval of a Development Agreement, including, but not limited to, right-of-way and/or easement dedication, and architectural building materials.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up to date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

### **SECTION 3**

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

### **SECTION 4**

Unlawful Use of Premises. It shall be unlawful for any person, firm, or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm, or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

### **SECTION 5**

Penalty. Any person, firm, corporation, or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance, as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state, and federal law.

### **SECTION 6**

Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section,

subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

**SECTION 7**

Savings/Repealing Clause. Prosper’s Zoning Ordinance, as amended, shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 8**

Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 12TH DAY OF SEPTEMBER 2023.**

\_\_\_\_\_  
David F. Bristol, Mayor

**ATTEST:**

\_\_\_\_\_  
Michelle Lewis Sirianni, Town Secretary

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Terrence S. Welch, Town Attorney

**Submittal Document in Support of**

# **Prosper Hills**

**A Planned Development District**

**in the**

**Town of Prosper, Texas**

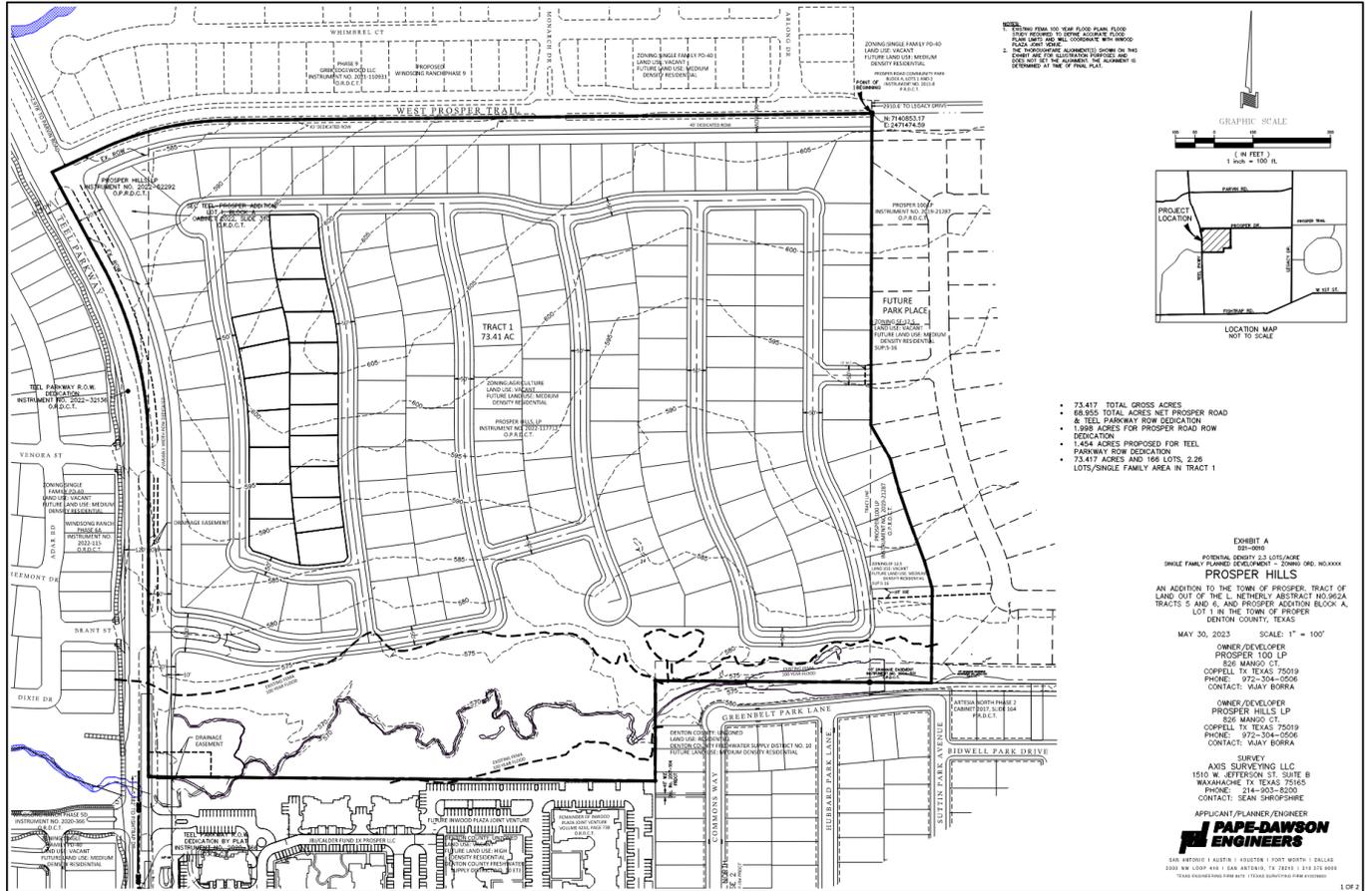
**August 18, 2023**

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Page 3	Exhibit "A" - Zoning Exhibit
Page 4	Exhibit "B" - Legal Description
Page 6	Exhibit "C" - Statement of Intent and Purpose
Page 7	Exhibit "D" - Development Standards
Page 9	Exhibit "E" - Concept Plan

# EXHIBIT "A"

## Zoning Exhibit



## **EXHIBIT "B"**

### **Legal Description for Zoning** **73.417 ACRES**

**BEING** a tract of land located in the L. NETHERLY SURVEY, ABSTRACT NO. 962, Denton County, Texas and being all of that tract of land described in Deed to Prosper Hills, LP, recorded in Instrument No. 2022-117712, Official Public Records, Denton County, Texas (O.P.R.D.C.T.) and being all of Lot 1, Block A, SEC TEEL-PROSPER ADDITION, an Addition to the Town of Prosper, Denton County, Texas, according to the Conveyance Plat of record filed in Cabinet 2022, Slide 310, Official Records, Denton County, Texas (O.R.D.C.T.) and described in Deed to Prosper Hills LP, recorded in Instrument No. 2022-52292, O.P.R.D.C.T., and being part of that tract of land described in Deed to Prosper 100 LP, recorded in Instrument No. 2019-21287, O.P.R.D.C.T., and being more particularly described as follows:

**BEGINNING** at a 1/2" iron rod found at the northeast corner of said Prosper Hills, LP tract and the northwest corner of said Prosper 100 LP tract;

**THENCE** S 00° 12' 38" W, along the east line of said Prosper Hills, LP tract and the west line of said Prosper 100 LP tract, passing a 1/2" iron rod found at a distance of 19.14 feet, and continuing in all for a total distance of 805.79 feet to a point for corner;

**THENCE** Leaving said east line of said Prosper Hills, LP tract, over and across said Prosper 100 LP tract, the following six (6) courses and distances:

S 30° 13' 29" E, a distance of 98.75 feet to a point for corner;

S 15° 33' 55" E, a distance of 92.94 feet to a point for corner;

S 19° 11' 38" E, a distance of 92.93 feet to a point for corner;

S 20° 33' 12" E, a distance of 93.06 feet to a point for corner;

S 15° 53' 05" E, a distance of 74.81 feet to a point for corner;

S 00° 27' 40" W, a distance of 243.63 feet to a point for corner on the south line of said Prosper 100 LP tract and the north line of Lot 3, Block X, ARTESIA NORTH PHASE 2, an Addition to Denton County, Texas, according to the Plat of record filed in Cabinet 2017, Slide 164, Plat Records, Denton County, Texas (P.R.D.C.T.);

**THENCE** N 89° 32' 20" W, along the north line of said Addition, a distance of 712.65 feet to a point for an interior ell corner of said Prosper Hills, LP tract and the northwest corner of said Addition;

**THENCE** S 00° 03' 28" W, a distance of 259.13 feet to a point for corner;

**THENCE** N 89° 31' 47" W, a distance of 1,308.00 feet to a point for the southwest corner of said Prosper Hills, LP tract;

**THENCE** N 00° 08' 41" W, a distance of 149.49 feet to a point for corner;

**THENCE** N 00° 02' 02" E, a distance of 699.00 feet to a point at the beginning of a curve to the left having a central angle of 28° 21' 58", a radius of 1002.46 feet, and a chord bearing and distance of N 14° 12' 49" W, 491.25 feet;

**THENCE** Along said curve to the left, an arc distance of 496.30 feet to a point on the centerline of Teel Parkway;

**THENCE** N 28° 23' 48", along said centerline, a distance of 270.09 feet to a point at the intersection of Teel Parkway and West Prosper Trail;

**THENCE** N 64° 52' 39" E, easterly along the centerline of said West Prosper Trail, a distance of 137.22 feet to a point at the beginning of a curve to the right having a central angle of 10° 22' 49", a radius of 800.48 feet, and a chord bearing and distance of N 70° 04' 03" E, 144.82 feet;

**THENCE** Along said curve to the right, an arc distance of 145.02 feet to a point at the beginning of a compound curve to the right, having a central angle of 04° 27' 58", a radius of 800.48 feet, and a chord bearing and distance of N 77° 29' 27" E, 62.38 feet;

**THENCE** Along said compound curve to the right, an arc distance of 62.40 feet to a point at the beginning of a compound curve to the right, having a central angle of 09° 40' 15", a radius of 800.48 feet, and a chord bearing and distance of N 84° 33' 34" E, 134.95 feet;

**THENCE** Along said compound curve to the right, an arc distance of 135.11 feet to a point;

**THENCE** N 89° 23' 51" E, continuing along said centerline of West Prosper Trail, a distance of 100.77 feet to a point;

**THENCE** N 89° 23' 41" E, a distance of 1,560.15 feet to the **POINT OF BEGINNING** and containing 3,198,044.52 square feet, or 73.417 acres of land, more or less.

## **EXHIBIT "C"**

### **Statement of Intent and Purpose for Prosper Hills, Town of Prosper, Texas**

The purpose of this PD is to allow for the creation of a gated single-family residential community that reflects the high-quality standards established by the Town of Prosper, Texas. We anticipate these lots to be developed as individual custom homes. Located at the southeast corner of Prosper Trail and Teel Parkway, Prosper Hills will be gated with private streets.

# EXHIBIT "D"

## Prosper Hills

### Planned Development District

### Planned Development Standards

Conformance with the Town's Zoning Ordinance and Subdivision Ordinance: Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance (as it currently exists or may be amended) and Subdivision Ordinance (as it currently exists or may be amended) shall apply.

### Prosper Hills – Single-Family Residential

1. **General Description:** This property may develop, under the standards for Single Family-10 District as contained in the Town's Zoning Ordinance as it exists or may be amended, as front entry lot product subject to the specific provisions contained herein below. There will be no alley-served lots within the property. The streets will be private streets.
2. **Parkland Dedication:** Parkland dedication shall be handled via cash in lieu of.
3. **Density:** The maximum number of single-family lots shall not exceed 170.
4. **Area and building regulations:**  
Should a discrepancy exist between the City Zoning or Subdivision Ordinance and the standards within this PD, the language herein shall prevail. The area and building standards for the single-family lots are as follows:
  - A. **Size of Yards:**
    1. **Minimum Front Yard** – 25 feet.
    2. **Minimum Side Yard** – 8 feet; 15 feet on corner adjacent to side street.
    3. **Minimum Rear Yard** – 25 feet.
  - B. **Size of Lots:**
    1. **Minimum Lot Area** – 10,000 square feet.
    2. **Minimum Lot Width** – 80 feet as measured along the front setback, except for lots located on a cul-de-sac, curve or eyebrow which may have a minimum width of 65' at the front setback provided all other requirements of this section are met.
    3. **Minimum Lot Depth** – 125 feet, except that up to 20% of the lots may have a minimum depth of 115 feet.

- C. **Minimum Dwelling Area:** 2,400 square feet.
- D. **Minimum Enclosed Parking (Garage) Area:** 400 square feet.
  - 1. Carports shall not be permitted.
  - 2. Front facing garages are permitted to extend beyond the front façade of the main structure but may not encroach into the required front yard.
- E. **Maximum Height:** Two and a half stories, no greater than 40 feet.
- F. **Maximum Lot Coverage:** 50%

## 5. HOA, Open Space and Amenities

- A. An amenity area for family-oriented activities shall be provided in the southern portion of this community. The amenity area shall be completed prior to the issuance of certificates of occupancy of greater than 50% of the homes within this community. The program for the amenity area shall contain a minimum of three (3) elements from the following list and must contain at least one (1) element from numbers 1-4:
  - 1) Tennis court
  - 2) Pickleball court
  - 3) Basketball court
  - 4) Children's playground facility
  - 5) Shade structure with seating
  - 6) Dog park
  - 7) Bocce ball court
  - 8) Landscape gathering area
  - 9) Grill & picnic area
  - 10) Convenience parking
- B. A 6' minimum width meandering trail shall be constructed along the southern portion of the community from Teel Parkway to the amenity area and from the amenity area to the street connection to the east.
- C. This community shall be annexed into the HOA of the adjacent Park Place community to the east.
  - 1. The amenities in both communities may be utilized by residents from both communities.
  - 2. The amenity center within the Park Place community shall be completed prior to issuance of certificate of occupancy of greater than 50% of the homes within this community.





## PLANNING

**To: Mayor and Town Council**

**From: David Hoover, Director of Development Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Development Agreement Prosper Hills**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider and act upon authorizing the Town Manager to execute a Development Agreement between Prosper 100 LP, Prosper Hills LLC, and the Town of Prosper relative to Prosper Hills, as described in Planned Development-123 (PD-123). (DEVAGREE-23-0012)

**Description of Agenda Item:**

On July 25, 2023, the Town Council approved the proposed rezoning request, by a vote of 7-0.

A Development Agreement has been prepared accordingly. The ordinance for the zoning request, is also on the September 26, 2023, Town Council agenda for consideration.

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Development Agreement

**Town Staff Recommendation:**

Town Staff recommends that the Town Council authorize the Town Manager to execute a Development Agreement between Prosper 100 LP, Prosper Hills LLC, and the Town of Prosper relative to Prosper Hills, as described in Planned Development-123 (PD-123). (DEVAGREE-23-0012)

**Proposed Motion:**

I move to authorize/not authorize the Town Manager to execute a Development Agreement between Prosper 100 LP, Prosper Hills LLC, and the Town of Prosper relative to Prosper Hills, as described in Planned Development-123 (PD-123). (DEVAGREE-23-0012)

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (“Agreement”) is entered into by and between the Town of Prosper, Texas (“Town”) and Prosper Hills LP (“Owner”) (individually, a “Party” and collectively, the “Parties”) to be effective (the “Effective Date”) on the latest date executed by a Party.

**WHEREAS**, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

**WHEREAS**, Owner is developing projects in the Town known as Prosper Hills Development (“Property”), of which development previously has been approved by the Town, a legal description of which Property is attached hereto as Exhibit A and incorporated by reference; and

**WHEREAS**, the Prosper Hills Development was rezoned by the Town Council on or about July 25, 2023, and this Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in the underlying zoning ordinances, as may be amended, and/or this Development Agreement, to recognize Owner’s reasonable investment-backed expectations in the Developments, as may be amended, and as more fully described herein.

**NOW, THEREFORE**, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

**1. Development Standards.** For any residential structure built on the Property following the Effective Date, it shall comply with the requirements contained in Exhibit B, “Building Materials,” attached hereto and incorporated herein. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any residential structure constructed subsequent to the execution of this Agreement. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

**2. Weed-Free Landscape Areas.** Owner agrees to maintain all common areas of the Property, excluding floodplain areas, free of weeds, tall grass, rubbish, brush and other objectionable, unsightly or unsanitary matter, as defined in Article 6.03 of Chapter 6 of the Town’s Code of Ordinances, as amended. Failure to comply with the terms of this Paragraph relative to weeds, tall grass, rubbish, brush and other objectionable, unsightly or unsanitary matter may result in the filing of a complaint against Owner in the Town’s municipal court (or other appropriate forum) or other such action deemed appropriate by the Town related to the enforcement of the terms and provisions of this Paragraph.

3. **Covenant Running with the Land.** The terms, conditions, rights, obligations, benefits, covenants and restrictions of the provisions of this Agreement shall be deemed covenants running with the land, and shall be binding upon and inure to the benefit of the Owner and its heirs, representatives, successors and assigns. This Agreement shall be deemed to be incorporated into each deed and conveyance of the Property or any portion thereof hereafter made by any other owners of the Property, regardless of whether this Agreement is expressly referenced therein.

4. **Applicability of Town Ordinances.** Owner shall develop the Property, and construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes.

5. **Default.** No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages.

6. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Exclusive venue for any action arising under this Agreement shall lie in Denton County, Texas.

7. **Notice.** Any notices required or permitted to be given hereunder (each, a "Notice") shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town:           The Town of Prosper  
250 W. First Street  
P.O. Box 307  
Prosper, Texas 75078  
Attention: Town Manager

If to Owner:             Prosper Hills LP  
826 Mango Court  
Coppell, Texas 75019  
Attention: Vijay Borra

8. **Prevailing Party.** In the event any person 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).

9. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto with respect to development of the Property and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

10. **Savings/Severability.** In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

11. **Binding Agreement.** A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein, including without limitation a scanned copy sent via electronic mail by either Party.

12. **Authority to Execute.** This Agreement shall become a binding obligation on the Parties upon execution by all Parties hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Owner warrants and represents that the individual(s) executing this Agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

13. **Filing in Deed Records.** This Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Denton County, Texas.

14. **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 nonbinding mediation.

15. **Notification of Sale or Transfer; Assignment of Agreement.** Owner shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer. Owner has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of

Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Owner. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement. A copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor owner assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment. Owner shall maintain true and correct copies of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

**16. Sovereign Immunity.** The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

**17. Effect of Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

**18. Consideration.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

**19. Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original.

**20. Amendment.** This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor owner of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

**21. 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.

**IN WITNESS WHEREOF**, the parties hereto have caused this document to be executed as of the date referenced herein.

**TOWN:**

**THE TOWN OF PROSPER, TEXAS**

By: \_\_\_\_\_  
Name: Mario Canizaares  
Title: Town Manager, Town of Prosper

**STATE OF TEXAS        )**  
                                  )  
**COUNTY OF COLLIN    )**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023, by Mario Canizares, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires: \_\_\_\_\_

**OWNER:**

**PROSPER HILLS LP**

a Texas limited partnership

By: McKinney Estate LLC  
a Texas limited liability company  
General Partners

By: \_\_\_\_\_  
Vijay Borra, Manager

**STATE OF TEXAS**        )  
                                  )  
**COUNTY OF** \_\_\_\_\_ )

Before me, the undersigned authority, a notary public in and for the State of Texas, on this day personally appeared Vijay Borra, Manager of McKinney Estate LLC, a Texas limited liability company, General Partners of Prosper Hills LP, a Texas limited partnership, 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, on behalf of such entities.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary public in and for the State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**EXHIBIT A**  
**(Property Depiction)**

BEING A TRACT OF SITUATED IN THE LOUIS NETHERLY SURVEY, ABSTRACT NO. 962, TOWN OF PROSPER, DENTON COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER HILLS, LP, RECORDED IN INSTRUMENT NUMBER 2017-82639 OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS (O.P.R.D.C.T.), ALSO BEING A PORTION OF SEC TEEL-PROSPER ADDITION, AN ADDITION TO THE TOWN OF PROSPER, RECORDED IN INSTRUMENT NUMBER 2022-1306, PLAT RECORDS, DENTON COUNTY, TEXAS (P.R.D.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER 100 LP, RECORDED IN INSTRUMENT NUMBER 2019-21287 O.P.R.D.C.T., FROM WHICH AN "X" CUT FOUND AT THE INTERSECTION OF GREENBELT PARK LANE, AN EXISTING 50' RIGHT-OF-WAY, AND HUBBARD PARK AVENUE, AN EXISTING 50' RIGHT-OF-WAY, ARTESIA NORTH PHASE 2 (ARTESIA ADDITION), AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, RECORDED IN INSTRUMENT NUMBER 2017-164 O.P.R.D.C.T., BEARS S 57°25'44" W, 129.03 FEET;

THENCE N 89° 32'20" W, WITH THE MOST EASTERLY SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NORTH LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 553.82 FEET TO AN INTERIOR ELL CORNER OF SAID PROSPER HILLS, LP TRACT AND THE NORTHWEST CORNER OF LOT 3, BLOCK X, OF SAID ARTESIA ADDITION;

THENCE S 00°03'28" W, ALONG AN EAST LINE OF SAID PROSPER HILLS LP TRACT AND THE WEST LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 259.13 FEET TO THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHEAST CORNER OF A REMAINDER TRACT OF LAND DESCRIBED IN DEED TO INWOOD PLAZA JOINT VENTURE, RECORDED IN VOLUME 4233, PAGE 738, DEED RECORDS DENTON COUNTY, TEXAS (D.R.D.C.T.);

THENCE N 89°31'47" W, ALONG THE SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NOTH LINE OF SAID REMAINDER TRACT, A DISTANCE OF 1,308.00 FEET TO THE SOUTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT AND NORTHWEST CORNER OF SAID REMAINDER TRACT, ALSO BEING ON THE EAST LINE OF TEEL PARKWAY (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE N 00°08'41" W, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT AND THE EAST LINE OF SAID TEEL PARKWAY, A DISTANCE OF 149.49 FEET TO THE SOUTH CORNER OF SAID SEC TEEL-PROSPER ADDITION;

THENCE N 00°02'02" E, CONTINUING ALONG THE WEST LINE OF SAID PROSPER HILLS, SAME BEING THE EAST LINE OF SAID SEC TEEL-PROSPER ADDITION, A DISTANCE OF 1,043.46 FEET TO THE SOUTH CORNER OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION, AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 01°08'34", A RADIUS OF 1,060.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 19°32'51" W, 21.14 FEET;

THENCE ALONG THE WEST LINE OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION THE FOLLOWING COURSES AND DISTANCES:

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 21.14 FEET;

N 20°22'59" W, A DISTANCE OF 150.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 00°10'12", A RADIUS OF 1,070.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 28°18'42" W 3.18 FEET;

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 3.18 FEET;

N 28°23'48" W, A DISTANCE OF 171.87 FEET;

N 16°39'53" E, A DISTANCE OF 49.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 10°03'53", A RADIUS OF 745.00 FEET, AND A CHORD BEARING DISTANCE OF N 67°19'26" E, 130.70 FEET;

ALONG SAID CURVE TO THE RIGHT, AN ARC DISTANCE OF 130.87 FEET;

N 72°21'22" E, A DISTANCE OF 8.76 FEET TO THE WEST LINE OF SAID PROSPER HILLS, LP TRACT;

THENCE N 00°02'02" E, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 87.91 FEET TO THE NORTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT;

THENCE N 89°47'56" E, ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 306.82 FEET;

THENCE N 89°24'39" E, CONTINUING ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 1,560.15 FEET TO THE NORTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHWEST CORNER OF SAID PROSPER 100 LP TRACT;

THENCE S 00°12'38" W, ALONG THE EAST LINE OF SAID PROSPER HILLS, LP TRACT AND THE WEST LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 1,469.84 FEET TO THE POINT OF BEGINNING, AND CONTAINING 70.674 ACRES OR 3,078,580 SQUARE FEET OF LAND MORE OR LESS.

**EXHIBIT B**  
**(Building Materials)**

Single-Family Residential Structures

- A. The exterior façade of a residential building or structure, excluding glass windows and doors, shall comply with the following requirements:
1. The exterior facades shall be constructed of 100% masonry, unless otherwise specified in this Agreement.
  2. Cementitious fiber board is considered masonry, but may only constitute 50% of the stories other than the first story.
  3. Cementitious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story.
  4. Any portion of an upper story, excluding windows, that faces a street, public or private open space, public or private parks, or hike and bike trails, shall be 100% masonry and cementitious fiber board may be used for up to 20%.
  5. The exterior cladding of chimneys shall be brick, natural or manufactured stone, or stucco.
  6. Cementitious fiber board may be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, or other architectural features approved by the Building Official.
- B. The roof pitches of any building or structure, including garages, shall meet the following roof pitch standards:
1. A minimum of 65% of the surface area of composition roofs shall maintain a minimum roof pitch of 8:12.
  2. A minimum of 75% of the surface area of clay tile, cement tile, slate or slate products, or metal roofs shall maintain a minimum roof pitch of 3:12.
  3. Wood roof shingles are prohibited.



## ENGINEERING SERVICES

**To: Mayor and Town Council**

**From: Hulon T. Webb, Jr., P.E., Director of Engineering Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Water Impact Fees Reimbursement Agreement  
(Park Place, Prosper Hills, and Prosper Meadows)**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 1. Acceleration of Infrastructure**

### **Agenda Item:**

Consider and act upon authorizing the Town Manager to execute a Water Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the extension of water lines to serve the Park Place, Prosper Hills, and Prosper Meadows developments.

### **Description of Agenda Item:**

PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, are developing multiple residential projects and are planning on constructing the following water lines:

1. twenty-four-inch (24") line from the existing water line near the western limits of the Park Place development (eastern limits of the Prosper Hills development) to the eastern limits of the Park Place development (western limits of the Star Trail development)

Also, to provide the required second connection to the Town's water system and looped water system to serve the Park Place development, prior to the final acceptance of the first phase within any of the three developments, the water line listed above as Project 1 must be completed and accepted by the Town, in addition to:

- A. twenty-four-inch (24") line from the eastern limits of the Park Place development to Legacy Drive, and one of the following:
- B. twenty-four-inch (24") line along Legacy Drive from Prosper Trail to the existing line at Joyce Hall Elementary, or
- C. the onsite water lines constructed with the Pearls of Prosper residential community with a connection to the existing line along Legacy Drive at Joyce Hall Elementary

Since the proposed water lines are depicted on the Town of Prosper Water System Capital Improvement Plan, the actual costs for the design and construction of the improvements are eligible for reimbursement of water impact fees collected by the development.

The purpose of the Water Impact Fees Reimbursement Agreement is to outline the obligations of the Town of Prosper, PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, related to the design, construction, and reimbursement of collected water impact fees to fund the projects.

**Budget Impact:**

The total estimated cost for the design and construction of Project 1 is \$1,406,859. The current anticipated water impact fees owed by the Park Place, Prosper Hills, and Prosper Meadows development is \$1,990,741. In the event that full reimbursement has not been made to PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, by the Town after the expiration of ten (10) years from the date of the Town's acceptance of the water line, the Town will reimburse PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, any shortfall.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality. PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, will contribute up to \$2,000 towards the legal preparation fees.

**Attached Documents:**

1. Town of Prosper Water System Capital Improvement Plan
2. Water Impact Fees Reimbursement Agreement

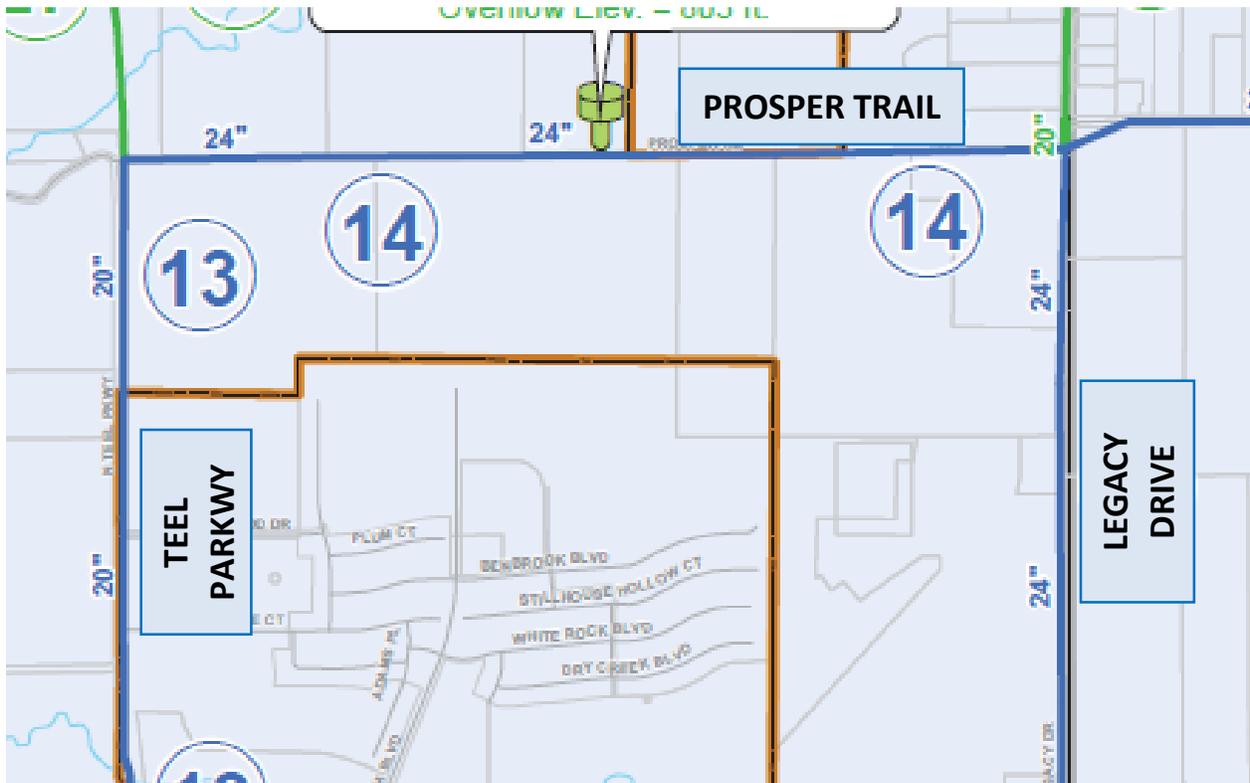
**Town Staff Recommendation:**

Town staff recommends that the Town Council authorize the Town Manager to execute a Water Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the extension of water lines to serve the Park Place, Prosper Hills, and Prosper Meadows developments.

**Proposed Motion:**

I move to authorize the Town Manager to execute a Water Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the extension of water lines to serve the Park Place, Prosper Hills, and Prosper Meadows developments.

Town of Prosper Water System Capital Improvement Plan  
(PPP 100 DEV LLC, PROSPER HILLS, L.P., PROSPER MEADOWS, L.P.)



**WATER IMPACT FEES REIMBURSEMENT AGREEMENT  
(PARK PLACE, PROSPER HILLS & PROSPER MEADOWS)**

**THIS WATER IMPACT FEES REIMBURSEMENT AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **TOWN OF PROSPER, TEXAS** (“Prosper” or the “Town”), and **PPP 100 DEV LLC**, a Texas limited liability company (“Park Place”), **PROSPER HILLS LP**, a Texas limited partnership (“Prosper Hills”), and **PROSPER MEADOWS LP**, a Texas limited partnership (“Prosper Meadows”), and collectively Park Place, Prosper Hills, and Prosper Meadows are referenced herein as “Developer,” collectively referred to as the “Parties.”

**WITNESSETH:**

**WHEREAS**, Developer is developing multiple projects in the Town known as Park Place, Prosper Hills, and Prosper Meadows, and

**WHEREAS**, the legal descriptions of the Park Place Prosper Hills, and Prosper Meadows properties (“**Property**”) are attached hereto as Exhibit A; and

**WHEREAS**, pursuant to the Water and Wastewater Improvement Plan (the “**Master Water Plan**”), Developer desires, subject to the terms and conditions set forth herein, to construct certain Water Improvements (as defined in Paragraph 3(b), below) to serve the Property; and

**WHEREAS**, Developer desires to fulfill a portion of its obligation to pay Water Impact Fees (as defined in Paragraph 3(a), below) as prescribed in Article 10.02 of Chapter 10 of the Town’s Code of Ordinances, as amended (the “**Impact Fee Ordinance**”); and

**WHEREAS**, this Agreement clearly is in the best interests of the Town and Developer and it is deemed mutually beneficial to each that the construction of water lines to and in Park Place proceed uniformly.

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Town and Developer covenant and agree as follows:

1. **Land Subject to Agreement.** The land that is subject to this Agreement is the Property. Developer represents that it is the sole owner of the Property.

2. **Easements.**

(a) Within one hundred eighty (180) days of the Effective Date, Developer agrees to convey easements and right-of-way, free and clear of liens and encumbrances, by instrument acceptable to Town with the actual locations to be determined by Town upon completion of the final engineering (the “**Easement Parcels**”), which shall include

permanent water easements. The final widths of the Easement Parcels will be determined upon completion of the final engineering, as approved by Town.

(b) The Parties shall cooperate with each other in obtaining from third parties any and all easements, including, but not limited to, permanent easements and temporary construction easements (the “**Third Party Water Improvement Easements**” and “**Third Party Temporary Construction Easements**,” respectively) which are necessary or appropriate, as reasonably determined by Town, for timely construction, completion and dedication of the Water Improvements required herein as follows:

(i) Developer’s Responsibilities. Developer shall be responsible for any and all costs and expenses associated with acquiring, by purchase or condemnation, all Third Party Water Improvements Easements and Third Party Temporary Construction Easements, including, but not limited to, title work, appraisals, expert fees, attorneys’ fees and expenses, engineering fees and expenses, surveying fees and expenses, court costs, commissioner’s fees and costs of appeal, if any (the “**Easement Acquisition Fees**”). If requested by Town, Developer shall, at its sole cost and expense, lead all easement acquisition efforts for the Third Party Water Improvements Easements and Third Party Temporary Construction Easements, including, but not limited to, providing all necessary engineering and surveying support required to obtain the Third Party Water Improvements Easements and Third Party Temporary Construction Easements as required herein. Developer shall pay any and all Easement Acquisition Fees within seven (7) calendar days of receiving a written request from Town for the same.

(ii) Town’s Rights and Responsibilities. Town will, at Developer’s sole cost and expense, provide, among any other assistance deemed necessary by Town, technical, engineering, legal and administrative assistance, as selected by Town, to acquire, by purchase or condemnation, the Third Party Water Improvements Easements and Third Party Temporary Construction Easements. Town shall review and approve any and all documents associated with the Third Party Water Improvements Easements and Third Party Temporary Construction Easements required herein. If Town determines, in its sole discretion, that condemnation proceedings are necessary to secure the Third Party Water Improvements Easements and Third Party Temporary Construction Easements, Town shall have the right to, at Developer’s sole cost and expense, take any and all steps Town deems necessary to initiate said proceedings.

(c) The Third Party Water Improvements Easements and Third Party Temporary Construction Easements shall be filed and recorded prior to the commencement of construction of the Water Improvements or any portion thereof, unless a right of entry is secured, a condemnation award is tendered with the Registry of the Court and/or a right of possession by any other means is obtained on an earlier date, in which event Developer may commence construction prior to recording of the Third Party Water Improvements Easements and Third Party Temporary Construction Easements.

(d) If the Third Party Water Improvements Easements and Third Party Temporary Construction Easements are not obtained, or Town has not secured the right

to possess, in a form acceptable to Town, the land to be subject to the Third Party Water Improvement Easements, within ninety (90) days after the execution hereof on terms acceptable to Town, then Town shall commence, and thereafter diligently pursue to completion, condemnation proceedings to obtain such Third Party Water Improvement Easements as soon as reasonably possible. Notwithstanding anything to the contrary herein, Town may, in its sole discretion, initiate condemnation proceedings prior to the expiration of such ninety (90) days as provided in Paragraph 2(b)(ii), above.

### **3. Water Improvements.**

(a) Subject to the provisions of this Paragraph 3 and this Agreement, the Property will be assessed Water Impact Fees at the rates then in effect pursuant to the Impact Fee Ordinance as it presently exists or may be subsequently amended (the “**Water Impact Fees**”).

(b) Developer shall, at its sole cost and expense, except as provided in Paragraph 4, below, construct and install a: (i) twenty-four inch (24”) water line along Prosper Trail from the connection to the existing line near the western limits of Park Place to the eastern limits of Park Place as depicted on the Master Water Plan and in the locations generally depicted on Exhibit B, attached hereto and incorporated herein for all purposes (collectively referred to herein as the “**Water Improvements**”).

In addition to the completion and acceptance by the Town of the Water Improvements identified in Paragraph 3.(b), Developer acknowledges that the completion and acceptance by the Town of additional water improvements noted below is required prior to the final acceptance of the first phase of any development within the Property. Developer or others shall construct and install: (A) a twenty-four inch (24”) water along Prosper Trail from the eastern boundary of Park Place to the intersection with future Legacy Drive, and either (B) a twenty-four inch (24”) water along Legacy Drive from the intersection with Prosper Trail to the connection to the existing line at Joyce Hall Elementary OR (C) an onsite system constructed within the Pearls of Prosper residential community with a connection to the existing line along Legacy Drive at Joyce Hall Elementary. These improvements are depicted on the Master Water Plan and in the locations generally depicted on Exhibit B, attached hereto and incorporated herein for all purposes (collectively referred to herein as the “**Offsite Improvements**”).

(c) Developer shall bid the construction of each portion of the Water Improvements as shown in the related construction plans set with three (3) qualified contractors and shall provide copies of the bids received for such items to Town within five (5) business days of Developer’s receipt of same. Developer shall: (i) execute a contract for the construction of each portion of the Water Improvements with the lowest responsible bidder, as mutually and reasonably determined by Town and Developer; (ii) commence, or cause to be commenced, construction of each portion of the Water Improvements within the project development schedule following: (A) the execution of this Agreement and all of the Third Party Water Improvement Easements and Third Party Temporary Construction Easements; and (B) approval of the Water Improvements’

engineering plans, specifications and designs by Town's Engineer, which approval shall not be unreasonably withheld or delayed; (iii) construct each portion of the Water Improvements in accordance with Town-approved engineering plans, specifications and designs; and (iv) complete each portion of the Water Improvements and obtain Town's acceptance of same prior to Town's final acceptance of the Water Improvements.

(d) Developer represents that the estimated Water Improvements construction costs are One Million Four Hundred Six Thousand, Eight Hundred Fifty-Nine and No/100 Dollars (\$1,406,859.00), as more particularly described in Exhibit D, attached hereto and incorporated herein for all purposes (the "**Estimated Construction Costs**"). Developer acknowledges and agrees that Town is relying on Developer's engineer's representation and warranty that the Estimated Construction Costs are as described in Exhibit D. Prior to receiving any credit described in Paragraph 4 below, Developer shall tender to Town evidence, in a form(s) reasonably acceptable to Town, that all of the Water Improvements construction costs (the "**Water Improvement Costs**") have been paid by Developer, including but not limited to, Affidavits of Payment/Affidavits as to Debts and Liens and any other evidence reasonably required by Town ("**Evidence of Payment(s)**").

#### **4. Reimbursement from Water Impact Fees.**

(a) Provided Developer completes the Water Improvements in accordance with this Agreement, Developer shall receive reimbursement of its Water Improvement Costs from the Water Impact Fees collected by Town related to service from the Water Improvements, subject to the terms of this Agreement.

(b) A depiction of the service areas for the Water Improvements is attached hereto as Exhibit C and made part hereof (the "**Water Service Areas**"). The Water Service Areas may be expanded from time to time and, upon such expansion, Exhibit C shall be amended accordingly.

(c) Water Impact Fees collected by Town related to service from the Water Improvements, including fees collected with respect to service to property other than the Property, shall be paid to Developer until the entire amount due to Developer is paid in full.

(d) The reimbursement amount shall be an amount equal to the *actual* construction costs associated with the Water Improvements (the "**Water Costs Reimbursement**"). The phrase "construction costs" as used herein shall include design costs, construction costs, engineering costs, surveying costs and geotechnical materials testing associated with the Water Improvements.

(e) All Water Impact Fees collected by Town shall be paid by Town to Developer on a quarterly basis within thirty (30) days following each March 31, June 30, September 30, and December 31 until Developer has received the full amount of Water Costs Reimbursements, as it may be adjusted in accordance with this Agreement.

(f) **NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, TOWN SHALL NOT BE OBLIGATED TO PROVIDE THE PROPERTY WITH THE WATER COSTS REIMBURSEMENT FOR ANY CONSTRUCTION COSTS ASSOCIATED WITH THE WATER IMPROVEMENTS UNLESS AND UNTIL DEVELOPER PROVIDES THE EVIDENCE OF PAYMENT(S).**

(g) Developer and Town acknowledge and agree that: (i) the Water Impact Fees collected may be less than the Water Costs Reimbursements to which Developer is entitled and Town does not guarantee the amount of Water Impact Fees that will be collected; (ii) after a period of ten (10) years, any shortfall between the Water Impact Fees collected and the Water Costs Reimbursements shall be paid to Developer from Town; and (iii) Water Impact Fees owed on the Property shall be paid in accordance with the Impact Fee Ordinance.

5. **Assignment.** Developer shall have the right to assign this Agreement, in whole or in part, only to one or more parties purchasing undeveloped portions of Park Place, which party (or parties) shall have the option to construct any Water CIP Projects located in such portions. As to the sale of land by Developer to any party to whom this Agreement has not been assigned, in whole or in part, the purchaser thereof shall have no rights or obligations under this Agreement and this Agreement shall not apply with respect to such land. This Agreement shall not be filed of record.

6. **Default.**

(a) If Developer fails to comply with any provision of this Agreement after receiving fifteen (15) days' written notice to comply from the Town or such longer period as may be reasonably necessary provided that Developer commences to cure the default or breach within the 15-day period and proceeds with reasonable diligence thereafter to complete such cure, then so long as such default continues and is not cured, the Town shall have the following remedies, in addition to the Town's other rights and remedies:

- (i) to refuse to issue building permits for the Property; and/or
- (ii) to refuse to accept any portion of any public improvements on the Property and/or associated with the development of the Property; and/or
- (iii) to refuse, without notice and/or any other action, to issue and/or apply the reimbursements set forth in Paragraph 4; and/or
- (iv) to construct and/or complete the Water Improvements and to recover any and all costs and expenses associated with the construction and/or completion of same, including, but not limited to, any and all attorneys' fees and costs associated therewith; and/or
- (v) to seek specific enforcement of this Agreement.

(b) In the event Town fails to comply with the terms and conditions of this Agreement, Developer may seek specific enforcement of this Agreement as its sole and exclusive remedy.

7. **Other Applicable Development Ordinances.** Unless otherwise expressly stipulated in this Agreement, nothing herein shall relieve any developer from responsibilities for the construction of other public improvements under applicable development ordinances of the Town.

8. **Covenant Running with Land.** This Agreement shall be a covenant running with the land and the Property and shall be binding upon Developer, its officers, directors, partners, employees, representatives, agents, successors, assignees, vendors, grantees and/or trustees. In addition, the Parties shall cause this Agreement to be filed in the Real Property Records of Denton County, Texas.

9. **Limitations of Agreement.** The Parties hereto acknowledge that this Agreement is limited to the Water Impact Fees as described in the Impact Fee Ordinance. Town ordinances covering property taxes, utility rates, permit fees, inspection fees, development fees, sewer impact fees, park fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Developer to Town under any other ordinance, whether now existing or in the future arising.

10. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Denton County, Texas.

11. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

If to Town, addressed to it at:  
 Town of Prosper  
 ATTN: Town Manager  
 P. O. Box 307  
 250 W. First Street  
 Prosper, Texas 75078  
 Telephone: (972) 346-2640

With a copy to:

Brown & Hofmeister, L.L.P.  
 ATTN: Terrence S. Welch, Esq.  
 740 E. Campbell Road  
 Richardson, TX 75081  
 Telephone: (214) 747-6104

If to Developer, addressed to it at:

PPP 100 DEV LLC  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

PROSPER HILLS LP  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

PROSPER MEADOWS LP  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

With a copy to:

Poche Law PC  
 ATTN: Charles Poche, Jr. Esq.  
 15770 North Dallas Parkway, Suite 475  
 Dallas, TX 75248  
 Telephone: (214) 764-0961

12. **Prevailing Party.** In the event any person 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).

13. **Sovereign Immunity.** The Parties agree that Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement; however, for purposes of enforcement of this Agreement, Town agrees that it has waived its sovereign immunity, and to that extent only.

14. **Effect of Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the effective date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

15. **Consideration.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

16. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

17. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

18. **Savings/Severability.** Invalidation of any one of the provisions of this document by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

19. **Notification of Sale or Transfer.** Developer shall notify the Town in writing of a sale or transfer of all or any portion of the Property where Developer plans to assign all or a portion of this Agreement, as contemplated herein, within ten (10) business days of such sale or transfer.

20. **Authority to Execute.** The Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. This Agreement is and shall be binding upon the Developer, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

21. **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 mediation.

22. **Indemnification.** From the Effective Date of this Agreement to the date on which all work with respect to a Water CIP Project is completed and all improvements, as contemplated herein, have been accepted by the Town, Developer, individually and on behalf of its respective officers, directors, partners, employees, representatives, agents, successors, assignees, vendors, grantees and/or trustees, does hereby agree to release, defend, indemnify and hold harmless the Town and its elected and appointed officials, officers, employees and agents from and against all damages, injuries (including death), claims, property damages (including loss of use) losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses (including attorney's fees and expenses incurred in enforcing this indemnity), caused by the negligent, grossly negligent, and/or intentional act and/or omission of the applicable developer, its officers, directors, partners, employees, representatives, agents, or any other third parties for whom such developer is legally responsible, in its/their performance of this Agreement, including but not limited to, the construction of the Water CIP Projects contemplated herein (hereinafter "claims"). Developer is expressly required to defend the Town against all such claims arising under this Agreement, and the Town is required to reasonably cooperate and assist developer(s) in providing such defense.

23. **Approval of Counsel.** In its reasonable discretion, the Town shall have the right to approve counsel to be retained by Developer in fulfilling its obligation hereunder to defend and indemnify the Town. The Town reserves the right to provide a portion or all of its' own defense, at its sole cost; however, the Town is under no obligation to do so. Any such action by the Town is not to be construed as a waiver of Developer's obligation to defend the Town or as a waiver of Developer's obligation to indemnify the Town pursuant to this Agreement. Developer shall retain Town-approved defense counsel within seven (7) business days of the Town's written notice that the Town is invoking its right to indemnification under this Agreement.

24. **Survival.** Paragraph 22, "Indemnification," shall survive the termination of this Agreement.

25. **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.

26. **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.

27. **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.

28. **Rough Proportionality.** Developer hereby agrees that any land or property donated and/or dedicated pursuant to this Agreement, whether in fee simple or otherwise, to the Town relative to any development on the Property is roughly proportional to the need for such land and Developer hereby waives any claim therefor that it may have. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.

29. **Attorney's Fees.** Developer agrees to pay, or cause to be paid, to Prosper any attorney's fees charged to Prosper by Prosper's legal counsel for, among other things, legal review and revision of this Agreement and all further agreements, ordinances or resolutions contemplated by this Agreement, negotiations and discussions with Developer's attorney and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$2,000 within ten (10) days upon receipt of an invoice of same from Prosper.

**IN WITNESS WHEREOF**, the Parties hereto have caused this document to be executed as of the date first above written.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**THE TOWN OF PROSPER, TEXAS**

By: \_\_\_\_\_

Name: Mario Canizares

Title: Town Manager

**STATE OF TEXAS        )**

**)**

**COUNTY OF COLLIN    )**

**)**

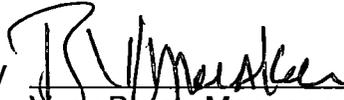
This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023, by Mario Canizares, Town Manager for the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

\_\_\_\_\_  
Notary Public, State of Texas



**PROSPER HILLS LP**  
a Texas limited partnership

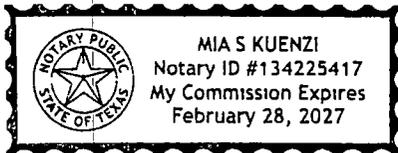
By McKinney Estate LLC,  
a Texas limited liability company  
General Partners

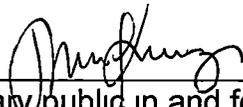
By   
Vijay Borra, Manager

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 Vijay Borra, Manager of McKinney Estate LLC, a Texas limited liability company, General Partners of **PROSPER HILLS LP**, a Texas limited partnership, 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, on behalf of such entities

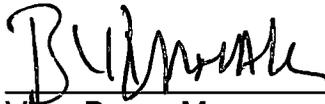
Given under my hand and seal of office this 15<sup>th</sup> day of September, 2023



  
Notary public in and for the State of TX  
My commission expires 02/28/27

**PROSPER MEADOWS LP**  
a Texas limited partnership

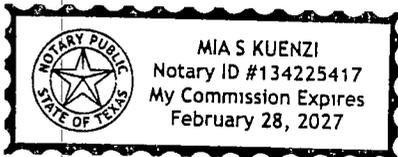
By **McKinney Estate LLC,**  
a Texas limited liability company  
General Partners

By   
Vijay Borra, Manager

**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 Vijay Borra, Manager of McKinney Estate LLC, a Texas limited liability company, General Partners of **PROSPER MEADOWS, L P**, a Texas limited partnership, 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, on behalf of such entities

Given under my hand and seal of office this 15<sup>th</sup> day of September, 2023



  
Notary public in and for the State of Tx  
My commission expires 02/28/27

**EXHIBIT A**  
(Property Legal Description)

**Park Place**

**BEING** A TRACT OF LAND SITUATED IN THE JOHN H. DURRETT SURVEY, ABSTRACT NO. 350 AND THE LOUISA NETHERLY SURVEY, ABSTRACT NO. 962, DENTON COUNTY, TEXAS, AND BEING PART OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER 100 LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2019-21287, OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS (O.P.R.C.C.T.), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHEAST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHEAST CORNER OF LOT 1, BLOCK X, ARTESIA NORTH PHASE 4, AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET 2016, SLIDE 76, PLAT RECORDS, DENTON COUNTY, TEXAS (P.R.C.C.T.), ALSO BEING ON THE WEST LINE OF A TRACT OF LAND DESCRIBED IN DEED AS TRACT IV TO BLUE STAR ALLEN LAND, LP, RECORDED IN INSTRUMENT NO. 2011-60030, O.P.R.C.C.T.,

**THENCE** N 89° 32' 20" W, ALONG THE SOUTH LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 2,909.87 FEET TO SOUTHWEST CORNER OF SAID PROSPER 100 LP TRACT, SAME BEING THE MOST EASTERLY SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER HILLS, LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2022-117712, O.P.R.C.C.T., ALSO BEING ON THE NORTH LINE OF LOT 3, BLOCK X, ARTESIA NORTH PHASE 2, AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET 2017, SLIDE 164, P.R.C.C.T.;

**THENCE** N 00° 12' 38" E, ALONG THE WEST LINE OF SAID PROSPER 100 LP TRACT AND THE EAST LINE OF SAID PROSPER HILLS LLC TRACT, A DISTANCE OF 1,469.84 FEET TO THE NORTHWEST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHEAST CORNER OF SAID PROSPER HILLS LLC TRACT;

**THENCE** N 89° 24' 39" E, ALONG THE NORTH LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 1,852.41 FEET TO A 5/8" IRON ROD FOUND AT THE SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER MEADOWS LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2019-65177, O.P.R.C.C.T.;

**THENCE** N 89° 20' 59" E, ALONG THE NORTH LINE OF SAID PROSPER 100 LP TRACT AND THE SOUTH LINE OF SAID PROSPER MEADOWS LP TRACT, A DISTANCE OF 1,057.81 FEET TO THE NORTHEAST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHWEST CORNER OF THE ABOVE MENTIONED TRACT IV;

**THENCE** S 00° 12' 49" W, ALONG THE EAST LINE OF SAID PROSPER 100 LP TRACT AND THE WEST LINE OF SAID TRACT IV, A DISTANCE OF 1,524.31 FEET TO THE **POINT OF BEGINNING**, AND **CONTAINING** 99.983 ACRES OR 4,355,272 SQUARE FEET OF LAND MORE OR LESS

WATER IMPACT FEES REIMB AGREEMENT (PARK PLACE, PROSPER HILLS, AND PROSPER MEADOWS)

## Prosper Hills

**BEING** A TRACT OF SITUATED IN THE LOUIS NETHERLY SURVEY, ABSTRACT NO. 962, TOWN OF PROSPER, DENTON COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER HILLS, LP, RECORDED IN INSTRUMENT NUMBER 2017-82639 OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS (O.P.R.D.C.T.), ALSO BEING A PORTION OF SEC TEEL-PROSPER ADDITION, AN ADDITION TO THE TOWN OF PROSPER, RECORDED IN INSTRUMENT NUMBER 2022-1306, PLAT RECORDS, DENTON COUNTY, TEXAS (P.R.D.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT THE MOST EASTERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER 100 LP, RECORDED IN INSTRUMENT NUMBER 2019-21287 O.P.R.D.C.T., FROM WHICH AN "X" CUT FOUND AT THE INTERSECTION OF GREENBELT PARK LANE, AN EXISTING 50' RIGHT-OF-WAY, AND HUBBARD PARK AVENUE, AN EXISTING 50' RIGHT-OF-WAY, ARTESIA NORTH PHASE 2 (ARTESIA ADDITION), AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, RECORDED IN INSTRUMENT NUMBER 2017-164 O.P.R.D.C.T., BEARS S 57°25'44" W, 129.03 FEET;

**THENCE** N 89° 32'20" W, WITH THE MOST EASTERLY SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NORTH LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 553.82 FEET TO AN INTERIOR ELL CORNER OF SAID PROSPER HILLS, LP TRACT AND THE NORTHWEST CORNER OF LOT 3, BLOCK X, OF SAID ARTESIA ADDITION;

**THENCE** S 00°03'28" W, ALONG AN EAST LINE OF SAID PROSPER HILLS LP TRACT AND THE WEST LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 259.13 FEET TO THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHEAST CORNER OF A REMAINDER TRACT OF LAND DESCRIBED IN DEED TO INWOOD PLAZA JOINT VENTURE, RECORDED IN VOLUME 4233, PAGE 738, DEED RECORDS DENTON COUNTY, TEXAS (D.R.D.C.T.);

**THENCE** N 89°31'47" W, ALONG THE SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NOTH LINE OF SAID REMAINDER TRACT, A DISTANCE OF 1,308.00 FEET TO THE SOUTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT AND NORTHWEST CORNER OF SAID REMAINDER TRACT, ALSO BEING ON THE EAST LINE OF TEEL PARKWAY (A VARIABLE WIDTH RIGHT-OF-WAY);

**THENCE** N 00°08'41" W, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT AND THE EAST LINE OF SAID TEEL PARKWAY, A DISTANCE OF 149.49 FEET TO THE SOUTH CORNER OF SAID SEC TEEL-PROSPER ADDITION;

**THENCE** N 00°02'02" E, CONTINUING ALONG THE WEST LINE OF SAID PROSPER HILLS, SAME BEING THE EAST LINE OF SAID SEC TEEL-PROSPER ADDITION, A DISTANCE OF 1,043.46 FEET TO THE SOUTH CORNER OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION, AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 01°08'34", A RADIUS OF 1,060.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 19°32'51" W, 21.14 FEET;

**THENCE** ALONG THE WEST LINE OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION THE FOLLOWING COURSES AND DISTANCES:

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 21.14 FEET;

N 20°22'59" W, A DISTANCE OF 150.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 00°10'12", A RADIUS OF 1,070.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 28°18'42" W 3.18 FEET;

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 3.18 FEET;

N 28°23'48" W, A DISTANCE OF 171.87 FEET;

N 16°39'53" E, A DISTANCE OF 49.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 10°03'53", A RADIUS OF 745.00 FEET, AND A CHORD BEARING DISTANCE OF N 67°19'26" E, 130.70 FEET;

ALONG SAID CURVE TO THE RIGHT, AN ARC DISTANCE OF 130.87 FEET;

N 72°21'22" E, A DISTANCE OF 8.76 FEET TO THE WEST LINE OF SAID PROSPER HILLS, LP TRACT;

**THENCE** N 00°02'02" E, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 87.91 FEET TO THE NORTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT;

**THENCE** N 89°47'56" E, ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 306.82 FEET;

**THENCE** N 89°24'39" E, CONTINUING ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 1,560.15 FEET TO THE NORTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHWEST CORNER OF SAID PROSPER 100 LP TRACT;

**THENCE** S 00°12'38" W, ALONG THE EAST LINE OF SAID PROSPER HILLS, LP TRACT AND THE WEST LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 1,469.84 FEET TO THE **POINT OF BEGINNING**, AND **CONTAINING** 70.674 ACRES OR 3,078,580 SQUARE FEET OF LAND MORE OR LESS

## Prosper Meadows

**Being** a tract of land situated in the J.H. Durrant Survey, Abstract Number 350, John McKim Survey, Abstract Number 889, and the Aaron Roberts Survey, Abstract Number 1115, and being all of that tract of land described in deed to Prosper Meadows LP, according to the document recorded in Instrument Number 2019-65177, Official Public Records, Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows:

**BEGINNING** at the northwest corner of said Prosper Meadows LP tract, same being the northeast corner of that tract of land described in deed to Prosper Independent School District, according to the document recorded in Instrument Number 2017-34540, O.P.R.D.C.T., also being in the approximate center line of Parvin Road;

**THENCE:** N 89° 30' 00" E, with the north line of said Prosper Meadows LP tract, and the approximate center line of said Parvin Road, a distance of 1,549.43 feet to the northeast corner of said Prosper Meadows LP tract;

**THENCE:** S 01° 01' 00" W, with the east line of said Prosper Meadows LP tract, a distance of 2,815.00 feet to the southeast corner of said Prosper Meadows LP tract, and the approximate center line of Prosper Road;

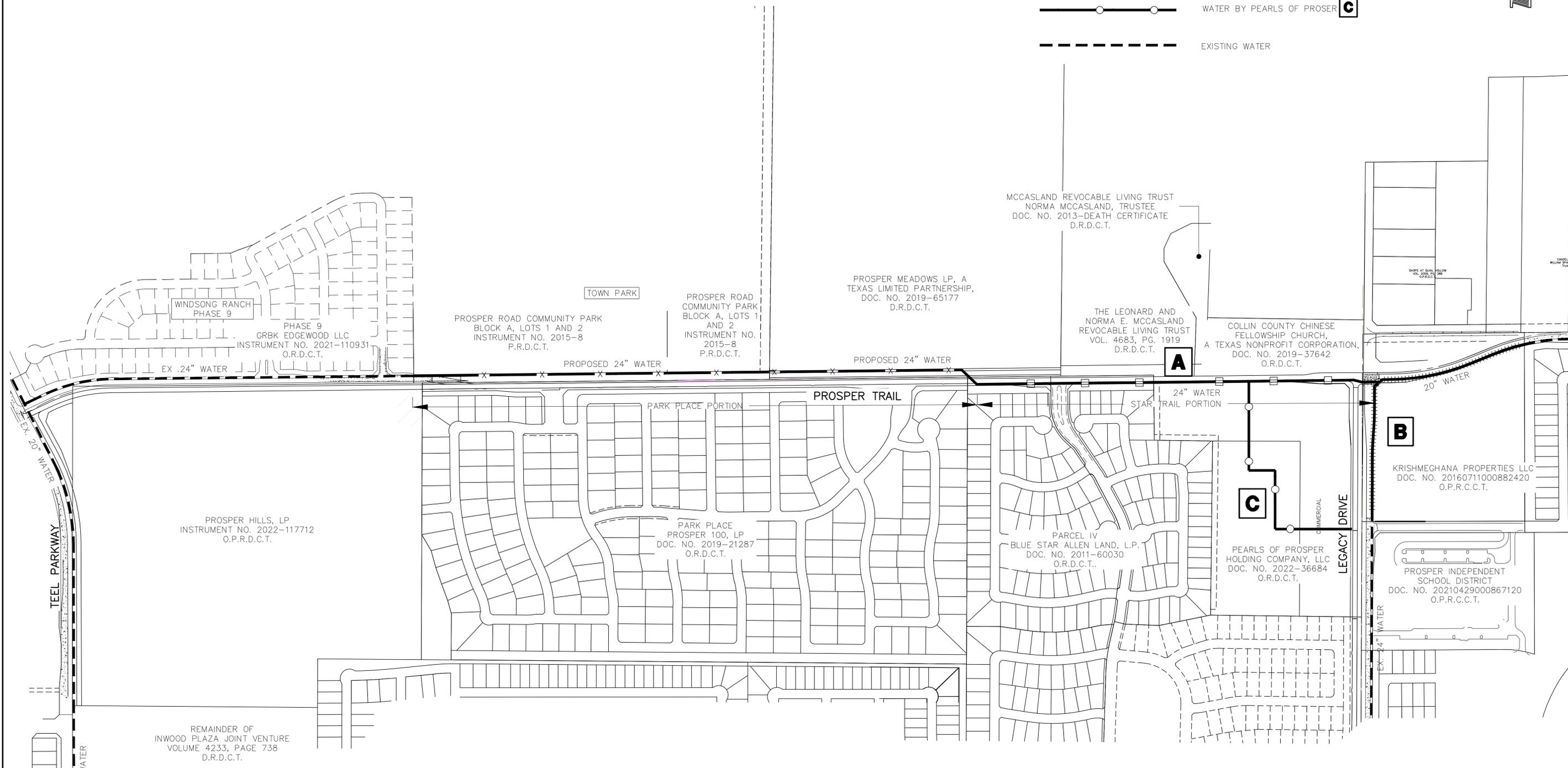
**THENCE:** S 89° 44' 00" W, with the south line of said Prosper Meadows LP tract, and the approximate center line of said Prosper Road, a distance of 1,550.91 feet to the southwest corner of said Prosper Meadows LP tract;

**THENCE:** N 01° 03' 00" E, with the west line of said Prosper Meadows LP tract, a distance of 2,808.73 feet to the **POINT OF BEGINNING** and **CONTAINING** 100.035 Acres of land, more or less.

**EXHIBIT B**  
**(Water Improvements)**

**LEGEND:**

-  PROPOSED 24" WATER \$1,406,859
-  WATER BY STAR TRAIL **A** \$1,047,615
-  WATER BY STAR TRAIL **B**
-  WATER BY PEARLS OF PROSPER **C**
-  EXISTING WATER



**EXHIBIT B  
WATER CONSTRUCTION  
PARK PLACE D.A.**

TOWN OF PROSPER  
DENTON & COLLIN COUNTY



8105 TOWNSON PARKWAY, STE. 210 | PLANO, TX 75024 | 214.420.8484  
STATE ENGINEERING NUMBER: 16784 TEXAS REGISTERED PROFESSIONAL ENGINEER

NO.	DATE	BY	REVISION

DESIGN	DRAWN	CHECKED	DATE	SCALE	JOB	SHEET
SIH	SIH	MSD	JULY 2023	NONE		1

REVISED:

W:\projects\702\81199\199\PARK PL WATER EXHIBIT B.dwg, 8/1/2023 7:43:34 AM, S.Hall

**EXHIBIT C**  
**(Area of Reimbursement)**

**LEGEND:**

-  WATER SERVICE/REIMBURSEMENT AREA
-  EXISTING WATER



MCCASLAND REVOCABLE LIVING TRUST  
NORMA MCCASLAND,  
TRUSTEE  
DOC. NO. 2013-DEATH  
CERTIFICATE  
D.R.D.C.T.

THE LEONARD AND  
NORMA E. MCCASLAND  
REVOCABLE LIVING TRUST  
VOL. 4683, PG. 1919  
D.R.D.C.T.

COLLIN COUNTY CHINESE  
FELLOWSHIP CHURCH,  
TEXAS NONPROFIT CORPORATION,  
DOC. NO. 2019-37642  
O.R.D.C.T.

PEARLS OF PROSPER HOLDING COMPANY, LLC  
DOC. NO. 2022-36684  
O.R.D.C.T.  
COMMERCIAL

KRISHMEGHANA  
PROPERTIES LLC  
DOC. NO.  
20160711000882420  
O.P.R.C.C.T.

PROSPER INDEPENDENT  
SCHOOL DISTRICT  
DOC. NO. 20210429000867120  
O.P.R.C.C.T.

PARCEL IV  
BLUE STAR ALLEN LAND, L.P.  
DOC. NO. 2011-60030  
O.R.D.C.T..

WINDSONG RANCH  
PHASE 9

TOWN PARK

PROSPER  
MEADOWS  
±150 SF  
LOTS

PARK PLACE  
206 SF LOTS

PROSPER HILLS  
± 165 SF LOTS

PARK PLACE - 206 SF LOTS	\$787,126
@ \$3,821/ SF LOT	
PROSPER HILLS - 165 SF LOTS	\$630,465
@ \$3,821/ SF LOT	
PROSPER MEADOWS - 150 SF LOTS	\$573,150
@ \$3,821/ SF LOT	
	<b>\$1,990,741</b>

NO.	DATE	BY	REVISION

**EXHIBIT C**  
**WATER REIMBURSEMENT AREA**  
**PARK PLACE D.A.**

TOWN OF PROSPER  
DENTON & COLLIN COUNTY

**PAPE-DAWSON ENGINEERS**

8105 TOWNSON PARKWAY, STE. 210 | PLANO, TX 75024 | 214.420.8404  
STATE LICENSE NO. 2008-00010 | TEXAS PROFESSIONAL ENGINEER 2010-00010

DESIGN	DRAWN	CHECKED	DATE	SCALE	JOB	SHEET
SIH	SIH	MSD	JULY 2023	NONE		1

REVISED:

W:\projects\702\81199\199\PARK PL WATER EXHIBIT C.dwg, 8/1/2023 8:17:06 AM, SHall

**EXHIBIT D**  
**(Estimated Construction Costs)**

# PROSPER TRAIL WATER - PARK PLACE

Prosper, Denton, Texas

Length: 2,882  
Prepared: 9/18

## *Opinion of Probable Cost Summary*

CATEGORY	By Category	Per LF
<b>WATER</b>	\$1,042,117	\$362
<b>PROFESSIONAL FEES</b>	\$208,424	\$72
<b>OVERALL CONTINGENCY 15%</b>	\$156,318	\$54
<b>CATEGORY TOTALS</b>	<b>\$1,406,859</b>	<b>\$488</b>

1) IT IS IMPORTANT TO NOTE THAT THIS REPORT IS LIMITED IN ACCURACY BECAUSE IT WAS PREPARED WITHOUT THE BENEFIT OF PERMITTED CONSTRUCTION DOCUMENTS AND/OR ENGINEERING REPORTS, THAT MAY BE REQUIRED FOR PERMITTING AND THAT MAY YIELD NEW INFORMATION WHICH COULD AFFECT THE FINAL DEVELOPMENT COST.

2) ALL INFRASTRUCTURE COST IDENTIFIED ABOVE ARE PREDICATED ON THE ASSUMPTIONS AND EXCLUSIONS IDENTIFIED IN THE DETAILED COST "BREAK-DOWN" OF PROBABLE COST BY TRACT.

WATER	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
6" P.V.C. WATERLINE	\$ 46.08	LF.	75	\$ 3,456
8" P.V.C. WATERLINE	\$ 73.61	LF.	214	\$ 15,753
12" P.V.C. WATERLINE	\$ 200.33	LF.	30	\$ 6,010
24" P.V.C. WATERLINE	\$ 266.89	LF.	2,882	\$ 769,177
8" GATE VALVE & BOX	\$ 2,447.52	EA.	3	\$ 7,343
12" GATE VALVE & BOX	\$ 5,043.71	EA.	3	\$ 15,132
24" BUTTERFLY VALVE & VAULT	\$ 17,411.90	EA.	9	\$ 156,708
CONNECT TO EXISTING WATERLINE	\$ 4,307.60	EA.	1	\$ 4,308
AIR RELEASE VALVE	\$ 5,680.95	EA.	1	\$ 5,681
6" TEE, VALVE, & PLUG	\$ 3,500.00	EA.	2	\$ 7,000
FIRE HYDRANT W/ VALVE	\$ 7,668.12	EA.	4	\$ 30,673
TESTING & CHLORINATION	\$ 1.52	LF.	3,201	\$ 4,866
TRENCH SAFETY	\$ 0.19	LF.	3,201	\$ 609
MAINTENANCE BOND	1.5%	%	\$ 1,026,716	\$ 15,401
<b>TOTAL</b>				<b>\$ 1,042,117</b>

PROFESSIONAL FEES	%		\$	TOTAL
				(\$)
ENGINEERING & SURVEY	15.0%		\$ 1,042,117	\$ 156,318
GEOTECHNICAL & MATERIAL TESTING	5.0%		\$ 1,042,117	\$ 52,106
<b>TOTAL</b>				<b>208,424</b>



## ENGINEERING SERVICES

**To: Mayor and Town Council**

**From: Hulon T. Webb, Jr., P.E., Director of Engineering Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Thoroughfare Impact Fees Reimbursement Agreement  
(Park Place, Prosper Hills, and Prosper Meadows)**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 1. Acceleration of Infrastructure**

### **Agenda Item:**

Consider and act upon authorizing the Town Manager to execute a Thoroughfare Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the construction of Teel Parkway, Prosper Trail, and Legacy Drive to serve the Park Place, Prosper Hills, and Prosper Meadows developments.

### **Description of Agenda Item:**

PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, are developing multiple residential projects and are planning on constructing the following thoroughfares:

1. southern half of Prosper Trail from the western limits of the Park Place development (eastern limits of the Prosper Hills development) to the eastern limits of the Park Place development (western limits of the Star Trail development)
2. southern half of Prosper Trail from Teel Parkway to eastern limits of Prosper Hills development
3. eastern half of Teel Parkway from Prosper Trail to southern limits of Prosper Hills development
4. after construction of Projects 1-3 above, and prior to the start of development of the Preston Meadows development, if sufficient remaining thoroughfare impact fees are available, then northern half of Prosper Trail adjacent to the Prosper Meadows development

Lastly, to provide the required second point of access to the Park Place development, prior to the final acceptance of the first phase within any of the three developments, the thoroughfare listed above as Project 1 must be completed and accepted by the Town, in addition to:

- A. southern half of Prosper Trail from the eastern limits of the Park Place development to Legacy Drive, and one of the following:

- B. western half of Legacy Drive from Prosper Trail to northern limits of Star Trail development with transition to Joyce Hall Elementary,
- C. eastern half of Legacy Drive from Prosper Trail to Joyce Hall Elementary, that is planned to be constructed by others, or
- D. paving improvements within the Pearls at Prosper community, connecting from Prosper Trail to Legacy Drive.

If Segment B is constructed, the Town will contribute \$200,000 towards the cost of construction after completion and acceptance by the Town.

Since the proposed thoroughfares are depicted on the Town of Prosper Thoroughfare Plan, the actual costs for the design and construction of the improvements are eligible for reimbursement of thoroughfare impact fees collected by the developments.

The purpose of the Thoroughfare Impact Fees Reimbursement Agreement is to outline the obligations of the Town of Prosper, PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, related to the design, construction, and reimbursement of collected thoroughfare impact fees to fund the projects.

**Budget Impact:**

The total estimated cost for the design and construction of Projects 1, 2, 3, and 4 is \$4,014,469. The current anticipated thoroughfare impact fees owed by the Park Place, Prosper Hills, and Prosper Meadows developments is \$3,153,613. The Town will contribute \$200,000 towards the construction of the western half of Legacy Drive if Segment B is constructed. If either the construction of the eastern half of Legacy Drive (Segment C), or paving improvements within the Pearls at Prosper community (Segment D) is complete, PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, will not be required to construct the western half of Legacy Drive (Segment B). In the event that full reimbursement has not been made to PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, by the Town after the expiration of ten (10) years from the date of the Town’s acceptance of the roadways, the Town will reimburse PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, any shortfall.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality. PPP 100 DEV LLC, PROSPER HILLS LP, and PROSPER MEADOWS LP, will contribute up to \$2,000 towards the legal preparation fees.

**Attached Documents:**

- 1. Town of Prosper Thoroughfare Plan
- 2. Thoroughfare Impact Fees Reimbursement Agreement

**Town Staff Recommendation:**

Town staff recommends that the Town Council authorize the Town Manager to execute a Thoroughfare Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the construction of Teel Parkway, Prosper Trail and Legacy Drive to serve the Park Place, Prosper Hills, and Prosper Meadows developments.

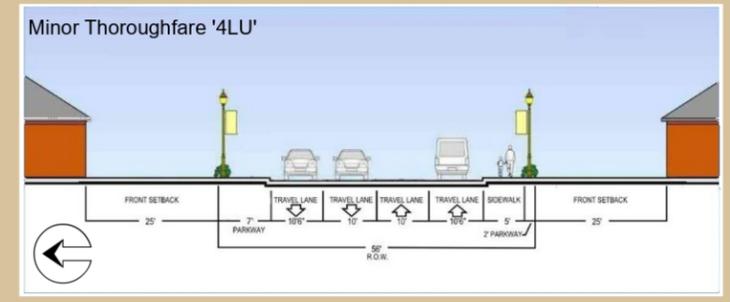
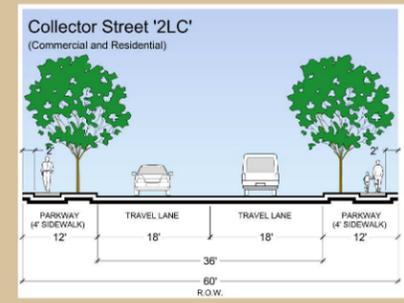
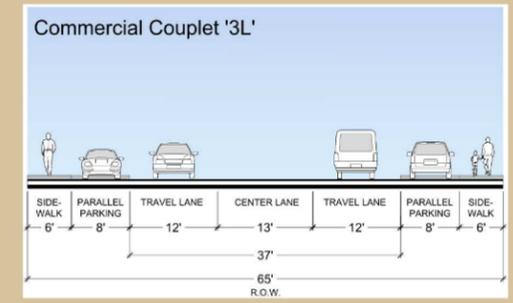
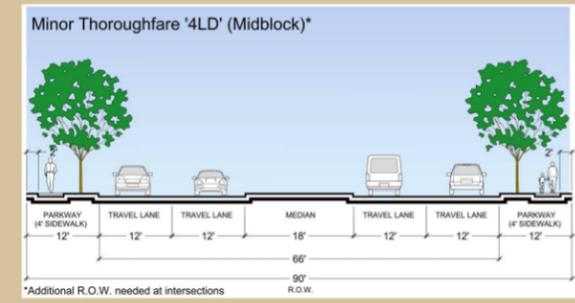
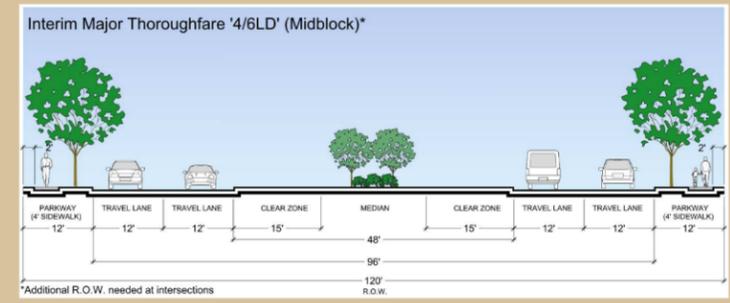
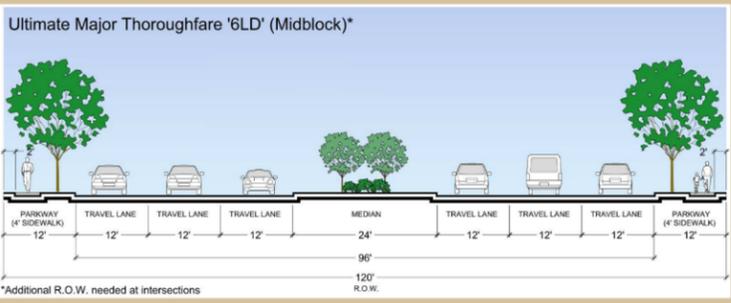
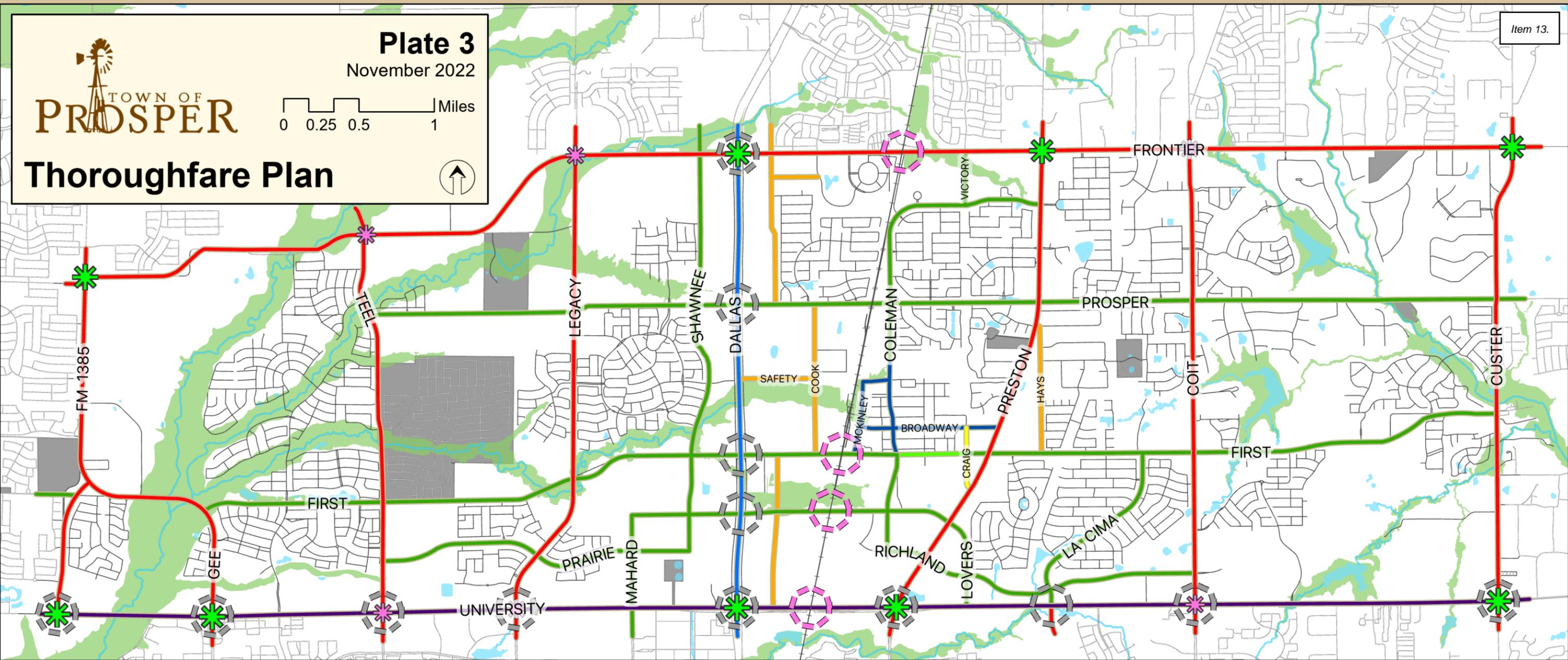
**Proposed Motion:**

I move to authorize the Town Manager to execute a Thoroughfare Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, PROSPER MEADOWS LP, and the Town of Prosper, Texas, related to the construction of Teel Parkway, Prosper Trail and Legacy Drive to serve the Park Place, Prosper Hills, and Prosper Meadows developments.

**Plate 3**  
November 2022

**TOWN OF PROSPER**

**Thoroughfare Plan**



- Dallas North Tollway
- Limited Access Roadway/Freeway (330' ROW)
- Major Thoroughfare (6 lane; 120' ROW)
- Minor Thoroughfare (4 lane divided; 90' ROW)
- Minor Thoroughfare (4 lane undivided; 56' ROW)
- Commercial Couplet (3 lane; 65' ROW)
- Commercial Collector (2 lane; 60' ROW)
- Old Town District (Section Varies)

- Major Gateway
- Minor Gateway
- Grade Separation
- RR Grade Separation

- Town of Prosper
- ETJ
- 100 Year Floodplain

\*Refer to Comprehensive Plan for Interim Development of Coit Road between Frontier Parkway and Prosper Trail.

The Thoroughfare Plan is for informational purposes and has not been prepared for and is not intended for legal, real estate, engineering purposes. It is provided as a conceptual guide for transportation decisions within the Town related to general roadway alignments and is not intended to be used for any other purpose. Town of Prosper does not assume any responsibility or liability for omissions, inaccuracies, or misinterpretations of the Thoroughfare Plan.

**THOROUGHFARE IMPACT FEES REIMBURSEMENT AGREEMENT  
(PARK PLACE, PROSPER HILLS & PROSPER MEADOWS)**

**THIS THOROUGHFARE IMPACT FEES REIMBURSEMENT AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **TOWN OF PROSPER, TEXAS** (“Prosper” or the “Town”), and **PPP 100 DEV LLC**, a Texas limited liability company (“Park Place”), **PROSPER HILLS LP**, a Texas limited partnership (“Prosper Hills”), and **PROSPER MEADOWS LP**, a Texas limited partnership (“Prosper Meadows”), and collectively Park Place, Prosper Hills, and Prosper Meadows are referenced herein as “Developer,” collectively referred to as the “Parties.”

**WITNESSETH:**

**WHEREAS**, Developer is developing multiple projects in the Town known as Park Place, Prosper Hills, and Prosper Meadows, and

**WHEREAS**, the legal descriptions of the Park Place, Prosper Hills, and Prosper Meadows properties (“**Property**”) are attached hereto as Exhibit A; and

**WHEREAS**, the Town and Developer wish to address the construction of improvements to certain roadways as well as payment of associated costs thereof, related to the Property; and

**WHEREAS**, the Town has adopted a Thoroughfare Capital Improvements Plan (“**Roadway CIP**”) as part of its impact fee ordinance, contained in Article 10.02 of Chapter 10 of the Town’s Code of Ordinances, as amended, all of which was adopted pursuant to the authority contained in Chapter 395 of the Texas Local Government Code, as amended; and

**WHEREAS**, in an effort to facilitate the construction of roadways serving the Property, the Parties have agreed to the terms and provisions of this Agreement; and

**WHEREAS**, this Agreement clearly is in the best interests of the Town and Developer and it is deemed mutually beneficial to each that the construction of roadways to and adjacent to the Property proceed uniformly.

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Town and Developer covenant and agree as follows:

1. **Thoroughfare Impact Fees and Roadway CIP Projects.**

(a) Subject to the provisions of this Paragraph 1 and this Agreement, the Property will be assessed thoroughfare impact fees at the rates then in effect pursuant to the Impact Fee Ordinance as it presently exists or may be subsequently amended (the “**Thoroughfare Impact Fees**”).

(b) Developer shall, at its sole cost and expense, except as provided in Paragraph 3, below, construct and install: (1) the paving and drainage improvements for the southern lanes of Prosper Trail from the western limits of Park Place to the eastern limits of Park Place, (2) the paving and drainage improvements for the southern lanes of Prosper Trail from Teel Parkway to the eastern limits of Prosper Hills and (3) the paving and drainage improvements for the eastern lanes of Teel Parkway from Prosper Trail to the southern limits of Prosper Hills. If, after the construction of the roadway improvements noted above and prior to the start of development of Preston Meadows, it is estimated that there will be sufficient remaining Thoroughfare Impact Fees from the Area of Reimbursement (as identified in Paragraph 3) to reimburse the construction cost for (4) the paving and drainage improvements for the northern lanes of Prosper Trail adjacent to Prosper Meadows, then the Developer shall construct these improvements. These improvements are depicted on the Master Thoroughfare Plan and in the locations generally depicted on Exhibit B, attached hereto and incorporated herein for all purposes (collectively referred to herein as the “**Thoroughfare Improvements**”).

In addition to the completion and acceptance by the Town of the Thoroughfare Improvements identified in Paragraph 1.(b) as (1), Developer acknowledges that the completion and acceptance by the Town of additional roadway improvements noted below is required prior to the final acceptance of the first phase of any development within the Property. Developer or others shall construct and install: (A) the paving and drainage improvements for the southern lanes of Prosper Trail from the eastern boundary of Park Place to the intersection with future Legacy Drive, and one of either (B) the paving and drainage of the western lanes of Legacy Drive from Prosper Trail south to the connection of the northern limits of existing Legacy Drive, with a paving transition to Joyce Hall Elementary, (C) the paving and drainage improvements for the eastern lanes of Legacy Drive from Prosper Trail south to the northern limits of Joyce Hall Elementary School, OR (D) the paving improvements within the Pearls at Prosper community connecting from Prosper Trail to Legacy Drive. These improvements are depicted on the Master Thoroughfare Plan and in the locations generally depicted on Exhibit B, attached hereto and incorporated herein for all purposes (collectively referred to herein as the “**Offsite Improvements**”). If segment (B) is constructed, the Town will contribute Two Hundred Thousand and No/100 Dollars (\$200,000) towards the cost of construction of said western lanes improvements after completion and final acceptance of said improvements.

(c) Developer shall bid the construction of each portion of the Thoroughfare Improvements as shown in the related construction plans set with at least three (3) qualified contractors and shall provide copies of the bids received for such items to Town within five (5) business days of Developer’s receipt of same. Developer shall: (i) execute a contract for the construction of each portion of the Thoroughfare Improvements with the lowest responsible bidder, as mutually and reasonably determined by Town and Developer; (ii) commence, or cause to be commenced, construction of each portion of the Thoroughfare Improvements within the project development schedule following: (A) the execution of this Agreement and all of the Third Party Thoroughfare Improvement Easements and Third Party Temporary Construction Easements; and (B) approval of the Thoroughfare Improvements’ engineering plans, specifications and designs by Town’s

Engineer, which approval shall not be unreasonably withheld or delayed; (iii) construct each portion of the Thoroughfare Improvements in accordance with Town-approved engineering plans, specifications and designs; and (iv) complete each portion of the Thoroughfare Improvements and obtain Town's acceptance of same prior to Town's final acceptance of the Thoroughfare Improvements.

(d) Developer represents that the estimated Thoroughfare Improvements construction costs are Four Million, Fourteen Thousand, Four Hundred Sixty-Nine and No/100 Dollars (\$4,014,469.00), as more particularly described in Exhibit D, attached hereto and incorporated herein for all purposes (the "**Estimated Construction Costs**"). Developer acknowledges and agrees that Town is relying on Developer's engineer's representation and warranty that the Estimated Construction Costs are as described in Exhibit D. Prior to receiving any reimbursement described in Paragraph 4 below, Developer shall tender to Town evidence, in a form(s) reasonably acceptable to Town, that all of the Thoroughfare Improvements construction costs (the "**Thoroughfare Improvement Costs**") have been paid by Developer, including but not limited to, Affidavits of Payment/Affidavits as to Debts and Liens and any other evidence reasonably required by Town ("**Evidence of Payment(s)**").

(e) The Parties acknowledge that Developer shall construct certain roadway and related improvements, as described in Exhibit D, the cost of which do not exceed the municipal participation limit referenced in Section 212.072(b)(2) of the Texas Local Government Code, as amended.

## 2. **Third Party Roadway Project Rights-of-Way.**

(a) The Parties shall cooperate with each other in obtaining from third parties any and all rights-of-way ("**Third Party Roadway Project Rights-of-Way**") for any Roadway CIP Project depicted in Exhibit B.

(b) Developer shall be responsible for any and all costs and expenses associated with acquiring, by purchase or condemnation, all Third Party Roadway Project Rights-of-Way, including, but not limited to, purchase cost, title examination, appraisals, expert fees, attorneys' fees and expenses, engineering fees and expenses, surveying fees and expenses, court costs, commissioners' fees and costs of appeal, if any ("**Right-of-Way Acquisition Fees**"). If requested by the Town, Developer shall, at its sole cost and expense (but subject to credit, as described below), lead all right-of-way acquisition efforts for the Third Party Roadway Project Rights-of-Way, including, but not limited to, providing all necessary engineering and surveying support required to obtain the Third Party Roadway Project Rights-of-Way as required for the Roadway CIP Projects. Developer shall pay any and all Right-of-Way Acquisition Fees within twenty-one (21) calendar days of receiving a written request and supporting invoice from the Town for the same.

(c) The Town will, at Developer's sole cost and expense (but subject to credit, as described below), provide, among any other assistance deemed reasonably necessary

by the Town, technical, engineering, legal and administrative assistance, as selected by the Town, to acquire, by purchase or condemnation, the Third Party Roadway Project Rights-of-Way. The Town shall review and approve any and all documents associated with the Third Party Roadway Project Rights-of-Way required herein. If the Town determines, in its reasonable discretion, that condemnation proceedings are necessary to secure the Third Party Roadway Project Rights-of-Way, the Town shall have the right to, at Developer's sole cost and expense (but subject to credit, as described below), take any and all steps the Town deems necessary to initiate said proceedings.

(d) The Third Party Roadway Project Rights-of-Way shall be filed and recorded prior to the commencement of construction of any Roadway CIP Project or any portion thereof, unless a Right of Entry is secured, or a condemnation award is tendered with the registry of the court and/or a right of possession by any other means is obtained on an earlier date.

(e) If the Third Party Roadway Project Rights-of-Way are not obtained, or the Town has not secured the right to possess, in a form reasonably acceptable to the Town, the land made the subject of the Third Party Roadway Project Rights-of-Way, within ninety (90) days after the Effective Date on terms acceptable to the Town, then the Town shall commence, and thereafter diligently pursue to completion, condemnation proceedings to obtain such Third Party Roadway Project Rights-of-Way as soon as reasonably possible. Notwithstanding anything to the contrary herein, the Town and Developer agree that the Town may initiate condemnation proceedings prior to the expiration of the ninety (90) days referred to in this Paragraph.

### 3. **Reimbursement of Project Costs from Thoroughfare Impact Fees.**

(a) Provided Developer completes the Thoroughfare Improvements in accordance with this Agreement, Developer shall receive reimbursement of its Thoroughfare Improvement Costs from the Thoroughfare Impact Fees collected by Town related to service from the Thoroughfare Improvements, subject to the terms of this Agreement.

(b) A depiction of the service areas for the Thoroughfare Improvements is attached hereto as Exhibit C and made part hereof (the "**Area of Reimbursement**"). The Area of Reimbursement may be expanded from time to time and, upon such expansion, Exhibit C shall be amended accordingly.

(c) Thoroughfare Impact Fees collected by Town related to service from the Thoroughfare Improvements, as depicted in the Area of Reimbursement, shall be paid to Developer until the entire amount due to Developer is paid in full.

(d) The reimbursement amount shall be an amount equal to the *actual* construction costs associated with the Thoroughfare Improvements (the "**Thoroughfare Costs Reimbursement**"). The phrase "construction costs" as used herein shall include

design costs, construction costs, engineering costs, surveying costs and geotechnical materials testing associated with the Thoroughfare Improvements.

(e) All Thoroughfare Impact Fees collected by Town and available after the Existing Agreement obligation is met shall be paid by Town to Developer on a quarterly basis within thirty (30) days following each March 31, June 30, September 30, and December 31 until Developer has received the full amount of Thoroughfare Costs Reimbursements, as it may be adjusted in accordance with this Agreement.

(f) **NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, TOWN SHALL NOT BE OBLIGATED TO PROVIDE THE PROPERTY WITH THE THOROUGHFARE COSTS REIMBURSEMENT FOR ANY CONSTRUCTION COSTS ASSOCIATED WITH THE THOROUGHFARE IMPROVEMENTS UNLESS AND UNTIL DEVELOPER PROVIDES THE EVIDENCE OF PAYMENT(S).**

(g) Developer and Town acknowledge and agree that: (i) the Thoroughfare Impact Fees collected may be less than the Thoroughfare Costs Reimbursements to which Developer is entitled and Town does not guarantee the amount of Thoroughfare Impact Fees that will be collected; (ii) after a period of ten (10) years, any shortfall between the Thoroughfare Impact Fees collected and the Thoroughfare Costs Reimbursements shall be paid to Developer from Town; and (iii) Thoroughfare Impact Fees owed on the Property shall be paid in accordance with the Impact Fee Ordinance.

4. **Assignment.** Developer shall have the right to assign this Agreement, in whole or in part, only to one or more parties purchasing undeveloped portions of the Property, which party (or parties) shall have the option to construct any Roadway CIP Projects located in such portions. As to the sale of land by Developer to any party to whom this Agreement has not been assigned, in whole or in part, the purchaser thereof shall have no rights or obligations under this Agreement and this Agreement shall not apply with respect to such land. This Agreement shall not be filed of record.

5. **Default.**

(a) If Developer fails to comply with any provision of this Agreement after receiving fifteen (15) days' written notice to comply from the Town or such longer period as may be reasonably necessary provided that Developer commences to cure the default or breach within the 15-day period and proceeds with reasonable diligence thereafter to complete such cure, then so long as such default continues and is not cured, the Town shall have the following remedies, in addition to the Town's other rights and remedies:

- (i) to refuse to issue building permits for the Property; and/or
- (ii) to refuse to accept any portion of any public improvements on the Property and/or associated with the development of the Property; and/or
- (iii) to refuse, without notice and/or any other action, to issue and/or

apply the reimbursements set forth in Paragraph 4; and/or

(iv) to construct and/or complete the Thoroughfare Improvements and to recover any and all costs and expenses associated with the construction and/or completion of same, including, but not limited to, any and all attorneys' fees and costs associated therewith; and/or

(v) to seek specific enforcement of this Agreement.

(b) In the event Town fails to comply with the terms and conditions of this Agreement, Developer may seek specific enforcement of this Agreement as its sole and exclusive remedy.

6. **Other Applicable Development Ordinances.** Unless otherwise expressly stipulated in this Agreement, nothing herein shall relieve any developer from responsibilities for the construction of other public improvements under applicable development ordinances of the Town.

7. **Covenant Running with Land.** This Agreement shall be a covenant running with the land and the Property and shall be binding upon Developer, its officers, directors, partners, employees, representatives, agents, successors, assignees, vendors, grantees and/or trustees. In addition, the Parties shall cause this Agreement to be filed in the Real Property Records of Denton County, Texas.

8. **Limitations of Agreement.** The Parties hereto acknowledge that this Agreement is limited to the Thoroughfare Impact Fees as described in the Impact Fee Ordinance. Town ordinances covering property taxes, utility rates, permit fees, inspection fees, development fees, sewer impact fees, park fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Developer to Town under any other ordinance, whether now existing or in the future arising.

9. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Denton County, Texas.

10. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

If to Town, addressed to it at:  
 Town of Prosper  
 ATTN: Town Manager  
 P. O. Box 307  
 250 W. First Street  
 Prosper, Texas 75078  
 Telephone: (972) 346-2640

With a copy to:  
 Brown & Hofmeister, L.L.P.  
 ATTN: Terrence S. Welch, Esq.  
 740 E. Campbell Road  
 Richardson, TX 75081  
 Telephone: (214) 747-6104

If to Developer, addressed to it at:  
 PPP 100 DEV LLC  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

PROSPER HILLS LP  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

PROSPER MEADOWS LP  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

With a copy to:  
 Poche Law PC  
 ATTN: Charles Poche, Jr. Esq.  
 15770 North Dallas Parkway, Suite 475  
 Dallas, TX 75248  
 Telephone: (214) 764-0961

11. **Prevailing Party.** In the event any person 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).

12. **Sovereign Immunity.** The Parties agree that Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement; however, for purposes of enforcement of this Agreement, Town agrees that it has waived its sovereign immunity, and to that extent only.

13. **Effect of Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the effective date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

14. **Consideration.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

15. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

16. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

17. **Savings/Severability.** Invalidation of any one of the provisions of this document by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

18. **Notification of Sale or Transfer.** Developer shall notify the Town in writing of a sale or transfer of all or any portion of the Property where Developer plans to assign all or a portion of this Agreement, as contemplated herein, within ten (10) business days of such sale or transfer.

19. **Authority to Execute.** The Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and

represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. This Agreement is and shall be binding upon the Developer, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

20. **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 mediation.

21. **Indemnification.** From the Effective Date of this Agreement to the date on which all work with respect to a Roadway CIP Project is completed and all improvements, as contemplated herein, have been accepted by the Town, Developer, individually and on behalf of its respective officers, directors, partners, employees, representatives, agents, successors, assignees, vendors, grantees and/or trustees, does hereby agree to release, defend, indemnify and hold harmless the Town and its elected and appointed officials, officers, employees and agents from and against all damages, injuries (including death), claims, property damages (including loss of use) losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses (including attorney's fees and expenses incurred in enforcing this indemnity), caused by the negligent, grossly negligent, and/or intentional act and/or omission of the applicable developer, its officers, directors, partners, employees, representatives, agents, or any other third parties for whom such developer is legally responsible, in its/their performance of this Agreement, including but not limited to, the construction of the Roadway CIP Projects contemplated herein (hereinafter "claims"). Developer is expressly required to defend the Town against all such claims arising under this Agreement, and the Town is required to reasonably cooperate and assist developer(s) in providing such defense.

22. **Approval of Counsel.** In its reasonable discretion, the Town shall have the right to approve counsel to be retained by Developer in fulfilling its obligation hereunder to defend and indemnify the Town. The Town reserves the right to provide a portion or all of its' own defense, at its sole cost; however, the Town is under no obligation to do so. Any such action by the Town is not to be construed as a waiver of Developer's obligation to defend the Town or as a waiver of Developer's obligation to indemnify the Town pursuant to this Agreement. Developer shall retain Town-approved defense counsel within seven (7) business days of the Town's written notice that the Town is invoking its right to indemnification under this Agreement.

23. **Survival.** Paragraph 21, "Indemnification," shall survive the termination of this Agreement.

24. **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.

25. **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.

26. **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.

27. **Rough Proportionality.** Developer hereby agrees that any land or property donated and/or dedicated pursuant to this Agreement, whether in fee simple or otherwise, to the Town relative to any development on the Property is roughly proportional to the need for such land and Developer hereby waives any claim therefor that it may have. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.

28. **Attorney's Fees.** Developer agrees to pay, or cause to be paid, to Prosper any attorney's fees charged to Prosper by Prosper's legal counsel for, among other things, legal review and revision of this Agreement and all further agreements, ordinances or resolutions contemplated by this Agreement, negotiations and discussions with Developer's attorney and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$2,000 within ten (10) days upon receipt of an invoice of same from Prosper.

**IN WITNESS WHEREOF**, the Parties hereto have caused this document to be executed as of the date first above written.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**THE TOWN OF PROSPER, TEXAS**

By: \_\_\_\_\_

Name: Mario Canizares

Title: Town Manager

**STATE OF TEXAS        )**

**)**

**COUNTY OF COLLIN    )**

**)**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023, by Mario Canizares, Town Manager for the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

**DEVELOPER**

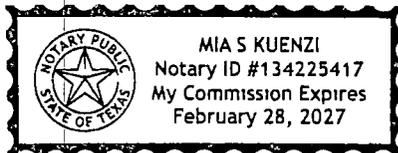
**PPP DEV 100 LLC**  
a Texas limited liability company

By *Vijay Borra*  
Vijay Borra, Manager

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 Vijay Borra, manager of **PPP DEV 100 LLC**, a Texas limited liability company, 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, on behalf of such entities

Given under my hand and seal of office this 15<sup>th</sup> day of September, 2023



*Mia S Kuenzi*  
Notary public in and for the State of TX  
My commission expires 02/28/27

**PROSPER HILLS LP**  
a Texas limited partnership

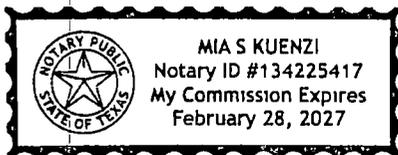
By McKinney Estate LLC,  
a Texas limited liability company  
General Partners

By *[Signature]*  
Vijay Borra, Manager

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 Vijay Borra, Manager of McKinney Estate LLC, a Texas limited liability company, General Partners of **PROSPER HILLS LP**, a Texas limited partnership, 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, on behalf of such entities

Given under my hand and seal of office this 15<sup>th</sup> day of September, 2023



*[Signature]*  
Notary public in and for the State of TX  
My commission expires 02/28/27

**PROSPER MEADOWS LP**  
a Texas limited partnership

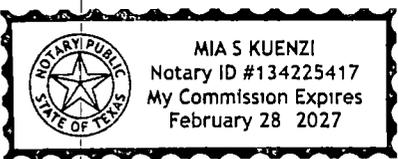
By McKinney Estate LLC,  
a Texas limited liability company  
General Partners

By *[Signature]*  
Vijay Borra, Manager

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 Vijay Borra, Manager of McKinney Estate LLC, a Texas limited liability company, General Partners of **PROSPER MEADOWS, LP**, a Texas limited partnership, 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, on behalf of such entities

Given under my hand and seal of office this 15<sup>th</sup> day of September, 2023



*[Signature]*  
Notary public in and for the State of TX  
My commission expires 02/28/27

**EXHIBIT A**  
(Property Legal Description)

**Park Place**

**BEING** A TRACT OF LAND SITUATED IN THE JOHN H. DURRETT SURVEY, ABSTRACT NO. 350 AND THE LOUISA NETHERLY SURVEY, ABSTRACT NO. 962, DENTON COUNTY, TEXAS, AND BEING PART OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER 100 LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2019-21287, OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS (O.P.R.C.C.T.), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHEAST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHEAST CORNER OF LOT 1, BLOCK X, ARTESIA NORTH PHASE 4, AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET 2016, SLIDE 76, PLAT RECORDS, DENTON COUNTY, TEXAS (P.R.C.C.T.), ALSO BEING ON THE WEST LINE OF A TRACT OF LAND DESCRIBED IN DEED AS TRACT IV TO BLUE STAR ALLEN LAND, LP, RECORDED IN INSTRUMENT NO. 2011-60030, O.P.R.C.C.T.,

**THENCE** N 89° 32' 20" W, ALONG THE SOUTH LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 2,909.87 FEET TO SOUTHWEST CORNER OF SAID PROSPER 100 LP TRACT, SAME BEING THE MOST EASTERLY SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER HILLS, LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2022-117712, O.P.R.C.C.T., ALSO BEING ON THE NORTH LINE OF LOT 3, BLOCK X, ARTESIA NORTH PHASE 2, AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET 2017, SLIDE 164, P.R.C.C.T.;

**THENCE** N 00° 12' 38" E, ALONG THE WEST LINE OF SAID PROSPER 100 LP TRACT AND THE EAST LINE OF SAID PROSPER HILLS LLC TRACT, A DISTANCE OF 1,469.84 FEET TO THE NORTHWEST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHEAST CORNER OF SAID PROSPER HILLS LLC TRACT;

**THENCE** N 89° 24' 39" E, ALONG THE NORTH LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 1,852.41 FEET TO A 5/8" IRON ROD FOUND AT THE SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER MEADOWS LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2019-65177, O.P.R.C.C.T.;

**THENCE** N 89° 20' 59" E, ALONG THE NORTH LINE OF SAID PROSPER 100 LP TRACT AND THE SOUTH LINE OF SAID PROSPER MEADOWS LP TRACT, A DISTANCE OF 1,057.81 FEET TO THE NORTHEAST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHWEST CORNER OF THE ABOVE MENTIONED TRACT IV;

**THENCE** S 00° 12' 49" W, ALONG THE EAST LINE OF SAID PROSPER 100 LP TRACT AND THE WEST LINE OF SAID TRACT IV, A DISTANCE OF 1,524.31 FEET TO THE **POINT OF BEGINNING**, AND **CONTAINING** 99.983 ACRES OR 4,355,272 SQUARE FEET OF LAND MORE OR LESS

## Prosper Hills

**BEING** A TRACT OF SITUATED IN THE LOUIS NETHERLY SURVEY, ABSTRACT NO. 962, TOWN OF PROSPER, DENTON COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER HILLS, LP, RECORDED IN INSTRUMENT NUMBER 2017-82639 OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS (O.P.R.D.C.T.), ALSO BEING A PORTION OF SEC TEEL-PROSPER ADDITION, AN ADDITION TO THE TOWN OF PROSPER, RECORDED IN INSTRUMENT NUMBER 2022-1306, PLAT RECORDS, DENTON COUNTY, TEXAS (P.R.D.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT THE MOST EASTERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER 100 LP, RECORDED IN INSTRUMENT NUMBER 2019-21287 O.P.R.D.C.T., FROM WHICH AN "X" CUT FOUND AT THE INTERSECTION OF GREENBELT PARK LANE, AN EXISTING 50' RIGHT-OF-WAY, AND HUBBARD PARK AVENUE, AN EXISTING 50' RIGHT-OF-WAY, ARTESIA NORTH PHASE 2 (ARTESIA ADDITION), AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, RECORDED IN INSTRUMENT NUMBER 2017-164 O.P.R.D.C.T., BEARS S 57°25'44" W, 129.03 FEET;

**THENCE** N 89° 32'20" W, WITH THE MOST EASTERLY SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NORTH LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 553.82 FEET TO AN INTERIOR ELL CORNER OF SAID PROSPER HILLS, LP TRACT AND THE NORTHWEST CORNER OF LOT 3, BLOCK X, OF SAID ARTESIA ADDITION;

**THENCE** S 00°03'28" W, ALONG AN EAST LINE OF SAID PROSPER HILLS LP TRACT AND THE WEST LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 259.13 FEET TO THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHEAST CORNER OF A REMAINDER TRACT OF LAND DESCRIBED IN DEED TO INWOOD PLAZA JOINT VENTURE, RECORDED IN VOLUME 4233, PAGE 738, DEED RECORDS DENTON COUNTY, TEXAS (D.R.D.C.T.);

**THENCE** N 89°31'47" W, ALONG THE SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NOTH LINE OF SAID REMAINDER TRACT, A DISTANCE OF 1,308.00 FEET TO THE SOUTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT AND NORTHWEST CORNER OF SAID REMAINDER TRACT, ALSO BEING ON THE EAST LINE OF TEEL PARKWAY (A VARIABLE WIDTH RIGHT-OF-WAY);

**THENCE** N 00°08'41" W, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT AND THE EAST LINE OF SAID TEEL PARKWAY, A DISTANCE OF 149.49 FEET TO THE SOUTH CORNER OF SAID SEC TEEL-PROSPER ADDITION;

**THENCE** N 00°02'02" E, CONTINUING ALONG THE WEST LINE OF SAID PROSPER HILLS, SAME BEING THE EAST LINE OF SAID SEC TEEL-PROSPER ADDITION, A DISTANCE OF 1,043.46 FEET TO THE SOUTH CORNER OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION, AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 01°08'34", A RADIUS OF 1,060.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 19°32'51" W, 21.14 FEET;

**THENCE** ALONG THE WEST LINE OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION THE FOLLOWING COURSES AND DISTANCES:

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 21.14 FEET;

N 20°22'59" W, A DISTANCE OF 150.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 00°10'12", A RADIUS OF 1,070.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 28°18'42" W 3.18 FEET;

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 3.18 FEET;

N 28°23'48" W, A DISTANCE OF 171.87 FEET;

N 16°39'53" E, A DISTANCE OF 49.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 10°03'53", A RADIUS OF 745.00 FEET, AND A CHORD BEARING DISTANCE OF N 67°19'26" E, 130.70 FEET;

ALONG SAID CURVE TO THE RIGHT, AN ARC DISTANCE OF 130.87 FEET;

N 72°21'22" E, A DISTANCE OF 8.76 FEET TO THE WEST LINE OF SAID PROSPER HILLS, LP TRACT;

**THENCE** N 00°02'02" E, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 87.91 FEET TO THE NORTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT;

**THENCE** N 89°47'56" E, ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 306.82 FEET;

**THENCE** N 89°24'39" E, CONTINUING ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 1,560.15 FEET TO THE NORTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHWEST CORNER OF SAID PROSPER 100 LP TRACT;

**THENCE** S 00°12'38" W, ALONG THE EAST LINE OF SAID PROSPER HILLS, LP TRACT AND THE WEST LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 1,469.84 FEET TO THE **POINT OF BEGINNING**, AND **CONTAINING** 70.674 ACRES OR 3,078,580 SQUARE FEET OF LAND MORE OR LESS

## Prosper Meadows

**Being** a tract of land situated in the J.H. Durrant Survey, Abstract Number 350, John McKim Survey, Abstract Number 889, and the Aaron Roberts Survey, Abstract Number 1115, and being all of that tract of land described in deed to Prosper Meadows LP, according to the document recorded in Instrument Number 2019-65177, Official Public Records, Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows:

**BEGINNING** at the northwest corner of said Prosper Meadows LP tract, same being the northeast corner of that tract of land described in deed to Prosper Independent School District, according to the document recorded in Instrument Number 2017-34540, O.P.R.D.C.T., also being in the approximate center line of Parvin Road;

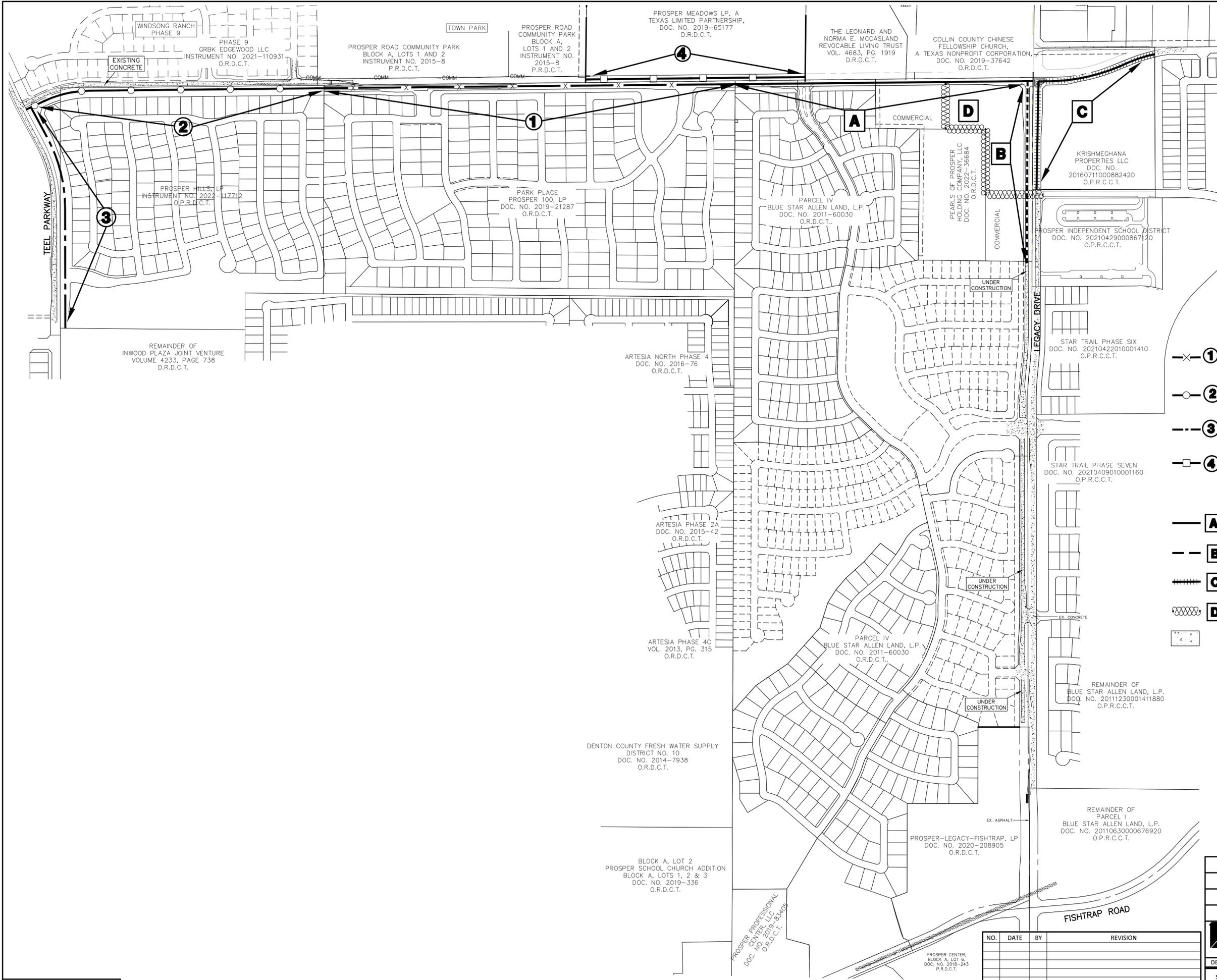
**THENCE:** N 89° 30' 00" E, with the north line of said Prosper Meadows LP tract, and the approximate center line of said Parvin Road, a distance of 1,549.43 feet to the northeast corner of said Prosper Meadows LP tract;

**THENCE:** S 01° 01' 00" W, with the east line of said Prosper Meadows LP tract, a distance of 2,815.00 feet to the southeast corner of said Prosper Meadows LP tract, and the approximate center line of Prosper Road;

**THENCE:** S 89° 44' 00" W, with the south line of said Prosper Meadows LP tract, and the approximate center line of said Prosper Road, a distance of 1,550.91 feet to the southwest corner of said Prosper Meadows LP tract;

**THENCE:** N 01° 03' 00" E, with the west line of said Prosper Meadows LP tract, a distance of 2,808.73 feet to the **POINT OF BEGINNING** and **CONTAINING** 100.035 Acres of land, more or less.

**EXHIBIT B**  
**(Thoroughfare Improvements)**



**LEGEND:**

ITEM:	ESTIMATED COST
1	PROSPER TRAIL SOUTH LANES \$1,830,998
2	PROSPER TRAIL SOUTH LANES \$868,502
3	TEEL PARKWAY EAST LANES \$693,652
4	PROSPER TRAIL NORTH LANES \$621,317
	<b>TOTAL ESTIMATED COST</b> \$4,014,469
A	STAR TRAIL AGREEMENT \$1,193,631
B	TBD CONSTRUCTION RESPONSIBILITY AND TIMING \$484,848
C	STAR TRAIL AGREEMENT
D	PEARLS OF PROSPER
4x4	EXISTING CONCRETE

**EXHIBIT B  
CIP ROADWAYS CONSTRUCTION  
PARK PLACE D.A.**

TOWN OF PROSPER  
DENTON & COLLIN COUNTY

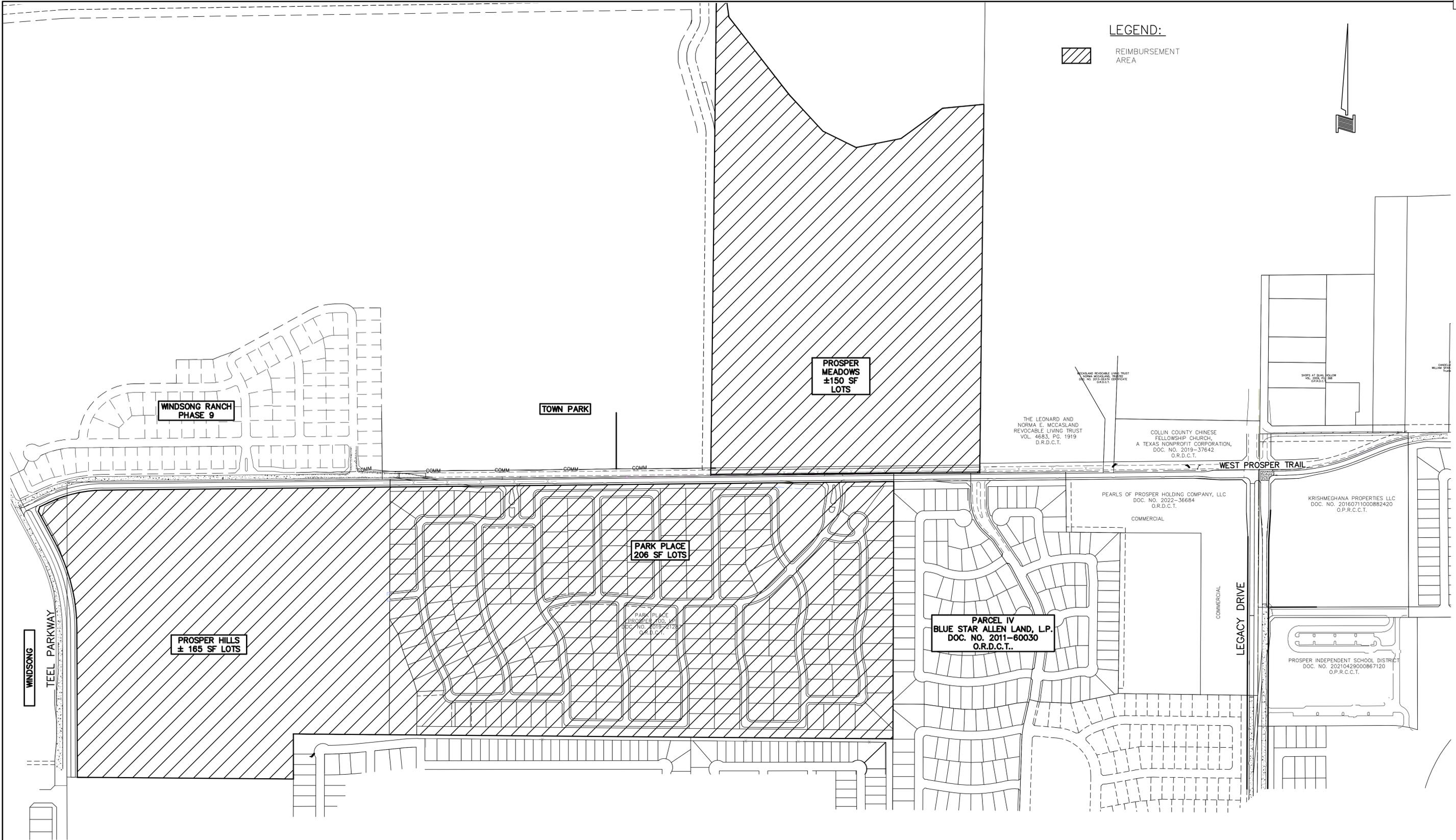
**DOWDEY, ANDERSON & ASSOCIATES, INC.**  
5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694  
STATE REGISTRATION NUMBER: F-399

NO.	DATE	BY	REVISION

DESIGN	DRAWN	CHECKED	DATE	SCALE	JOB	SHEET
SIH	SIH	MSD	JULY 2023	NONE		1

REVISED:

**EXHIBIT C**  
**(Area of Reimbursement)**



PARK PLACE – 206 SF LOTS @ \$6,053/ SF LOT	\$1,246,918
PROSPER HILLS – 165 SF LOTS @ \$6,053/ SF LOT	\$998,745
PROSPER MEADOWS – 150 SF LOTS @ \$6,053/ SF LOT	\$907,950
	<hr/>
	\$3,153,613

NO.	DATE	BY	REVISION

**EXHIBIT C**  
**CIP ROADWAYS REIMBURSEMENT AREA**  
**PARK PLACE D.A.**

TOWN OF PROSPER  
DENTON & COLLIN COUNTY

**DOWDEY, ANDERSON & ASSOCIATES, INC.**  
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DESIGN	DRAWN	CHECKED	DATE	SCALE	JOB	SHEET
SIH	SIH	MSD	JULY 2023	NONE		1

REVISED:

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**EXHIBIT D**  
**(Estimated Construction Costs)**

**PROSPER TRAIL & TEEL PARKWAY OPC**

Prosper, Denton, Texas

Prepared: 9/18

***Opinion of Probable Cost Summary***

CATEGORY	PROSPER TRAIL SOUTH LANES - PARK PLACE	PROSPER TRAIL SOUTH LANES - PROSPER HILLS	TEEL PARKWAY EAST LANES - PROSPER HILLS	PROSPER TRAIL NORTH LANES - PROSPER MEADOW	TOTAL
<b>EROSION CONTROL</b>	\$17,671	\$11,161	\$7,974	\$7,715	\$44,521
Cost/LF	\$6	\$5	\$5	\$5	\$5
<b>EXCAVATION</b>	\$88,796	\$82,756	\$66,375	\$42,430	\$280,357
Cost/LF	\$31	\$37	\$41	\$27	\$34
<b>STORM SEWER</b>	\$424,957	\$48,129	\$46,101	\$58,512	\$577,699
Cost/LF	\$146	\$21	\$28	\$38	\$69
<b>PAVING</b>	\$824,870	\$501,288	\$393,366	\$351,577	\$2,071,101
Cost/LF	\$283	\$222	\$243	\$226	\$248
<b>PROFESSIONAL FEES</b>	\$271,260	\$128,668	\$102,764	\$92,048	\$594,740
<b>OVERALL CONTINGENCY</b> 15%	\$203,444	\$96,500	\$77,072	\$69,035	\$446,051
<b>TOTALS</b>	<b>\$1,830,998</b>	<b>\$868,502</b>	<b>\$693,652</b>	<b>\$621,317</b>	<b>\$4,014,469</b>

Length (LF)	2,910	2,254	1,620	1,554	8,338
Cost per Linear Foot	\$629	\$385	\$428	\$400	\$481

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2) ALL INFRASTRUCTURE COST IDENTIFIED ABOVE ARE PREDICATED ON THE ASSUMPTIONS AND EXCLUSIONS IDENTIFIED IN THE DETAILED COST "BREAK-DOWN" OF PROBABLE COST BY TRACT.

# **PROSPER TRAIL SOUTH LANES - PARK PLACE**

Prosper, Denton, Texas

Item 13.

Length: 2,910  
Prepared: 9/18

Total Acres: 1.9

## ***Opinion of Probable Cost Summary***

<b>CATEGORY</b>	<b>By Category</b>	<b>Per LF</b>
<b>EROSION CONTROL</b>	\$17,671	\$6
<b>EXCAVATION</b>	\$88,796	\$31
<b>STORM SEWER</b>	\$424,957	\$146
<b>PAVING</b>	\$824,870	\$283
<i>CONSTRUCTION SUB-TOTALS</i>	\$1,356,294	\$466
<b>PROFESSIONAL FEES</b>	\$271,260	\$93
<b>OVERALL CONTINGENCY 15%</b>	\$203,444	\$70
<b>TOTAL</b>	<b>\$1,830,998</b>	<b>\$629</b>

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EROSION CONTROL	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	
SILT FENCE (HIGH FLOW)	\$ 1.70	LF.	4,265	\$ 7,251
SILT FENCE MAINTENANCE & REMOVAL	\$ 1.50	LF.	4,265	\$ 6,398
ROCK CHECK DAMS	\$ 699.00	EA.	0	\$ -
4' ROLL OF CURLEX WITH SEED	\$ 0.62	LF.	3,588	\$ 2,225
INLET PROTECTION	\$ 75.00	EA.	6	\$ 450
SALES TAX ON IMPROVEMENTS	8.25%	%	\$ 16,324	\$ 1,347
<b>TOTAL</b>				<b>\$ 17,671</b>

Item 13.

EXCAVATION	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
MOBILIZATION	\$ 10,500.00	LS.	1.0	\$ 10,500
CLEARING & GRUBBING VEGETATION	\$ 2,000.00	AC.	6.8	\$ 13,600
CLEAR & GRIND TREES	\$ 16,000.00	LS.	1.0	\$ 16,000
CONSTRUCTION ENTRANCE	\$ 2,649.00	EA.	1	\$ 2,649
STREET & RIGHT-OF-WAY EXCAVATION	\$ 3.00	CY.	5,793	\$ 17,379
STREET MOISTURE CONDITIONING 5' DEEP	\$ 1.59	CY.	16,200	\$ 25,758
DIVERSION SWALE GRADING	\$ 1.00	LF.	2,910	\$ 2,910
<b>TOTAL</b>				<b>\$ 88,796</b>

STORM SEWER	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
10' INLET	\$ 8,131.20	EA.	6	\$ 48,788
21" R.C.P.	\$ 72.66	LF.	1217	\$ 88,428
24" R.C.P.	\$ 84.04	LF.	144	\$ 12,102
42" R.C.P.	\$ 186.33	LF.	322	\$ 59,999
48" R.C.P.	\$ 221.05	LF.	500	\$ 110,525
6' X 4' R.C.B	\$ 476.91	LF.	20	\$ 9,539
4'X4' STORM MANHOLE	\$ 6,782.05	EA.	1	\$ 6,783
5'X5' STORM MANHOLE	\$ 9,843.35	EA.	2	\$ 19,687
8'X8' STORM MANHOLE	\$ 28,507.00	EA.	1	\$ 28,507
4' X 4' DROP INLET WITH APRON	\$ 6,782.05	EA.	1	\$ 6,783
5' X 5' DROP INLET WITH APRON	\$ 9,843.35	EA.	1	\$ 9,844
21" END & PLUG	\$ 379.94	EA.	5	\$ 1,900
CONNECT TO EXISTING STORM LINE	\$ 1,778.70	EA.	1	\$ 1,779
TESTING & T.V. INSPECTION	\$ 6.05	LF.	2,203	\$ 13,329
TRENCH SAFETY	\$ 0.31	LF.	2,203	\$ 683
MAINTENANCE BOND	1.5%	%	\$ 418,676	\$ 6,281
<b>TOTAL</b>				<b>\$ 424,957</b>

PAVING	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
9" REINF. CONCRETE STREET PAVEMENT	\$ 64.60	SY.	9,330	\$ 602,718
9" NON-REINFORCED CONCRETE TRANSITION	\$ 72.95	SY.	289	\$ 21,083
12" LIME TREATED SUBGRADE	\$ 3.55	SY.	10,823	\$ 38,422
HYDRATED LIME	\$ 319.00	TN.	195	\$ 62,205
3 MIL POLY 6' WIDE	\$ 1.65	LF.	5,820	\$ 9,603
PAVEMENT HEADER & BARRICADE	\$ 2,070.00	EA.	2	\$ 4,140
REMOVE EXISTING GRAVEL ROAD	\$ 5.00	SY.	12,016	\$ 60,080
CONNECT TO EXISTING	\$ 800.00	EA.	1	\$ 800
PAVEMENT MARKINGS	\$ 3.25	LF.	2,910	\$ 9,458
TRAFFIC SIGNS	\$ 695.00	EA.	6	\$ 4,170
MAINTENANCE BOND	1.5%	%	\$ 812,679	\$ 12,191
<b>TOTAL</b>				<b>\$ 824,870</b>

PROFESSIONAL FEES				TOTAL
	%		\$	(\$)
ENGINEERING & SURVEY	15.0%		\$ 1,356,294	\$ 203,445
GEOTECHNICAL & MATERIAL TESTING	5.0%		\$ 1,356,294	\$ 67,815
<b>TOTAL</b>				

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## **PROSPER TRAIL SOUTH LANES - PROSPER HILLS**

Prosper, Denton, Texas

Length: 2,254  
Prepared: 9/18

Total Acres: 2.3

### ***Opinion of Probable Cost Summary***

CATEGORY	By Category	Per LF
<b>EROSION CONTROL</b>	\$11,161	\$5
<b>EXCAVATION</b>	\$82,756	\$37
<b>STORM SEWER</b>	\$48,129	\$21
<b>PAVING</b>	\$501,288	\$222
<i>CONSTRUCTION SUB-TOTALS</i>	<i>\$643,334</i>	<i>\$285</i>
<b>PROFESSIONAL FEES</b>	\$128,668	\$57
<b>OVERALL CONTINGENCY 15%</b>	\$96,500	\$43
<b>TOTAL</b>	<b>\$868,502</b>	<b>\$385</b>

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2) ALL INFRASTRUCTURE COST IDENTIFIED ABOVE ARE PREDICATED ON THE ASSUMPTIONS AND EXCLUSIONS IDENTIFIED IN THE DETAILED COST "BREAK-DOWN" OF PROBABLE COST BY TRACT.

EROSION CONTROL	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
SILT FENCE (HIGH FLOW)	\$ 1.70	LF.	2,254	\$ 3,832
SILT FENCE MAINTENANCE & REMOVAL	\$ 1.50	LF.	2,254	\$ 3,381
ROCK CHECK DAMS	\$ 699.00	EA.	0	\$ -
4' ROLL OF CURLEX WITH SEED	\$ 0.62	LF.	4,510	\$ 2,797
INLET PROTECTION	\$ 75.00	EA.	4	\$ 300
SALES TAX ON IMPROVEMENTS	8.25%	%	\$ 10,310	\$ 851
<b>TOTAL</b>				<b>\$ 11,161</b>

EXCAVATION	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
CLEARING & GRUBBING VEGETATION	\$ 2,000.00	AC.	2.3	\$ 4,660
CLEAR & GRIND TREES	\$ 16,000.00	LS.	1	\$ 16,000
CONSTRUCTION ENTRANCE	\$ 2,649.00	EA.	1	\$ 2,649
STREET & RIGHT-OF-WAY EXCAVATION	\$ 3.00	CY.	13,400	\$ 40,200
STREET MOISTURE CONDITIONING 5' DEEP	\$ 1.59	CY.	12,105	\$ 19,247
<b>TOTAL</b>				<b>\$ 82,756</b>

STORM SEWER	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
10' INLET	\$ 8,131.20	EA.	2	\$ 16,263
12' INLET	\$ 9,500.00	EA.	2	\$ 19,000
18" R.C.P.	\$ 67.74	LF.	164	\$ 11,110
TESTING & T.V. INSPECTION	\$ 6.05	LF.	164	\$ 993
TRENCH SAFETY	\$ 0.31	LF.	164	\$ 51
MAINTENANCE BOND	1.5%	%	\$ 47,417	\$ 712
<b>TOTAL</b>				<b>\$ 48,129</b>

PAVING	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
9" REINF. CONCRETE STREET PAVEMENT	\$ 64.60	SY.	6,261	\$ 404,461
12" LIME TREATED SUBGRADE	\$ 3.55	SY.	7,263	\$ 25,784
HYDRATED LIME	\$ 319.00	TN.	131	\$ 41,789
3 MIL POLY 6' WIDE	\$ 1.65	LF.	4,508	\$ 7,439
CONNECT TO EXISTING	\$ 800.00	EA.	1	\$ 800
PAVEMENT MARKINGS	\$ 3.25	LF.	2,254	\$ 7,326
TRAFFIC SIGNS	\$ 695.00	EA.	4	\$ 2,780
TRAFFIC CONTROL DEVICES (SIGNS, BARRELS & BARRICADES)	\$ 3,500.00	LS.	1	\$ 3,500
MAINTENANCE BOND	1.5%	%	\$ 493,879	\$ 7,409
<b>TOTAL</b>				<b>\$ 501,288</b>

PROFESSIONAL FEES				TOTAL
	%		\$	(\$)
ENGINEERING & SURVEY	15.0%		\$ 643,334	\$ 96,501
GEOTECHNICAL & MATERIAL TESTING	5.0%		\$ 643,334	\$ 32,167
<b>TOTAL</b>				<b>128,668</b>

## **TEEL PARKWAY EAST LANES - PROSPER HILLS**

Prosper, Denton, Texas

Length: 1,620  
Prepared: 9/18

Total Acres: 2.1

### ***Opinion of Probable Cost Summary***

CATEGORY	By Category	Per LF
<b>EROSION CONTROL</b>	\$7,974	\$5
<b>EXCAVATION</b>	\$66,375	\$41
<b>STORM SEWER</b>	\$46,101	\$28
<b>PAVING</b>	\$393,366	\$243
<i>CONSTRUCTION SUB-TOTALS</i>	\$513,816	\$317
<b>PROFESSIONAL FEES</b>	\$102,764	\$63
<b>OVERALL CONTINGENCY 15%</b>	\$77,072	\$48
<b>TOTAL</b>	<b>\$693,652</b>	<b>\$428</b>

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2) ALL INFRASTRUCTURE COST IDENTIFIED ABOVE ARE PREDICATED ON THE ASSUMPTIONS AND EXCLUSIONS IDENTIFIED IN THE DETAILED COST "BREAK-DOWN" OF PROBABLE COST BY TRACT.

EROSION CONTROL	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
SILT FENCE (HIGH FLOW)	\$ 1.70	LF.	1,606	\$ 2,731
SILT FENCE MAINTENANCE & REMOVAL	\$ 1.50	LF.	1,606	\$ 2,409
ROCK CHECK DAMS	\$ 699.00	EA.	0	\$ -
4' ROLL OF CURLEX WITH SEED	\$ 0.62	LF.	3,226	\$ 2,001
INLET PROTECTION	\$ 75.00	EA.	3	\$ 225
SALES TAX ON IMPROVEMENTS	8.25%	%	\$ 7,366	\$ 608
<b>TOTAL</b>				<b>\$ 7,974</b>

EXCAVATION	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
CLEARING & GRUBBING VEGETATION	\$ 2,000.00	AC.	2.1	\$ 4,120
CLEAR & GRIND TREES	\$ 16,000.00	LS.	1	\$ 16,000
CONSTRUCTION ENTRANCE	\$ 2,649.00	EA.	1	\$ 2,649
STREET & RIGHT-OF-WAY EXCAVATION	\$ 3.00	CY.	9,964	\$ 29,892
STREET MOISTURE CONDITIONING 5' DEEP	\$ 1.59	CY.	8,625	\$ 13,714
<b>TOTAL</b>				<b>\$ 66,375</b>

STORM SEWER	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
10' INLET	\$ 8,131.20	EA.	2	\$ 16,263
12' INLET	\$ 9,500.00	EA.	1	\$ 9,500
18" R.C.P.	\$ 67.74	LF.	153	\$ 10,365
21" R.C.P.	\$ 72.66	LF.	0	\$ -
24" R.C.P.	\$ 84.04	LF.	92	\$ 7,732
TESTING & T.V. INSPECTION	\$ 6.05	LF.	245	\$ 1,483
TRENCH SAFETY	\$ 0.31	LF.	245	\$ 76
MAINTENANCE BOND	1.5%	%	\$ 45,419	\$ 682
<b>TOTAL</b>				<b>\$ 46,101</b>

PAVING	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
9" REINF. CONCRETE STREET PAVEMENT	\$ 64.60	SY.	4,890	\$ 315,894
12" LIME TREATED SUBGRADE	\$ 3.55	SY.	5,721	\$ 20,310
HYDRATED LIME	\$ 319.00	TN.	103	\$ 32,857
3 MIL POLY 6' WIDE	\$ 1.65	LF.	3,240	\$ 5,346
CONNECT TO EXISTING	\$ 800.00	EA.	2	\$ 1,600
PAVEMENT MARKINGS	\$ 3.25	LF.	1,620	\$ 5,265
TRAFFIC SIGNS	\$ 695.00	EA.	4	\$ 2,780
TRAFFIC CONTROL DEVICES (SIGNS, BARRELS & BARRICADES)	\$ 3,500.00	LS.	1	\$ 3,500
MAINTENANCE BOND	1.5%	%	\$ 387,552	\$ 5,814
<b>TOTAL</b>				<b>\$ 393,366</b>

PROFESSIONAL FEES				TOTAL
	%		\$	(\$)
ENGINEERING & SURVEY	15.0%	%	\$ 513,816	\$ 77,073
GEOTECHNICAL & MATERIAL TESTING	5.0%	%	\$ 513,816	\$ 25,691
<b>TOTAL</b>				<b>102,764</b>

## **PROSPER TRAIL NORTH LANES - PROSPER MEADOW**

Prosper, Denton, Texas

Length: 1,554  
Prepared: 9/18

Total Acres: 1.6

### ***Opinion of Probable Cost Summary***

CATEGORY	By Category	Per LF
<b>EROSION CONTROL</b>	\$7,715	\$5
<b>EXCAVATION</b>	\$42,430	\$27
<b>STORM SEWER</b>	\$58,512	\$38
<b>PAVING</b>	\$351,577	\$226
<i>CONSTRUCTION SUB-TOTALS</i>	\$460,234	\$291
<b>PROFESSIONAL FEES</b>	\$92,048	\$59
<b>OVERALL CONTINGENCY 15%</b>	\$69,035	\$44
<b>CATEGORY TOTALS</b>	<b>\$621,317</b>	<b>\$394</b>

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EROSION CONTROL	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
SILT FENCE (HIGH FLOW)	\$ 1.70	LF.	1,554	\$ 2,642
SILT FENCE MAINTENANCE & REMOVAL	\$ 1.50	LF.	1,554	\$ 2,331
ROCK CHECK DAMS	\$ 699.00	EA.	0	\$ -
4' ROLL OF CURLEX WITH SEED	\$ 0.62	LF.	3,110	\$ 1,929
INLET PROTECTION	\$ 75.00	EA.	3	\$ 225
SALES TAX ON IMPROVEMENTS	8.25%	%	\$ 7,127	\$ 588
<b>TOTAL</b>				<b>\$ 7,715</b>

EXCAVATION	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
CLEARING & GRUBBING VEGETATION	\$ 2,000.00	AC.	1.6	\$ 3,200
CONSTRUCTION ENTRANCE	\$ 2,649.00	EA.	1	\$ 2,649
STREET & RIGHT-OF-WAY EXCAVATION	\$ 3.00	CY.	7,770	\$ 23,310
STREET MOISTURE CONDITIONING 5' DEEP	\$ 1.59	CY.	8,346	\$ 13,271
<b>TOTAL</b>				<b>\$ 42,430</b>

STORM SEWER	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
10' INLET	\$ 8,131.20	EA.	3	\$ 24,394
21" R.C.P.	\$ 72.66	LF.	173	\$ 12,571
42" R.C.P.	\$ 186.33	LF.	98	\$ 18,261
42" END & PLUG	\$ 695.78	EA.	1	\$ 696
TESTING & T.V. INSPECTION	\$ 6.05	LF.	271	\$ 1,640
TRENCH SAFETY	\$ 0.31	LF.	271	\$ 85
MAINTENANCE BOND	1.5%	%	\$ 57,647	\$ 865
<b>TOTAL</b>				<b>\$ 58,512</b>

PAVING	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
9" REINF. CONCRETE STREET PAVEMENT	\$ 64.60	SY.	4,317	\$ 278,857
12" LIME TREATED SUBGRADE	\$ 3.55	SY.	5,122	\$ 18,183
HYDRATED LIME	\$ 319.00	TN.	91	\$ 29,029
3 MIL POLY 6' WIDE	\$ 1.65	LF.	3,108	\$ 5,129
PAVEMENT HEADER & BARRICADE	\$ 2,070.00	EA.	2	\$ 4,140
CONNECT TO EXISTING	\$ 800.00	EA.	1	\$ 800
PAVEMENT MARKINGS	\$ 2.55	L.F.	1,554	\$ 3,963
TRAFFIC SIGNS	\$ 695.00	EA.	4	\$ 2,780
TRAFFIC CONTROL DEVICES (SIGNS, BARRELS & BARRICADES)	\$ 3,500.00	LS.	1	\$ 3,500
MAINTENANCE BOND	1.5%	%	\$ 346,381	\$ 5,196
<b>TOTAL</b>				<b>\$ 351,577</b>

PROFESSIONAL FEES				TOTAL
	%		\$	(\$)
ENGINEERING & SURVEY	15.0%	%	\$ 460,234	\$ 69,036
GEOTECHNICAL & MATERIAL TESTING	5.0%	%	\$ 460,234	\$ 23,012
<b>TOTAL</b>				<b>92,048</b>



## ENGINEERING SERVICES

**To: Mayor and Town Council**

**From: Hulon T. Webb, Jr., P.E., Director of Engineering Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Wastewater Impact Fees Reimbursement Agreement  
(Park Place and Prosper Hills)**

**Town Council Meeting – September 26, 2023**

### **Strategic Visioning Priority: 1. Acceleration of Infrastructure**

#### **Agenda Item:**

Consider and act upon authorizing the Town Manager to execute a Wastewater Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, and the Town of Prosper, Texas, related to the extension of a wastewater line to serve the Park Place and Prosper Hills developments.

#### **Description of Agenda Item:**

PPP 100 DEV LLC, and PROSPER HILLS LP, are developing the Park Place and Prosper Hills developments and are planning on constructing a ten-inch (10") wastewater line, as depicted on the Town of Prosper Wastewater Master Plan. Since the proposed wastewater line is depicted on the Town of Prosper Wastewater System Capital Improvement Plan, the actual costs for the design and construction of the improvements are eligible for reimbursement of wastewater impact fees collected by the development.

The purpose of the Wastewater Impact Fees Reimbursement Agreement is to outline the obligations of the Town of Prosper, PPP 100 DEV LLC, and PROSPER HILLS LP, related to the design, construction, and reimbursement of collected wastewater impact fees to fund the projects.

#### **Budget Impact:**

The total estimated cost for the design and construction of the wastewater line is \$186,169. The current anticipated wastewater impact fees owed by the Park Place and Prosper Hills developments are \$1,046,962. In the event that full reimbursement has not been made to PPP 100 DEV LLC, and PROSPER HILLS LP, by the Town after the expiration of ten (10) years from the date of the Town's acceptance of the wastewater line, the Town will reimburse PPP 100 DEV LLC, and PROSPER HILLS LP, any shortfall.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality. PPP 100 DEV LLC, and PROSPER HILLS LP, will contribute up to \$2,000 towards the legal preparation fees.

**Attached Documents:**

1. Town of Prosper Wastewater System Capital Improvement Plan
2. Wastewater Impact Fees Reimbursement Agreement

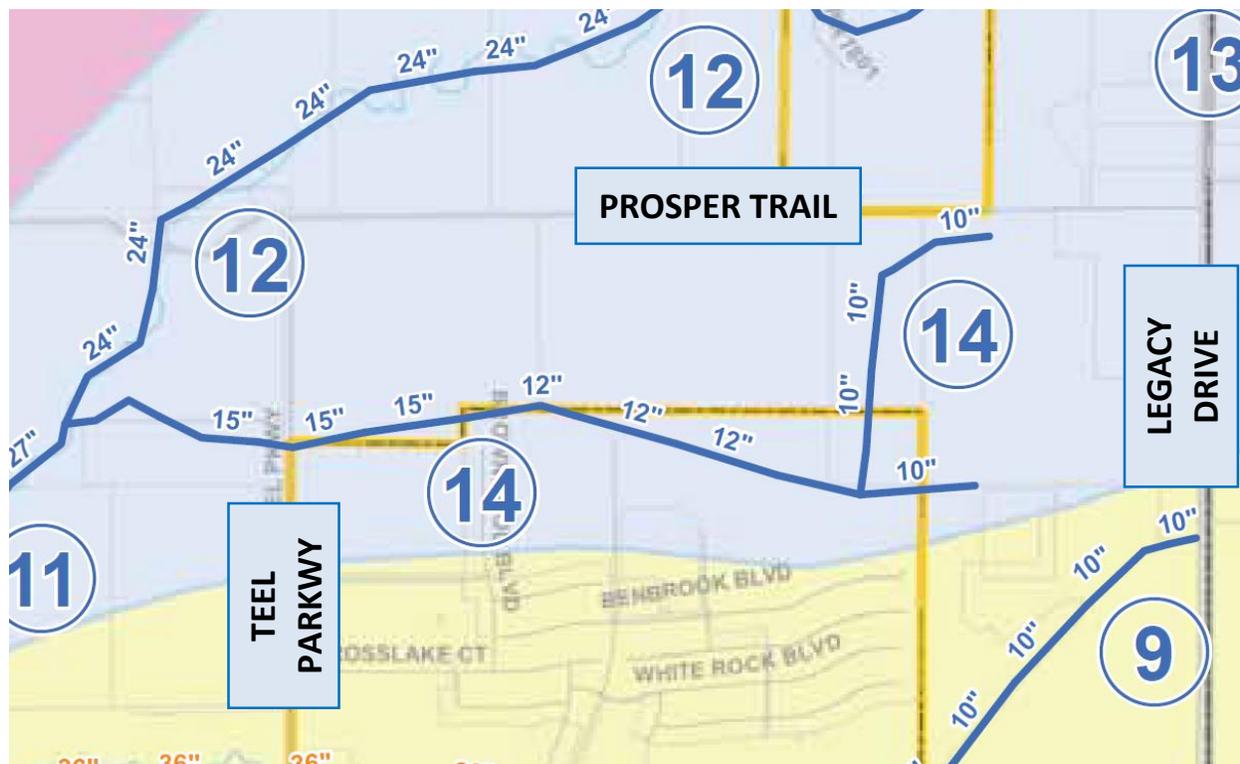
**Town Staff Recommendation:**

Town staff recommends that the Town Council authorize the Town Manager to execute a Wastewater Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, and the Town of Prosper, Texas, related to the extension of a wastewater line to serve the Park Place and Prosper Hills developments.

**Proposed Motion:**

I move to authorize the Town Manager to execute a Wastewater Impact Fees Reimbursement Agreement between PPP 100 DEV LLC, PROSPER HILLS LP, and the Town of Prosper, Texas, related to the extension of a wastewater line to serve the Park Place and Prosper Hills developments.

Town of Prosper Wastewater System Capital Improvement Plan  
(PPP 100 DEV LLC, PROSPER HILLS, L.P., PROSPER MEADOWS, L.P.)



**WASTEWATER IMPACT FEES REIMBURSEMENT AGREEMENT**  
**(PARK PLACE & PROSPER HILLS)**

**THIS WASTEWATER IMPACT FEES REIMBURSEMENT AGREEMENT** (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2023, by and between the **TOWN OF PROSPER, TEXAS** (“Prosper” or the “Town”), and **PPP 100 DEV LLC**, a Texas limited liability company (“Park Place”), **PROSPER HILLS LP**, a Texas limited partnership (“Prosper Hills”), and collectively Park Place and Prosper Hills, are referenced herein as “Developer,” collectively referred to as the “Parties.”

**WITNESSETH:**

**WHEREAS**, Developer is developing multiple projects in the Town known as Park Place and Prosper Hills, and

**WHEREAS**, the legal descriptions of the Park Place and Prosper Hills properties (“**Property**”) are attached hereto as Exhibit A; and

**WHEREAS**, pursuant to the Water and Wastewater Improvement Plan (the “**Master Wastewater Plan**”), Developer desires, subject to the terms and conditions set forth herein, to construct certain Wastewater Improvements (as defined in Paragraph 3(b), below) to serve the Property; and

**WHEREAS**, Developer desires to fulfill a portion of its obligation to pay Wastewater Impact Fees (as defined in Paragraph 3(a), below) as prescribed in Article 10.02 of Chapter 10 of the Town’s Code of Ordinances, as amended (the “**Impact Fee Ordinance**”); and

**WHEREAS**, this Agreement clearly is in the best interests of the Town and Developer and it is deemed mutually beneficial to each that the construction of Wastewater lines to and in the Property proceed uniformly.

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Town and Developer covenant and agree as follows:

1. **Land Subject to Agreement.** The land that is subject to this Agreement is the Property. Developer represents that it is the sole owner of the Property.

2. **Easements.**

(a) Within one hundred eighty (180) days of the Effective Date, Developer agrees to convey easements and right-of-way, free and clear of liens and encumbrances, by instrument acceptable to Town, with the actual locations to be determined by Town upon completion of the final engineering (the “**Easement Parcels**”), which shall include

permanent Wastewater easements. The final widths of the Easement Parcels will be determined upon completion of the final engineering, as approved by Town.

### 3. Wastewater Improvements.

(a) Subject to the provisions of this Paragraph 3 and this Agreement, the Property will be assessed Wastewater Impact Fees at the rates then in effect pursuant to the Impact Fee Ordinance as it presently exists or may be subsequently amended (the “**Wastewater Impact Fees**”).

(b) Developer shall, at its sole cost and expense, except as provided in Paragraph 4, below, construct and install a: 10” diameter sewer line as depicted on the Master Wastewater Plan and in the locations generally depicted on Exhibit B, attached hereto and incorporated herein for all purposes (collectively referred to herein as the “**Wastewater Improvements**”).

(c) Developer shall bid the construction of each portion of the Wastewater Improvements as shown in the related construction plans set with three (3) qualified contractors and shall provide copies of the bids received for such items to Town within five (5) business days of Developer’s receipt of same. Developer shall: (i) execute a contract for the construction of each portion of the Wastewater Improvements with the lowest responsible bidder, as mutually and reasonably determined by Town and Developer; (ii) commence, or cause to be commenced, construction of each portion of the Wastewater Improvements within the project development schedule following: (A) the execution of this Agreement; and (B) approval of the Wastewater Improvements’ engineering plans, specifications and designs by Town’s Engineer, which approval shall not be unreasonably withheld or delayed; (iii) construct each portion of the Wastewater Improvements in accordance with Town-approved engineering plans, specifications and designs; and (iv) complete each portion of the Wastewater Improvements and obtain Town’s acceptance of same prior to Town’s final acceptance of the Wastewater Improvements.

(d) Developer represents that the estimated Wastewater Improvements construction costs are one hundred eighty six thousand one hundred sixty nine and No/100 Dollars (\$186,169.00), as more particularly described in Exhibit D, attached hereto and incorporated herein for all purposes (the “**Estimated Construction Costs**”). Developer acknowledges and agrees that Town is relying on Developer’s engineer’s representation and warranty that the Estimated Construction Costs are as described in Exhibit D. Prior to receiving any credit described in Paragraph 4 below, Developer shall tender to Town evidence, in a form(s) reasonably acceptable to Town, that all of the Wastewater Improvements construction costs (the “**Wastewater Improvement Costs**”) have been paid by Developer, including but not limited to, Affidavits of Payment/Affidavits as to Debts and Liens and any other evidence reasonably required by Town (“**Evidence of Payment(s)**”).

#### 4. **Reimbursement from Wastewater Impact Fees.**

(a) Provided Developer completes the Wastewater Improvements in accordance with this Agreement, Developer shall receive reimbursement of its Wastewater Improvement Costs from the Wastewater Impact Fees collected by Town related to service from the Wastewater Improvements, subject to the terms of this Agreement.

(b) A depiction of the service areas for the Wastewater Improvements is attached hereto as Exhibit C and made part hereof (the “**Wastewater Service Areas**”). The Wastewater Service Areas may be expanded from time to time and, upon such expansion, Exhibit C shall be amended accordingly.

(c) Wastewater Impact Fees collected by Town related to service from the Wastewater Improvements, including fees collected with respect to service to property other than the Property, shall be paid to Developer until the entire amount due to Developer is paid in full.

(d) The reimbursement amount shall be an amount equal to the *actual* construction costs associated with the Wastewater Improvements (the “**Wastewater Costs Reimbursement**”). The phrase “construction costs” as used herein shall include design costs, construction costs, engineering costs, surveying costs and geotechnical materials testing associated with the Wastewater Improvements.

(e) All Wastewater Impact Fees collected by Town shall be paid by Town to Developer on a quarterly basis within thirty (30) days following each March 31, June 30, September 30, and December 31 until Developer has received the full amount of Wastewater Costs Reimbursements, as it may be adjusted in accordance with this Agreement.

(f) **NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, TOWN SHALL NOT BE OBLIGATED TO PROVIDE THE PROPERTY WITH THE WASTEWATER COSTS REIMBURSEMENT FOR ANY CONSTRUCTION COSTS ASSOCIATED WITH THE WASTEWATER IMPROVEMENTS UNLESS AND UNTIL DEVELOPER PROVIDES THE EVIDENCE OF PAYMENT(S).**

(g) Developer and Town acknowledge and agree that: (i) the Wastewater Impact Fees collected may be less than the Wastewater Costs Reimbursements to which Developer is entitled and Town does not guarantee the amount of Wastewater Impact Fees that will be collected; (ii) after a period of ten (10) years, any shortfall between the Wastewater Impact Fees collected and the Wastewater Costs Reimbursements shall be paid to Developer from Town; and (iii) Wastewater Impact Fees owed on the Property shall be paid in accordance with the Impact Fee Ordinance.

5. **Assignment.** Developer shall have the right to assign this Agreement, in whole or in part, only to one or more parties purchasing undeveloped portions of Park Place, which party (or parties) shall have the option to construct any Wastewater CIP

Projects located in such portions. As to the sale of land by Developer to any party to whom this Agreement has not been assigned, in whole or in part, the purchaser thereof shall have no rights or obligations under this Agreement and this Agreement shall not apply with respect to such land. This Agreement shall not be filed of record.

6. **Default.**

(a) If Developer fails to comply with any provision of this Agreement after receiving fifteen (15) days' written notice to comply from the Town or such longer period as may be reasonably necessary provided that Developer commences to cure the default or breach within the 15-day period and proceeds with reasonable diligence thereafter to complete such cure, then so long as such default continues and is not cured, the Town shall have the following remedies, in addition to the Town's other rights and remedies:

- (i) to refuse to issue building permits for the Property; and/or
- (ii) to refuse to accept any portion of any public improvements on the Property and/or associated with the development of the Property; and/or
- (iii) to refuse, without notice and/or any other action, to issue and/or apply the reimbursements set forth in Paragraph 4; and/or
- (iv) to construct and/or complete the Wastewater Improvements and to recover any and all costs and expenses associated with the construction and/or completion of same, including, but not limited to, any and all attorneys' fees and costs associated therewith; and/or
- (v) to seek specific enforcement of this Agreement.

(b) In the event Town fails to comply with the terms and conditions of this Agreement, Developer may seek specific enforcement of this Agreement as its sole and exclusive remedy.

7. **Other Applicable Development Ordinances.** Unless otherwise expressly stipulated in this Agreement, nothing herein shall relieve any developer from responsibilities for the construction of other public improvements under applicable development ordinances of the Town.

8. **Covenant Running with Land.** This Agreement shall be a covenant running with the land and the Property and shall be binding upon Developer, its officers, directors, partners, employees, representatives, agents, successors, assignees, vendors, grantees and/or trustees. In addition, the Parties shall cause this Agreement to be filed in the Real Property Records of Denton County, Texas.

9. **Limitations of Agreement.** The Parties hereto acknowledge that this Agreement is limited to the Wastewater Impact Fees as described in the Impact Fee

Ordinance. Town ordinances covering property taxes, utility rates, permit fees, inspection fees, development fees, sewer impact fees, park fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Developer to Town under any other ordinance, whether now existing or in the future arising.

10. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Denton County, Texas.

11. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

If to Town, addressed to it at:  
 Town of Prosper  
 ATTN: Town Manager  
 P. O. Box 307  
 250 W. First Street  
 Prosper, Texas 75078  
 Telephone: (972) 346-2640

With a copy to:  
 Brown & Hofmeister, L.L.P.  
 ATTN: Terrence S. Welch, Esq.  
 740 E. Campbell Road  
 Richardson, TX 75081  
 Telephone: (214) 747-6104

If to Developer, addressed to it at:

PPP 100 DEV LLC  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

PROSPER HILLS LP  
 ATTN: Vijay Borra  
 826 Mango Court  
 Coppell, TX 75019  
 Telephone: (972) 304-0506

With a copy to:

Poche Law PC  
 ATTN: Charles Poche, Jr. Esq.  
 15770 North Dallas Parkway, Suite 475  
 Dallas, TX 75248  
 Telephone: (214) 764-0961

12. **Prevailing Party.** In the event any person 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).

13. **Sovereign Immunity.** The Parties agree that Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement; however, for purposes of enforcement of this Agreement, Town agrees that it has waived its sovereign immunity, and to that extent only.

14. **Effect of Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the effective date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

15. **Consideration.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

16. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

17. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

18. **Savings/Severability.** Invalidation of any one of the provisions of this document by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

19. **Notification of Sale or Transfer.** Developer shall notify the Town in writing of a sale or transfer of all or any portion of the Property where Developer plans to assign all or a portion of this Agreement, as contemplated herein, within ten (10) business days of such sale or transfer.

20. **Authority to Execute.** The Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. This Agreement is and shall be binding upon the Developer, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

21. **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 mediation.

22. **Indemnification.** From the Effective Date of this Agreement to the date on which all work with respect to a Wastewater CIP Project is completed and all improvements, as contemplated herein, have been accepted by the Town, Developer, individually and on behalf of its respective officers, directors, partners, employees, representatives, agents, successors, assignees, vendors, grantees and/or trustees, does hereby agree to release, defend, indemnify and hold harmless the Town and its elected and appointed officials, officers, employees and agents from and against all damages, injuries (including death), claims, property damages (including loss of use) losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses (including attorney's fees and expenses incurred in enforcing this indemnity), caused by the negligent, grossly negligent, and/or intentional act and/or omission of the applicable developer, its officers, directors, partners, employees, representatives, agents, or any

other third parties for whom such developer is legally responsible, in its/their performance of this Agreement, including but not limited to, the construction of the Wastewater CIP Projects contemplated herein (hereinafter "claims"). Developer is expressly required to defend the Town against all such claims arising under this Agreement, and the Town is required to reasonably cooperate and assist developer(s) in providing such defense.

23. **Approval of Counsel.** In its reasonable discretion, the Town shall have the right to approve counsel to be retained by Developer in fulfilling its obligation hereunder to defend and indemnify the Town. The Town reserves the right to provide a portion or all of its' own defense, at its sole cost; however, the Town is under no obligation to do so. Any such action by the Town is not to be construed as a waiver of Developer's obligation to defend the Town or as a waiver of Developer's obligation to indemnify the Town pursuant to this Agreement. Developer shall retain Town-approved defense counsel within seven (7) business days of the Town's written notice that the Town is invoking its right to indemnification under this Agreement.

24. **Survival.** Paragraph 22, "Indemnification," shall survive the termination of this Agreement.

25. **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.

26. **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.

27. **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.

28. **Rough Proportionality.** Developer hereby agrees that any land or property donated and/or dedicated pursuant to this Agreement, whether in fee simple or otherwise, to the Town relative to any development on the Property is roughly proportional to the need for such land and Developer hereby waives any claim therefor that it may have. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.

29. **Attorney's Fees.** Developer agrees to pay, or cause to be paid, to Prosper any attorney's fees charged to Prosper by Prosper's legal counsel for, among other things, legal review and revision of this Agreement and all further agreements, ordinances or resolutions contemplated by this Agreement, negotiations and discussions with Developer's attorney and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$2,000 within ten (10) days upon receipt of an invoice of same from Prosper.

**IN WITNESS WHEREOF**, the Parties hereto have caused this document to be executed as of the date first above written.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**THE TOWN OF PROSPER, TEXAS**

By: \_\_\_\_\_

Name: Mario Canizares

Title: Town Manager

**STATE OF TEXAS        )**

)

**COUNTY OF COLLIN    )**

)

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023, by Mario Canizares, Town Manager for the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

**DEVELOPER**

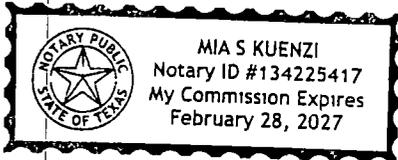
**PPP DEV 100 LLC**  
a Texas limited liability company

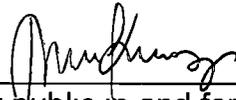
By   
Vijay Borra, Manager

**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 Vijay Borra, manager of **PPP DEV 100 LLC**, a Texas limited liability company, 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, on behalf of such entities

Given under my hand and seal of office this 15<sup>th</sup> day of September, 2023



  
Notary public in and for the State of TX  
My commission expires 02/28/27



**EXHIBIT A**  
(Property Legal Description)

**Park Place**

**BEING** A TRACT OF LAND SITUATED IN THE JOHN H. DURRETT SURVEY, ABSTRACT NO. 350 AND THE LOUISA NETHERLY SURVEY, ABSTRACT NO. 962, DENTON COUNTY, TEXAS, AND BEING PART OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER 100 LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2019-21287, OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS (O.P.R.C.C.T.), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHEAST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHEAST CORNER OF LOT 1, BLOCK X, ARTESIA NORTH PHASE 4, AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET 2016, SLIDE 76, PLAT RECORDS, DENTON COUNTY, TEXAS (P.R.C.C.T.), ALSO BEING ON THE WEST LINE OF A TRACT OF LAND DESCRIBED IN DEED AS TRACT IV TO BLUE STAR ALLEN LAND, LP, RECORDED IN INSTRUMENT NO. 2011-60030, O.P.R.C.C.T.,

**THENCE** N 89° 32' 20" W, ALONG THE SOUTH LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 2,909.87 FEET TO SOUTHWEST CORNER OF SAID PROSPER 100 LP TRACT, SAME BEING THE MOST EASTERLY SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER HILLS, LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2022-117712, O.P.R.C.C.T., ALSO BEING ON THE NORTH LINE OF LOT 3, BLOCK X, ARTESIA NORTH PHASE 2, AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN CABINET 2017, SLIDE 164, P.R.C.C.T.;

**THENCE** N 00° 12' 38" E, ALONG THE WEST LINE OF SAID PROSPER 100 LP TRACT AND THE EAST LINE OF SAID PROSPER HILLS LLC TRACT, A DISTANCE OF 1,469.84 FEET TO THE NORTHWEST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHEAST CORNER OF SAID PROSPER HILLS LLC TRACT;

**THENCE** N 89° 24' 39" E, ALONG THE NORTH LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 1,852.41 FEET TO A 5/8" IRON ROD FOUND AT THE SOUTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER MEADOWS LP, ACCORDING TO THE DOCUMENT RECORDED IN INSTRUMENT NO. 2019-65177, O.P.R.C.C.T.;

**THENCE** N 89° 20' 59" E, ALONG THE NORTH LINE OF SAID PROSPER 100 LP TRACT AND THE SOUTH LINE OF SAID PROSPER MEADOWS LP TRACT, A DISTANCE OF 1,057.81 FEET TO THE NORTHEAST CORNER OF SAID PROSPER 100 LP TRACT AND THE NORTHWEST CORNER OF THE ABOVE MENTIONED TRACT IV;

**THENCE** S 00° 12' 49" W, ALONG THE EAST LINE OF SAID PROSPER 100 LP TRACT AND THE WEST LINE OF SAID TRACT IV, A DISTANCE OF 1,524.31 FEET TO THE **POINT OF BEGINNING**, AND **CONTAINING** 99.983 ACRES OR 4,355,272 SQUARE FEET OF LAND MORE OR LESS

## Prosper Hills

**BEING** A TRACT OF SITUATED IN THE LOUIS NETHERLY SURVEY, ABSTRACT NO. 962, TOWN OF PROSPER, DENTON COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER HILLS, LP, RECORDED IN INSTRUMENT NUMBER 2017-82639 OFFICIAL PUBLIC RECORDS, DENTON COUNTY, TEXAS (O.P.R.D.C.T.), ALSO BEING A PORTION OF SEC TEEL-PROSPER ADDITION, AN ADDITION TO THE TOWN OF PROSPER, RECORDED IN INSTRUMENT NUMBER 2022-1306, PLAT RECORDS, DENTON COUNTY, TEXAS (P.R.D.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT THE MOST EASTERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN DEED TO PROSPER 100 LP, RECORDED IN INSTRUMENT NUMBER 2019-21287 O.P.R.D.C.T., FROM WHICH AN "X" CUT FOUND AT THE INTERSECTION OF GREENBELT PARK LANE, AN EXISTING 50' RIGHT-OF-WAY, AND HUBBARD PARK AVENUE, AN EXISTING 50' RIGHT-OF-WAY, ARTESIA NORTH PHASE 2 (ARTESIA ADDITION), AN ADDITION TO THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, RECORDED IN INSTRUMENT NUMBER 2017-164 O.P.R.D.C.T., BEARS S 57°25'44" W, 129.03 FEET;

**THENCE** N 89° 32'20" W, WITH THE MOST EASTERLY SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NORTH LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 553.82 FEET TO AN INTERIOR ELL CORNER OF SAID PROSPER HILLS, LP TRACT AND THE NORTHWEST CORNER OF LOT 3, BLOCK X, OF SAID ARTESIA ADDITION;

**THENCE** S 00°03'28" W, ALONG AN EAST LINE OF SAID PROSPER HILLS LP TRACT AND THE WEST LINE OF SAID ARTESIA ADDITION, A DISTANCE OF 259.13 FEET TO THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHEAST CORNER OF A REMAINDER TRACT OF LAND DESCRIBED IN DEED TO INWOOD PLAZA JOINT VENTURE, RECORDED IN VOLUME 4233, PAGE 738, DEED RECORDS DENTON COUNTY, TEXAS (D.R.D.C.T.);

**THENCE** N 89°31'47" W, ALONG THE SOUTH LINE OF SAID PROSPER HILLS, LP TRACT AND THE NOTH LINE OF SAID REMAINDER TRACT, A DISTANCE OF 1,308.00 FEET TO THE SOUTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT AND NORTHWEST CORNER OF SAID REMAINDER TRACT, ALSO BEING ON THE EAST LINE OF TEEL PARKWAY (A VARIABLE WIDTH RIGHT-OF-WAY);

**THENCE** N 00°08'41" W, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT AND THE EAST LINE OF SAID TEEL PARKWAY, A DISTANCE OF 149.49 FEET TO THE SOUTH CORNER OF SAID SEC TEEL-PROSPER ADDITION;

**THENCE** N 00°02'02" E, CONTINUING ALONG THE WEST LINE OF SAID PROSPER HILLS, SAME BEING THE EAST LINE OF SAID SEC TEEL-PROSPER ADDITION, A DISTANCE OF 1,043.46 FEET TO THE SOUTH CORNER OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION, AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 01°08'34", A RADIUS OF 1,060.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 19°32'51" W, 21.14 FEET;

**THENCE** ALONG THE WEST LINE OF LOT 1, BLOCK A, OF SAID SEC TEEL-PROSPER ADDITION THE FOLLOWING COURSES AND DISTANCES:

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 21.14 FEET;

N 20°22'59" W, A DISTANCE OF 150.91 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 00°10'12", A RADIUS OF 1,070.00 FEET, AND A CHORD BEARING AND DISTANCE OF N 28°18'42" W 3.18 FEET;

ALONG SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 3.18 FEET;

N 28°23'48" W, A DISTANCE OF 171.87 FEET;

N 16°39'53" E, A DISTANCE OF 49.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 10°03'53", A RADIUS OF 745.00 FEET, AND A CHORD BEARING DISTANCE OF N 67°19'26" E, 130.70 FEET;

ALONG SAID CURVE TO THE RIGHT, AN ARC DISTANCE OF 130.87 FEET;

N 72°21'22" E, A DISTANCE OF 8.76 FEET TO THE WEST LINE OF SAID PROSPER HILLS, LP TRACT;

**THENCE** N 00°02'02" E, ALONG THE WEST LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 87.91 FEET TO THE NORTHWEST CORNER OF SAID PROSPER HILLS, LP TRACT;

**THENCE** N 89°47'56" E, ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 306.82 FEET;

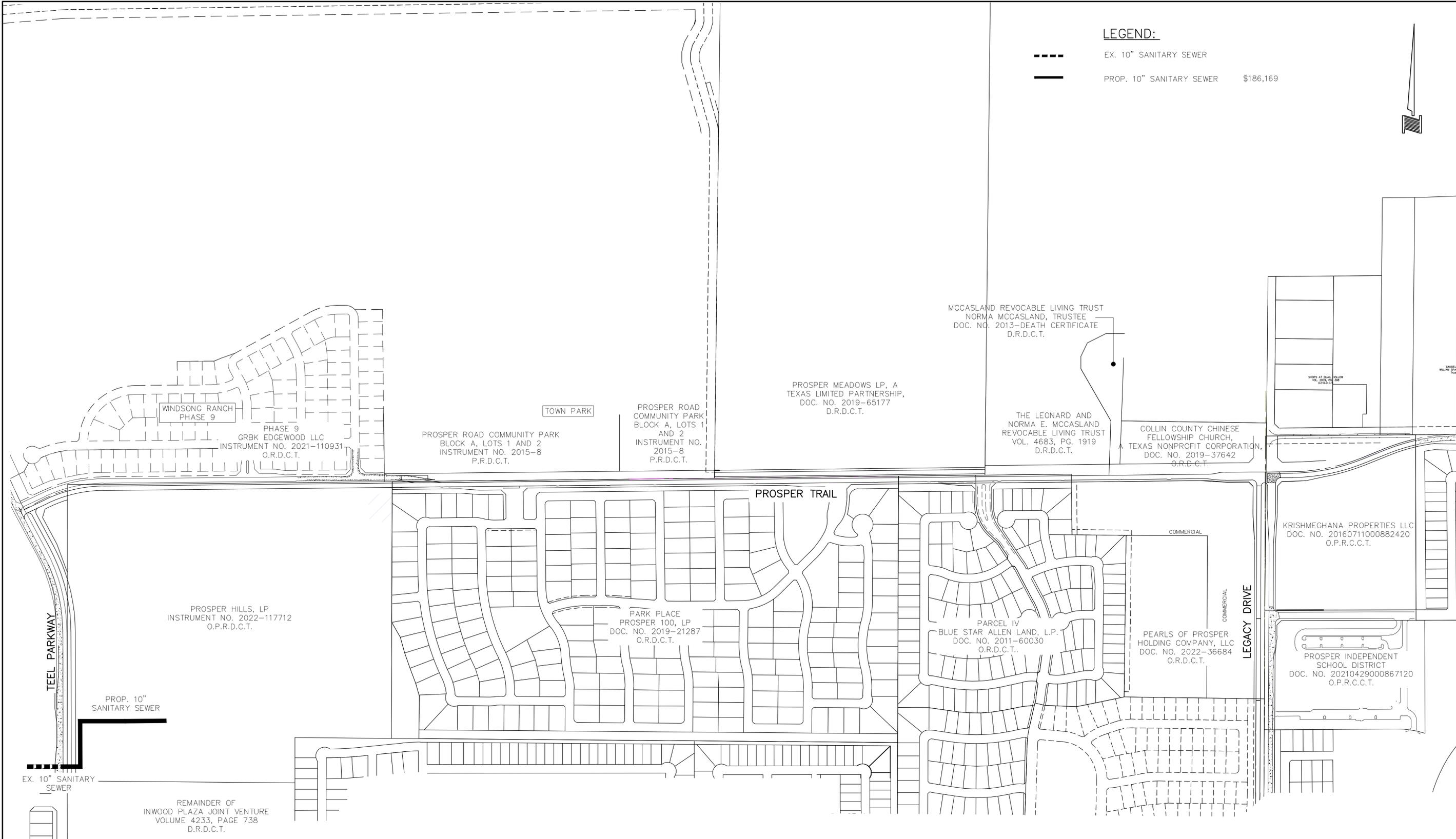
**THENCE** N 89°24'39" E, CONTINUING ALONG THE NORTH LINE OF SAID PROSPER HILLS, LP TRACT, A DISTANCE OF 1,560.15 FEET TO THE NORTHEAST CORNER OF SAID PROSPER HILLS, LP TRACT, SAME BEING THE NORTHWEST CORNER OF SAID PROSPER 100 LP TRACT;

**THENCE** S 00°12'38" W, ALONG THE EAST LINE OF SAID PROSPER HILLS, LP TRACT AND THE WEST LINE OF SAID PROSPER 100 LP TRACT, A DISTANCE OF 1,469.84 FEET TO THE **POINT OF BEGINNING**, AND **CONTAINING** 70.674 ACRES OR 3,078,580 SQUARE FEET OF LAND MORE OR LESS

**EXHIBIT B**  
**(Wastewater Improvements)**

LEGEND:

- EX. 10" SANITARY SEWER
- PROP. 10" SANITARY SEWER \$186,169



W:\projects\702\81199\199\PARK PL SS EXHIBIT B.dwg, 8/1/2023 7:40:06 AM, SHall

REVISED:

NO.	DATE	BY	REVISION

**EXHIBIT B**  
**SANITARY SEWER CONSTRUCTION**  
**PARK PLACE D.A.**

TOWN OF PROSPER  
DENTON & COLLIN COUNTY

**PAPE-DAWSON**  
**ENGINEERS**

8105 TERRYSON PARK, STE. 210 | PLANO, TX 75024 | 214.420.8404  
STATE ENGINEERING NUMBER: 16764 TEXAS REGISTERED PROFESSIONAL ENGINEER

DESIGN	DRAWN	CHECKED	DATE	SCALE	JOB	SHEET
SIH	SIH	MSD	JULY 2023	NONE		1

**EXHIBIT C**  
**(Area of Reimbursement)**

**LEGEND:**

 REIMBURSEMENT AREA



PARK PLACE - 206 SF LOTS	
© \$2,822/ SF LOT	\$581,332
PROSPER HILLS - 165 SF LOTS	
© \$2,822/ SF LOT	\$465,630
	<hr/>
	\$1,046,962

**EXHIBIT C**  
**CIP SANITARY SEWER**  
**REIMBURSEMENT AREA**  
**PARK PLACE D.A.**

TOWN OF PROSPER  
DENTON & COLLIN COUNTY

 **DOWDEY, ANDERSON & ASSOCIATES, INC.**  
5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694  
STATE REGISTRATION NUMBER: F-399

NO.	DATE	BY	REVISION

DESIGN	DRAWN	CHECKED	DATE	SCALE	JOB	SHEET
SIH	SIH	MSD	JULY 2023	NONE		1

REVISED:

**EXHIBIT D**  
**(Estimated Construction Costs)**

## CIP SANITARY SEWER - PROSPER HILLS

Prosper, Denton, Texas

Length: 934  
Prepared: 9/18

### *Opinion of Probable Cost Summary*

CATEGORY	By Category	Per LF
<b>SANITARY SEWER</b>	<b>\$139,190</b>	<b>\$149</b>
<b>PROFESSIONAL FEES</b>	<b>\$26,100</b>	<b>\$28</b>
<b>OVERALL CONTINGENCY 15%</b>	<b>\$20,879</b>	<b>\$22</b>
<b>CATEGORY TOTALS</b>	<b>\$186,169</b>	<b>\$199</b>

1) IT IS IMPORTANT TO NOTE THAT THIS REPORT IS LIMITED IN ACCURACY BECAUSE IT WAS PREPARED WITHOUT THE BENEFIT OF PERMITTED CONSTRUCTION DOCUMENTS AND/OR ENGINEERING REPORTS, THAT MAY BE REQUIRED FOR PERMITTING AND THAT MAY YIELD NEW INFORMATION WHICH COULD AFFECT THE FINAL DEVELOPMENT COST.

2) ALL INFRASTRUCTURE COST IDENTIFIED ABOVE ARE PREDICATED ON THE ASSUMPTIONS AND EXCLUSIONS IDENTIFIED IN THE DETAILED COST "BREAK-DOWN" OF PROBABLE COST BY TRACT.

WATER	UNIT COST	UNIT	QTY	TOTAL
	(\$)	(-)	(± #)	(\$)
INSTALL SILT FENCE	\$ 1.70	LF.	934	\$ 1,588
EROSION CONTROL SALES TAX	8.25%	%	1,588	\$ 132
MOBILIZATION	\$ 4,500.00	LS.	1	\$ 4,500
CLEAR & GRIND TREES FOR SANITARY SEWER LINE	\$ 22,000.00	LS.	1	\$ 22,000
10" SDR-26 PVC PIPE	\$ 66.72	LF.	337	\$ 22,485
10" SDR-35 PVC PIPE	\$ 57.55	LF.	597	\$ 34,358
5' DIAMETER MANHOLE	\$ 10,971.26	EA.	3	\$ 32,914
5' DIAMETER DROP MANHOLE	\$ 14,380.85	EA.	1	\$ 14,381
CONNECT TO EXISTING	\$ 940.78	EA.	1	\$ 941
TESTING & T.V. INSPECTION	\$ 4.24	LF.	934	\$ 3,961
TRENCH SAFETY	\$ 0.31	LF.	934	\$ 290
MAINTENANCE BOND	1.5%	%	\$ 109,330	\$ 1,640
<b>TOTAL</b>				<b>\$ 139,190</b>

PROFESSIONAL FEES	%		\$	TOTAL
				(\$)
ENGINEERING & SURVEY	15.0%		\$ 137,550	\$ 20,633
GEOTECHNICAL & MATERIAL TESTING	5.0%		\$ 109,330	\$ 5,467
<b>TOTAL</b>				<b>26,100</b>



## ENGINEERING SERVICES

**To: Mayor and Town Council**

**From: Hulon T. Webb, Jr., P.E., Director of Engineering Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Amendment to Ultimate Boundary Line Agreement  
(City of McKinney)**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider and act upon authorizing the Mayor to execute an Amendment to Ultimate Boundary Line Agreement between the City of McKinney, Texas, and the Town of Prosper, Texas, related to the maintenance of improvements along Christie Farms Boulevard in the City of McKinney to serve the Christie Farms development.

**Description of Agenda Item:**

In 2001, the City of McKinney and the Town of Prosper approved a boundary line agreement which set the municipalities boundary along the west right-of-way (ROW) of Custer Road as it existed in 2001. Prior to the Texas Department of Transportation (TxDOT) recent reconstruction of Custer Road, Christie Farms Boulevard connected to the west side of old Custer Road, along the current boundary line between the City of McKinney and the Town of Prosper. However, the reconstruction realigned Custer Road in this area to improve the intersection with FM 1461 to the north, which resulted in Christie Farms Boulevard being extended approximately 180 feet further east into the City of McKinney's jurisdiction.

The extension of Christie Farms Boulevard further east resulted in the existing entrance into the Christie Farms development being further away from the intersection with Custer Road and the residents have requested the Town of Prosper install street signs and lighting at the new intersection of Christie Farms Boulevard and Custer Road, to provide improved visibility into their development. The residents have also requested the ability to maintain and improve the median created by the extension of Christie Farms Boulevard.

This amendment will allow the Town of Prosper to place street name signs, decorative pole, lighting as well as other similar improvements along the short segment of Christie Farms Boulevard where it extends into the City of McKinney. Any installation of improvements by the Town will be the responsibility of the Town to maintain. The agreement also allows the McKinney City Manager and the Prosper Town Manager the ability to agree to maintenance provisions for medians and other ROW and easement areas along the entire ultimate boundary line in the future by letter agreement versus formal amendment(s) to the Ultimate Boundary Line Agreement.

**Budget Impact:**

The cost for street signs is estimated to be \$400 and will be purchased from the Streets Department FY2024 Adopted Budget (Account Number 100-5640-50-01). The Town will work with the local utility provider on options for providing a new street light at the intersection of Christie Farms Boulevard and Custer Road. The costs for the installation of a new street light is unknown at this time.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality.

**Attached Documents:**

1. Amendment to Ultimate Boundary Line Agreement

**Town Staff Recommendation:**

Town staff recommends that the Town Council authorize the Mayor to execute an Amendment to Ultimate Boundary Line Agreement between the City of McKinney, Texas, and the Town of Prosper, Texas, related to the maintenance of improvements along Christie Farms Boulevard in the City of McKinney to serve the Christie Farms development.

**Proposed Motion:**

I move to authorize the Mayor to execute an Amendment to Ultimate Boundary Line Agreement between the City of McKinney, Texas, and the Town of Prosper, Texas, related to the maintenance of improvements along Christie Farms Boulevard in the City of McKinney to serve the Christie Farms development.

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

**AMENDMENT TO ULTIMATE BOUNDARY LINE AGREEMENT**

**THIS AMENDMENT TO ULTIMATE BOUNDARY LINE AGREEMENT** (“Agreement”) is entered into by and between the Town of Prosper, Texas (“Prosper”), and the City of McKinney, Texas (“McKinney”):

**WHEREAS**, on or about December 18, 2001, Prosper and McKinney, pursuant to Section 43.031 of the Texas Local Government Code (now recodified as Section 43.015 of the Texas Local Government Code), entered into an agreement relative to each municipality’s ultimate boundary line; and

**WHEREAS**, with the realignment of Custer Road by the Texas Department of Transportation, the entrance into the Christie Farms development became further separated from the previous alignment of Custer Road, resulting in a small amount of property being located west of the new alignment of Custer Road but inside the corporate limits of McKinney; and

**WHEREAS**, it is the desire of Prosper and McKinney to clarify that Prosper may place certain improvements on the small tract of land located in McKinney but west of the new alignment of Custer Road (“Tract”), as depicted in attached Exhibit 1, incorporated by reference, subject to the terms contained herein; and

**WHEREAS**, Prosper and McKinney agree and acknowledge that nothing in this Agreement shall require Prosper to maintain any portion of Custer Road, with such maintenance responsibilities remaining with McKinney; and

**WHEREAS**, both Prosper and McKinney have determined that this Agreement relative to the Tract is in each party’s best interests as well as in the best interests of the citizens.

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein made and the benefits to each party resulting therefrom, Prosper and McKinney do hereby contract, covenant and agree as follows with respect to the Tract:

1. Prosper may place certain improvements on the Tract, including but not limited to street name signs, decorative poles with stop signs and/or streetlight(s), and it shall be the responsibility of Prosper to maintain such improvements. In the event that Prosper wishes to place other similar improvements on the Tract, Prosper shall inform McKinney of such improvements and the date(s) of the installation of such improvements on the Tract. Any additional improvements placed on the Tract by Prosper shall be maintained by Prosper.

2. Prosper acknowledges and agrees that it shall not unreasonably withhold a drive approach from the property north of Christie Farms Road and west of Custer Road.

3. Prosper and McKinney acknowledge that adjacent to their mutual jurisdictional boundaries (whether corporate limits or extraterritorial jurisdiction boundaries), there may exist small tracts of property, including but not limited to medians, rights-of-way, and easements, that may require or necessitate ongoing maintenance, mowing, installation of public facilities or structures, or similar responsibilities or action by either Prosper or McKinney. In such event, either Prosper or McKinney by letter agreement may mutually agree upon and assume such responsibilities or take other appropriate actions without the necessity of an amendment to this Agreement.

4. All remaining provisions of the 2001 Ultimate Boundary Line Agreement shall remain in full force and effect.

5. The persons signing this Agreement on behalf of the municipalities have been duly authorized and empowered to do so.

6. In the event that one or more of the provisions contained in this Agreement for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability of this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, but shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

7. In the event of any dispute regarding this Agreement or the terms contained herein, the parties hereto agree that they shall submit such dispute to non-binding mediation.

8. This Agreement may be filed in the real property records of Collin County, Texas.

9. This Agreement regarding shall take effect upon the date of passage by the Prosper Town Council or McKinney City Council, whichever date is later.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2023.**

\_\_\_\_\_  
David F. Bristol, Mayor

**ATTEST:**

\_\_\_\_\_  
Michelle Lewis Sirianni, Town Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Terrence S. Welch, Town Attorney

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
McKINNEY, TEXAS, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2023.**

\_\_\_\_\_  
George Fuller, Mayor

**ATTEST:**

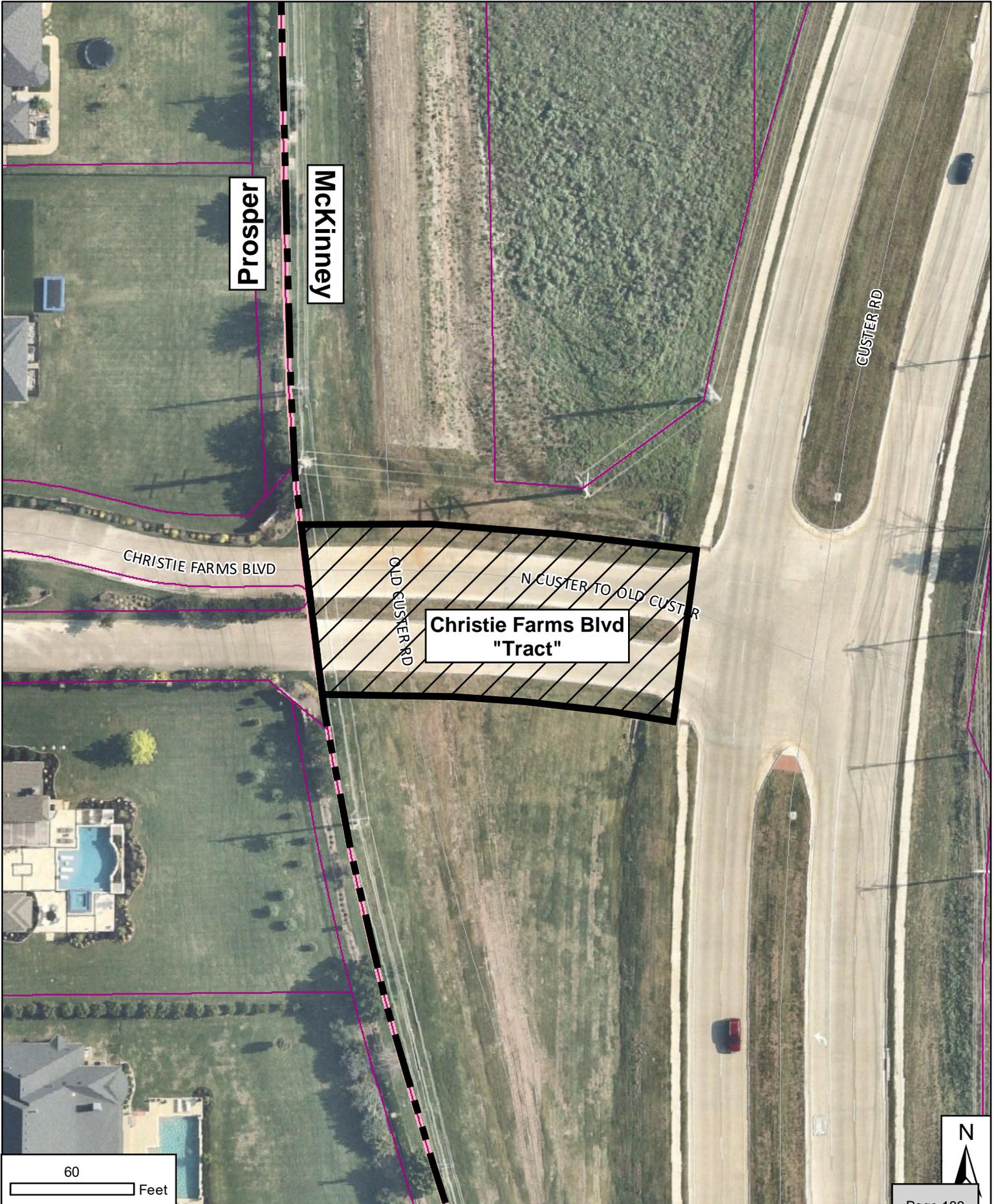
\_\_\_\_\_  
Empress Drane, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Mark S. Houser, City Attorney

# EXHIBIT 1 Depiction of Tract

Item 15.



60 Feet

Date: 9/6/2023





## PLANNING

**To: Mayor and Town Council**

**From: Terrence S. Welch, Town Attorney**

**Through: Mario Canizares, Town Manager**

**Re: Subdivision Ordinance Amendment**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

### **Agenda Item:**

Consider and act upon an ordinance amending the Town’s Subdivision Ordinance by amending Subpart (1) of Section (D), “Plat Required,” of Section 10.03.004, “Applicability,” to Comply with Revised Language contained in House Bill No. 3699; amending Subsection (B) of Section 10.03.034, “Director of Development Services,” relative to Authorizing the Director of Development Services to Approve or Deny Plats; amending Section 10.03.063, “30-day Time Frame for Plat Approvals,” to Reflect that the Right to 30-day Action for Plat Applications Begins on the Filing Date and One or More 30-day Extensions shall be authorized; adding a Definition of “Filing Date,” amending the Definitions of “Approval” and “Plat,” and repealing the definitions of “Administratively Complete” and “Official Submission Date,” contained in Section 10.03.192, “Words and Terms Defined”; providing that the phrase “Official Submission Date” shall be replaced with the phrase “Filing Date” in Sections 10.03.084(f)(2) and 10.03.085(h)(2).

### **Description of Agenda Item:**

The Legislature recently passed, and the Governor signed, House Bill No. 3699 (“HB 3699”), which provided for multiple amendments to the platting statute, contained in Chapter 212 of the Texas Local Government Code. Consequently, it is necessary for the Town to amend its Subdivision Ordinance to comply with HB 3699, even though many of the amendments to the Subdivision Ordinance are technical and should not greatly affect the day-to-day operations of Development Services. The amendments are as follows:

#### **1. Amend current Section 10.03.004(D)(1) to read as follows:**

“In accordance with LGC Section 212.004, the owner of a tract of land located within the Town’s corporate limits or in the Extraterritorial Jurisdiction (ETJ) who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use ~~or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts~~ must have a Plat of the subdivision prepared.”

**2. Amend current Section 10.03.034 to allow the Director of Development Services to approve or deny a plat.**

Due to the definition of “filing date” contained in Section 4 of HB 3699—the date on which a plat is submitted to the Town along with a completed application and applicable fees—there may arise occasions when a plat cannot be timely reviewed and acted upon by the Town within 30 days, as required by statute. Section 6 of HB 3699 allows for administrative approval or denial of plats, and an appeal to either the Planning and Zoning Commission or Town Council in the event of denial. Consequently, this proposed amendment would be utilized if a plat cannot be timely placed on a Planning and Zoning Commission agenda and acted upon within the statutorily mandated 30-day period. Again, if a plat were denied administratively, the applicant may appeal such denial.

**3. Amend current Section 10.03.063 to provide that the 30-day action period commences on the filing date and the Planning and Zoning Commission or Town Council may approve one or more 30-day extensions to the 30-day action period.**

Since the Town’s definition of “filing date” is being amended in accordance with Section 4 of HB 3699, it is necessary to amend the Subdivision Ordinance to reflect that the filing date triggers the 30-day action period. Additionally, the last legislative amendments in 2019 specifically did not allow the Town to request or even suggest a 30-day extension of the 30-day action period in the event the review of the plat had not been completed; however, Section 8 of HB 3699 now allows the Town and the applicant to mutually request Planning and Zoning Commission or Town Council approval of one or more 30-day extensions of the 30-day action period.

**4. Amend certain definitions contained in Section 10.03.192 to comply with HB 3699.**

As noted, with the adoption of HB 3699, the following definitions are added or amended — “filing date,” “approval” and “plat,” while the definitions of “administratively complete” and “official submission date” are repealed since they are no longer necessary or in compliance with HB 3699. “Official submission date” is now replaced with “filing date.”

Other items contained in HB 3699 are currently addressed in existing Subdivision Ordinance provisions and no additional amendments are necessary.

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Ordinance

**Town Staff Recommendation:**

an ordinance amending the Town’s Subdivision Ordinance by amending Subpart (1) of Section (D), “Plat Required,” of Section 10.03.004, “Applicability,” to Comply with Revised Language contained in House Bill No. 3699; amending Subsection (B) of Section 10.03.034, “Director of Development Services,” relative to Authorizing the Director of Development Services to Approve or Deny Plats; amending Section 10.03.063, “30-day Time Frame for Plat Approvals,” to Reflect that the Right to 30-day Action for Plat Applications Begins on the Filing Date and One or More 30-day Extensions shall be authorized; adding a Definition of “Filing Date,” amending the

Definitions of "Approval" and "Plat," and repealing the definitions of "Administratively Complete" and "Official Submission Date," contained in Section 10.03.192, "Words and Terms Defined"; providing that the phrase "Official Submission Date" shall be replaced with the phrase "Filing Date" in Sections 10.03.084(f)(2) and 10.03.085(h)(2).

Item 16.

**Proposed Motion:**

I move to approve an ordinance amending the Town's Subdivision Ordinance by amending Subpart (1) of Section (D), "Plat Required," of Section 10.03.004, "Applicability," to Comply with Revised Language contained in House Bill No. 3699; amending Subsection (B) of Section 10.03.034, "Director of Development Services," relative to Authorizing the Director of Development Services to Approve or Deny Plats; amending Section 10.03.063, "30-day Time Frame for Plat Approvals," to Reflect that the Right to 30-day Action for Plat Applications Begins on the Filing Date and One or More 30-day Extensions shall be authorized; adding a Definition of "Filing Date," amending the Definitions of "Approval" and "Plat," and repealing the definitions of "Administratively Complete" and "Official Submission Date," contained in Section 10.03.192, "Words and Terms Defined"; providing that the phrase "Official Submission Date" shall be replaced with the phrase "Filing Date" in Sections 10.03.084(f)(2) and 10.03.085(h)(2).

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 2023-\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBPART (1) OF SECTION (D), "PLAT REQUIRED," OF SECTION 10.03.004, "APPLICABILITY," TO COMPLY WITH REVISED LANGUAGE CONTAINED IN HOUSE BILL NO. 3699 RELATIVE TO SECTION 212.004(A) OF THE TEXAS LOCAL GOVERNMENT CODE; AMENDING SUBSECTION (B) OF SECTION 10.03.034, "DIRECTOR OF DEVELOPMENT SERVICES," TO AUTHORIZE THE DIRECTOR OF DEVELOPMENT SERVICES TO APPROVE OR DENY PLATS IN CERTAIN CIRCUMSTANCES; AMENDING SECTION 10.03.063, "30-DAY TIME FRAME FOR PLAT APPROVALS," TO REFLECT THAT THE RIGHT TO 30-DAY ACTION FOR PLAT APPLICATIONS BEGINS ON THE FILING DATE AND ONE OR MORE 30-DAY EXTENSIONS SHALL BE AUTHORIZED; ADDING A DEFINITION OF "FILING DATE," AMENDING THE DEFINITIONS OF "APPROVAL" AND "PLAT," AND REPEALING THE DEFINITIONS OF "ADMINISTRATIVELY COMPLETE" AND "OFFICIAL SUBMISSION DATE," CONTAINED IN SECTION 10.03.192, "WORDS AND TERMS DEFINED"; PROVIDING THAT THE PHRASE "OFFICIAL SUBMISSION DATE" SHALL BE REPLACED WITH THE PHRASE "FILING DATE" IN SECTION 10.03.084(F)(2) AND SECTION 10.03.085(H)(2), ALL OF THE FOREGOING SECTIONS CONTAINED IN ARTICLE 10.03, "SUBDIVISION ORDINANCE," OF CHAPTER 10, "SUBDIVISION REGULATION," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; PROVIDING FOR PENALTIES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the Town of Prosper, Texas ("Town"), is a home-rule municipality under the laws of the State of Texas and is duly incorporated; and

**WHEREAS**, the Town possesses the full power of self-government, as authorized by the Texas Constitution and the Town's duly adopted Charter; and

**WHEREAS**, the 88th Legislature recently passed House Bill No. 3699, which Bill was signed by the Governor, providing for amendments to Chapter 212, "Municipal Regulation of Subdivisions and Property Development," of the Texas Local Government Code; and

**WHEREAS**, the following amendments to the Town's Subdivision Ordinance are in full compliance with the requirements of House Bill No. 3699, and the Town Council of the Town has determined that the adoption of these new provisions is in the best interests of the citizens of the Town and will promote the public health, safety and general welfare; and

**WHEREAS**, the Town Council, on behalf of Prosper and its citizens, has further determined that the following amendments will promote the orderly, safe and efficient growth of the Town and the Town's extraterritorial jurisdiction.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

## SECTION 1

All of the above findings are hereby found to be true and correct and are hereby incorporated into the body of this Ordinance as if fully set forth herein.

## SECTION 2

From and after the effective date of this Ordinance, Subpart (1) of Section (d), "Plat required," of Section 10.03.004, "Applicability," of Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

### **"10.03.004    Applicability**

\* \* \*

- D.    Plat Required Subdivision Plats Required under LGC 212 Subchapter A.
1.    In accordance with LGC Section 212.004, the owner of a tract of land located within the Town's corporate limits or in the Extraterritorial Jurisdiction (ETJ) who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use must have a Plat of the subdivision prepared."

## SECTION 3

From and after the effective date of this Ordinance, Section 10.03.034, "Director of Development Services," of Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended by adding a subsection (b) thereto to read as follows:

### **"Sec. 10.03.034    Director of Development Services.**

\* \* \*

(b)    In the event there is not sufficient time for the Planning and Zoning Commission to approve or deny any plat based upon the filing date of such plat, the Director of Development Services may approve or deny such plat, pursuant to Section 212.0065 of the Texas Local Government Code, as amended. The disapproval of any plat by the Director of Development Services may be appealed to the Planning and Zoning Commission."

## SECTION 4

From and after the effective date of this Ordinance, Section 10.03.063, "30-Day Time Frame for Plat Approvals," of Article 10.03, "Subdivision Ordinance," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended by adding a subsection (b) thereto to read as follows:

### **"Sec. 10.03.063    30-Day Time Frame for Plat Approvals.**

(a) *Right to 30-day action for plat applications begins on the filing date.* The statutory 30-day time frame for plat approvals, established by the Texas Local Government Code, ch. 212, shall commence on the filing date.

(b) *Extension of right to 30-day action.* Pursuant to Texas Local Government Code, § 212.009(b-2), as amended, upon application in writing by the applicant, the Commission or Town Council may approve one or more extensions of right to 30-day action, each such extension not to exceed 30 additional days.”

## **SECTION 5**

From and after the effective date of this Ordinance, a definition of “Filing Date” shall be added to Section 10.03.192, “Words and Terms Defined,” of Article 10.03, “Subdivision Ordinance,” of Chapter 10, “Subdivision Regulation,” of the Code of Ordinances of the Town of Prosper, Texas, as follows:

*“Filing Date.* The filing date of a preliminary plat, replat or final plat shall be considered the date an applicant submits said plat, along with a completed application and applicable fees, and other requirements prescribed by or under Texas Local Government Code § 212.004, as amended.”

The definitions of “Approval” and “Plat,” both of which are contained in the same section, are hereby amended to read as follows:

*“Approval.*

- a. Approval constitutes a determination by the official, board, commission or Town Council responsible for such determination that the application is in compliance with the minimum provisions of this subdivision ordinance.
- b. Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.
- c. For purposes of plat approval, approval shall also include approval with conditions, pursuant to Section 212.009 of the Texas Local Government Code, as amended.

\* \* \*

*Plat.* A map or chart of the subdivision, lot or tract of land showing all essential dimensions and other information required to comply with this subdivision ordinance as it exists or may be amended.”

The definitions of “*Administratively Complete*” and “*Official Submission Date*,” contained in the same Section are hereby repealed.

## **SECTION 6**

From and after the effective date of this Ordinance, the phrase “Official Submission Date” shall be replaced with the phrase “Filing Date” in Section 10.03.084(f)(2) and Section 10.03.085(h)(2), of Article 10.03, “Subdivision Ordinance,” of Chapter 10, “Subdivision Regulation,” of the Code of Ordinances of the Town of Prosper, Texas.

## **SECTION 7**

The Director of Development Services for the Town is hereby authorized to make all appropriate changes to the Town’s Development Manual and other reference resources, in accordance with this Ordinance.

## **SECTION 8**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

## **SECTION 9**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

## **SECTION 10**

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of Five Hundred Dollars (\$500.00), and each and every day such violation shall continue shall constitute a separate offense.

## **SECTION 11**

This Ordinance shall become effective from and after its passage and publication.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 12TH DAY OF SEPTEMBER, 2023.**

\_\_\_\_\_  
David F. Bristol, Mayor

**ATTEST:**

\_\_\_\_\_  
**Michelle Lewis Sirianni, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**



## PLANNING

**To: Mayor and Town Council**

**From: Terrence S. Welch, Town Attorney**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Zoning Ordinance Amendment**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Conduct a public hearing to consider and act upon an ordinance Amending Chapter 1, “General Provisions, Administration and Procedures,” of the Town’s Zoning Ordinance, by Amending Subpart (E) of Subsection 7.11, “Amortization of Nonconforming Uses or Structures,” of Section 7, “Nonconforming Uses and Structures,” by Providing for Amortization Procedures consistent with Senate Bill 929, and Subpart (A), “Zoning Changes,” of Subsection 8.2, “Public Hearing and Notice,” of Section 8, “Changes and Amendments to all Zoning Ordinances and Districts and Administrative Procedures,” by Providing for Notices relative to a Change in a Zoning Regulation that Could Result in a Nonconforming Use, Consistent with Senate Bill 929.

**Description of Agenda Item:**

The Legislature recently passed, and the Governor signed, Senate Bill No. 929 (“SB 929”), which (1) provided for significant changes to the method by which municipal governments amortize nonconforming uses of property as well as (2) a change in notice language when a zoning change is under consideration and which, if approved, would result in the creation of a nonconforming use on the property in question.

First, for literally decades, when a municipality wished to terminate a nonconforming use of property, one method by which to accomplish such result was to amortize the nonconforming use. In such instance, the Zoning Board of Adjustment would determine the amount of time it would take for a property owner to recoup his or her investment in the property. If the nonconforming use was longstanding, it was often the case that the value of the use had been fully recouped, and the nonconforming use then was allowed a certain amount of time before ceasing operations on the property. SB 929 dramatically changed the method by which to compensate the owners of such nonconforming property—rather than considering the recoupment of investment in the use, now municipalities must determine that the nonconforming use has an adverse impact, and the owner must receive fair market value of the use as well as a “wind down” time prior to ceasing the nonconforming use of the property. SB 929 describes the amortization process in detail and the proposed amendment to the Town’s Zoning Ordinance simply incorporates those provisions from SB 929 (now found in Section 211.019 of the Texas Local Government Code).

Second, a minor change to notice requirements is contained in SB 929. When a municipality is considering a zoning change on property that could result in the current use of the property becoming a nonconforming use if the zoning change is approved, the municipality must provide notice to the property owner of every public hearing on the zoning change, which notice must include the time and place of each hearing and notice in bold, 14-point font that “THE TOWN OF PROSPER IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY.” The proposed ordinance adds this notice provision now required by SB 929.

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

- 1. Ordinance

**Town Staff Recommendation:**

Town Staff recommends the Town Council approve an ordinance Amending Chapter 1, “General Provisions, Administration and Procedures,” of the Town’s Zoning Ordinance, by Amending Subpart (E) of Subsection 7.11, “Amortization of Nonconforming Uses or Structures,” of Section 7, “Nonconforming Uses and Structures,” by Providing for Amortization Procedures consistent with Senate Bill 929, and Subpart (A), “Zoning Changes,” of Subsection 8.2, “Public Hearing and Notice,” of Section 8, “Changes and Amendments to all Zoning Ordinances and Districts and Administrative Procedures,” by Providing for Notices relative to a Change in a Zoning Regulation that Could Result in a Nonconforming Use, Consistent with Senate Bill 929.

**Proposed Motion:**

I move to approve an ordinance amending Chapter 1, “General Provisions, Administration and Procedures,” of the Town’s Zoning Ordinance, by Amending Subpart (E) of Subsection 7.11, “Amortization of Nonconforming Uses or Structures,” of Section 7, “Nonconforming Uses and Structures,” by Providing for Amortization Procedures consistent with Senate Bill 929, and Subpart (A), “Zoning Changes,” of Subsection 8.2, “Public Hearing and Notice,” of Section 8, “Changes and Amendments to all Zoning Ordinances and Districts and Administrative Procedures,” by Providing for Notices relative to a Change in a Zoning Regulation that Could Result in a Nonconforming Use, Consistent with Senate Bill 929.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2023-\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SUBPART (E) OF SUBSECTION 7.11, "AMORTIZATION OF NONCONFORMING USES OR STRUCTURES," OF SECTION 7, "NONCONFORMING USES AND STRUCTURES," OF CHAPTER 1, "GENERAL PROVISIONS, ADMINISTRATION AND PROCEDURES," OF THE TOWN'S ZONING ORDINANCE, BY PROVIDING FOR AMORTIZATION PROCEDURES CONSISTENT WITH SENATE BILL 929; AMENDING SUBPART (A), "ZONING CHANGES," OF SUBSECTION 8.2, "PUBLIC HEARING AND NOTICE," OF SECTION 8, "CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES," OF CHAPTER 1, "GENERAL PROVISIONS, ADMINISTRATION AND PROCEDURES," OF THE TOWN'S ZONING ORDINANCE, BY PROVIDING FOR NOTICES RELATIVE TO A CHANGE IN A ZONING REGULATION THAT COULD RESULT IN A NONCONFORMING USE, CONSISTENT WITH SENATE BILL 929; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the 88th Legislature recently passed Senate Bill 929 relative to nonconforming uses of property and notice to property owners, and it is the desire of the Town Council to fully comply with such legislation; and

**WHEREAS**, after public notice and public hearing as required by law, the Planning and Zoning Commission of the Town of Prosper, Texas, has recommended amending the Town's Zoning Ordinance to encompass those amendments as set forth herein; and

**WHEREAS**, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of said Planning and Zoning Commission and of all testimony and information submitted during said public hearing, the Town Council of the Town of Prosper, Texas, has determined that it is in the public's best interest and in furtherance of the health, safety, morals, and general welfare of the citizens of the Town to amend the Town's Zoning Ordinance as set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

### **SECTION 1**

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Prosper, and they are hereby approved and incorporated into the body of this Ordinance as if restated herein in their entirety.

### **SECTION 2**

From and after the effective date of this Ordinance, Subpart (E) of Subsection 7.11, "Amortization of Nonconforming Uses or Structures," of Section 7, "Nonconforming Uses and Structures," of Chapter 1, "General Provisions, Administration and Procedures," of the Town's Zoning Ordinance is hereby amended to read as follows:

- “E. The Board of Adjustment shall, in accordance with Section 211.019 of the Texas Local Government Code, as amended, utilize the procedures and owner or lessee compensation criteria contained in said Section in the event the Town determines that a nonconforming use of property shall cease.”

### SECTION 3

From and after the effective date of this Ordinance, Subpart A, “Zoning Changes,” of Subsection 8.2, “Public Hearing and Notice,” of Section 8, “Changes and Amendments to all Zoning Ordinances and Districts and Administrative Procedures,” of Chapter 1, “General Provisions, Administration and Procedures,” of the Town’s Zoning Ordinance is hereby amended to read as follows:

#### **“8.2 PUBLIC HEARING AND NOTICE**

##### **A. Zoning Changes.**

1. Prior to making its report to the Town Council, the Planning and Zoning Commission shall hold at least one public hearing on each application. Prior to the tenth day before the hearing date before the Planning and Zoning Commission, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of property within 200 feet of the property in which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. Notice of Town Council hearing shall be given by publication in the official newspaper of the town, stating the time and place of such hearing, a minimum of 15 days prior to the date of the public hearing.
2. In addition to the foregoing notice, the Town shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed. The notice shall:
  - (a) be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date;
  - (b) contain the time and place of the hearing; and
  - (c) include the following text in bold 14-point type or larger: “THE TOWN OF PROSPER IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE

THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY.”

\* \* \*

**SECTION 4**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 5**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, and any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 6**

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

**SECTION 7**

This Ordinance shall become effective from and after its adoption and publication as required by law; however, the provisions of this Ordinance shall not be applicable to any residential development or tract of land for which one or more final plats has been approved by the Town as of the effective date of this Ordinance.

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 12TH DAY OF SEPTEMBER, 2023.**

\_\_\_\_\_  
**David F. Bristol, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Michelle Lewis Sirianni, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**



## PLANNING

**To: Mayor and Town Council**

**From: David Hoover, Director of Development Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Notice of Appeals**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 3. Commercial Corridors are ready for Development**

**Agenda Item:**

Consider and act upon whether to direct staff to submit a written notice of appeals on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town’s Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plans including Prosper Business Park.

**Description of Agenda Item:**

Attached are the Site Plans that were acted on by the Planning & Zoning Commission at their meeting on September 5, 2023. Per the Zoning Ordinance, the Town Council can direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department for any Site Plans and Preliminary Site Plans acted on by the Planning & Zoning Commission.

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

- 1. D22-0002 – Prosper Business Park (Approved 6-0)

**Town Staff Recommendation:**

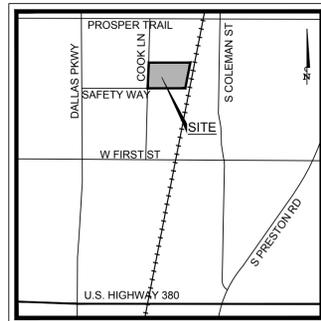
Town Staff recommends the Town Council take no action on this item.

**Proposed Motion:**

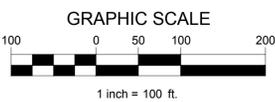
N/A

SITE DATA SUMMARY

LOT	ZONING	PROPOSED USE	LOT SIZE (ACRES)	LOT SIZE (SQ. FT.)	BUILDING AREA (SQ. FT.)	BLDG HGT. (FT.# ST.)	LOT COVERAGE		FLR AREA RATIO		PARKING		HANDICAP SP.		PARKING LOT LANDSCAPING		OPEN SPACE		
							REQ.	PROV.	REQ.	PROV.	REQ. RATIO	REQ.	PROV.	REQ.	PROV.	REQ. (15 SF PER PARKING SPACE)	PROV.	REQ. (7% SITE AREA), SQ. FT.	PROV. (SQ. FT.)
3	PD-26	OFFICE 0%/ WAREHOUSE 100%	4.86	211,567	64,000	26' - 1 STORY	50% MAX	30.3%	0.5:1 MAX	0.079:1	1 SPACE / 1000 SF (Warehouse)	64	165	6	9	2,475	4,160	14,810	19,570
4	PD-26	OFFICE 30%/ WAREHOUSE 70%	2.62	114,308	25,000	26' - 1 STORY	50% MAX	21.9%	0.5:1 MAX	0.079:1	1 SPACE / 350 sf (Office) 1 SPACE / 1000 SF (Warehouse)	39	62	3	3	930	1,310	8,002	20,483
5	PD-26	OFFICE 0%/ WAREHOUSE 100%	4.76	207,186	75,000	26' - 1 STORY	50% MAX	36.2%	0.5:1 MAX	0.079:1	1 SPACE / 1000 SF (Warehouse)	75	149	6	7	2,235	2,320	14,503	15,881
8	PD-26	OFFICE 30%/ WAREHOUSE 70%	8.93	388,955	20,543	26' - 1 STORY	50% MAX	5.3%	0.5:1 MAX	0.079:1	1 SPACE / 350 sf (Office) 1 SPACE / 1000 SF (Warehouse)	32	52	3	3	780	2,155	27,227	31,133
9	PD-26	OFFICE 30%/ WAREHOUSE 70%	1.46	63,706	20,039	26' - 1 STORY	50% MAX	31.5%	0.5:1 MAX	0.079:1	1 SPACE / 350 sf (Office) 1 SPACE / 1000 SF (Warehouse)	31	31	2	2	465	1,704	4,459	10,078
10	PD-26	OFFICE 30%/ WAREHOUSE 70%	1.88	81,800	28,092	26' - 1 STORY	50% MAX	34.3%	0.5:1 MAX	0.079:1	1 SPACE / 350 sf (Office) 1 SPACE / 1000 SF (Warehouse)	44	46	2	2	690	1,860	5,726	7,006
11	PD-26	OFFICE 30%/ WAREHOUSE 70%	2.32	101,035	22,466	26' - 1 STORY	50% MAX	22.2%	0.5:1 MAX	0.079:1	1 SPACE / 350 sf (Office) 1 SPACE / 1000 SF (Warehouse)	35	44	2	2	660	1,465	7,072	18,440



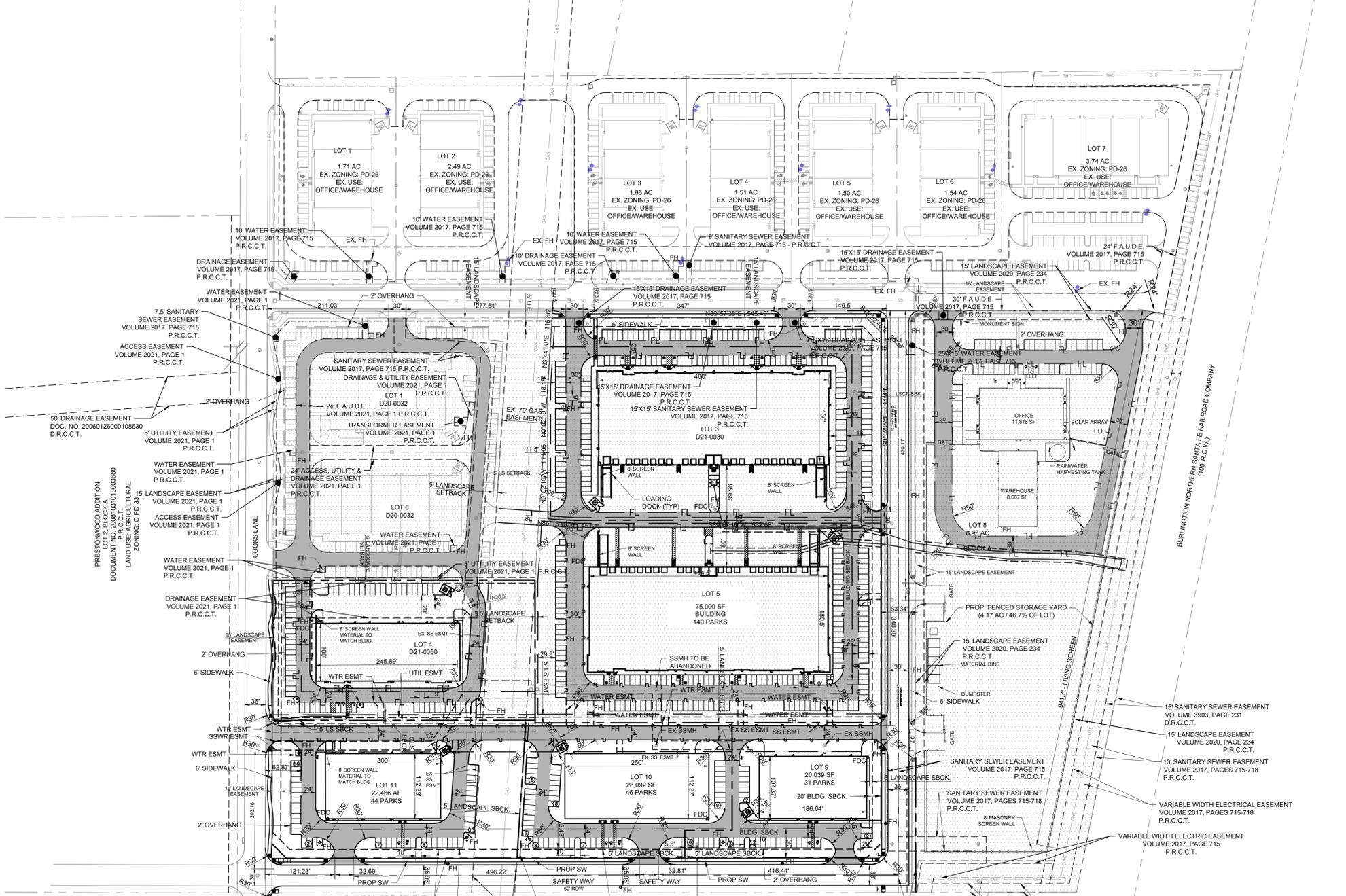
VICINITY MAP  
N.T.S.



TOWN OF PROSPER PRELIMINARY SITE PLAN GENERAL NOTES:

ANY REVISION TO THIS PLAN WILL REQUIRE TOWN APPROVAL AND WILL REQUIRE REVISIONS TO ANY CORRESPONDING PLANS TO AVOID CONFLICTS BETWEEN PLANS.

- DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
- OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
- OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE AND SUBDIVISION ORDINANCE.
- LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
- ALL ELEVATIONS SHALL COMPLY WITH THE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE.
- BUILDINGS OF 5,000 SQUARE FEET OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE APPROVED BY THE FIRE DEPARTMENT.
- OCCUPANT NOTIFICATION PER THIS SECTION AND 907.5 SHALL BE REQUIRED FOR ALL NEW CONSTRUCTION, OR EXISTING CONSTRUCTION COMPLYING WITH THE INTERNATIONAL BUILDING CODE, FOR RENOVATIONS TO EXISTING BUILDINGS, TENANT SPACES, CHANGES IN OCCUPANCY, REPLACEMENT OR MODIFICATION OF THE EXISTING FIRE ALARM SYSTEM, OR AS REQUIRED BY THE FIRE CODE OFFICIAL, FOR ALL BUILDINGS OR SPACES PROVIDED WITH AN APPROVED AUTOMATIC SPRINKLER SYSTEM.
- FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
- TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
- SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
- FIRE LANES SHALL BE PROVIDED WITHIN 150 FEET OF ALL EXTERIOR WALLS OF ANY BUILDING FOR HOSE LAY REQUIREMENTS. AMENDMENT 503.1.1
- THE FIRE LANE SHALL BE A MINIMUM OF 24 FEET WIDE. AMENDMENT 503.2.1
- BUILDINGS MORE THAN 30 FEET IN HEIGHT ARE REQUIRED TO HAVE A MINIMUM OF A 26-FOOT WIDE FIRE LANE IN THE IMMEDIATE VICINITY FOR FIREFIGHTING OPERATIONS OF THE BUILDING. ONE OF THE 26-FOOT WIDE FIRE LANES SHALL BE LOCATED A MINIMUM OF 15 FEET FROM THE BUILDING AND NO MORE THAN 30 FEET. APPENDIX D105
- THE INSIDE TURNING RADIUS OF THE 24-FOOT FIRE LANE SHALL BE A MINIMUM OF 30 FEET. AMENDMENT 503.2.4
- THE INSIDE TURNING RADIUS OF THE 26-FOOT FIRE LANE SHALL BE A MINIMUM OF 30 FEET. AMENDMENT 503.2.4
- DEAD-END FIRE LANES ARE ONLY PERMITTED WITH APPROVED HAMMERHEADS.
- FIRE HYDRANTS SHALL BE PROVIDED AT THE ENTRANCES AND INTERSECTIONS. AMENDMENT 507.5.1
- AS PROPERTIES DEVELOP, FIRE HYDRANTS SHALL BE LOCATED AT ALL INTERSECTING STREETS AND THE MAXIMUM SPACING SHALL BE EVERY 300 FEET (300') FOR ALL DEVELOPMENTS, AND FACILITIES OTHER THAN R-3 DEVELOPMENTS SHALL BE EVERY 500 FEET (500'). DISTANCES BETWEEN HYDRANTS SHALL BE MEASURED ALONG THE ROUTE THAT FIRE HOSE IS LAID BY A FIRE APPARATUS FROM HYDRANT-TO-HYDRANT, NOT AS "CROW FLIES." AMENDMENT 507.5.1
- FIRE DEPARTMENT CONNECTION (FDC) FOR THE FIRE SPRINKLER SYSTEM SHALL BE LOCATED WITHIN 50 FEET OF A FIRE HYDRANT AND 50 FEET OF A FIRE LANE. 5" STORZ, 30-DEGREE DOWNWARD TURN WITH LOCKING CAP. AMENDMENT 507.5.1
- FIRE HYDRANTS SHALL BE LOCATED 2 FOOT (2') TO 6 FOOT (6') BACK FROM THE CURB OR FIRE LANE AND SHALL NOT BE LOCATED IN THE BULB OF A CUL-DE-SAC. AMENDMENT 507.5.1
- THERE SHALL BE A MINIMUM OF TWO (2) FIRE HYDRANTS SERVING EACH PROPERTY WITHIN THE PRESCRIBED DISTANCES LISTED ABOVE. A MINIMUM OF ONE FIRE HYDRANT SHALL BE LOCATED ON EACH LOT. AMENDMENT 507.5.1
- A MINIMUM 10-FOOT UNOBSTRUCTED WIDTH SHALL BE PROVIDED AROUND A BUILDING FOR ADEQUATE FIRE DEPARTMENT ACCESS. A CONTINUOUS ROW OF PARKING AND LANDSCAPING SHALL BE CONSIDERED A BARRIER. AMENDMENT 503.1.1
- THE MAXIMUM DEAD-END CUL-DE-SAC LENGTH SHALL NOT EXCEED SIX HUNDRED FEET (600') AS MEASURED FROM THE CENTERLINE OF THE INTERSECTION STREET TO THE CENTER POINT OF THE RADIUS. AMENDMENT 503.1.5
- ONE- AND TWO-FAMILY DWELLINGS AUTOMATIC FIRE SYSTEMS. AUTOMATIC FIRE PROTECTION SYSTEMS PER NFPA 13D OR NFPA 13R SHALL BE PROVIDED IN ALL ONE- AND TWO-FAMILY DWELLINGS WITH A CONDITIONED FLR AREA OF 5,500 SQUARE FEET (511 M2) OR GREATER, DWELLINGS THREE (3) STORIES OR GREATER, OR DWELLINGS WITH ROOF HEIGHTS EXCEEDING THIRTY-FIVE FEET (35') FROM GRADE. IRC-2015 AMENDMENT R313.2
- HANDICAPPED PARKING AREAS AND BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT (ADA) AND WITH THE REQUIREMENTS OF THE CURRENT, ADOPTED BUILDING CODE.
- ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
- ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE PRELIMINARY SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
- ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FACADE PLAN.
- SIDEWALKS OF NOT LESS THAN SIX (6) FEET IN WIDTH ALONG THOROUGHFARES AND COLLECTORS AND FIVE (5) FEET IN WIDTH ALONG RESIDENTIAL STREETS AND BARRIER-FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
- ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
- ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
- ALL LANDSCAPE EASEMENTS MUST BE EXCLUSIVE OF ANY OTHER TYPE OF EASEMENT.
- IMPACT FEES WILL BE ASSESSED IN ACCORDANCE WITH THE LAND USE CLASSIFICATION(S) IDENTIFIED ON THE SITE DATA SUMMARY TABLE; HOWEVER, CHANGES TO THE PROPOSED LAND USE AT THE TIME OF CO AND/OR FINISH-OUT PERMIT MAY RESULT IN ADDITIONAL IMPACT FEES AND/OR PARKING REQUIREMENTS.
- THE APPROVAL OF A PRELIMINARY SITE PLAN SHALL BE EFFECTIVE FOR A PERIOD OF TWO (2) YEARS FROM THE DATE THAT THE PRELIMINARY SITE PLAN IS APPROVED BY THE PLANNING & ZONING COMMISSION. AT THE END OF WHICH TIME THE APPLICANT MUST HAVE SUBMITTED AND RECEIVED THE APPROVAL OF A SITE PLAN BY THE PLANNING & ZONING COMMISSION. IF A SITE PLAN IS NOT APPROVED WITHIN SUCH TWO (2) YEAR PERIOD, THE PRELIMINARY SITE PLAN APPROVAL IS NULL AND VOID. IF SITE PLAN APPROVAL IS ONLY FOR A PORTION OF THE PROPERTY, THE APPROVAL OF THE PRELIMINARY SITE PLAN FOR THE REMAINING PROPERTY SHALL BE NULL AND VOID.



LEGEND	
---	PROPERTY LINE
- - - -	EASEMENT/SETBACK (AS NOTED)
▬	FIRE LANE
▭	PREVIOUSLY APPROVED
●	FIRE HYDRANT
D	FDC
⊗	EASEMENT/SETBACK (AS NOTED)

FLOODPLAIN NOTE

NO PORTION OF THIS TRACT LIES WITHIN A 100-YEAR FLOOD PLAIN, OR IN A FLOOD HAZARD AREA ACCORDING TO THE NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP NUMBER 48085C0235J, WITH EFFECTIVE DATE OF JUNE 2, 2009

**PROSPER BUSINESS PARK**

CASE #: D22-0002

OWNER:  
CROSSLAND TEXAS INDUSTRIAL  
861 N. COLEMAN ST  
PROSPER, TX 75078  
PH: 972.347.5659

CONTACT NAME: ROCKY HUSSMAN

APPLICANT:  
CLAYMOORE ENGINEERING, INC.  
1903 CENTRAL DRIVE, SUITE #406  
BEDFORD, TX 76021  
PH: 817.281.0572

CONTACT NAME: MATT MOORE

LEGAL DESCRIPTION:  
LOT 8-11, BLOCK A, LOT 8, BLOCK B, PROSPER BUSINESS PARK  
AN ADDITION TO THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS  
AND BEING A PORTION OF THE COLLIN COUNTY SCHOOL SURVEY,  
ABSTRACT NUMBER 147, COLLIN COUNTY TEXAS

CITY: TOWN OF PROSPER STATE: TEXAS

COUNTY: COLLIN SURVEY: COLLIN COUNTY SCHOOL ABSTRACT NO: 147

TEXAS FIRM #14199 Item 18

**CLAYMOORE ENGINEERING**

1903 CENTRAL DRIVE, SUITE #406  
BEDFORD, TX 76021  
WWW.CLAYMOOREENGINEERING.COM  
PHONE: 817.281.0572  
FAX: 817.281.0573

**PRELIMINARY**

FOR REVIEW ONLY  
Not for construction purposes.

CLAYMOORE ENGINEERING  
ENGINEERING AND PLANNING  
CONSULTANTS  
Engineer: DREW DONOSKY  
P.E. No. 125651 Date: 8/29/2023

**PROSPER BUSINESS PARK**

PROSPER, TEXAS

NO.	DATE	REVISION

**PRELIMINARY SITE PLAN**

SHEET  
**PSP**

DESIGN: CWP  
DRAWN: CWP  
CHECKED: MAM  
DATE: 8/29/2023

File No: Page 205

PLOTTED BY: DREW DONOSKY  
PLOT DATE: 8/29/2023 10:09 AM  
LOCATION: Z:\PROJECTS\PROJECTS\2021-075 CROSSLAND PH 5\CADD SHEETS\PSP\PSP.DWG  
LAST SAVED: 8/28/2023 4:56 PM



**PLANNING**

**To: Mayor and Town Council**

**From: David Hoover, Director of Development Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: 313 North Coleman Road Rezoning**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 2. Development of Downtown as Destination**

**Agenda Item:**

Conduct a public hearing and consider and act upon a request to rezone 0.2± acres from Single Family-15 (SF-15) to Downtown Retail (DTR), for Mitchell Addition, Block 3, Lot 3D, located on the southwest corner of West Seventh Street and North Coleman Road. (ZONE-23-0016)

**Description of Agenda Item:**

The zoning and land use of the surrounding properties are as follows:

	<b>Zoning</b>	<b>Current Land Use</b>	<b>Future Land Use Plan</b>
<b>Subject Property</b>	Single Family-15	Residential	Downtown Office
<b>North</b>	Single Family-15	Residential	Downtown Office
<b>East</b>	Planned Development-112 (PD-112)	Office/Service	Downtown Office
<b>South</b>	Single Family-15	Residential	Downtown Office
<b>West</b>	Single Family-15	Residential	Downtown Office

**Requested Zoning** – The purpose of this request is to rezone the property from Single Family-15 (SF-15) to Downtown Retail (DTR). The existing home will be demolished and replaced with a commercial building with office and retail uses. The Downtown Retail District allows for both office and retail uses while the Downtown Office District only allows for office uses. Prior to development, the developer will be required to submit a Site Plan for review and approval by the Planning & Zoning Commission.

**Budget Impact:**

There is no budgetary impact affiliated with this item.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality. Notification was provided as required by the Zoning Ordinance and state law. Staff has not received any response to the proposed zoning request to date.

**Attached Documents:**

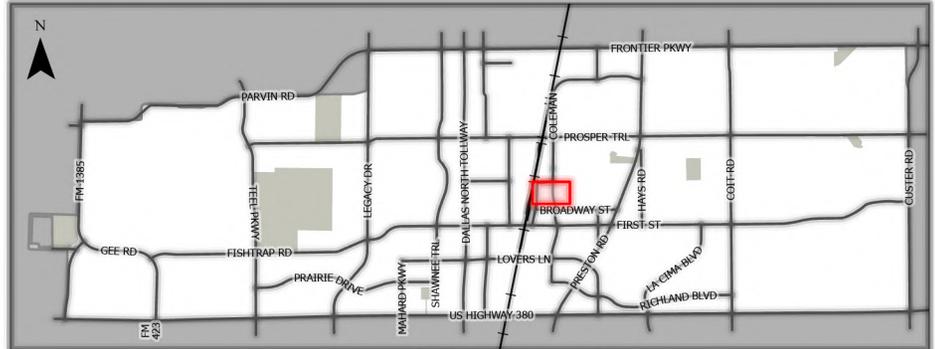
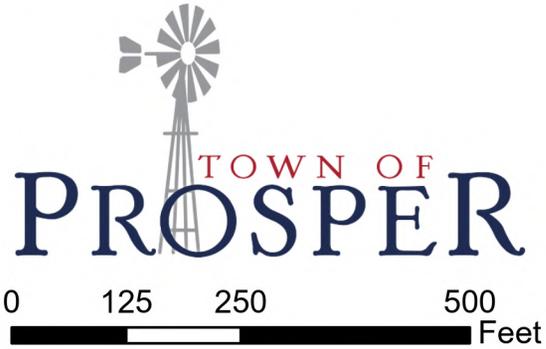
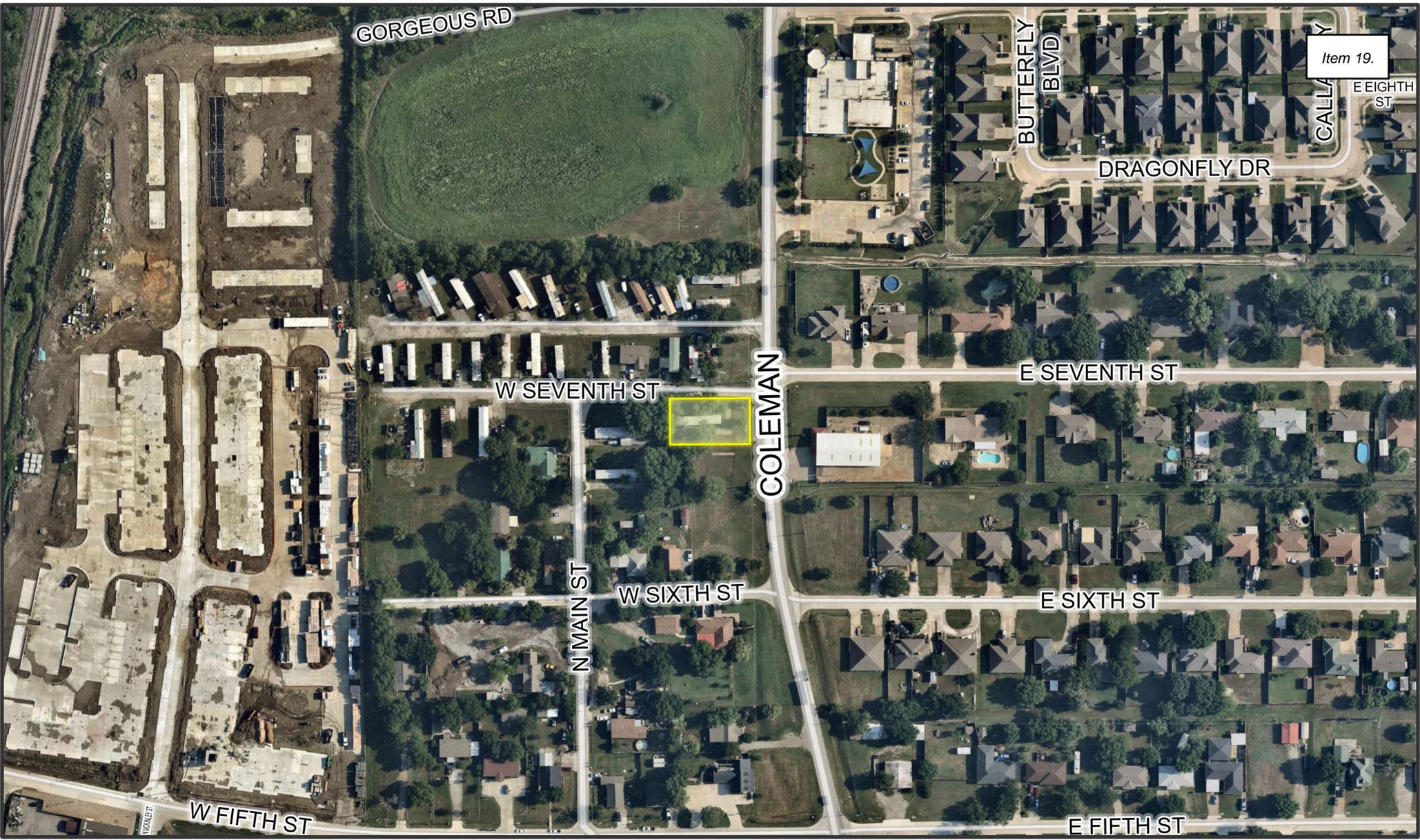
1. Aerial and Zoning Maps
2. Zoning Exhibit
3. Letter of Intent

**Town Staff Recommendation:**

Town Staff recommends approval of the request to rezone 0.2± acres from Single Family-15 (SF-15) to Downtown Retail (DTR), for Mitchell Addition, Block 3, Lot 3D, located on the southwest corner of West Seventh Street and North Coleman Road. This zoning change would not be seen as out of character with the neighborhood due to properties further south on Coleman Road being zoned Downtown Retail. Additionally, the Downtown Master Plan that was approved in 2022 states “niche retail is recommended along Preston Road and at the northern end of Coleman”.

**Proposed Motion:**

I move to approve/deny the request to rezone 0.2± acres from Single Family-15 (SF-15) to Downtown Retail (DTR), for Mitchell Addition, Block 3, Lot 3D, located on the southwest corner of West Seventh Street and North Coleman Road.

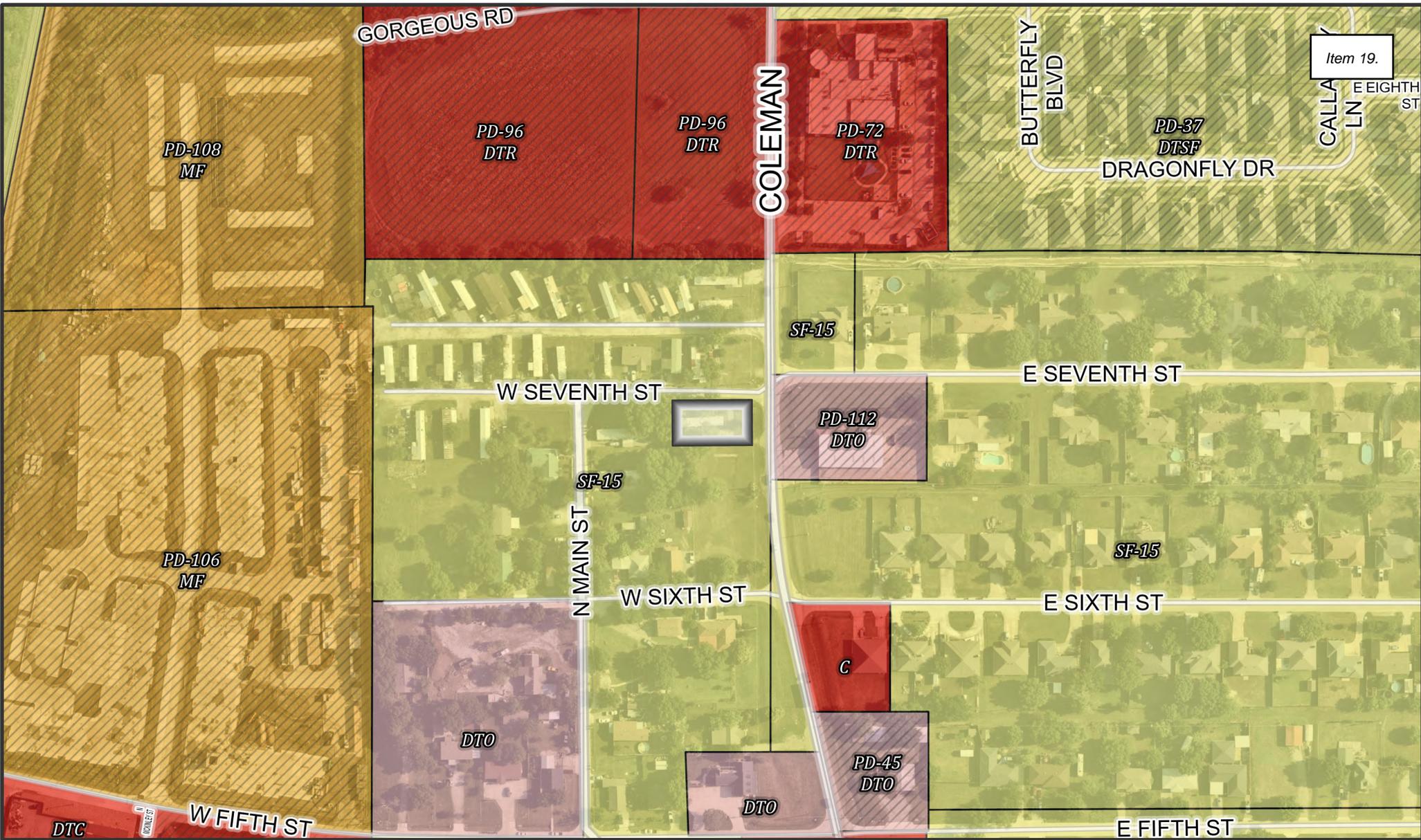


**ZONE-23-0016**

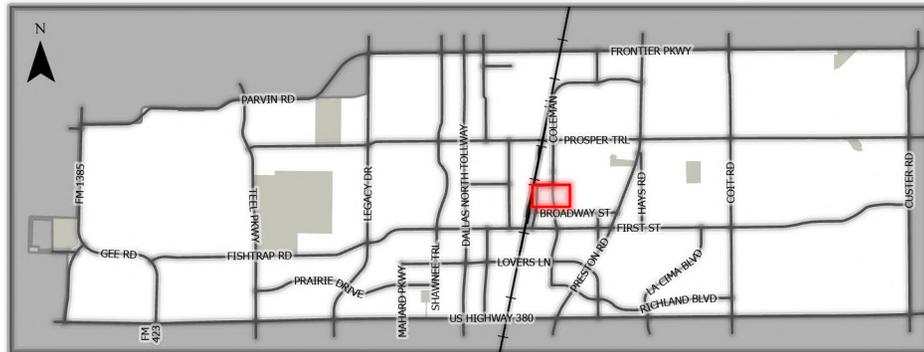
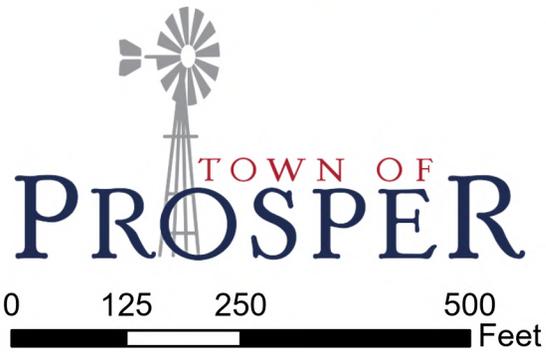
313 N Coleman St

Straight Zoning

This map for illustration purposes only



Item 19.



**ZONE-23-0016**

313 N Coleman St

Straight Zoning

This map for illustration purposes only

**SURVEY PLAT: 313 NORTH COLEMAN STREET**

Item 19.

**LEGAL DESCRIPTION - EXHIBIT A**

Being a part of Block 3, of J.P. Mitchell Addition, an addition to the City of Prosper, Collin County, Texas, according to the map thereof recorded in Volume 107, Page 588, Deed Records, Collin County, Texas, and being the same tract of land described in deed to Jackie James, recorded in Volume 2410, Page 657, Deed Records, Collin County, Texas, also being Property ID Number 977214 through the Collin County Appraisal District, and being more particularly described as follows:

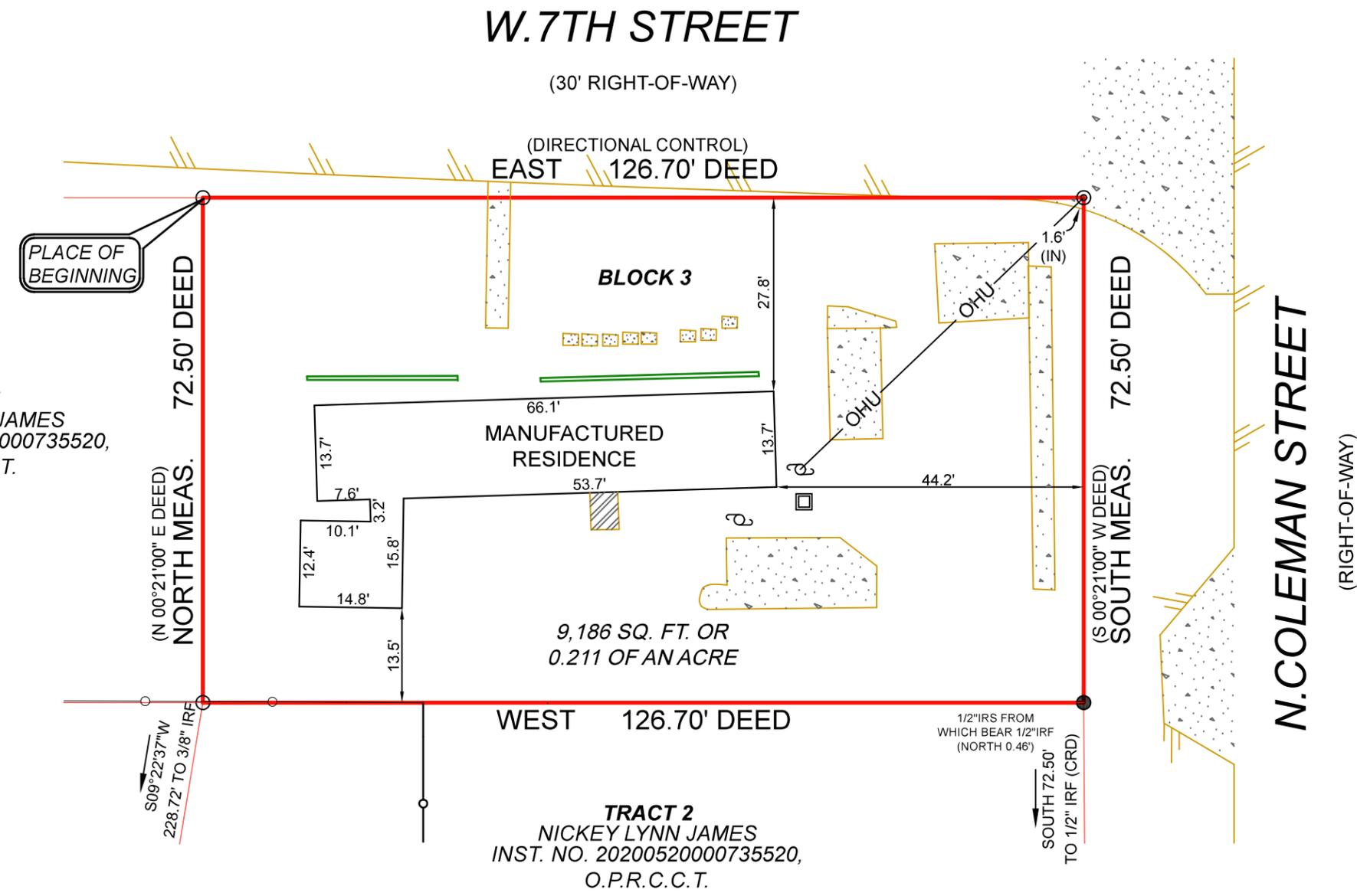
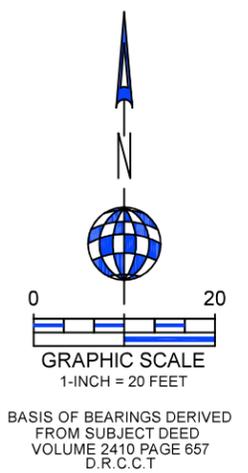
BEGINNING at a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set in the South line of West Seventh Street, a 30' right-of-way, at the Northeast corner of that portion of said Block 3 described as Tract 1 in deed to Nickey Lynn James, recorded in Instrument No. 20200520000735520, Official Public Records, Collin County, Texas;

Thence East, along said South line, a distance of 126.70' to an "X" set at the intersection of said South line with the West line of North Coleman Street, a variable width right-of-way;

Thence South, a distance of 72.50' to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set at the Northeast corner of that certain tract of land described as Tract 2 in said James Deed;

Thence West, along the North line of said Tract 2 of James Deed, a distance of 126.70' to a 1/2" iron rod with a yellow plastic cap stamped "RPLS 5310" set at the Southeast corner of said Tract 1 of James Deed;

Thence North, a distance of 72.50' to the PLACE OF BEGINNING and containing 9,186 square feet or 0.211 of an acre of land.



**TRACT 1**  
NICKEY LYNN JAMES  
INST. NO. 20200520000735520,  
O.P.R.C.C.T.

**TRACT 2**  
NICKEY LYNN JAMES  
INST. NO. 20200520000735520,  
O.P.R.C.C.T.

**FLOOD**  
This is to certify that no portion of the subject property shown hereon lies within the 100 Year Flood Hazard Area as shown on the Flood Insurance Rate Map, Community Panel No. 48015 CO235J, dated 06-02-09. The property is located in Zone "X".

NOTE: All 1/2 IRS are 1/2-inch iron rods with yellow plastic caps stamped "RPLS 5310".  
CRD = Corner of Record Dignity

ZONE-23-0016

LEGEND					
⊙ X-FOUND	☒ TELE. BOX	⊕ WATER VALVE	⚡ LIGHT POLE	—△— PIPE RAIL FENCE	— BOUNDARY
⊙ X-SET	☑ CABLE BOX	⚡ FIRE HYDRANT	Ⓣ TRAFFIC SIGN	— ASPHALT	— HIGH BANK LINE
⊙ 1/2" IR FOUND	⊗ ELECTRIC BOX	Ⓢ BOLLARD POST	Ⓣ UTILITY POLE	—OHU— OVERHEAD UTILITY LINE	— BUILDING LINE
⊙ 1/2" IR SET	⊠ BRICK COLUMN	Ⓢ SEPTIC COVER	Ⓢ WATER METER	— GUY WIRE ANCHOR	— EASEMENT
⊙ 5/8" IR FOUND	⊕ 1" IR FOUND	Ⓢ SAN. SEW. MH.	Ⓢ GAS METER	—X— BARBED WIRE FENCE	— FIRE LANE STRIPE
⊙ 3/8" IR FOUND	⊕ 1" IP FOUND	Ⓢ IRRIGATION VALVE	Ⓢ A.C. PAD	—□— IRON FENCE	— BRICK RET. WALL
⊙ 60-D NAIL FOUND	⊕ POINT FOR CORNER	Ⓢ STONE COLUMN	Ⓢ TRANS. BOX	—○— CHAINLINK FENCE	— STONE RET. WALL
⊙ PK NAIL SET	Ⓢ CON. MONUMENT	Ⓢ STORM DRAIN MH.	Ⓢ POOL EQUIP.	—//— WOOD FENCE	— CON. RET. WALL
⊙ 1/2" IP FOUND	⊕ 3/4" IP FOUND	Ⓢ SAN. SEW. CO.		—//> COVERED AREA	— STUC. RET. WALL
					— CONCRETE
					— GRAVEL
					— BRICK
					— STONE
					— WOOD DECK
					— BUILDING WALL
					— TILE
					— HANDICAP SPACE

I, John S. Turner, Registered Professional Land Surveyor of the State of Texas, do certify that this Survey Plat is a true, correct and accurate representation of the property shown hereon as determined by survey on the ground under my supervision. The lines and dimensions of said property being indicated by the plat. The improvements are within the boundaries of the property lines at the distances indicated and there are no visible and apparent easements, encroachments, conflicts or protrusions, except as shown. This survey meets or exceeds the minimum standards required by the Texas Board of Professional Land Surveying.

This survey was performed exclusively for the parties in connection with the G. F. Number shown hereon and is licensed for a single use. This survey remains the property of the Surveyor. Unauthorized reuse is not permitted without the expressed written permission of the Surveyor. This survey is an original work protected by United States Copyright law and international treaties. All rights reserved. Do not make illegal copies.

*John S. Turner*  
JOHN S. TURNER RPLS 5310

**A&W SURVEYORS, INC.**  
*Professional Land Surveyors*

TEXAS REGISTRATION NO. 100174-00  
P.O. BOX 870029, MESQUITE, TX. 75187  
PHONE: (972) 681-4975 FAX: (972) 681-4954  
WWW.AWSURVEY.COM

REVISED IN OFFICE ONLY 07-14-2023

JOB NO: 22-0939 DRAWN BY: 944  
DATE: 06-09-2022 G.F. NO: LT-191945-1901452  
TITLE CO: LAWYERS TITLE CERTIFY TO: ELWOOD ENTER

"A professional company operating in your best interest"

Subject: Letter of Intent for Zoning Change from SF15 to Downtown Retail (DTR) - 313 N Coleman St, Prosper, TX 75078

Dear Sir/Madam,

I am writing on behalf of Lamda Partners LLC, a company committed to "Building Prosperous Spaces," and we hereby express our intent to apply for a zoning change to Downtown Retail (DTR) for the property located at 313 N Coleman St, Prosper, TX 75078.

The primary purpose of this zoning application is to develop office spaces on the aforementioned property. The proposed gross building area is estimated to be between 2500 to 3500 square feet. Through this development, we aim to contribute to the ongoing Prosper Downtown Revitalization Program, which has already shown great promise in enhancing the heart of this growing city.

Our interest in Prosper began with our participation in The Discover Downtown Series, an enlightening experience that allowed us to truly understand the potential and charm of this vibrant community. As a result of this, we made the decision to invest in a property within the downtown area, and we are excited about the opportunities it presents.

By building office spaces in Prosper's downtown, we believe there will be several benefits that will positively impact both the local economy and the community at large. As outlined in our earlier communications, some of the advantages include:

**Economic Growth:** The development of office spaces will attract businesses, which will, in turn, lead to increased economic activity and stimulate further growth in the area.

**Job Creation:** The establishment of office spaces will generate job opportunities for the local workforce, contributing to a decrease in unemployment rates and promoting work-life balance for residents.

**Community Engagement:** A thriving downtown with office spaces can serve as a gathering place for community events, cultural activities, and social gatherings, fostering a strong sense of pride and connectedness among residents.

**Increased Foot Traffic:** The presence of office spaces will bring more people into the downtown area regularly, leading to increased foot traffic for nearby retail and service establishments, thus supporting local businesses.

**Tax Revenue and Sustainability:** The rise in commercial activity will result in higher tax revenues, which can be reinvested in public services, infrastructure

improvements, and other community initiatives. Additionally, by revitalizing the downtown area, we can contribute to a more sustainable city planning approach.

We assure you that our proposed development will align with the goals and guidelines of the Prosper Downtown Revitalization Program and that we are fully committed to creating a project that will contribute positively to the community and its vision for the future.

We kindly request your guidance and support throughout the zoning change process. If you require any additional information or documentation, please do not hesitate to contact us at the provided contact details.

Thank you for considering our letter of intent. We look forward to working closely with the Prosper Town Planning and Zoning Department to bring this project to fruition and contribute to the continued prosperity of the town.

Sincerely,  
Lamda Partners LLC  
Harisha Dodda  
Manohar Kunamneni



## FINANCE

**To: Mayor and Town Council**

**From: Chris Landrum, Finance Director**

**Through: Mario Canizares, Town Manager  
Bob Scott, Deputy Town Manager**

**Re: Establishing Loan Terms for Cart Purchase**

**Town Council Meeting – September 26, 2023**

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### **Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

#### **Agenda Item:**

Consider and act upon a resolution establishing loan terms between the Utility Fund and the Solid Waste Fund for financing the purchase of solid waste and recycling carts.

#### **Description of Agenda Item:**

At the June 27, 2023, meeting Council approved the award of all Solid Waste and Recycling services to Republic Services. As part of that award, the Town Council authorized the purchase of 95-gallon trash and recycling containers through Republic Services. As the second largest Solid Waste hauler in the nation, their nationwide purchasing power allowed them to offer a price of \$50 per container and \$5 for assembly and distribution. This is lower than other proposers and what the Town could likely obtain through competitive bidding.

Given that the Solid Waste Fund was only established in FY 2023, and that the current residential rate does not include any extra amount for Town administrative expenses, there is not sufficient fund balance to pay for this initial cart purchase. With the start of the new solid waste contract, \$2 for cart repayment and \$0.80 for administrative expenses have been built into the residential solid waste rates.

The Town plans to buy approximately 34,000 carts which will replace the current contractor's cart inventory and provide for one and a half to two years' population growth. To provide for adequate working capital until the new solid waste rates begin, the loan would be \$2 million. Key terms would be a) maximum ten-year term, b) no early repayment penalty, c) monthly payment beginning the end of April 2024, and d) 5.25% annual interest rate.

#### **Budget Impact:**

The Utility Fund will have more than adequate working capital after the loan. Loan repayment has been budgeted in the Solid Waste fund.

#### **Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Resolution
2. Cart Renderings
3. Accepted Materials List
4. Trash Day Checklist

**Staff Recommendation:**

Town staff recommends the Town Council approval of a resolution establishing loan terms between the Utility Fund and the Solid Waste Fund to finance purchase of solid waste and recycling carts.

**Proposed Motion:**

I move to approve a resolution establishing loan terms between the Utility Fund and the Solid Waste Fund to finance purchase of solid waste and recycling carts.

## TOWN OF PROSPER, TEXAS

## RESOLUTION NO. 2023-XX

**A RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, APPROVING A LOAN AND SETTING THE TERMS OF REPAYMENT BETWEEN THE UTILITY FUND AND THE SOLID WASTE FUND TO FINANCE PURCHASE OF 95-GALLON TRASH AND RECYCLING CARTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council on June 27, 2023, awarded an exclusive franchise to Republic Services for all residential and commercial trash and recycling in the Town; and

**WHEREAS**, the Town has determined that it is the Town's best interests to own the residential and recycling containers used to service its residents; and

**WHEREAS**, the Solid Waste Fund does not have adequate funds on hand to pay for the initial purchase of the containers.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:**

**SECTION 1**

The Town Council of the Town of Prosper, Texas, authorizes the Utility Fund to loan the Solid Waste Fund \$2,000,000 for the purpose of acquiring and deploying residential 95-gallon trash and recycling containers throughout the Town. Any loan amount in excess of the amount paid for the carts may be utilized for general working capital purposes.

**SECTION 2**

The loan will be made no earlier than the placement of the order for the carts with interest of 5.25% percent accruing upon receipt of the funds.

**SECTION 3**

Repayment of principal and interest will be made monthly beginning April 30, 2024, for a maximum term of ten (10) years. Prepayment is allowed without penalty.

**SECTION 4**

This Resolution shall take effect from and after the date of its passage.

**DULY PASSED AND APPROVED, BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 26TH DAY OF SEPTEMBER, 2023.**

**APPROVED:**

\_\_\_\_\_  
David F. Bristol, Mayor

**ATTEST:**

\_\_\_\_\_  
**Michelle Lewis Sirianni, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Terrence S. Welch, Town Attorney**





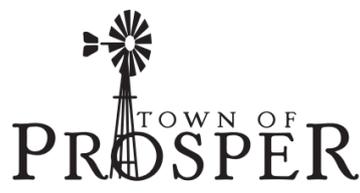
**PROOF APPROVAL - Part # 431**



## Accepted Materials

Ensure items are empty, clean and dry.

Asegúrese de que los artículos estén vacíos, limpios y secos



TOWN OF  
**PROSPER**





### Paper & Cardboard

Cardboard (flattened), office paper, file folders, magazines, catalogs, newspaper and inserts, junk mail, telephone books, etc.

Cajas de cartón (desarmadas), papel de oficina, carpetas de archivos, revistas, catálogos, periódicos y folletos, directorios telefónicos, etc.



### Aluminum/ Metal

Aluminum, tin or steel cans, foil, pie tins

Latas de aluminio, hojalata o acero, papel de aluminio, bandejas de papel de aluminio



### NOT ACCEPTED IN RECYCLING CONTAINER

NO ACEPTADOS EN CONTENEDORES DE RECICLAJE

<p><b>No plastic grocery bags</b> Bolsas de compras de plástico</p> <p><b>No food waste</b> Restos de alimentos</p> <p><b>No yard waste</b> Desechos de jardín</p> <p><b>No light bulbs, window glass or mirrors</b> Bombillas de luz, vidrio de ventanas o espejos</p> <p><b>No batteries</b> Baterías</p> <p><b>No ceramics or dishes</b> Cerámica o vajilla</p> <p><b>No clothing</b> Ropa</p>	<p><b>No garden hoses</b> Mangueras de jardín</p> <p><b>No cellphones, computers or electronics</b> Celulares, computadoras o productos electrónicos</p> <p><b>No polystyrene foam</b> Poliestireno</p> <p><b>No hazardous waste containers</b> Recipientes de desechos peligrosos</p> <p><b>No construction waste</b> Desechos de construcción</p> <p><b>No oil containers of any kind</b> Recipientes de aceite de cualquier tipo</p>
---	---



### Cartons

Milk and juice cartons, aseptic containers

Cartones de leche y jugo, envases asépticos



### Plastic

Plastic bottles, containers

Botellas y envases de plástico



### Glass

Glass jars, bottles

Botellas y envases de vidrio

431 AUG23

9.50"

9.00"



**Central Decal Company**  
6901 High Grove Blvd  
Burr Ridge, IL 60527  
www.centraldecal.com

job# **233235**  
customer **Schaefer Systems**  
filename **SSI1197.x9**  
attn

account mgr **Erin Kaplan**  
quality control **Tom Casey**  
proofed by **Rob Swaim**  
operator **BS**  
revision  
created **08/24/23**  
rev date

**PRINTED COLORS**

 Primer	 White	 CMYK	 Clear
 Orange 715	 Dk Blue 2955		

Note: Colors on this paper proof are not accurate. For color approval please see your color swatch or digitally printed proof

**PART DESCRIPTION**

**LABEL SIZE**  
9.50" x 9.00"

**CONSTRUCTION**  
10 mil Clear Anti-static PP Blend

**SPECIAL INSTRUCTIONS**

**PROOF APPROVAL - Part # 431**

Please mark up any changes. Your approval indicates your complete acceptance of the decal produced  
**PLEASE sign & email or fax 630-325-9860 - NOTE: Delivery date is contingent upon our receipt**

**Approved**     **Approved with changes/corrections**     **Resubmit**

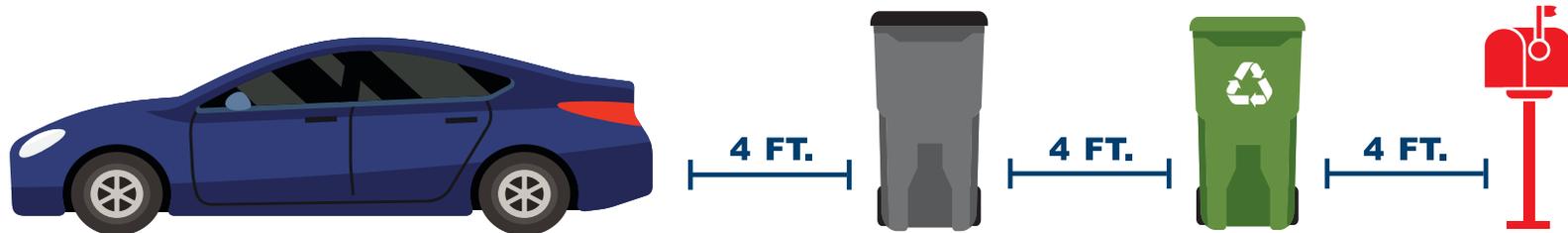
Signature / Date \_\_\_\_\_

Page 219

# TRASH DAY CHECKLIST



- ✓ MAKE SURE CARTS ARE OUT NO LATER THAN 7 A.M. THE DAY OF COLLECTION
- ✓ BRING CARTS BACK FROM CURB WITHIN 24 HOURS OF SERVICE
- ✓ CART OPENING SHOULD FACE THE STREET
- ✓ RECYCLING AND TRASH BOTH GO OUT THE SAME DAY



ALWAYS LEAVE 4 FT. OF SPACE BETWEEN CARTS AND OTHER OBJECTS

GREY CARTS = TRASH GREEN CARTS = RECYCLING

[prospertx.gov](http://prospertx.gov)

435 SEPT23

4.5"

9.5"



**Central Decal Company**  
 6901 High Grove Blvd  
 Burr Ridge, IL 60527  
[www.centraldecal.com](http://www.centraldecal.com)

job# **233587**  
 customer **SCHAEFER**  
 filename **SSI1201.x5**  
 attn

account mgr **Butch Kaplan**  
 quality control **Tom Casey**  
 proofed by **Rob Swaim**  
 operator **KG**  
 revision  
 created **9/14/23**  
 rev date **9/20/23**

**PRINTED COLORS**



**PART DESCRIPTION**  
 TOWN OF PROSPER TRASH  
**LABEL SIZE**  
 9.50" x 4.50"  
**CONSTRUCTION**  
 10MIL CL ANTISTAT PP  
**SPECIAL INSTRUCTIONS**  
 None

## PROOF APPROVAL - Part #: 435

Please mark up any changes. Your approval indicates your complete acceptance of the decal produced  
**PLEASE sign & email or fax 630-325-9860 - NOTE: Delivery date is contingent upon our receipt**

**Approved**     **Approved with changes/corrections**     **Resubmit**

Signature / Date



## PARKS & RECREATION

**To: Mayor and Town Council**

**From: Dan Baker, Director of Parks and Recreation**

**Through: Mario Canizares, Town Manager  
Robyn Battle, Executive Director**

**Re: Council Update on Lakewood Preserve Park Project**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Receive an update on the Lakewood Preserve Park project.

**Description of Agenda Item:**

Ratliff Hardscape is the selected contractor determined through the competitive sealed proposal process, and after negotiations has agreed to a project cost of \$4,866,000. The park playground was procured last year (\$131,477) due to rising equipment costs and is not reflected in this bid amount. This agreement includes all the base bid items of the project plus bid alternates including a restroom and playground installation costs.

Hines (developer) will be managing the project, covering the park design costs, and platting expenses in lieu of payment of park fees. The Town has entered into a Facilities Agreement with Hines that defines their responsibilities for overseeing development of the park.

Park amenities will include four pickleball courts, a basketball court, baseball backstops, three lighted soccer fields, the Town's first cricket field and pitch, a restroom facility, expanded playground, additional trails, landscaping and parking.

The Town, developer, and contractor are in agreement regarding the future of this project and are all committed to producing a quality project that will meet the project budget and schedule. The project will begin within 30 days of execution of the construction agreement. The Project construction estimated time frame is 14 months.

**Budget Impact:**

The project has been bid as a competitive sealed proposal and awarded to Ratliff Hardscape in the amount of \$4,886,000 for construction with an additional expense of \$131,477 for prior procurement of additional playground equipment to be installed as part of this project. Total project cost is \$5,017,477. The Prosper Area Soccer Association (PASO) has agreed to contribute \$500,000 toward the cost of the restroom facility. Funding for this project is available through a

combination of 2020 Bond dollars, tree mitigation fees, park improvement/development fees, and General Fund dollars.

Item 21.

**Town Staff Recommendation:**

No Council action is necessary on this item. Town staff requests feedback and comments on the proposed project.



## PARKS AND RECREATION

**To: Mayor and Town Council**

**From: Dan Baker, Director of Parks and Recreation**

**Through: Mario Canizares, Town Manager  
Robyn Battle, Executive Director**

**Re: Amendment to a Professional Services Agreement**

**Town Council Meeting – September 26**

**Strategic Visioning Priority: 1. Acceleration of Infrastructure**

### **Agenda Item:**

Consider and act upon Contract Amendment #1 to a Professional Services Agreement with Dunaway Associates, LLC, for additional design services related to the development of Raymond Community Park.

### **Description of Agenda Item:**

The Town entered into a Professional Services Agreement with Dunaway Associates, LLC, for the design of First & Coit Community Park (Raymond Community Park) in March of 2022. The scope of design services has been increased since execution of the original Professional Services Agreement. The additional scope has been added at the Town's request.

The additional design services are as follows:

- 1. Final Plat (Taxable) including boundary services and Final Plat Processing (Surveying) - \$37,200**  
Final plat comment processing (Survey) – Dunaway will make revisions to the survey drawing to address survey matters (if any) brought to Dunaway's attention by Town, or their representative. The fee is not to exceed five rounds of comments.
- 2. Pickleball & Tennis Area - \$165,600**  
Overall grading, utilities, post-tensioned courts, shade structures, CXT restroom building, lighting service and lighting.
- 3. North Playground Area - \$58,450**  
Overall grading, utilities, concrete pavement areas, play structures, shade structures, and CXT restroom building.

### **Budget Impact:**

The original contract amount was \$1,091,600. The total cost of additional services is \$261,250. The total revised contract amount will be \$1,352,850. The original budget was \$1,200,000. Additional funding for this amendment is available in account 750-5410-10-00-2122-PK.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached document as to form and legality.

**Attached Documents:**

1. Contract Amendment #1

**Town Staff Recommendation:**

Town Staff recommends approval of Contract Amendment #1 to a Professional Services Agreement with Dunaway Associates, LLC, for additional design services related to the development of Raymond Community Park.

**Proposed Motion:**

I move to approve Contract Amendment #1 to a Professional Services Agreement with Dunaway Associates, LLC, for additional design services related to the development of Raymond Community Park.

**CONTRACT AMENDMENT #1  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND DUNAWAY ASSOCIATES, LLC  
FOR THE RAYMOND COMMUNITY PARK PHASE 1 PROJECT 2122-PK**

This Contract Amendment for Professional Services, hereinafter called "Amendment," 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 company authorized to do business in Texas, acting through a duly authorized officer, hereinafter called "Consultant," relative to Consultant providing professional engineering services to Town. Town and Consultant when mentioned collectively shall be referred to as the "Parties."

**WITNESSETH:**

**WHEREAS**, the Town previously engaged the services of the Consultant in connection with **Raymond Community Park Phase I Project 2122-PK** to be located at 201 Coit Road, hereinafter called "Project"; and

**WHEREAS**, the Parties previously entered into an professional services agreement regarding the Project on or about March 21, 2022, in the amount of one million, ninety-one thousand, six hundred dollars (\$1,091,600), hereinafter called the "Original Agreement"; and

**WHEREAS**, the Parties now desire to amend the Original Agreement to increase the scope of services and compensation provided to include final plat, pickleball & tennis area, and North playground area.

For the mutual promises and benefits herein described, Town and Consultant agree to amend the Original Agreement as follows:

1. **Additional Services to be Performed by Consultant.** The Parties agree that Consultant shall perform such additional services as are set forth and described in **Exhibit A1 – Scope of Services** and incorporated herein as if written word for word. All references in the Original Agreement to "Exhibit A" are hereby amended to state "Exhibits A and A1."

2. **Additional Compensation of Consultant.** Town agrees to pay to Consultant for the satisfactory completion of all services included in this Amendment a total additional fee of two hundred sixty-one thousand, two hundred and fifty dollars (\$261,250) for the additional services as set forth and described in **Exhibit B1 – Compensation Schedule** and incorporated herein as if written word for word. All references in the Original Agreement to "Exhibit B" are hereby amended to state "Exhibits B and B1."

3. **Revised Compensation for Consultant's Services.** Paragraph 4 of the Original Agreement is hereby amended to increase Consultant's total compensation by deleting one million, ninety-one thousand, six hundred dollars (\$1,091,600) and replacing it with one million, three hundred fifty-two thousand, eight hundred and fifty dollars (\$1,352,850).

4. **Original Agreement.** All other provisions and terms of the Original Agreement shall remain in full force and effect and this Amendment to the Original Agreement shall in no way release, affect, or impair any other provision or responsibility contained in the Original Agreement.

**IN WITNESS WHEREOF**, the Parties, having read and understood this Amendment, 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: Philip Neeley  
Signature

By: \_\_\_\_\_  
Signature

Philip Neeley  
Printed Name

Mario Canizares  
Printed Name

Senior Engagement Manager  
Title

Town Manager  
Title

September 6, 2023  
Date

\_\_\_\_\_  
Date

**EXHIBIT A1  
SCOPE OF SERVICES**

**CONTRACT AMENDMENT #1  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND DUNAWAY ASSOCIATES, LLC  
FOR THE FIRST & COIT COMMUNITY PARK (RAYMOND COMMUNITY PARK) PHASE 1 PROJECT 2122-PK**

**I. PROJECT DESCRIPTION**

Final Plat including boundary services and Final Plat processing. Design and plans development for pickleball and tennis court facilities. Design and plans development for a north playground area.

**II. TASK SUMMARY**

Task 1 – Final Plat (Taxable) including boundary services and Final Plat Processing (Surveying): Final plat comment processing (Survey) – Dunaway will make revisions to the survey drawing to address survey matters (if any) brought to Dunaway attention by Town, or their representative. The fee is not to exceed five rounds of comments.

Task 2 – Pickleball & Tennis Area: Overall grading, utilities, post-tensioned courts, shade structures, CXT restroom building, lighting service and lighting.

Task 3 – North Playground Area: Overall grading, utilities, concrete pavement areas, play structures, shade structures, and CXT restroom building.

**III. DELIVERABLES**

Task 1 – Final Plat

Task 2 – Pickleball & Tennis Area:  
Final construction documents and specifications.

Task 3 – North Playground Area:  
Final construction documents and specifications

**EXHIBIT B1  
COMPENSATION SCHEDULE**

**CONTRACT AMENDMENT #1**

**BETWEEN THE TOWN OF PROSPER, TEXAS, AND DUNAWAY ASSOCIATES, LLC  
FOR THE FIRST & COIT COMMUNITY PARK (RAYMOND COMMUNITY PARK) PHASE 1 PROJECT 2122-PK**

**I. COMPENSATION SCHEDULE**

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	Month/Year	
<u>Task 1 – Final Plat</u>	November 2023	\$37,200
<u>Task 2 – Pickleball &amp; Tennis Area</u>	November 2023	\$165,600
<u>Task 3 – North Playground Area</u>	November 2023	\$58,450
<b>Total Compensation</b>		<b>\$261,250</b>

**II. COMPENSATION SUMMARY**

Basic Services (Lump Sum)	Amount
<u>Task 2 – Pickleball &amp; Tennis Area</u>	\$165,600
<u>Task 3 – North Playground Area</u>	\$58,450
<b>Total Basic Services:</b>	<b>\$224,050</b>

Special Services (Hourly Not-to-Exceed)	Amount
Task 1 – Final Plat	\$37,200
<b>Total Special Services:</b>	<b>\$37,200</b>

Direct Expenses	Amount
None	\$0,000
<b>Total Direct Expenses:</b>	<b>\$0,000</b>



## PARKS & RECREATION

**To: Mayor and Town Council**

**From: Dan Baker, Director of Parks and Recreation**

**Through: Mario Canizares, Town Manager  
Robyn Battle, Executive Director**

**Re: NLC Dream Court**

**Town Council Meeting – September 26, 2023**

**Strategic Visioning Priority: 4. Provide Excellent Municipal Services**

**Agenda Item:**

Consider and act upon an agreement with Nancy Lieberman Charities (NLC) for the installation of a Dream Court at Tanner's Mill Park and authorize the Town Manager to execute the same.

**Description of Agenda Item:**

The Town was approached by Nancy Lieberman Charities (NLC) to install a Dream Court at Tanner's Mill Park. The Dream Court is comprised of two hoop systems and a court overlay on an existing full-size basketball court. The Town will contribute 50% (\$75,000) toward the total cost of construction, which is approximately \$150,000. NLC intends to dedicate the court in honor of Makayla Noble. A grand opening and dedication ceremony will be planned after construction is complete. Construction of the Dream Court is anticipated to take approximately 90 days.

**Budget Impact:**

Funding for this project is available in Parks & Recreation account 100-5410-60-01.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the attached documents as to form and legality.

**Attached Documents:**

1. Agreement with Nancy Lieberman Charities

**Town Staff Recommendation:**

Town Staff recommends Council approve an agreement with Nancy Lieberman Charities (NLC) for the installation of a Dream Court at Tanner's Mill Park and authorize the Town Manager to execute the same.

**Proposed Motion:**

I move to approve an agreement with Nancy Lieberman Charities (NLC) for the installation of a Dream Court at Tanner's Mill Park and authorize the Town Manager to execute the same.

## **AGREEMENT**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, between Town of Prosper (Town) and Nancy Lieberman Charities (NLC).

### **WITNESSETH**

WHEREAS, NLC desires to promote the sport of basketball, community, and police and community relations; and,

WHEREAS, NLC desires the right and privilege to place a Dream Court at Tanner’s Mill Park location which is owned by the Town; and,

WHEREAS, NLC is willing to provide the equipment necessary for a Dream Court basketball court, and is willing to install such equipment and paint the basketball court; and,

WHEREAS, the Town desires to make the sport of basketball available to the public and is honored to be a recipient of a Dream Court, and finds that it is in the public interest for NLC to do so.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

#### **1. LICENSE GRANTED**

In consideration of the mutual covenants and terms of this License, and of other good and valuable consideration, the Town hereby grants, upon the terms and conditions set forth in this License, a license to NLC for the sole purpose of installing new basketball court equipment and basketball court, at Tanner’s Mill Park as depicted in Exhibit A, attached to this agreement and in accordance with the terms and provisions set forth herein. The Park is located at 1641 Prince William Ln. Prosper, TX 75078.

#### **2. LICENSE TERM**

The term of this license shall be for 90 days beginning on the date of the execution of this License by the Town and ending on the ninetieth day, unless renewed or terminated sooner as provided in this License (the “Primary Term”).

### 3. OWNERSHIP OF IMPROVEMENTS

Any and all improvements constructed, placed, and located on any part of the basketball court during the term of this License shall be considered part of the real property of the Town and must remain at the Town. Further, subject to the terms of this License, said real property becomes property of the Town, from and after the termination of this License.

### 4. MAINTENANCE

The Town shall be responsible for any maintenance after the Dream Court has been installed and painted.

### 5. ADVERTISING

NLC shall have the right to procure and display advertising upon the surface of the Dream Court in accordance with the rendering provided. NLC shall not, in procuring, installing, or displaying advertisement, violate any person's right to privacy or infringe upon trademarks, trade names, copyrights, or proprietary rights of any person. It is understood and agreed that any approval by the Town of advertising material shall not constitute a waiver of NLC obligations concerning such violation or infringement.

### 6. ACCESS

During the term of this License, and any renewals thereof, the Town grants NLC access to the Tanner's Mill Park basketball court for the purpose of installing and painting the Dream Court during normal business hours, except when the area of the park containing the equipment is reserved to a group for exclusive use, when the Town is performing a maintenance function requiring closure of the area, or during an unforeseen emergency.

## 7. LOCATION OF EQUIPMENT

NLC agrees that the location of any improvements must be approved by the Town.

## 8. COMPLIANCE WITH APPLICABLE LAWS

NLC shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this License, and any amendments thereto during the course of installing and painting the Dream Court.

## 9. INSURANCE

NLC shall provide proof of insurance through vendor, SportCourt, at its sole cost and expense through the life of this License in form and substance satisfactory to the Town, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this License, including without limitation, the indemnity obligations set forth herein. NLC shall obtain and maintain in full force and effect during the term of this License public liability insurance with insurance carriers admitted to do business in the state of Texas. The policy will be written on an occurrence basis, subject to the following minimum limits of liability:

Public Liability:

Per Occurrence Single Limit: \$1,000,000

The Town shall be listed as a primary and noncontributory additional insured with respect to the Public Liability and shall be granted a waiver of subrogation under the policy. NLC shall provide a Certificate of Insurance to the Town as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation for each Dream Court. If at any time during the life of the License or any extension hereof, NLC fails to maintain the required insurance in full force and effect, NLC shall be in breach hereof and all work under the License shall be discontinued immediately.

## 11. DEFAULT

In the event NLC shall fail to perform any of the obligations called for herein on its part to be performed, and upon receiving written notice of such deficiency by the Town, and upon NLC failure to cure such deficiency within fifteen (15) days after receipt of such notice, then the Town may, by written notice to NLC, terminate this License.

## 12. NO WAIVER

No failure to exercise, and no delay in the exercise on the part of the Town, of any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. The rights of the Town hereunder shall be in addition to all other rights provided by law.

## 13. NOTICE

Any notice required or permitted to be given herein must be given in writing and must be personally delivered, delivered by telephone facsimile, or mailed by prepaid certified or registered mail to the party to whom such notice or communication is directed at the address of such party as follows:

### **Town of Prosper**

Attn: Dan Baker

Address: 407 E First St. Prosper, TX 75078

Telephone: 972-569-1060

### **Nancy Lieberman Charities:**

Attn: Nancy Lieberman

Nancy Lieberman Charities

P.O. Box 261233

Plano, TX 75026

Telephone: 972-473-2121

Any such notice or other communication shall deem to have been given on the date it is personally delivered or delivered by telephonic facsimile, or, if mailed, on the third day, after it is mailed. Any party may change its address for purposes of this License by giving notice of such change to all other parties pursuant to this section.

#### 14. RENEWAL

This License may be renewed for one additional 90-day term, by written agreement between the Town and NLC in order to complete any work not completed in the Primary Term.

#### 15. ASSIGNABILITY

This license is personal to NLC. NLC shall not assign or sublet this license, without the consent of Town. Any attempt to assign or sublet this license, without the consent of Town, shall terminate the license granted herein.

#### 16. CONTROL OF

The Town shall retain all powers placed in it, which are non-delegable. No provision of this License shall be construed as delegating any non-delegable right, power or duty of the Town, and in the event of a conflict between this section and any other term or provision of this License, this section shall control and such conflicting term or provision shall be void and of no force and effect.

#### 17. RELATIONSHIP OF THE PARTIES

The relationship between the Town and NLC is at all times solely that of licensor and licensee, and may not be deemed, in any event, a partnership or a joint venture. As consideration, the Town agrees to make a monetary contribution of \$75,000 to NLC for the completion of the project at Tanner Mill's Park, payable upon the execution of this Agreement by both parties.

## 18. CONSTRUCTION AND VENUE

THIS LICENSE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE TEXAS AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS LICENSE OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

## 19. SEVERABILITY

If any provision of this License is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this License, and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective, shall not be affected thereby.

## 20. LICENSES SUPERSEDED

This License constitutes the parties' sole License and supersedes any prior understandings or written or oral Licenses between the parties with respect to the subject matter hereof.

## 21. AMENDMENT

No amendment, modification, or alteration of this License is binding, unless in writing, dated subsequent to the date of this License, and duly executed by the parties.

## 22. ENTIRE AGREEMENT

This Contract contains the entire agreement between the Town and NLC, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

23. BINDING EFFECT

This License shall inure to the benefit of and be binding upon the parties hereto, their respective successors, heirs, devisees, and assigns.

24. TIME OF ESSENCE

Time is of the essence in this License and all obligations shall be performed in a timely manner.

25. LICENSE

The intent of this License is to grant a license to NLC to utilize the Town’s basketball court solely for the purposes described herein. This License shall not be construed, in any way, manner or form, as a lease of the Town’s basketball court or as conveying to NLC any interest in the real property comprising the Town basketball court.

**IN WITNESS WHERE OF**, the parties hereto have executed this License the day and year first above written.

EXECUTED and effective as of the date of the execution by:

**Town of Prosper**

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Mario Canizares, Town Manager  
Town of Prosper

**Nancy Lieberman Charities**

BY: *Nancy Lieberman* DATE: 9-19-2023

Nancy Lieberman, President & Founder

Nancy Lieberman Charities



**NANCY LIEBERMAN CHARITIES**

P.O. Box 261233 • Plano, TX 75026  
Phone: (972) 473-2121

NLC DREAM COURT  
TOWN OF PROSPER  
50' X 84' HS BASKETBALL

Athletic & Recreational Architecture



[www.spoiledsportdesign.com](http://www.spoiledsportdesign.com)



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