



Prosper is a place where everyone matters.

Agenda
Prosper Town Council Meeting
Prosper Town Hall, Council Chambers
250 W. First Street, Prosper, Texas
Tuesday, February 14, 2023
4:15 PM

Welcome to the Prosper Town Council Meeting.

Citizens may watch the meeting live by using the following link:
<https://prosper.tx.new.swagit.com/views/378/>

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 Town Council 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 of the Town Council. 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.

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.

1. Consider and act upon the minutes from the January 24, 2023, Town Council Work Session meeting. (MLS)

2. Consider and act upon the minutes from the January 24, 2023, Town Council Regular meeting. (MLS)
3. Consider and act upon an ordinance ordering a General Election to be held on May 6, 2023, for the purpose of electing a Councilmember Place 3 and Councilmember Place 5; designating location of polling places; ordering notices of election to be given as prescribed by law and authorizing the Interim Town Manager to execute contracts with Collin County and Denton County Election Departments for joint election services. (MLS)
4. Consider and act upon an ordinance by the Town Council, acting as the Board of Directors of the Crime Control and Prevention District, ordering a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Crime Control and Prevention District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to crime control and prevention programs. (MLS)
5. Consider and act upon an ordinance by the Town Council, acting as the Board of Directors of the Fire Control, Prevention and Emergency Medical Services District, ordering a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Fire Control, Prevention and Emergency Medical Services District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to fire safety and emergency medical services programs. (MLS)
6. Consider and act upon approving the purchase of a subscription for weather alert software (web + mobile) from Perry Weather Consulting, Inc., for Frontier Park, Folsom Park, and Eagles Landing Park, and authorizing the Interim Town Manager to execute documents for the same. (DB)
7. Consider and act upon approving the purchase of Public Safety, Firehouse Supplies, and Equipment through the Texas Local Government Purchasing Cooperative from GT Distributors, Inc. (SB)
8. Consider and act upon approving a unit price, as needed contract, between DHS Automation Inc., a sole source provider, and the Town of Prosper, Texas, related to SCADA, maintenance, and water and wastewater electrical services and repair; and authorizing the Interim Town Manager to execute documents for the same. (FJ)
9. Consider and act upon approving the purchase and installation of streetlights from Groves Electrical Services, Inc., through the Texas Local Government Purchasing Cooperative; and authorizing the Interim Town Manager to execute documents for the same. (FJ)
10. Consider and act upon the purchase of ammunition and range supplies from GT Distributors Inc., utilizing the Buyboard Contract #603-20; and authorizing the Interim Town Manager to execute documents for same. (DK)
11. Consider and act upon a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program and consider and act upon authorizing the Interim Town Manager and/or his/her designee to accept the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program upon award. (DK)

- [12.](#) Consider and act upon authorizing the Interim Town Manager, and/or his/her designee, to accept the award for the Office of the Governor, Criminal Justice Division, Bullet Resistant Shield Grant Program, FY2023. (DK)
- [13.](#) Consider and act upon a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant and consider and act upon authorizing acceptance of the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant, if awarded. (DK)
- [14.](#) Consider and act upon awarding RFP No. 2022-57-B Comprehensive Broadband Analysis to Lit Communities, related to the EDA Prosper Subregional Broadband Assessment & Strategy Project, and authorizing the Interim Town Manager execute an agreement for the same. (MM)
- [15.](#) Consider and act upon authorizing the Interim Town Manager to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Water, Wastewater, and Roadway Impact Fee Update project. (HW)
- [16.](#) Consider and act upon authorizing the Interim Town Manager to execute Contract Amendment No. 2 to the Professional Services Agreement, between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the design of the Custer Road Pipeline and Meter Vault Relocation project. (HW)
- [17.](#) Consider and act upon an ordinance granting a non-exclusive gas franchise to Atmos Energy Corporation and repealing Ordinance No. 2023-02. (RBS)
- [18.](#) Consider authorizing the Interim Town Manager to execute on behalf of the Town settlement documentation relative to the State of Texas’ and other governmental entities’ litigation against Allergan, CVS, Walmart and Walgreens for the marketing, sale and dispensing of opioids, and to take all actions incident and related thereto. (TW)
- [19.](#) Consider and act upon an ordinance to rezone 0.177± acres from Single Family-15 (SF-15) to Downtown Office (DTO), on Lots 10A & 11B, located on the north side of Broadway Street, east of Coleman Street. (Z22-0017). (DS)

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.

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.

Section 551.071 - Litigation update.

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, February 10, 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.



Prosper is a place where everyone matters.

MINUTES

Prosper Town Council Work Session
Prosper Town Hall – Council Chambers
250 W. First Street, Prosper, Texas
Tuesday, January 24, 2023

Call to Order/ Roll Call.

The meeting was called to order at 5:00 p.m.

Council Members Present:

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

Staff Members Present:

Bob Scott, Interim Town Manager
Michelle Lewis Sirianni, Town Secretary
Terry Welch, Town Attorney
Robyn Battle, Executive Director of Community Services
Chuck Ewings, Executive Director of Development and Infrastructure Services
Hulon Webb, Engineering Director
Chris Landrum, Finance Director
David Soto, Planning Manager
Leigh Johnson, IT Director
Doug Kowalski, Police Chief

Items for Individual Consideration

1. Receive an update regarding the Solid Waste RFP. (RBS)

Mr. Scott provided an update on the Request for Proposals (RFP) for solid waste services by giving an overview of the differences in the current contract and items being requested within the RFP along with the public survey results on trash and recycling services.

The Town Council discussed commercial dumpsters, cost of household hazardous waste, recycling with the Prosper Independent School District, and fees for multiple trash or recycling carts.

2. Receive an update on the feedback obtained regarding submittal checklists for Planned Developments. (DS)

Mr. Soto provided an overview of the types of Exhibits associated with a Planned Development (PD). He noted the main differences between a Residential and Non-

Residential Conceptual Development Plan. Mr. Soto provided examples of current Planned Development concept plans and how they vary from very detailed to “bubble” plans and comparisons from two benchmark cities. Staff is seeking feedback on how much information and detail the Town Council would like to have within each PD.

The Town Council discussed the current process, ways to have consistency in the process, and possible ways to avoid having plans reevaluated due to change of uses within the plan.

Due to time constraints, the Mayor requested to bring this item back for further discussion to the next Work Session meeting on February 14.

Adjourn.

The meeting was adjourned at 5:50 p.m.

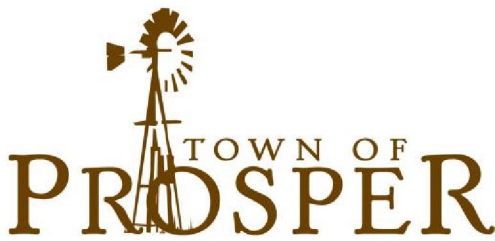
These minutes approved on the 14th day of February 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary



Prosper is a place where everyone matters.

MINUTES

Prosper Town Council Meeting
Prosper Town Hall, Council Chambers
250 W. First Street, Prosper, Texas
Tuesday, January 24, 2023

Call to Order/ Roll Call.

The meeting was called to order at 6:39 p.m.

Council Members Present:

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

Staff Members Present:

Bob Scott, Interim Town Manager
Michelle Lewis Sirianni, Town Secretary
Terry Welch, Town Attorney
Robyn Battle, Executive Director of Community Services
Chuck Ewings, Executive Director of Development and Infrastructure Services
Hulon Webb, Engineering Director
Chris Landrum, Finance Director
David Soto, Planning Manager
Leigh Johnson, IT Director
Dan Baker, Parks and Recreation Director
Brady Cudd, Building Official
Mary Branch, Health and Code Manager
Todd Rice, Communications Manager
Stuart Blasingame, Fire Chief
Bryan Aussenbaugh, Fire Marshal
Doug Kowalski, Police Chief

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

Damon Simpson with Prestonwood Baptist 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:

Join the Parks and Recreation Department for their next topic in their lecture series: Heart Health for Seniors: Defining Heart Disease being led by members of the Prosper Fire Dept. Come receive vital information in several areas including defining heart disease, the signs of a heart attack, living a heart-healthy lifestyle, and knowing your numbers. The lecture is being held on Monday, February 13 from 10 to 11 am at the 407 Rec Center. Lectures are free of charge, but reservations are requested. Additional information can be found on prosperparksandrec.org.

Join us on Saturday, February 18 from 9 to 11 a.m. for the Prosper Fishing Derby at the Frontier Park Pond, located at 1551 Frontier Pkwy. The Prosper Fishing Derby is a friendly competition for kids and a relaxing morning for the entire family. Judges will be stationed around the pond to chart fish caught and prizes will be awarded at 11 a.m. The event is free of charge and registration is not required.

Mayor Bristol thanked the Chamber of Commerce for sponsoring this year's State of the Community held earlier in the day.

Presentations.

1. **Receive a presentation from the Salvation Army of North Texas regarding the 2022 Mayors Red Kettle Challenge. (MLS)**

Christina Drozdovschi and Mary Freeman with the Salvation Army presented the Mayor and Town Council the award for winning the Mayors Red Kettle Challenge and raising over \$3,700 in donations. A special thanks was given to the Kroger on Preston Road for the \$2,000 donation.

2. **Presentation of a Proclamation declaring February 2023 as Congenital Heart Defect Awareness Month. (MLS)**

Mayor Bristol read and presented a Proclamation to Melissa Hansen.

3. **Presentation of a Proclamation declaring the week of January 14 -29, 2023 as Health for Humanity Yogathon. (MLS)**

Mayor Bristol read and presented a Proclamation to Neeraj Agrawal.

Mr. Agrawal spoke about the Health for Humanity Yogathon and thanked the Mayor and Town Council for their support.

4. **Receive a presentation and discuss the *Prosper Passport* event proposal. (RB)**

Ms. Battle introduced Christine Strobush, Chair of the Community Engagement Committee (CEC), and Brent Kirby, Vice-Chair of the CEC. Ms. Strobush and Mr. Kirby provided an overview of a new CEC Initiative, the Prosper Passport. The initiative to introduce new residents to Prosper through a variety of activities and experiences. The CEC intends to kick off the program at the April 6 New Resident Mixer. The Council indicated their strong support for the idea.

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.

5. **Consider and act upon the minutes of the January 6, 2023, Town Council Special meeting. (MLS)**
6. **Consider and act upon the minutes of the January 7, 2023, Town Council Special meeting. (MLS)**
7. **Consider and act upon the minutes of the January 10, 2023, Town Council Work Session meeting. (MLS)**

8. Consider and act upon the minutes of the January 10, 2023, Town Council meeting. (MLS)
9. Consider and act upon awarding CSP No. 2023-05-B to DDM Construction Corporation, related to construction services for the Teel/US 380 Intersection Improvements project; and authorizing the Interim Town Manager to execute a construction agreement for same. (HW)
10. Consider and act upon approving a Service Agreement with Flock Group, Inc. for the purchase of software and hardware situational awareness solution for automatic license plates, video, and audio detection; and authorizing the Interim Town Manager to execute documents for same. (DK)
11. Consider approving the purchase of a 2023 Chevrolet Silverado 1500 for Construction Inspection, a 2023 Chevrolet Silverado 1500 for Right of Way, and a 2023 Ford Maverick for Code Enforcement from Enterprise Fleet Management utilizing The Interlocal Purchasing System (TIPS); and authorizing the Interim Town Manager to execute the same. (JC)
12. Consider and act upon Ordinance 2023-02 granting a non-exclusive gas franchise to Atmos Energy Corporation. (RBS)
13. Conduct a public hearing and consider and act upon a request to rezone 0.1± acres from Single Family-15 (SF-15) to Downtown Office (DTO), on Lots 10A & 11B, located on the north side of Broadway Street, east of Coleman Street. (Z22-0017). (DS)
14. Conduct a public hearing and consider and act upon a request for a Specific Use Permit for a new Wireless Communications and Support Structure, on .2± acre, located on the north side of Prosper Trail, west of Legacy Drive. (S22-0011) (DS)
15. Conduct a public hearing and consider and act upon a request to amend a Specific Use Permit-19 (S-19) for a Child Care Center, Licensed on 2.3± acres, located on the north side of Prairie Drive, west of Legacy Drive. (S22-0010) (DS)
16. Consider and act upon Resolution 2023-03 expressing official intent to reimburse costs of Town capital improvement program projects that may be funded with proceeds of bonds or other obligations if those costs are paid prior to the issuance of such bonds or other obligations. (CL)

Councilmember Cotten made a motion to approve consent agenda items 5 through 16. Mayor Pro-Tem Hodges seconded that motion, and the motion was unanimously approved.

CITIZEN COMMENTS

James Pope, 1640 Gentle Way, expressed his appreciation to the Town and the Parks and Recreation Department for holding events specifically for Special Needs children, and for considering the Special Needs community when holding events. He hopes the Town will continue to incorporate these types of accommodations and suggested as the Town grows to consider a Board designated to help with the inclusion of family of children with Special Needs.

Items for Individual Consideration:

17. Conduct a public hearing and consider and act upon Ordinances 2023-04 through 2023-13 adopting the following International Codes with local amendments:

- A. 2021 Existing Building Code;
- B. 2021 Building Code;
- C. 2021 Residential Code;
- D. 2021 Plumbing Code;
- E. 2021 Mechanical Code;
- F. 2021 Fuel Gas Code;
- G. 2021 Energy Conservation Code;
- H. 2021 Property Maintenance Code;
- I. 2021 Fire Code;
- J. 2020 National Electric Code;

and repealing all prior versions of said International Codes, to the extent referenced in each applicable ordinance. The foregoing codes are contained in Chapter 3, "Building Regulations, " of the Town's Code of Ordinances, as amended. (BC)

Mr. Cudd introduced this item by providing the importance of updating the codes, previous code updates that have been made, and highlights of changes within the new codes. Ms. Branch touched on the International Property Maintenance Code, and Fire Marshal, Mr. Ausenbaugh spoke to changes within the Fire Code.

Mayor Bristol opened the public hearing.

No comments were made.

Mayor Bristol closed the public hearing.

Councilmember Ray made a motion to adopt Ordinances 2023-04 through 2023-13 respectively approving the 2021 versions of the following International Codes: Existing Building Code; Building Code; Residential Code; Plumbing Code; Mechanical Code; Fuel Gas Code; Energy Conservation Code; Property Maintenance Code; Fire Code; and the 2020 National Electric Code, and all local amendments to the foregoing codes. Deputy Mayor Pro-Tem Andres seconded that motion, and the motion was unanimously approved.

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

No comments were made.

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 551.089 - Deliberation of security information collected, assembled, or maintained by or for a governmental entity to prevent, detect or investigate criminal activity, pursuant to Section 2059.055 of the Texas Government Code, and all matters incident and related thereto.

Section 551.071– To discuss retention of legal services to assist in NEPA EIS evaluation, and all matters incident and related thereto.

The Town Council recessed into Executive Session at 7:31 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 8:14 p.m.

Mayor Pro-Tem Hodges made a motion to authorize the Interim Town Manager to execute an engagement letter with S. Deatherage Law to assist the Town in preparing comments and responses relative to NEPA EIS. Councilmember Cotten seconded that motion. The motion passed with a 6-0 vote. Councilmember Ray was not present during the vote.

Adjourn.

The meeting was adjourned at 8:15 p.m.

These minutes approved on the 14th day of February 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary



TOWN SECRETARY

To: Mayor and Town Council

From: Michelle Lewis Sirianni, Town Secretary

**Through: Bob Scott, Interim Town Manager
Robyn Battle, Executive Director of Community Services**

Re: Ordering May General Election

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon an ordinance ordering a General Election to be held on May 6, 2023, for the purpose of electing a Councilmember Place 3 and Councilmember Place 5; designating location of polling places; ordering notices of election to be given as prescribed by law and authorizing the Interim Town Manager to execute contracts with Collin County and Denton County Election Departments for joint election services.

Description of Agenda Item:

In accordance with Texas Election Law, the Town Council is responsible for ordering the General Election to be held on the Uniform Election Date in May for the purpose of electing Councilmember Place 3 and Councilmember Place 5. The Town will jointly contract with Collin County and Denton County to conduct the election. Both counties provide training and equipment to the Town to help reduce the cost of holding an election. Election agreements from both counties are provided in draft form until all dates and locations are confirmed by participating entities.

Budgetary Impact:

Cost estimates are based on participating local entities and percentage of registered voters within the Town of Prosper. These costs are subject to change until all entities are confirmed by both counties. The cost for Collin County is currently estimated at approximately \$14,500.71. The cost for Denton County is currently estimated not to exceed \$7,000.00. Election services are funded through account 100-5460-10-02, Election Expenses.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has previously reviewed the standard contracts, and approved the ordinance as to form and legality.

Attached Documents:

1. Ordinance: English & Spanish
2. Collin County Joint Election Contract
3. Denton County Joint Election Contract
4. Election Calendar

Town Staff Recommendation:

Town staff recommends the Town Council approve an ordinance ordering a General Election to be held on May 6, 2023, for the purpose of electing a Councilmember Place 3 and Councilmember Place 5; designating location of polling places; ordering notices of election to be given as prescribed by law and authorizing the Interim Town Manager to execute contracts with Collin County and Denton County Election Departments for joint election services.

Proposed Motion:

I move to approve an ordinance ordering a General Election to be held on May 6, 2023, for the purpose of electing a Councilmember Place 3 and Councilmember Place 5; designating location of polling places; ordering notices of election to be given as prescribed by law and authorizing the Interim Town Manager to execute contracts with Collin County and Denton County Election Departments for joint election services.

TOWN OF PROSPER, TEXAS**ORDINANCE NO. 2023-XX**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ORDERING A GENERAL ELECTION TO BE HELD ON MAY 6, 2023, IN THE TOWN OF PROSPER FOR THE PURPOSE OF ELECTING COUNCILMEMBER PLACE 3 AND COUNCILMEMBER PLACE 5; DESIGNATING LOCATION OF POLLING PLACES; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AUTHORIZING EXECUTION OF JOINT ELECTION CONTRACTS WITH COLLIN COUNTY AND DENTON COUNTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1

A General Election is hereby ordered for the Town of Prosper, Texas ("Prosper"), to be held jointly on Saturday, May 6, 2023, for the purpose of electing Councilmember Place 3 and Councilmember Place 5. The candidate for each office, receiving a majority of all votes cast for all candidates for an office, shall be elected to serve such term.

SECTION 2

No person's name shall be placed upon the ballot as a candidate for Councilmember unless such person has filed his or her sworn application as provided by Section 141.03 of the Texas Election Code, with the Town Secretary at the Prosper Town Hall, located at 250 W. First Street, Prosper, Texas 75078, not later than 5:00 p.m., on the 17th day of February 2023. The Town Secretary shall note on the face of each such application the date of such filing. Such application shall include the office the candidate is seeking.

SECTION 3

Qualified voters of the following election precincts shall cast ballots for the General Election at the heretofore established and designated Election Day polling places, as follows:

Town Precincts

178, 199, 214, 224, 239
(Collin County)

1016, 1017, 9102
(Denton County)

Polling Place

Prosper Town Hall Community Room
250 W. First Street
Prosper, TX 75078

Prosper Fire Station 2 Training Room
1140 S. Teel Parkway
Prosper, TX 75078

General Election polls shall be open from 7:00 a.m. until 7:00 p.m., on the date of the General Election, Saturday, May 6, 2023.

SECTION 4

Early voting by personal appearance for Denton County residents shall be available at the Prosper Fire Station 2 Training Room, 1140 S. Teel Parkway, Prosper, Texas, 75078 from Monday, April 24, 2023, through Saturday, April 29, 2023, from 8:00 a.m. – 5:00 p.m.; Sunday, April 30, 2023, from 11:00 a.m. – 5:00 p.m.; and Monday, May 1, 2023, through Tuesday, May 2, 2023, from 7:00 a.m. -7:00 p.m.

Early voting by personal appearance for Collin County residents shall be available at the Prosper Town Hall Community Room, 250 W. First Street, Prosper, Texas 75078, from Monday, April 24, 2023, through Friday, April 28, 2023, from 8:00 a.m. – 5:00 p.m.; Saturday, April 29, 2023, from 8:00 a.m. – 5:00 p.m.; and Monday, May 1, 2023, through Tuesday, May 2, 2023, from 7:00 a.m. - 7:00 p.m.

Qualified voters may vote at any of the additional Early Voting locations open under full contract services with the Collin County Elections Administrator or the Denton County Elections Administrator. This previous sentence shall also be posted in the Notice of Election.

SECTION 5

That the Town Manager and Town Secretary are authorized to execute a contract for an Election with the Denton County Election Department, the Collin County Election Department, the Prosper Independent School District, and other entities that will provide for all election appointments, early voting by mail, the designated voting location(s) and hours of operation, payments for election officials, necessary election arrangements and a runoff election (if applicable).

SECTION 6

That the Town Secretary shall have the authority to approve any minor modifications as may be necessary in the best interests of the Town and within the regulations of the Texas Election Code. The early voting mail clerk for Collin County is: Bruce Sherbet, Early Voting Clerk, Collin County Elections Department, 2010 Redbud Blvd, Suite 102, McKinney, Texas 75069 (election@collincountytexas.gov), and the Early Voting Clerk for Denton County is Frank Phillips, Early Voting Clerk, Denton County Elections, PO Box 1720, Denton, Texas 76202 (elections@dentoncountytexas.gov).

SECTION 7

The Town Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this General Election. The General Election, including providing notice of the General Election, shall be conducted in accordance with the Texas Election Code and other applicable law, and all resident qualified and registered voters of the Town shall be eligible to vote at the General Election.

SECTION 8

The Mayor and the Town Secretary of the Town, in consultation with the Town Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Texas Election Code and any other state or federal law in carrying out and conducting the General Election, whether or not expressly authorized herein.

SECTION 9

That the provisions of this ordinance are severable, so that the invalidity of one or more provisions shall not affect the validity of those valid portions.

SECTION 10

This ordinance and order for a General Election shall be effective from and after the passage of this ordinance.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, COLLIN AND DENTON COUNTIES, TEXAS, ON THIS THE 14TH DAY OF FEBRUARY 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

PUEBLO DE PROSPER, TEXAS**ORDENANZA NO. 2023-XX**

UNA ORDENANZA DEL CONCEJO MUNICIPAL DEL PUEBLO DE PROSPER, TEXAS, QUE ORDENA QUE SE CELEBREN ELECCIONES GENERALES EL 6 DE MAYO DE 2023 EN EL PUEBLO DE PROSPER CON EL FIN DE ELEGIR CONCEJAL LUGAR 3 Y CONCEJAL LUGAR 5; DESIGNACIÓN DE LA UBICACIÓN DE LOS LUGARES DE VOTACIÓN; ORDENAR QUE SE ENTREGUEN NOTIFICACIONES DE ELECCIÓN SEGÚN LO PRESCRIBE LA LEY EN RELACIÓN CON DICHA ELECCIÓN; AUTORIZANDO LA EJECUCIÓN DE CONTRATOS DE ELECCIÓN CONJUNTA CON LOS CONDADOS DE COLLIN Y DENTON; PROPORCIONAR UNA CLÁUSULA DE DIVISIBILIDAD; Y PROPORCIONAR UNA FECHA EFECTIVA.

AHORA, POR LO TANTO, EL CONCEJO DEL PUEBLO DEL PUEBLO DE PROSPER, TEXAS, ORDENA QUE:

SECCIÓN 1

Por la presente se ordena una Elección General para el Pueblo de Prosper, Texas ("Prosper"), que se llevará a cabo conjuntamente el sábado 6 de mayo de 2023, con el fin de elegir un miembro del Consejo del Lugar 3 y un miembro del Consejo del Lugar 5. El candidato para cada cargo, que reciba la mayoría de los votos emitidos para todos los candidatos a un cargo, será elegido para servir dicho término.

SECCIÓN 2

El nombre de ninguna persona se colocará en la boleta electoral como candidato a alcalde o concejal a menos que dicha persona haya presentado su solicitud jurada según lo dispuesto por la Sección 141.03 del Código Electoral de Texas, con el Secretario del Pueblo en el Ayuntamiento de Prosper, ubicado en 250 W. First Street, Prosper, Texas 75078, a más tardar a las 5:00 p. m., el día 17 de febrero de 2023. El Secretario del Pueblo anotará en el anverso de cada solicitud la fecha de presentación. Dicha solicitud incluirá el cargo al que aspira el candidato.

SECCIÓN 3

Los votantes calificados de los siguientes precintos electorales emitirán sus votos para la Elección General en los lugares de votación establecidos y designados hasta ahora para el Día de la Elección, de la siguiente manera:

Recintos de la Ciudad

178, 199, 214, 224, 239
(Condado de Collin)

1016, 1017, 9102
(Condado de Denton)

Colegio Electoral

Prosper Town Hall Community Room
250 W. First Street
Prosper, TX 75078

Prosper Fire Station 2 Training Room
1140 S. Teel Parkway
Prosper, TX 75078

Las urnas de las Elecciones Generales estarán abiertas desde las 7:00 a.m. hasta las 7:00 p.m., en la fecha de las Elecciones Generales, sábado 6 de mayo de 2023.

SECCIÓN 4

La votación anticipada en persona para los residentes del condado de Denton estará disponible en Prosper Fire Station 2 Training Room, 1140 S. Teel Parkway, Prosper, Texas, 75078 desde el lunes 24 de abril de 2023 hasta el sábado 29 de abril de 2023 a partir de las 8:00 a.m. – 5:00 p.m.; domingo 29 de abril de 2023, de 11:00 a.m. a 5:00 p.m.; y del lunes 1 de mayo de 2023 al martes 2 de mayo de 2023 de 7:00 a.m. a 7:00 p.m.

La votación anticipada en persona para los residentes del condado de Collin estará disponible en Prosper Town Hall Community Room, 250 W. First Street, Prosper, Texas 75078, desde el lunes 24 de abril de 2023 hasta el viernes 28 de abril de 2023 de 8:00 a.m. – 5:00 p.m.; sábado 29 de abril de 2023, de 8:00 a. m. a 5:00 p.m.; y del lunes 1 de mayo de 2023 al martes 2 de mayo de 2023 de 7:00 a.m. a 7:00 p.m.

Los votantes calificados pueden votar en cualquiera de los lugares de Votación Anticipada adicionales abiertos bajo servicios de contrato completo con el Administrador de Elecciones del Condado de Collin o el Administrador de Elecciones del Condado de Denton. Esta oración anterior también se publicará en el Aviso de Elección.

SECCIÓN 5

Que el Administrador del Pueblo y el Secretario del Pueblo están autorizados a ejecutar un contrato para una Elección con el Departamento de Elecciones del Condado de Denton, el Departamento de Elecciones del Condado de Collin, el distrito escolar independiente de Prosper y otras entidades que proporcionarán todos los nombramientos para las elecciones, la votación anticipada por correo, el lugar de votación designado (s) y el horario de funcionamiento, los pagos de los funcionarios electorales, los arreglos electorales necesarios y una segunda vuelta electoral (si es aplicable).

SECCIÓN 6

Que el Secretario del Pueblo tendrá la autoridad para aprobar cualquier modificación menor que sea necesaria en el mejor interés del Pueblo y dentro de los reglamentos del Código Electoral de Texas. El empleado de correo de votación anticipada del condado de Collin es: Bruce Sherbet, empleado de votación anticipada, Departamento de Elecciones del condado de Collin, 2010 Redbud Blvd, Suite 102, McKinney, Texas 75069 (election@collincountytexas.gov), y el empleado de votación anticipada del condado de Denton es Frank Phillips, secretario de votación anticipada, elecciones del condado de Denton, PO Box 1720, Denton, Texas 76202 (elections@dentoncountytexas.gov).

SECCIÓN 7

Por la presente, se autoriza y ordena al Secretario del Pueblo que publique y/o publique, en el tiempo y la forma prescritos por la ley, todos los avisos que se requiera que se publiquen y/o publiquen en relación con la realización de esta Elección General. La Elección General, incluida la notificación de la Elección General, se llevará a cabo de conformidad con el Código Electoral de Texas y otras leyes aplicables, y todos los votantes calificados y registrados residentes del Pueblo serán elegibles para votar en la Elección General.

SECCIÓN 8

El alcalde y el secretario del pueblo del pueblo, en consulta con el abogado del pueblo, están autorizados y ordenados a tomar todas las medidas necesarias para cumplir con las

disposiciones del Código Electoral de Texas y cualquier otra ley estatal o federal al llevar a cabo y llevar a cabo la Elección General, esté o no expresamente autorizado en este documento.

SECCIÓN 9

Que las disposiciones de esta ordenanza son separables, de manera que la invalidez de una o más disposiciones no afectará la validez de aquellas porciones válidas.

SECCIÓN 10

Esta ordenanza y la orden para una Elección General entrarán en vigencia a partir de la aprobación de esta ordenanza.

DEBIDAMENTE APROBADO Y APROBADO POR EL CONCEJO DEL PUEBLO DE LOS CONDADOS DE PROSPER, COLLIN Y DENTON, TEXAS, EL DÍA 14 DE FEBRERO DE 2023.

APROBADO:

David F. Bristol, Alcalde

DOY FE:

Michelle Lewis Sirianni, Secretario del Pueblo

APROBADO EN FORMA Y LEGALIDAD:

Terrence S. Welch, Abogado del Pueblo

JOINT ELECTION SERVICES CONTRACT
("Election Services Contract")

ELECTION SERVICES AGREEMENT

BETWEEN

THE COLLIN COUNTY ELECTIONS ADMINISTRATOR
("Contracting Election Officer")

AND THE POLITICAL SUBDIVISIONS LISTED BELOW
("Participating Political Subdivisions")

CITY OF ALLEN
CITY OF ANNA
CITY OF BLUE RIDGE
CITY OF CARROLLTON
CITY OF CELINA
CITY OF DALLAS
TOWN OF FAIRVIEW
CITY OF FARMERSVILLE
CITY OF FRISCO
CITY OF LUCAS
CITY OF MCKINNEY
CITY OF MURPHY
TOWN OF NEW HOPE
CITY OF PARKER
CITY OF PLANO
TOWN OF PROSPER
CITY OF RICHARDSON
CITY OF SACHSE
TOWN OF ST. PAUL
CITY OF WYLIE
COLLIN COLLEGE
ALLEN INDEPENDENT SCHOOL DISTRICT
ANNA INDEPENDENT SCHOOL DISTRICT
CELINA INDEPENDENT SCHOOL DISTRICT
COMMUNITY INDEPENDENT SCHOOL DISTRICT
FARMERSVILLE INDEPENDENT SCHOOL DISTRICT
FRISCO INDEPENDENT SCHOOL DISTRICT
LOVEJOY INDEPENDENT SCHOOL DISTRICT
MCKINNEY INDEPENDENT SCHOOL DISTRICT
MELISSA INDEPENDENT SCHOOL DISTRICT
PLANO INDEPENDENT SCHOOL DISTRICT
PRINCETON INDEPENDENT SCHOOL DISTRICT
PROSPER INDEPENDENT SCHOOL DISTRICT
NORTH PARKWAY MUNICIPAL MANAGEMENT DISTRICT NO. 1
BEAR CREEK SPECIAL UTILITY DISTRICT

COPEVILLE SPECIAL UTILITY DISTRICT
SEIS LAGOS SPECIAL UTILITY DISTRICT
WESTMINISTER SPECIAL UTILITY DISTRICT

FOR THE CONDUCT OF A JOINT ELECTION

TO BE HELD ON SATURDAY, MAY 6, 2023

TO BE ADMINISTERED BY THE COLLIN COUNTY ELECTIONS ADMINISTRATOR

1. ADMINISTRATION AND STATUTORY AUTHORITY

- a. Bruce Sherbet ("Bruce Sherbet") is the duly appointed County Elections Administrator ("Elections Administrator") of Collin County, Texas and the Department Head of the Collin County Elections Department. As such, Mr. Sherbet is the Election Administrator of Collin County, Texas and authorized by Subchapter D of Chapter 31 of Title 3 of the Texas Election Code to enter into this Election Services Contract with the contracting authority of the Participating Political Subdivisions.
- b. The contracting authorities of the Participating Political Subdivisions listed on the cover pages of this Election Services Contract is hereby participating in the Joint Election to be held in Collin County, Texas on Saturday, May 6, 2023, and is hereby contracting with the Elections Administrator of Collin County, Texas to perform the election services set forth in this Election Services Contract under Subchapter D of Chapter 31 of Title 3 of the Texas Election Code.

2. DUTIES AND SERVICES OF THE CONTRACTING ELECTION OFFICER

- a. The Contracting Election Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:
 - i. The Contracting Election Officer will prepare and publish the required Notice of Election and post the required orders and resolutions to the Collin County Elections Department website.
 - ii. The Contracting Election Officer shall arrange for appointment, notification (including writ of election), training and compensation of all presiding judges, alternate judges, the judge of the Central Count Station and judge of the Early Voting Ballot Board.
 - iii. The Contracting Election Officer shall be responsible for notification of each Election Day and Early Voting presiding judge and alternate judge of his or her appointment. The presiding election judge of each Vote Center will use his/her discretion to determine when additional workers are needed, during peak voting hours.
 - iv. The Contracting Election Officer will determine the number of clerks to work in the Central Count Station and the number of clerks to work on the Ballot Board.
 1. Election judges shall attend the Contracting Election Officer's school of instruction (Election Law Class). A training event calendar will be provided.
 2. Election judges and alternate judges shall be responsible for picking up and returning election supplies to the county election warehouse located at 2010 Redbud Blvd., Suite 102, McKinney. Compensation for this pickup and delivery of supplies will be \$25.00.
 - v. The Contracting Election Officer shall compensate each election judge and worker. Each judge shall receive \$15.00 per hour, each alternate judge shall receive \$14.00 per hour for, and each clerk shall receive \$13.00 per hour for services rendered. Overtime will be paid to each person working over 40 hours per week.
- b. The Contracting Election Officer shall procure, prepare, and distribute voting machines, election kits and election supplies.
 - i. The Contracting Election Officer shall secure election kits, which include the legal documentation required to hold an election and all supplies.
 - ii. The Contracting Election Officer shall secure the tables, chairs, and legal documentation required to run the Central Count Station.
 - iii. The Contracting Election Officer shall provide all lists of registered voters required for use on Election Day and for the Early Voting period required by law.

- iv. The Contracting Election Officer shall procure and arrange for the distribution of all election equipment and supplies required to hold an election.
 - 1. Equipment includes the rental of ES&S ExpressVote Universal voting machines (EVS 6.1.1.0), ES&S ExpressTouch curbside voting machines (EVS 6.1.1.0), ES&S DS200 ballot counters (EVS 6.1.1.0), ES&S Model DS450 and DS850 High-Speed Scanners/Tabulators (EVS 6.1.1.0), ADA compliant headphones and keypads, voting signs and election supply cabinets.
 - 2. Supplies include paper ballot cards, Early Voting and Election Day supply kits, provisional ballot kits, security seals, pens, tape, markers, etc.
- c. The Contracting Election Officer, Bruce Sherbet, shall be appointed the Early Voting Clerk.
 - i. The Contracting Election Officer shall supervise and conduct Early Voting by mail and in person and shall secure personnel to serve as Early Voting Deputies.
 - ii. The Contracting Election Officer shall select the Early Voting Polling Locations and arrange for the use of each.
 - iii. Early Voting by personal appearance for the Participating Political Subdivisions shall be conducted during the early voting dates and times and at the locations listed in Exhibit "A" attached and incorporated by reference into this Election Services Contract.
 - iv. All applications for an Early Voting mail ballot shall be received and processed by the Collin County Elections Administration Office located at 2010 Redbud Blvd., Suite 102, McKinney, Texas 75069.
 - 1. Applications for mail ballots erroneously mailed to the Participating Political Subdivisions shall immediately be faxed to the Contracting Officer for timely processing. The original application shall then be forwarded to the Contracting Election Officer for proper retention.
 - 2. All Federal Post Card Applications (FPCA) will be sent a mail ballot. No postage is required.
 - v. All Early Voting ballots (those cast by mail and those cast by personal appearance) shall be prepared for counting by the Early Voting Ballot Board in accordance with Section 87.000 of the Texas Election Code. The Contracting Officer shall appoint the presiding judge of this Board.
- d. The Contracting Election Officer shall select the Election Day Vote Centers and arrange for the use of each.
 - i. The Participating Political Subdivisions shall assume the responsibility of remitting their portion of cost of all employee services required to provide access, provide security or provide custodial services for the Vote Centers.
 - ii. The Election Day Vote Centers are listed in Exhibit "B", attached and incorporated by reference into this Election Services Contract.
- e. The Contracting Election Officer shall be responsible for establishing and operating the Central Count Station to receive and tabulate the voted ballots in accordance with Section 127.001 of the Election Code and of this agreement. The Central Count Station Manager shall be Bruce Sherbet. The Central Count Station Judge shall be Kathi-Ann Rivard. The Tabulation Supervisor shall be Brian Greisbach.
 - i. The Tabulation Supervisor shall prepare, test and run the County's tabulation system in accordance with statutory requirements and county policies, under the auspices of the Contracting Election Officer.
 - ii. The Public Logic and Accuracy Test of the electronic voting system shall be conducted in accordance with Election Law. The Contracting Election Officer will post the required Notice of Logic and Accuracy testing.

- iii. Election night reports will be available to the Participating Political Subdivisions at the Central Counting Station on election night. Provisional ballots will be tabulated after election night in accordance with state law.
- iv. The Contracting Election Officer shall prepare the unofficial canvass report after all precincts have been counted, and will provide canvassing documents to the Participating Political Subdivisions as soon as possible after all returns have been tallied.
- v. The Contracting Election Officer shall be appointed as the custodian of the voted ballots and shall retain all election materials for a period of 22 months.
 - 1. Pending no litigation and as prescribed by law, the voted ballots shall be shredded 22 months after the election.
- f. The Contracting Election Officer shall conduct a partial manual count as prescribed by Section 127.201 of the Texas Election Code and submit a written report to the Participating Political Subdivisions in a timely manner. If applicable, a written report shall be submitted to the Secretary of State as required by Section 127.201 of the aforementioned code.

3. DUTIES AND SERVICES OF THE PARTICIPATING POLITICAL SUBDIVISIONS

- a. The Participating Political Subdivisions shall assume the following duties:
 - i. The Participating Political Subdivisions will prepare, adopt, and publish all legally required election orders, resolutions, and other documents required by, or of, their governing bodies. The Participating Political Subdivisions are required to send Collin County Elections Department a copy of any election order or resolution related to this Joint Election within three business days of publishing, adopting or ordering it.
 - ii. The Participating Political Subdivisions shall provide the Contracting Election Officer with an updated map and street index of their jurisdiction in an electronic (shape file preferred) or printed format as soon as possible but no later than Monday, February 27, 2023.
 - iii. The Participating Political Subdivisions shall procure and provide the Contracting Election Officer with the ballot layout and Spanish interpretation in an electronic format.
 - 1. The Participating Political Subdivisions shall deliver to the Contracting Election Officer as soon as possible, but no later than 5:00 p.m. Monday, February 27, 2023, the official wording for the Participating Political Subdivisions' May 6, 2023 Joint Election.
 - 2. The Participating Political Subdivisions shall approve the ballot proofs format within 24 hours of receiving the ballot proof and prior to the final printing.
 - a. If the Participating Political Subdivisions fail to approve the ballot proofs within 24 hours of receiving the proofs, the Contracting Election Officer will presume that the ballot proofs have been approved by the Participating Political Subdivisions. Any costs incurred by making any changes to the ballot (designing, printing, programming, etc.) from this point forward will be the responsibility of the Participating Political Subdivisions.
 - iv. The Participating Political Subdivisions shall compensate the Contracting Election Officer for all associated costs including any additional verified cost incurred in the process of running this election or for a manual count, this election may require, consistent with charges and hourly rates shown on Exhibit "C" for required services.
- b. The Participating Political Subdivisions shall pay the Contracting Election Officer 90% of the estimated cost to run the said election prior to Friday, March 31, 2023. The Contracting Election Officer shall place the funds in a "contract fund" as prescribed by Section 31.100 of the Texas Election Code. The deposit should be made payable to the "Collin County Treasury" with a note "for election services" included with the check documentation and delivered to the Collin County Treasury, 2300 Bloomdale Rd., #3138, McKinney, Texas 75071.

- c. The Participating Political Subdivisions shall pay the cost of conducting said election, less partial payment, including the 10% administrative fee, pursuant to the Texas Election Code, Section 31.100, within 30 days from the date of final billing. Additionally, all payments in excess of the final cost to perform the election will be refunded to the participating Political Subdivisions.

4. COST OF SERVICES.

- a. See Exhibit "C".

5. GENERAL PROVISIONS

- a. Nothing contained in this Election Services Contract shall authorize or permit a change in the officer with whom or the place at which any document or record relating to the Participating Political Subdivisions' May 6, 2023 Joint Election are to be filed, or the place at which any function is to be carried out, or any nontransferable functions specified under Section 31.096 of the Texas Election Code.
- b. Upon request, the Contracting Election Officer will provide copies of all invoices and other charges received in the process of running said election for the Participating Political Subdivisions.
- c. If the Participating Political Subdivisions cancel their elections pursuant to Section 2.053 of the Texas Election Code shall pay the Contracting Officer a contract preparation fee of \$75.00 and will not be liable for any further costs incurred by the Contracting Officer.
- d. The Contracting Officer shall file copies of this contract with the County Judge and the County Auditor of Collin County, Texas.

WITNESS BY MY HAND THIS ____ DAY OF _____ 2023.

Bruce Sherbet, Elections Administrator
Collin County, Texas

WITNESS BY MY HAND THIS ____ DAY OF _____ 2023

By: _____
Robert B. Scott, Interim Town Manager
Town of Prosper

Attest: _____
Michelle Lewis Sirianni, Town Secretary
Town of Prosper

May 6, 2023 Joint General and Special Election - Early Voting Locations, Dates and Hours
(6 de mayo de 2023 Elección general y especial conjunta - Lugares de Votación Temprana, Fechas y Horas)

Important Note: Eligible Collin County registered voters (with an effective date of registration on or before May 6, 2023) may vote at any early voting location.

(Nota importante: Los votantes registrados elegibles del Condado de Collin (con una fecha efectiva de registro en o antes del 6 de mayo de 2023 pueden votar en cualquier lugar de votación anticipada.)

Sunday (Domingo)	Monday (Lunes)	Tuesday (Martes)	Wednesday (Miércoles)	Thursday (Jueves)	Friday (Viernes)	Saturday (Sábado)
April 23 No Voting (23 de abril) (Sin votar)	April 24 Early Voting (24 de abril) (Votación adelantada) 8am - 5pm	April 25 Early Voting (25 de abril) (Votación adelantada) 8am - 5pm	April 26 Early Voting (26 de abril) (Votación adelantada) 8am - 5pm	April 27 Early Voting (27 de abril) (Votación adelantada) 8am - 5pm	April 28 Early Voting (28 de abril) (Votación adelantada) 8am - 5pm	April 29 Early Voting (29 de abril) (Votación adelantada) 8am - 5pm
April 30 No Voting (30 de abril) (Sin votar)	May 1 Early Voting (1 de mayo) (Votación adelantada) 7am - 7pm	May 2 Early Voting (2 de mayo) (Votación adelantada) 7am - 7pm	May 3 No Voting (3 de mayo) (Sin votar)	May 4 No Voting (4 de mayo) (Sin votar)	May 5 No Voting (5 de mayo) (Sin votar)	May 6 Election Day (6 de mayo) (Día de elección) 7am - 7pm

Polling Location (Lugar de Votación)	Room Name (Nombre de la habitación)	Address (Dirección)	City (Ciudad)	Zip Code (Código postal)
Collin County Elections (Main Early Voting Location)	Voting Room	2010 Redbud Blvd., Suite 102	McKinney	75069
Allen ISD Service Center	Main Lobby	1451 N. Watters Rd.	Allen	75002
Allen Municipal Courts Facility	Community Room	301 Century Pkwy.	Allen	75013
Anna Municipal Complex	Lobby	120 W. 7th St.	Anna	75409
Blue Ridge ISD Administration Building	Board of Trustees Board Room	318 School St.	Blue Ridge	75424
Carpenter Park Recreation Center	South Lobby	6701 Coit Rd.	Plano	75024
Children's Health StarCenter	Activity Room	6993 Stars Ave.	McKinney	75070
Christopher A. Parr Library	Programs Room	6200 Windhaven Pkwy.	Plano	75093
Collin College Celina Campus	Atrium	2505 Kinship Pkwy.	Celina	75009
Collin College Farmersville Campus	Atrium	501 S. Collin Pkwy.	Farmersville	75442
Collin College Frisco Campus	Building J, Room 113	9700 Wade Blvd.	Frisco	75035

Collin College Higher Education Center	Atrium	3452 Spur 399	McKinney	75069	Item 3.
Collin College McKinney Campus	Atrium, Hallway D	2200 University Dr.	McKinney	75071	
Collin College Plano Campus	Atrium D Square	2800 Spring Creek Pkwy.	Plano	75074	
Collin College Wylie Campus	Lobby	391 Country Club Rd.	Wylie	75098	
Copeville Special Utility District	Conference Room	16120 FM 1778	Nevada	75173	
Dowell Middle School	Library (D100)	301 S. Ridge Rd.	McKinney	75072	
Evans Middle School	Library (A114)	6998 W. Eldorado Pkwy.	McKinney	75072	
Farmersville City Hall	Council Chambers	205 S. Main St.	Farmersville	75442	
Frisco Fire Station #5	Training Room	14300 Eldorado Pkwy.	Frisco	75035	
Frisco Fire Station #8	Training Room	14700 Rolater Rd.	Frisco	75034	
Haggard Library	Programs Room	2501 Coit Rd.	Plano	75075	
Harrington Library	Thelma Rice Sproles Program Room	1501 18th St.	Plano	75074	
John & Judy Gay Library	Meeting Room	6861 W. Eldorado Pkwy.	McKinney	75070	
Lavon City Hall	Gymnasium	120 School Rd.	Lavon	75166	
Lovejoy ISD Administration Building	Portable #1 Training Room	259 Country Club Rd.	Allen	75002	
Lucas Community Center	Community Room	665 Country Club Rd.	Lucas	75002	
Maribelle M. Davis Library	Programs Room	7501 Independence Pkwy. A	Plano	75025	
McKinney Fire Station #5	Community Room	6600 Virginia Pkwy.	McKinney	75071	
McKinney Fire Station #7	Community Room	861 Independence Pkwy.	McKinney	75072	
McKinney Fire Station #9	Community Room	4900 Summit View Dr.	McKinney	75071	
McKinney Fire Station #10	Community Room	1150 Olympic Crossing	McKinney	75071	
McKinney High School	PAC Lobby	1400 E. Wilson Creek Pkwy.	McKinney	75069	
McKinney North High School	Auditorium Lobby	2550 Wilmeth Rd.	McKinney	75071	
Melissa City Hall	Municipal Court Room, 1st Floor	3411 Barker Ave.	Melissa	75454	
Michael J. Felix Community Center	Rooms A and B	3815 E. Sachse Rd.	Sachse	74048	

Murphy Community Center	Homer and Marie Adams Rooms	205 N. Murphy Rd.	Murphy	75094	Item 3.
New Hope Town Hall	Council Chambers	121 Rockcrest Rd.	McKinney	75071	
Old Settler's Recreation Center	North Multi-Purpose Room	1201 E. Louisiana St.	McKinney	75069	
Parker City Hall	Council Chambers	5700 E. Parker Rd.	Parker	75002	
Plano ISD Administration Center	Lobby	2700 W. 15th St.	Plano	75075	
Princeton Community Center	Community Room	416 N. 4th St.	Princeton	75407	
Prosper Town Hall	Community Room	250 W. First St.	Prosper	75078	
Renner Frankford Branch Library	Programs Room	6400 Frankford Rd.	Dallas	75252	
Richardson Public Library	Story Time Room	900 Civic Center Dr.	Richardson	75080	
Roy & Helen Hall Memorial Library	Lobby	101 E. Hunt St.	McKinney	75069	
Terry Pope Administration Building	Community ISD Board Room	611 N. FM 1138	Nevada	75173	
The Grove at Frisco Commons	Community Room	8300 McKinney Rd.	Frisco	75034	
Wylie Senior Recreation Center	Dining Room	800 Thomas St.	Wylie	75098	

***Polling locations are subject to change. For the most current list of locations, please visit the Elections webpage at www.collincountytx.gov/elections.**

*(*Los lugares de votación están sujetos a cambios. Para obtener la lista más actualizada de ubicaciones, visite la página web de Elecciones en www.collincountytx.gov/elections.)*

Applications for ballot by mail may be mailed and must be received no later than the close of business on April 25, 2023, to:

(Las solicitudes de boleta por correo pueden enviarse por correo y deben recibirse a más tardar el 25 de abril de 2023 para:)

Bruce Sherbet, Early Voting Clerk
 2010 Redbud Blvd. Suite 102
 McKinney, Texas 75069
 972-547-1900
www.collincountytx.gov

Applications for ballot by mail may also be faxed or emailed and must be received no later than the close of business on April 25, 2023. For an application for ballot by mail submitted by telephonic facsimile machine or electronic transmission to be effective, the hard copy of the application must also be submitted by mail and be received by the early voting clerk not later than the fourth business day after the transmission by telephonic facsimile machine or electronic transmission is received. (Texas Election Code 84.007)

(Las solicitudes de boleta por correo también pueden enviarse por fax o correo electrónico y deben recibirse antes del cierre de operaciones el 25 de abril de 2023. Para que una solicitud de boleta por correo enviada por máquina de fax o transmisión electrónica sea efectiva, la copia impresa de la solicitud también debe presentarse por correo y ser recibida por el secretario de votación anticipada a más tardar el cuarto día hábil posterior a la recepción de la transmisión por fax o máquina electrónica de fax. (Código Electoral de Texas 84.007,).)

Fax – 972-547-1996, Email - absenteemailballoting@collincountytx.gov

Election Day Vote Centers for the May 6, 2023 Joint General and Special Election – 7 am - 7 pm*
(Centros de votación del día de las elecciones para las Elecciones Generales y Especiales Conjuntas del 6 de mayo de 2023 – 7 am – 7pm)*

Important Note: Eligible Collin County registered voters (with an effective date of registration on or before May 6, 2023) may vote at any early voting location.

(Nota importante: Los votantes registrados elegibles del Condado de Collin (con una fecha efectiva de registro en o antes del 6 de mayo de 2023 pueden votar en cualquier lugar de votación anticipada.)

Polling Location <i>(Lugar de Votación)</i>	Room Name <i>(Nombre de la habitación)</i>	Address <i>(Dirección)</i>	City <i>(Ciudad)</i>	Zip Code <i>(Código postal)</i>
Aldridge Elementary School	Gym	720 Pleasant Valley Ln.	Richardson	75080
Allen ISD Service Center	Main Lobby	1451 N. Watters Rd.	Allen	75002
Allen Municipal Courts Facility	Community Room	301 Century Pkwy.	Allen	75013
Anna Municipal Complex	Lobby	120 W. 7th St.	Anna	75409
Armstrong Middle School	Small Gym	3805 Timberline Dr.	Plano	75074
Bethany Elementary School	Gym	2418 Micarta Dr.	Plano	75025
Blue Ridge ISD Administration Building	Board of Trustees Board Room	318 School St.	Blue Ridge	75424
Bowman Middle School	Cafeteria Foyer in Corridor H	2501 Jupiter Rd.	Plano	75074
Carpenter Middle School	Small Gym	3905 Rainier Rd.	Plano	75023
Children's Health StarCenter	Activity Room	6993 Stars Ave.	McKinney	75070
Christopher A. Parr Library	Programs Room	6200 Windhaven Pkwy.	Plano	75093
Collin College Celina Campus	Atrium	2505 Kinship Pkwy.	Celina	75009
Collin College Farmersville Campus	Atrium	501 S. Collin Pkwy.	Farmersville	75442
Collin College Frisco Campus	Building J, Room 113	9700 Wade Blvd.	Frisco	75035
Collin College Higher Education Center	Atrium	3452 Spur 399	McKinney	75069
Collin College McKinney Campus	Atrium, Hallway D	2200 University Dr.	McKinney	75071
Collin College Plano Campus	Atrium D Square	2800 Spring Creek Pkwy.	Plano	75074
Collin College Wylie Campus	Lobby	391 Country Club Rd.	Wylie	75098
Collin County Elections	Voting Room	2010 Redbud Blvd., Suite 102	McKinney	75069
Copeville Special Utility District	Conference Room	16120 FM 1778	Nevada	75173

Dowell Middle School	Library (D100)	301 S. Ridge Rd.	McKinney	75072	Item 3.
Evans Middle School	Library (A114)	6998 W. Eldorado Pkwy.	McKinney	75072	
Fairview Town Hall	Council Chambers	372 Town Pl.	Fairview	75069	
Farmersville City Hall	Council Chambers	205 S. Main St.	Farmersville	75442	
Frisco Fire Station #5	Training Room	14300 Eldorado Pkwy.	Frisco	75035	
Frisco Fire Station #8	Training Room	14700 Rolater Rd.	Frisco	75034	
Haggard Middle School	Main Entry Vestibule	2832 Parkhaven Dr.	Plano	75075	
Hendrick Middle School	Front Foyer	7400 Red River Dr.	Plano	75025	
Huffman Elementary School		5510 Channel Isle Dr.	Plano	75093	
John & Judy Gay Library	Meeting Room	6861 W. Eldorado Pkwy.	McKinney	75070	
Lavon City Hall	Gymnasium	120 School Rd.	Lavon	75166	
Lovejoy ISD Administration Building	Portable #1 Training Room	259 Country Club Rd.	Allen	75002	
Lucas Community Center	Community Room	665 Country Club Rd.	Lucas	75002	
McKinney Fire Station #5	Community Room	6600 Virginia Pkwy.	McKinney	75071	
McKinney Fire Station #7	Community Room	861 Independence Pkwy.	McKinney	75072	
McKinney Fire Station #9	Community Room	4900 Summit View Dr.	McKinney	75071	
McKinney Fire Station #10	Community Room	1150 Olympic Crossing	McKinney	75071	
McKinney High School	PAC Lobby	1400 E. Wilson Creek Pkwy.	McKinney	75069	
McKinney North High School	Auditorium Lobby	2550 Wilmeth Rd.	McKinney	75071	
Melissa City Hall	Municipal Court Room, 1st Floor	3411 Barker Ave.	Melissa	75454	
Michael J. Felix Community Center	Rooms A and B	3815 E. Sachse Rd.	Sachse	74048	
Miller Elementary School	Gym	5651 Coventry Dr.	Richardson	75082	
Murphy Community Center	Homer and Marie Adams Rooms	205 N. Murphy Rd.	Murphy	75094	
New Hope Town Hall	Council Chambers	121 Rockcrest Rd.	McKinney	75071	
Old Settler's Recreation Center	North Multi-Purpose Room	1201 E. Louisiana St.	McKinney	75069	
Parker City Hall	Council Chambers	5700 E. Parker Rd.	Parker	75002	

Princeton Community Center	Community Room	416 N. 4th St.	Princeton	7540	Item 3.
Prosper Town Hall	Community Room	250 W. First St.	Prosper	75078	
Renner Frankford Branch Library	Programs Room	6400 Frankford Rd.	Dallas	75252	
Richardson Public Library	Story Time Room	900 Civic Center Dr.	Richardson	75080	
Robinson Middle School	Gym	6701 Preston Meadow Dr.	Plano	75024	
Rose Haggard Elementary School	Gym	17820 Campbell Rd.	Dallas	75252	
Schimelpfenig Middle School	Front Foyer	2400 Maumelle Dr.	Plano	75023	
Senior Recreation Center	Meeting Room	1400 S. College St.	McKinney	75069	
Terry Pope Administration Building	Community ISD Board Room	611 N. FM 1138	Nevada	75173	
The Grove at Frisco Commons	Community Room	8300 McKinney Rd.	Frisco	75034	
Tom Muehlenbeck Recreation Center	Meeting Room A	5801 W. Parker Rd.	Plano	75093	
Wilson Middle School	F113	1001 Custer Rd.	Plano	75075	
Wylie Senior Recreation Center	Dining Room	800 Thomas St.	Wylie	75098	

***Polling locations are subject to change. For the most current list of locations, please visit the Elections webpage at www.collincountytx.gov/elections.**

*(*Los lugares de votación están sujetos a cambios. Para obtener la lista más actualizada de ubicaciones, visite la página web de Elecciones en www.collincountytx.gov/elections.)*

Applications for ballot by mail may be mailed and must be received no later than the close of business on April 25, 2023, to:
(Las solicitudes de boleta por correo pueden enviarse por correo y deben recibirse a más tardar el 25 de abril de 2023 para:)

Bruce Sherbet, Early Voting Clerk
 2010 Redbud Blvd. Suite 102
 McKinney, Texas 75069
 972-547-1900
www.collincountytx.gov

Applications for ballot by mail may also be faxed or emailed and must be received no later than the close of business on April 25, 2023. For an application for ballot by mail submitted by telephonic facsimile machine or electronic transmission to be effective, the hard copy of the application must also be submitted by mail and be received by the early voting clerk not later than the fourth business day after the transmission by telephonic facsimile machine or electronic transmission is received. (Texas Election Code 84.007)

(Las solicitudes de boleta por correo también pueden enviarse por fax o correo electrónico y deben recibirse antes del cierre de operaciones el 25 de abril de 2023. Para que una solicitud de boleta por correo enviada por máquina de fax o transmisión electrónica sea efectiva, la copia impresa de la solicitud también debe presentarse por correo y ser recibida por el secretario de votación anticipada a más tardar el cuarto día hábil posterior a la recepción de la transmisión por fax o máquina electrónica de fax. (Código Electoral de Texas 84.007).)

Fax – 972-547-1996, Email - absenteemailballoting@collincountytx.gov

Collin County Election Services
May 6, 2023 Joint Election

Town of Prosper

Registered Voters 17,828
Percentage 0.9234172%

Category	Cost Per Unit	Estimated Election Expenses	Estimated Entity Expenses
Early Voting by Mail			
Kits - Mail Ballots	\$ 1.15	\$ 4,830.00	\$ 44.60
Postage	\$ 0.88	\$ 3,696.00	\$ 34.13
Paper Ballot Printing Services	\$ 0.31	\$ -	\$ -
Paper Ballot Shipping (per box)	\$ 30.00	\$ -	\$ -
Ballot Stock - BOD	\$ 0.10	\$ 420.00	\$ 3.88
Category Subtotal		\$ 8,946.00	\$ 82.61
General Election Expenses			
Mileage	Per Election	\$ 500.00	\$ 4.62
Van / Car Rental	Per Election	\$ 28,800.00	\$ 265.94
Election Night Receiving Cover	Per Election	\$ 3,037.51	\$ 28.05
Polling Place Rental	Per Election	\$ 8,050.00	\$ 74.34
Notice of Election	Per Election	\$ 9,700.00	\$ 89.57
Security - EV	Per Election	\$ 1,700.00	\$ 15.70
Security - ED	Per Election	\$ 5,000.00	\$ 46.17
Early Voting Ballot Board	Per Election	\$ 12,383.00	\$ 114.35
FICA - Election Workers	Per Election	\$ 53,195.35	\$ 491.21
County Employee/IT Overtime - EV	Per Election	\$ 20,800.00	\$ 192.07
Process Pollworker Checks - EV	\$ 1.50	\$ 735.00	\$ 6.79
Process Pollworker Checks - ED	\$ 1.50	\$ 885.00	\$ 8.17
Drayage Per Location - ED	\$ 180.00	\$ 21,240.00	\$ 196.13
Drayage Per Location - EV	\$ 180.00	\$ 17,640.00	\$ 162.89
Category Subtotal		\$ 183,665.86	\$ 1,696.00
Programming			
Coding Services	25 Days	\$ 41,250.00	\$ 380.91
Balotar Programming	Per Election	\$ 1,200.00	\$ 11.08
Category Subtotal		\$ 42,450.00	\$ 391.99
Early Voting by Personal Appearance			
Election Judge OT - EV	\$ 22.50	\$ 33,075.00	\$ 305.42
Alternate Judge OT - EV	\$ 21.00	\$ 30,870.00	\$ 285.06
Clerk OT - EV (5 per location)	\$ 19.50	\$ 171,990.00	\$ 1,588.19
ES&S Support Staff / Field Techs - EV	40 Days	\$ 110,160.00	\$ 1,017.24
Equipment Assembly - EV	\$ 50.00	\$ 2,450.00	\$ 22.62
Category Subtotal		\$ 348,545.00	\$ 3,218.52
Election Day and Tabulation			
Election Day/Post Election Vendor Support	15 Days	\$ 43,200.00	\$ 398.92
Notice of Inspection/Tabulation Test	Per Election	\$ 1,500.00	\$ 13.85
Category Subtotal		\$ 44,700.00	\$ 412.77
Supply Cost			
Ballots - Card Stock ExpressVote - EV	\$ 0.32	\$ 25,600.00	\$ 236.39
Ballots - Card Stock ExpressVote - ED	\$ 0.32	\$ 12,800.00	\$ 118.20
Test Ballots	\$ 0.29	\$ 1,102.00	\$ 10.18
Kits - ED	\$ 51.00	\$ 2,499.00	\$ 23.08

Town of Prosper

Registered Voters
Percentage17,828
0.9234172%

Category	Cost Per Unit	Estimated Election Expenses	Estimated Entity Expenses
Kits - EV	\$ 19.00	\$ 1,121.00	\$ 10.35
Kits - Provisional EV	\$ 38.10	\$ 1,866.90	\$ 17.24
Kits - Provisional ED	\$ 38.10	\$ 2,247.90	\$ 20.76
Polling Place Maps - EV	\$ 25.00	\$ 1,225.00	\$ 11.31
Polling Place Maps - ED	\$ 25.00	\$ 1,475.00	\$ 13.62
Signs Metal (5 per location)	\$ 5.00	\$ 2,700.00	\$ 24.93
Signs Wood	\$ 2.00	\$ 216.00	\$ 1.99
Ballot Card Stock - Provisional - EV (50 PL)	\$ 0.14	\$ 514.50	\$ 4.75
Ballot Card Stock - Provisional - ED (50 PL)	\$ 0.14	\$ 619.50	\$ 5.72
Ballots - Sample - EV (1 per location)	\$ 0.29	\$ 21.32	\$ 0.20
Ballots - Sample - ED (1 per location)	\$ 0.29	\$ 25.67	\$ 0.24
Ballots - Sample All Race - EV (50 per location)	\$ 0.87	\$ 3,197.25	\$ 29.52
Ballots - Sample All Race - ED (50 per location)	\$ 0.87	\$ 3,849.75	\$ 35.55
Printer Labels - EV (1 roll per location)	\$ 5.00	\$ 245.00	\$ 2.26
Printer Labels - ED (1 roll per location)	\$ 5.00	\$ 295.00	\$ 2.72
Category Subtotal		\$ 61,620.78	\$ 569.02
Equipment			
Cabinet Security - EV	\$ 200.00	\$ 9,800.00	\$ 90.49
Cabinet Security - ED	\$ 200.00	\$ 11,800.00	\$ 108.96
Computer Cabinet - EV	\$ 50.00	\$ 2,450.00	\$ 22.62
DS200 Ballot Counter - EV	\$ 350.00	\$ 18,200.00	\$ 168.06
DS200 Ballot Counter - ED	\$ 350.00	\$ 26,950.00	\$ 248.86
ExpressVote - EV (9 per location)	\$ 200.00	\$ 88,200.00	\$ 814.45
Expres Vote - ED (9 per location)	\$ 200.00	\$ 106,200.00	\$ 980.67
ExpressTouch - EV	\$ 200.00	\$ 9,800.00	\$ 90.49
ExpressTouch - ED	\$ 200.00	\$ 11,800.00	\$ 108.96
Category Subtotal		\$ 285,200.00	\$ 2,633.59
Personnel			
Election Judge - EV	\$ 15.00	\$ 60,270.00	\$ 556.54
Election Judge - ED	\$ 15.00	\$ 2,400.00	\$ 22.16
Alternate Election Judge - EV	\$ 14.00	\$ 56,252.00	\$ 519.44
Alternate Election Judge - ED	\$ 14.00	\$ 2,240.00	\$ 20.68
Clerk - EV (3 per location)	\$ 13.00	\$ 313,404.00	\$ 2,894.03
Clerk - ED (3 per location)	\$ 13.00	\$ 12,480.00	\$ 115.24
Judge Delivery - EV	\$ 50.00	\$ 2,450.00	\$ 22.62
Judge Delivery - ED	\$ 50.00	\$ 2,950.00	\$ 27.24
Category Subtotal		\$ 452,446.00	\$ 4,177.96
Election Expense			\$ 13,182.46
Cost (minimum)		\$ 1,427,573.64	\$ 13,182.46
10% Administrative Fee			\$ 1,318.25
Total Cost			\$ 14,500.71
<u>90% deposit due Friday, March 31, 2023</u>			\$ 13,050.64
Less Deposit			
Less Payment			
Final Amount Due			

THE STATE OF TEXAS COUNTY OF DENTON

JOINT ELECTION AGREEMENT AND CONTRACT FOR ELECTION SERVICES

This CONTRACT for election services is made by and between the Denton County Elections Administrator and the following political subdivisions, herein referred to as “participating authority or participating authorities” located entirely or partially inside the boundaries of Denton County:

Participating Authorities:

[entities]

This contract is made pursuant to Texas Election Code Sections 31.092 and 271.002 and Texas Education Code Section 11.0581 for a joint May 6, 2023 election to be administered by Frank Phillips, Denton County Elections Administrator, hereinafter referred to as “Elections Administrator.”

RECITALS

Each participating authority listed above plans to hold a General or Special Election on May 6, 2023. Denton County plans to hold county-wide voting for this General Election.

The County owns the Hart InterCivic Verity Voting System, which has been duly approved by the Secretary of State pursuant to Texas Election Code Chapter 122 as amended, and is compliant with the accessibility requirements for persons with disabilities set forth by Texas Election Code Section 61.012. The contracting political subdivisions (participating authorities) desire to use the County’s voting system and to compensate the County for such use and to share in certain other expenses connected with joint elections, in accordance with the applicable provisions of Chapters 31 and 271 of the Texas Election Code, as amended.

NOW THEREFORE, in consideration of the mutual covenants, agreements, and benefits to all parties, IT IS AGREED as follows:

I. ADMINISTRATION

The participating authorities agree to hold a “Joint Election” with Denton County and each other in accordance with Chapter 271 of the Texas Election Code and this agreement. The Elections Administrator shall coordinate, supervise, and handle all aspects of administering the Joint Election as provided in this agreement. Each participating authority agrees to pay the Elections Administrator for equipment, supplies, services, and administrative costs as provided in this agreement. The Elections Administrator shall serve as the administrator for the Joint Election; however, each participating authority shall remain responsible for the decisions and actions of its officers necessary for the lawful conduct of its election. The Elections Administrator shall provide advisory services in connection with decisions to be made and actions to be taken by the officers of each participating authority as necessary.

It is understood that other political subdivisions may wish to participate in the use of the County's Verity voting system and polling places, and it is agreed that the Elections Administrator may enter into other contracts for election services for those purposes, on terms and conditions generally similar to those set forth in this contract. In such cases, costs shall be pro-rated among the participants according to Section XI of this contract.

II. LEGAL DOCUMENTS

Each participating authority shall be responsible for the preparation, adoption, and publication of all required election orders, resolutions, notices, and any other pertinent documents required by the Texas Election Code and/or the participating authority's governing body, charter, or ordinances, except that the Elections Administrator shall be responsible for the preparation and publication of all voting equipment testing notices that are required by the Texas Election Code. Election orders should include language that would not necessitate amending the order if any of the Early Voting and/or Election Day polling places change.

Preparation of the necessary materials for notices and the official ballot shall be the responsibility of each participating authority, including translation to languages other than English. Each participating authority shall provide a copy of their respective election orders and notices to the Elections Administrator.

III. VOTING LOCATIONS

The Elections Administrator shall select and arrange for the use of and payment for all Early Voting and Election Day voting locations. Voting locations will be, whenever possible, the usual voting location for each election precinct in elections conducted by each participating authority, and shall be compliant with the accessibility requirements established by Election Code Section 43.034 and the Americans with Disabilities Act (ADA). The proposed voting locations are listed in Exhibit A of this agreement. In the event a voting location is not available or appropriate, the Elections Administrator will arrange for use of an alternate location. The Elections Administrator shall notify the participating authorities of any changes from the locations listed in Exhibit A.

IV. ELECTION JUDGES, CLERKS, AND OTHER ELECTION PERSONNEL

Denton County shall be responsible for the appointment of the presiding judge and alternate judge for each polling location. The Elections Administrator shall make emergency appointments of election officials if necessary.

Upon request by the Elections Administrator, each participating authority agrees to assist in recruiting bilingual polling place officials (fluent in both English and Spanish). In compliance with the Federal Voting Rights Act of 1965, as amended, each polling place containing more than 5% Hispanic population as determined by the 2020 Census shall have one or more election officials who are fluent in both the English and Spanish languages. If a presiding judge is not bilingual, and is unable to appoint a bilingual clerk, the Elections Administrator may recommend a bilingual worker for the polling place. If the Elections Administrator is unable to recommend or recruit a bilingual worker, the participating authority or authorities served by that polling

place shall be responsible for recruiting a bilingual worker for translation services at that polling place.

The Elections Administrator shall notify all election judges of the eligibility requirements of Subchapter C of Chapter 32 of the Texas Election Code, and will take the necessary steps to insure that all election judges appointed for the Joint Election are eligible to serve.

The Elections Administrator shall arrange for the training and compensation of all election judges and clerks. The Election judges and clerks who attend in-person voting equipment training and/or procedures training, shall be compensated at the rate of \$13 an hour. Election judges and clerks that elect to complete online training shall be compensated as a rate of a flat \$40. In the event that as Election judge or clerk completes both in-person and online training, they shall be compensated for the training resulting in the highest pay and will not be compensated for both trainings.

The Elections Administrator shall arrange for the date, time, and place for presiding election judges to pick up their election supplies. Each presiding election judge will be sent a letter from the Elections Administrator notifying them of their appointment, the dates/times and locations of training and distribution of election supplies, and the number of election clerks that the presiding judge may appoint.

Each election judge and clerk will receive compensation at the hourly rate established by Denton County pursuant to Texas Election Code Section 32.091 and overtime after 40 hours worked per week, if applicable. The election judge, or their designee, will receive an additional sum of \$25.00 for picking up the election supplies and equipment prior to Election Day and for returning the supplies and equipment to the central counting station after the polls close. Likewise, the Presiding Judge in Early Voting, or their designee, will receive an additional sum of \$25.00 for picking up the election supplies prior to the first day of Early Voting and for returning the supplies and equipment to the Elections Department after Early Voting has ended.

The compensation rates established by Denton County are:

Early Voting – Presiding Judge (\$15/hour), Alternate Judge (\$14/ hour), Clerk (\$13/ hour)

Election Day – Presiding Judge (\$15/hour), Alternate Judge (\$14/ hour), Clerk (\$13/ hour)

The Elections Administrator may employ other personnel necessary for the proper administration of the election, as well as, pre and post-election administration. In such cases, costs shall be pro-rated among participants of this contract. Personnel working in support of full-time staff will be expensed on a pro-rated basis and include a time period of one week prior to the election, during the election, and one week post-election. Personnel working in support of the Early Voting Ballot Board and/or central counting station on election night will be compensated at the hourly rate set by Denton County in accordance with Election Code Sections 87.005, 127.004, and 127.006.

If elections staff is required outside of the hours of the office's normal scope of business, the entity(ies) responsible for the hours will be billed for those hours. The Elections Administrator will determine when those hours are necessary, the number of staff and whom are necessary, along with to whom the hours are to be billed. Cost for these hours will be billed at a rate of 1.5 times the staff's hourly rate (See Sections XV #10). The Election Administrator has the right to waive these costs as they see fit.

V. PREPARATION OF SUPPLIES AND VOTING EQUIPMENT

The Elections Administrator shall arrange for delivery of all election supplies and voting equipment including, but not limited to, the County's Verity voting system and equipment, official ballot paper, sample ballots, voter registration lists, and all forms, signs, maps and other materials used by the election judges at the voting locations. The Elections Administrator shall ensure availability of tables and chairs at each polling place and shall procure rented tables and chairs for those polling places that do not have tables and/or chairs. Any additional required materials (required by the Texas Election Code) must be provided by the participating authority, and delivered to the Elections Office thirty-three (33) calendar days (April 3, 2023) prior to Election Day. If this deadline is not met, the material must be delivered by the participating authority, to all Early Voting and Election Day locations affected, prior to voting commencing. The Elections Administrator shall be responsible for conducting all required testing of the voting equipment, as required by Chapters 127 and 129 of the Texas Election Code.

At each polling location, joint participants shall share voting equipment and supplies to the extent possible. The participating authorities shall share a mutual ballot in those precincts where jurisdictions overlap. Multiple ballot styles shall be available in those shared polling places where jurisdictions do not overlap. The Elections Administrator shall provide the necessary voter registration information, maps, instructions, and other information needed to enable the election judges in the voting locations that have more than one ballot style to conduct a proper election.

Each participating authority shall furnish the Elections Administrator a list of candidates and/or propositions showing the order and the exact manner in which the candidate names and/or proposition(s) are to appear on the official ballot (including titles and text in each language in which the authority's ballot is to be printed). **Said list must be provided to the Elections Office within three (3) business days following the last day to file for a place on the ballot** or after the election is ordered, whichever is later. The list must be in a Word document, the information will preferably be in sentence case format, be in Arial 12 point font, and must contain candidate contact information for the purposes of verifying the pronunciation of each candidate's name. Each participating authority shall be responsible for proofreading and approving the ballot insofar as it pertains to that authority's candidates and/or propositions. Each participating authority shall be responsible for proofing and approving the audio recording of the ballot insofar as it pertains to that authority's candidates and/or propositions. **The approval must be finalized with the Elections Office within five (5) calendar days of the receipt of the proofs, or the provided proofs shall be considered approved.**

The joint election ballots shall list the County's election first. The joint election ballots that contain ballot content for more than one joint participant because of overlapping territory shall

be arranged with the appropriate school district ballot content appearing on the ballot following the County's election, followed by the appropriate city ballot content, and followed by the appropriate water district or special district ballot content.

Early Voting by personal appearance and on Election Day shall be conducted exclusively on Denton County's Verity voting system including provisional ballots.

The Elections Administrator shall be responsible for the preparation, testing, and delivery of the voting equipment for the election as required by the Election Code.

The Elections Administrator shall conduct criminal background checks on the relevant employees upon hiring as required by Election Code 129.051(g).

VI. EARLY VOTING

The participating authorities agree to conduct joint early voting and to appoint the Election Administrator as the Early Voting Clerk in accordance with Sections 31.097 and 271.006 of the Texas Election Code. Each participating authority agrees to appoint the Elections Administrator's permanent county employees as deputy early voting clerks. The participating authorities further agree that the Elections Administrator may appoint other deputy early voting clerks to assist in the conduct of early voting as necessary, and that these additional deputy early voting clerks shall be compensated at an hourly rate set by Denton County pursuant to Section 83.052 of the Texas Election Code. Deputy early voting clerks who are permanent employees of the Denton County Elections Administrator or any participating authorities shall serve in that capacity without additional compensation.

Exhibit A of this document includes locations, dates, and times that voting will be held for Early Voting by personal appearance. Any qualified voter of the Joint Election may vote early by personal appearance at any one of the joint early voting locations. All requests for temporary branch polling places will be considered and determined based on the availability of facility and if it is within the Election Code parameters. All costs for temporary locations including coverage by Election Administration staff will be borne by the requesting authority. The Elections Administrator will determine when those hours are necessary, the number of staff and who are necessary, along with to whom the hours are to be billed. Cost for these hours will be billed at a rate of 1.5 times the staff's hourly rate (See Sections XV #10). The Election Administrator has the right to waive these costs as they see fit.

The standard dates and hours for the May 6, 2023 election will be as follows:

Monday, April 24, 2023 through Saturday, April 29, 2023; 8am – 5pm
 Sunday, April 30, 2023; 11am-5pm
 Monday, May 1, 2023 through Tuesday, May 2, 2023; 7am-7pm.

As Early Voting Clerk, the Elections Administrator shall receive applications for early voting ballots to be voted by mail in accordance with Chapters 31 and 86 of the Texas Election Code. Any requests for early voting ballots to be voted by mail received by the participating authorities

shall be forwarded immediately by fax or courier to the Elections Administrator for processing. The address of the Early Voting Clerk is as follows:

Frank Phillips, Early Voting Clerk
Denton County Elections
PO Box 1720
Denton, TX 76202
Email: elections@dentoncounty.gov

Any requests for early voting ballots to be voted by mail, and the subsequent actual voted ballots that are sent by a contract carrier (ie. UPS, FedEx, etc.) shall be delivered to the Early Voting Clerk at the Denton County Elections Department physical address as follows:

Frank Phillips, Early Voting Clerk
Denton County Elections
701 Kimberly Drive, Suite A101
Denton, TX 76208
Email: elections@dentoncounty.gov

The Elections Administrator shall post on the county website, the participating authority's Early Voting Roster on a daily basis. In accordance with Section 87.121 of the Election Code, the daily roster showing the previous day's early voting activity will be posted no later than 11:00 am each business day.

VII. EARLY VOTING BALLOT BOARD

Denton County shall appoint the Presiding Judge of an Early Voting Ballot Board (EVBB) to process early voting results from the Joint Election. The Presiding Judge, with the assistance of the Elections Administrator, shall appoint an Alternate Judge and one or more additional members to constitute the EVBB. The Elections Administrator shall determine the number of EVBB members required to efficiently process the early voting ballots.

VIII. CENTRAL COUNTING STATION AND ELECTION RETURNS

The Elections Administrator shall be responsible for establishing and operating the central counting station to receive and tabulate the voted ballots in accordance with the provisions of the Texas Election Code and of this agreement.

The participating authorities hereby, in accordance with Section 127.002, 127.003, and 127.005 of the Texas Election Code, appoint the following central counting station officials:

Counting Station Manager: Brandy Grimes, Deputy Elections Administrator
Tabulation Supervisor: Jason Slonaker, Technology Resources Coordinator
Presiding Judge: Early Voting Ballot Board Judge
Alternate Judge: Early Voting Ballot Board Alternate Judge

The counting station manager or their representative shall deliver timely cumulative reports of the election results as precincts report to the central counting station and are tabulated by posting on the Election Administrator's Election Night Results website. The manager shall be responsible for releasing unofficial cumulative totals and precinct returns from the election to the joint participants, candidates, press, and general public by distribution of hard copies at the central counting station (if requested) and by posting to the Election Administrator's Election Night Results website. To ensure the accuracy of reported election returns, results printed on the reports produced by Denton County's voting equipment will not be released to the participating authorities at the remote collection locations or from individual polling locations.

The Elections Administrator will prepare the unofficial canvass reports after all precincts have been counted and will deliver a copy of the unofficial canvass to each participating authority as soon as possible after all returns have been tabulated. The Elections Administrator will include the tabulation and precinct-by-precinct results that are required by Texas Election Code Section 67.004 for the participating authorities to conduct their respective canvasses. Each participating authority shall be responsible for the official canvass of its respective election(s), and shall notify the Elections Administrator, or their designee, of the date of the canvass, no later than three days after Election Day.

The Elections Administrator shall be responsible for conducting the post-election manual recount required by Section 127.201 of the Texas Election Code unless a waiver is granted by the Secretary of State. Notification and copies of the recount, if waiver is denied, will be provided to each participating authority and the Secretary of State's Office.

IX. PARTICIPATING AUTHORITIES WITH TERRITORY OUTSIDE DENTON COUNTY

Each participating authority with territory containing population outside of Denton County agrees that they Elections Administrator shall administer only the Denton County portion of those elections.

X. RUNOFF ELECTIONS

Each participating authority shall have the option of extending the terms of this agreement through its runoff election, if applicable. In the event of such runoff election, the terms of this agreement shall automatically extend unless the participating authority notifies the Elections Administrator in writing within three (3) business days of the original election.

Each participating authority shall reserve the right to reduce the number of early voting locations and/or Election Day voting locations in a runoff election.

Each participating authority eligible to hold runoff elections agrees that the date of the runoff election, if necessary, shall be Saturday, June 10, 2023, with early voting being held in accordance with the Election Code.

XI. ELECTION EXPENSES AND ALLOCATION OF COSTS

The participating authorities agree to share the costs of administering the Joint Election.

Allocation of general expenses, which are not directly attributable to an individual polling location, will be expensed by each participating authority's percentage of registered voters of the total registered voters of all participating authorities.

Expenses for Early Voting by personal appearance shall be allocated based upon the actual costs associated with each early voting location. Each participating authority shall be responsible for an equal portion of the actual costs associated with the early voting locations within their jurisdiction. Participating authorities that do not have a polling location within their jurisdiction shall pay an equal portion of the nearest polling location.

Election Day location expenses will be allocated based on each participating authority's percentage of registered voters assigned to each polling place. If a participating authority's election is conducted at more than one Election Day polling location there shall be no charges or fees allocated to the participating authority for the cost of the Election Day polling location in which the authority has fewer than 50% of the total registered voters served by that polling location, except that if the number of registered voters in all of the authority's polling locations is less than the 50% threshold, the participating authority shall share the expenses, based on their percentage of registered voters, of the polling location at which it has the greatest percentage of registered voters.

In the event that participating authorities with overlapping boundaries cannot make an agreement on Early Voting and/or Election Day locations, the requesting participating authority agrees to bear the entire expense of the location.

Each participating authority requesting additional hours, outside of the standard hours, for a location or locations, agree to split the cost of the additional open hours equally amongst the requesting participating authorities.

Costs for Early Voting by mail, in-person ballots, provisional ballots, and Poll Pad paper shall be allocated according to the actual number of ballots issued to each participating authority's voters and the cost shared equally amongst participating authorities of each ballot style.

Each participating authority agrees to pay the Elections Administrator an administrative fee equal to ten percent (10%) of its total billable costs in accordance with Section 31.100(d) of the Texas Election Code.

The Denton County Elections Administrator shall deposit all funds payable under this contract into the appropriate fund(s) within the county treasury in accordance with Election Code Section 31.100.

The Denton County Elections Administrator reserves the right to adjust the above formulas in agreement with an individual jurisdiction if the above formula results in a cost allocation that is inequitable.

If any participating authority makes a special request for extra Temporary Branch Early Voting by Personal Appearance locations as provided by the Texas Election Code, that entity agrees to pay the entire cost for that request.

Participating authorities having the majority of their voters in another county, and fewer than 500 registered voters in Denton County, and that do not have an Election Day polling place or early voting location within their Denton County territory shall pay a flat fee of \$400 for election expenses.

Election expenses, including but not limited to, overtime charges for Election Office staff, and any unforeseen expenses needed to conduct the election, will be borne by the participating authority or authorities, affected.

XII. WITHDRAWAL FROM CONTRACT DUE TO CANCELLATION OF ELECTION

Any participating authority may withdraw from this agreement and the Joint Election should it cancel its election in accordance with Sections 2.051 - 2.053 of the Texas Election Code. The withdrawing authority is fully liable for any expenses incurred by the Denton County Elections Administrator on behalf of the authority plus an administrative fee of ten percent (10%) of such expenses. Any monies deposited with the Elections Administrator by the withdrawing authority shall be refunded, minus the aforementioned expenses and administrative fees, if applicable.

It is agreed that any of the joint election early voting locations that are not within the boundaries of one or more of the remaining participating authorities, with the exception of the early voting location at the Denton County Elections Building, may be dropped from the joint election unless one or more of the remaining participating authorities agreed to fully fund such location(s). In the event that any early voting location is eliminated under this section, as addendum to the contract shall be provided to the remaining participants within five days after notification of all intents to withdraw have been received by the Elections Administrator.

XIII. RECORDS OF THE ELECTION

The Elections Administrator is hereby appointed general custodian of the voted ballots and all records of the Joint Election as authorized by Section 271.010 of the Texas Election Code.

Access to the election records shall be available to each participating authority as well as to the public in accordance with applicable provisions of the Texas Election Code and the Texas Public Information Act. The election records shall be stored at the offices of the Elections Administrator or at an alternate facility used for storage of county records. The Elections Administrator shall ensure that the records are maintained in an orderly manner so that the records are clearly identifiable and retrievable.

Records of the election shall be retained and disposed of in accordance with the provisions of Section 66.058 of the Texas Election Code. If records of the election are involved in any pending election contest, investigation, litigation, or open records request, the Elections Administrator shall maintain the records until final resolution or until final judgment, whichever is applicable.

It is the responsibility of each participating authority to bring to the attention of the Elections Administrator any notice of pending election contest, investigation, litigation or open records request which may be filed with the appropriate participating authority.

XIV. RECOUNTS

A recount may be obtained as provided by Title 13 of the Texas Election Code. By signing this document, the presiding officer of the contracting participating authorities agree that any recount shall take place at the office of the Elections Administrator, and that the Elections Administrator shall serve as Recount Supervisor, and the participating authority's official or employee who performs the duties of a secretary under the Texas Election Code shall serve as Recount Coordinator.

The Elections Administrator agrees to provide advisory services to each participating authority as necessary to conduct a proper recount.

XV. MISCELLANEOUS PROVISIONS

1. It is understood that to the extent space is available, other districts and political subdivisions may wish to participate in the use of the County's election equipment and voting places, and it is agreed that the Elections Administrator may contract with such other districts or political subdivisions for such purposes and that in such event there may be an adjustment of the pro-rata share to be paid to the County by the participating authorities.
2. The Elections Administrator shall file copies of this document with the Denton County Treasurer and the Denton County Auditor in accordance with Section 31.099 of the Texas Election Code.
3. Nothing in this contract prevents any party from taking appropriate legal action against any other party and/or other election personnel for a breach of this contract or a violation of the Texas Election Code.
4. This agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas.
5. In the event that one of more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
6. All parties shall comply with all applicable laws, ordinances, and codes of the State of Texas, all local governments, and any other entities with local jurisdiction.

7. The waiver by any party of a breach of any provision of this agreement shall not operate as or be construed as a waiver of any subsequent breach.
8. Any amendments of this agreement shall be of no effect unless in writing and signed by all parties hereto.
9. Failure for a participating authority to meet the deadlines as outline in this contract may result in additional charges, including but not limited to, overtime charges, etc.

Elections Staffing Hourly Rate (includes all benefit pay):

Absentee Voting Coordinator	\$43.137
Voter Registration Clerk	\$33.198 - \$35.590
Technology Resources Coordinator	\$46.790
Elections Technician	\$31.220 - \$37.234
Voter Registration Coordinator	\$40.308
Training Coordinator	\$45.243
Election Coordinator	\$37.234

XIV. COST ESTIMATES AND DEPOSIT OF FUNDS

The total estimated obligation for each participating authority under the terms of this agreement is listed below. The exact amount of each participating authority's obligation under the terms of this agreement shall be calculated after the May 6, 2023, election (or runoff election, if applicable). The participating authority's obligation shall be paid to Denton County within 30 days after the receipt of the final invoice from the Denton County Elections Administrator.

The total estimated obligation for each participating authority under the terms of this agreement shall be provided within 45 days after the last deadline for ordering an election:

[costs]

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XVII. JOINT CONTRACT ACCEPTANCE AND APPROVAL

IN TESTIMONY HEREOF, this agreement has been executed on behalf of the parties hereto as follows, to-wit:

- (1) It has on the 23rd day of January, 2023 been executed by the Denton County Elections Administrator pursuant to the Texas Election Code so authorizing;
- (2) It has on the _____ day of _____, 2023 been executed on behalf of the **TOWN OF PROSPER** pursuant to an action of the Prosper Town Council so authorizing;

ACCEPTED AND AGREED TO BY DENTON COUNTY ELECTIONS ADMINISTRATOR:

APPROVED:



Frank Phillips, CERA

ACCEPTED AND AGREED TO BY THE TOWN OF PROSPER:

APPROVED:

ATTESTED:

Robert B. Scott, Interim Town Manager

Michelle Lewis Sirianni, Town Secretary

TEXAS MUNICIPAL CLERKS CERTIFICATION PROGRAM



Election Calendar

For a City's General Election on May 6, 2023

(last updated October 14, 2022)

This calendar includes all major actions for which the Election Code prescribes a specific deadline, but this calendar does not include actions that can vary from one city to another (for example, preparation of voting equipment and forms). Each city secretary should use the chart in §1.62 of the *Texas Municipal Election Law Manual* (6th edition) [abbreviated as M or Elections Manual] together with this calendar to fill in those dates on the city secretary's personal election calendar. Always verify the latest version of the calendar on the TMCA's website (under "publications").

Dates in column 1 are 2023 unless noted otherwise. Actions in column 2 relate to general elections (those in *italics pertain to early voting*), but some notes for special elections have been included. The actions are typically taken by the city secretary, but deviations appear in column 3. Column 4 is a cross reference to the Elections Manual.

"ED Interval" in column 5 indicates the time between the date of the action and election day. For example, the notation "50th" in the entry for March 17 means mandatory office hours begin the 50th day before election day; the notation "+10" in the entry for May 16 means that the LAST DAY for the presiding judge of the early voting ballot board to mail voters notices of rejected mail ballots is the 10th day after election day. An asterisk (*) in this column indicates the time stated is not required by statute.

When a statutory provision prescribes the LAST DAY for the performance of an act, the number in column 5 reflects that day. If the statutory date is moved because of a Saturday, Sunday, or state or national holiday [M §1.52(b); endnote 6], the resulting date is designated in column 1, and column 5 indicates, in parentheses and italics, the actual number of days measured from election day. When a deadline is extended for this reason, the extended date is used for determining other due dates. Not all due dates revolve around election day and are so noted.

The last column has been reserved to show completion of the event in column 2. A dashed line in the table between entries indicates separate events that fall on the same day.

To prepare a calendar for a runoff election, see M §§12.01-.02; for a special election to fill a vacancy in office, see M §12.03; for a special election on a measure, see generally M §12.12. When reading the Election Code, the city secretary should remember to read the chapter and subchapter titles to determine if the section applies to cities. Abbreviations in the calendar are the same as those used in the Elections Manual.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Fri May 6 2022	One-year deadline for website posting certain candidacy and other information. Note: See endnote 1.	City Secretary	2.13(d)(2)	365th	
Mon Dec 19 2022	LAST DAY to post on bulletin board notice of the filing period for the general election (SOS Form 1-20).	City Secretary	2.13(d)(1)	138th (30 days b/4 1st day to file)	
Sun Jan 1 2023	<i>FIRST DAY voters may apply for a ballot by mail (ABBM), for an Annual ABBM, or for a Federal Postcard Application (FPCA).</i> Note: The first day does not move despite the New Year's Day holiday. See D Day – 11 days for end of period.	City Secretary	9.44(a)	1st day of year	
Thu Jan 5	Obtain forms: candidate's application for place on ballot, appointment of campaign treasurer (candidate and specific-purpose committee), report of contributions and expenditures (candidate-officeholder and specific-purpose committee), application for mail ballot, administrative forms, and precinct forms.	City Secretary	5.31	*121st	
Thu Jan 5- Fri Jan 27	Review M §1.62 for possible action: Steps 1-5 (revising election precincts, designating polling places, changing method of voting, and contracting, if any) and Step 12 (establishing or changing terms of election judges).	City Secretary and City Council	1.62	*121st thru *99th	
Tue Jan 17	LAST DAY for timely filing of semi-annual report of contributions and expenditures. Note: Because Jan 15 is a Sun and Mon is Martin Luther King Day, the deadline is extended to Tue.	City Secretary	3.12(b) 3.16	Jan 15	
Wed Jan 18	FIRST DAY for filing application for place on general election ballot (SOS Form 2-26). Note: Filing for a general election may occur before the election is ordered (as opposed to a special election). Period ends at 5 p.m. E Day – 78 days.	City Secretary	2.13(a) 2.14(a)	108th (30 days b/4 filing dead- line)	
Wed Jan 18	FIRST DAY for filing declaration of write-in candidacy (SOS Form 2-28). Note: Periods ends at 5 p.m. E Day – 74 days.	City Secretary	2.19(b)	108th	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Mon Jan 23- Fri Feb 17	Recommended period and statutory deadline for ordering a general election (SOS Form 1-2). Note: Sometimes the phrase “calling” election is used. The deadline may be different for a special election. See endnote 2 for mock student elections. Home-rule cities see endnote 3. Cities contracting should informally notify their contracting partners.	Mayor	6.03	*103rd thru 78th	
Mon Feb 6	LAST DAY for small city in small county to apply for exception to accessibility requirements (SOS Form 13-4). Note: Because the deadline falls on Sun, it moves to Mon.	City Secretary to SOS	5.25(c)	90th (89th)	
Tue Feb 14 midnight	Death and ballot preparation: If a candidate dies on or before this date, the City Secretary MUST remove the candidate’s name from ballot. Note: If a candidate dies after this date but on or before the filing deadline, see endnote 4.	City Secretary	6.23(c)	81st [day b/4 day b/4 filing deadline (3rd day)]	
Fri Feb 17	LAST DAY for ordering a general or special election for the uniform date in May (SOS Form 1-2). Note: See endnote 2 for student elections. Home-rule cities see endnote 3.	Mayor	6.03	78th	
Feb 17 5 p.m.	LAST DAY for filing application for place on general election ballot (SOS Form 2-26). Note: City Secretary’s office should stay open until 5 p.m. Mailed applications are filed when received. For deceased candidates, see endnote 4. If no candidate has filed in a city with 4-year terms, the filing deadline is extended to 5 pm Fri. March 10.	City Secretary	2.14 6.23(c)	78th	
Feb 17	Recommended last day for notice designating election precincts and polling places.	City Council	5.42(d)	*78th	
Feb 17	Recommended first day to provide 4-day notice of drawing to candidate. Note: Only written notice by mail is required 4 days before the drawing, but phone or email notice should follow the same timeline. Public notice must be posted (SOS Form 3-2) 72 hours before date of drawing.	City Secretary	6.22(a)(2)	*78th	
Mon Feb 20	Recommended first date for preliminary work to appoint election judges.	City Secretary	7.01	*75th	

*An asterisk in Column 5 “ED Interval” is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Feb 20	Recommended first day to post public's 72-hour notice of drawing for order of names on ballot (SOS Form 3-2).	City Secretary	6.22(a)	*75th	
Tue Feb 21 5 p.m.	LAST DAY for a write-in candidate to declare candidacy in the general election (SOS Form 2-28). Note: City Secretary's office should stay open until 5 p.m. Mailed applications are filed when received. For deceased candidates, see endnote 4. For special elections to fill a vacancy, see the 75th day.	City Secretary	2.18(b)	74th	
Wed Feb 22	Recommended date to deliver the certification of unopposed candidates to city council if a candidate does not have an opponent in an election considered to be a separate election (SOS Form 12-1).	City Secretary	6.12	*73rd	
Thu Feb 23- Mon Feb 27	Recommended period to conduct drawing for order of names on ballot, prepare ballot format, and send information to the printer.	City Secretary	6.22(b) 6.25 6.26	*72nd thru *68th	
Fri Feb 24 5 p.m.	LAST DAY for a ballot or write-in candidate in general election to submit a certificate of withdrawal (SOS Form 2-33) and have name omitted from the ballot. Note: City Secretary's office should stay open until 5 p.m. A withdrawal after this date is valid if it is submitted before the ballots are prepared AND if the public notice of the logic and accuracy test has not been published. EC §1.006 does not apply to withdrawal deadlines [EC §145.092(e)].	City Secretary	6.23(c) 2.31(b)	71st	
Feb 24 5 p.m.	LAST DAY that a declaration of ineligibility causes omission of candidate's name from ballot in the general election. Note: City Secretary's office should stay open until 5 p.m.	City Secretary	2.33(d)	71st	
Feb 24	Recommended first day to cancel (SOS Form 12-2). Note: Unopposed races must be cancelled.	City Council	6.19-.16	71st	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Tues Mar 7	Period the Texas Ethics Commission will defer an investigation until after election (or runoff).	City Secretary Texas Ethics Commission	3.01(b)(2)	60th thru E Day	
Mar 7	LAST DAY to deliver notice of the election to the county clerk and voter registrar of each county where the city is located. Note: This is not the publication or posting deadline.	City Council (City Secretary)	6.54(a)	60th	
Mar 7	Recommended day to contact the county concerning availability of the initial list of voters who submitted annual applications for ballot by mail (ABBM).	City Secretary	9.43	*60th	
Fri Mar 10 5 p.m.	Extended deadline to file for a place on the ballot in a city office having a 4-year term if no one has filed by 5 p.m. on Feb 17.	City Secretary	2.13(b)	57th	
Mon Mar 13- Fri Mar 24	Recommended period for appointing election judges plus members of the EVBB and SVC. Note: Home-rule cities see endnote 3.	City Council	7.42(a)(2) 7.23-.24 7.33-.34	*54th thru *43rd	
Thu Mar 16	Recommended date to print ballots that have been prepared earlier.	City Secretary	6.25	*51st	
Fri Mar 17	FIRST DAY of mandatory office hours. Note: City Secretary must keep office open for at least 3 hours a day during regular office hours on regular business days. Period ends E Day + 40 days.	City Secretary	6.80(a)	50th	
Mar 17	LAST DAY for a challenge of a candidate application based on form, content, procedure.	City Secretary	2.16(d)	50th	
Wed Mar 22	<i>LAST DAY to mail ballots to FPCA voters and other voters who are eligible for early voting because they are voting from outside the U.S.</i> Note: If it is not possible to mail these ballots by this deadline, the City Secretary must notify the SOS within 24 hours. SOS does not apply EC §1.006 to this deadline. Respond to FCPA applications received after this date within 7 days (the same as non-FCPA applications). Rosters must be posted to website by 11 a.m. on the following day (SOS Forms 5-10 & 5-9a).	City Secretary	9.49(b) 9.82	45th	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Thu Apr 6 5 p.m.	LAST DAY for filing first report of campaign contributions and expenditures by opposed candidates and specific-purpose committees. Note: City Secretary's office should stay open until 5 p.m. The deadline is extended to midnight for electronic filing. See endnote 5 for current threshold dollar amounts.	City Secretary	3.13(b)	30th	
Apr 6	LAST DAY for submitting voter registration application in time to vote at the election or for requesting transfer of registration in time to vote in new precinct not in the same county and territory.	Registrar	4.07(f) 4.07(g)	30th	
Apr 6- Wed Apr 26	Period for publishing notice of election. Note: Must be published once; perhaps more for a special election on a measure. Home-rule cities see endnote 3.	Mayor	6.52(a)	30th thru 10th	
Apr 6	Minimum 10th day to begin posting continuous notice if SVC meets on first available date, Apr 16. Note: The city council makes the appointments not later than 5 days after the City Secretary calls for appointment (SOS Forms 5-52 & 5-53). Post notice of appointment (SOS Form 5-55)	City Secretary City Council	6.70(a) 7.33 7.34	*30th	
Apr 6	Recommended last day to notify presiding judges of duty to hold election (SOS Forms 1-40 to 4-12).	Mayor	7.42(a)(2)	*30th	
Apr 6	Recommended last day to request voter registrar to prepare lists of registered voters and furnish statement of residence forms to be used in conducting the election.	City Secretary	4.34(a)	*30th	
Apr 6	Recommended day to begin posting the notice of voting order priority for voters with mobility issues on the city's website (SOS Form 7-33).	City Secretary	10.23(d)	*30th	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Sat Apr 15 (Fri Apr 14 recom- mended)	LAST DAY for posting (SOS Form 1-11) (1) notice of election on bulletin board used for posting notices of city council meetings and (2) date, location of each polling place, and each candidate and measure on the ballot on the city's website. Note: The 21st day is Sat, meaning the notice can be delayed until Mon. The better practice is to post by Fri through at least election day. For cities conducting bond elections, additional posting and publication requirements apply. Home-rule cities see endnote 3.	City Secretary	6.52(b) 12.15(e)	21st (22nd)	
Sun Apr 16 (Fri Apr 14 recom- mended)	Type B cities: LAST DAY to post notice of election in 3 public places (SOS Form 1-11). Note: EC §1.006 does not apply to this LGC deadline; the better practice is to post before the weekend.	City Secretary	6.52(b)(3)	20th	
Apr 16	<i>FIRST DAY SVC may begin work.</i> Note: EC §1.006 does not apply to the starting date. EC §87.0271 requires SVC to inform voters of certain defects in the carrier envelope within 2 days of identification (SOS Forms 8-20 to 8-24).	City Secretary	6.70(a) 6.72	20th	
Mon Apr 17	<i>LAST DAY for unregistered applicant to submit FCPA application and be eligible to vote a full ballot.</i> Note: The 20th day before the election is Sun, Apr 16. The deadline is extended so that if the application is placed in the mail by Mon, Apr 17, it is timely.	City Secretary	9.61(a)	20th (19th)	
Tue Apr 18	<i>Recommended last day for publication of notice of the test of automatic tabulating and DRE equipment to be used in early voting if the test is on Apr 21.</i> Note: Notice for tabulating equipment must be 48 hours before date of test. Notice for DRE equipment must be 48 hours before test begins. DREs cannot be used after Sept 1, 2026 except by disabled voters.	City Secretary	6.63(d)(1) 6.63(d)(2) 6.64(c)	18th	
Apr 18	<i>LAST DAY early voting clerk, upon receipt of defective early voting application, must mail 2nd application with explanation of defects and instructions (SOS Forms 6-2 to 6-4).</i>	City Secretary	9.46(b)	18th	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Wed Apr 19	<i>LAST DAY to begin posting continuous notice of schedule for branch early voting polling places if not included in earlier notice of election (SOS Form 5-49). Note: The May early voting period is not the same as November of even-numbered years.</i>	City Secretary	9.14(c)	17th (5th day b/4 EV in person)	
Fri Apr 21	<i>LAST DAY to accept an FPCA without a postmark to prove mailing date and mail the voter a full ballot if the voter is not permanently registered but meets the requirements to be registered under EC Title 2.</i>	City Secretary	9.66(b)	15th	
Apr 21	<i>LAST DAY for conducting first test of automatic tabulating and DRE equipment to be used for early voting. Note: Notice for tabulating equipment must be 48 hours before date of test. Notice for DRE equipment must be 48 hours before test begins. DREs cannot be used after Sept 1, 2026 except by disabled voters.</i>	City Secretary	6.63(d) 6.64(c)	15th	
Apr 21	<i>LAST DAY to notify judges of duty to hold the election (SOS Form 4-10 to 4-12).</i>	Mayor	7.44(a)	15th	
Apr 21	<i>LAST DAY to challenge write-in candidate for form, content, and procedure.</i>	City Secretary	2.18(f)	15th	
Sun Apr 23	<i>FIRST DAY a city holding a joint election with a county with a population of 100,000 or more may convene the EVBB to process mail ballots. Note: EC §1.006 does not apply to the first day. 24-hour notice must be posted for each delivery of voting materials made before election day (SOS Forms 6-6 & 6-7). The board may process the materials but may not count the ballots until after the end of the period of early voting by personal appearance. The board must provide notice of opportunity to cure certain defects in the carrier envelope within 2 days of identifying the deficiency (SOS Forms 8-20 to 8-24).</i>	City Secretary Early Voting Ballot Board	9.57(a)(2) 10.03	13th	
Mon Apr 24	<i>FIRST DAY for early voting by personal appearance. Note: If voting will be conducted on Sat or Sun, notice of schedule must be posted at least 72 hours before first hour of the weekend voting (SOS Form 5-47).</i>	City Secretary	9.14	12th	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Apr 24	<i>FIRST DAY for new illness or disability allowing late application for late (emergency) early voting (SOS Form 5-18). Note: While the injury or disability occurs on or after this date, the application cannot be submitted until the day after the early voting period ends.</i>	Voter	9.73	12th	
Apr 24- Thu Apr 27	<i>Possible period for posting notice amending notice of branch early voting polling places after early voting by personal appearance starts.</i>	City Secretary	9.14(d)	12th thru 9th	
Tue Apr 25	<i>LAST DAY to accept application for a ballot to be voted by mail, by 12 noon or close of business, whichever is later. Note: If the deadline falls on a Sat, Sun, or legal holiday, then personal delivery must be the first regular business day preceding that day. Originals are due 4 days after fax or email (except emailed FCPA).</i>	City Secretary	9.44(b)(1) 9.45(b-c) 9.68(c)	11th	
Apr 25	<i>LAST DAY to accept an FPCA from a registered voter.</i>	City Secretary	9.61(c) 9.68(a, c)	11th	
Apr 25	<i>LAST DAY for county clerk or election administrator to deliver final list of voters that submitted an annual ABBM.</i>	City Secretary	9.43(a)(2)	11th	
Wed Apr 26	<i>LAST DAY to publish of notice of election (SOS Form 1-11). Note: Home-rule cities see endnote 3.</i>	Mayor	6.52(a)(1)	10th	
Fri Apr 28 5 p.m.	<i>LAST DAY for filing second report of campaign contributions and expenditures. Note: Deadline extended to midnight for electronic filing. See endnote 5 for current monetary thresholds.</i>	City Secretary	3.15	8th	
Mon May 1	<i>LAST DAY to publish notice of first test of automatic tabulating equipment or DRE Note: Testing must occur 48 hours before equipment is used (E Day at 7 a.m.). Notice for tabulating equipment must be published 48 hours before test date. Notice for DRE must be published 48 hours before test begins.</i>	City Secretary	6.64(b-c) 6.63(d)(1)	5th	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
May 1	<i>FIRST DAY for death in family to qualify for late (emergency) early voting (SOS Form 5-16). Note: While the death occurs on or after the day before the last day of early voting by personal appearance, the application cannot be submitted until the day after early voting by personal appearance ends. Voting by this method (SOS Form 5-27) ends close of business the day before election day.</i>	City Secretary	9.73(a)	5th	
Tue May 2	<i>LAST DAY of regular early voting by personal appearance (versus special forms of early voting).</i>	City Secretary	9.11(b)	4th	
May 2 Sat May 6	<i>Once early voting by personal appearance is over until 7 p.m. on election day, early voting materials may be delivered to the EVBB for qualifying purposes when paper ballots are used or automatically tabulated ballots are used at a central counting station. Note: Ballots may not be counted until election day, except if election is held jointly with a county of 100,000 or more. Post notice of delivery continuously 24 hours before each delivery (SOS Forms 6-6 & 6-7). Ensure that the counting equipment has been tested at least 48 hours before tabulation begins.</i>	City Secretary	9.57(a)(1) 9.57(a)(3)	4th thru close of polls	
May 2	<i>FIRST DAY the EVBB may begin counting ballots in an election held jointly with a county having a population of 100,000 or more. Note: Ensure that the counting equipment has been tested at least 48 hours before tabulation begins.</i>	Early Voting Ballot Board	9.57(a)(2)	4th thru close of polls	
Wed. May 3	<i>LAST DAY to receive in the mail an application to cancel mail ballot (SOS Form 5-17). Note: SOS does not apply EC §1.006.</i>	City Secretary	9.54(a)	3rd	
May 3 Fri May 5	<i>Period to apply for late (emergency) early voting because of death in family May 1 or later. Note: Requires absence from county on election day. Period ends the day before E Day.</i>	City Secretary	9.73	3rd	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
May 3- Sat May 6 5 p.m.	<i>Period to apply for late (emergency) early voting because of illness or disability originating on or after Apr 24 (SOS Form 5-18). Note: The deadline for returning the marked ballot is 7 pm E Day, but applications must be received by 5 pm E Day.</i>	City Secretary	9.72(b)	3rd thru Election Day	
Wed May 3	LAST DAY for first test of automatic tabulating or DRE equipment. Note: To assure 48 hours before 7 a.m. of election day, test must be by 3rd day. Notice must be published at least 48 hours before date of test.	City Secretary	6.63(d)(2) 6.64(b-c)	*3rd	
May 3- May 5	<i>Recommended time to prepare list of registered voters for EVBB if more than one early voting polling place. Note: The EVC must identify those who voted early before this list is delivered to the precinct election judges.</i>	City Secretary	9.83	*3rd thru 1st	
Fri May 5	<i>LAST DAY (by close of business) to apply for and vote a ballot by personal appearance due to death in immediate family that occurred May 1 or later (SOS Form 5-16).</i>	City Secretary	9.73(b)	1st	
Fri May 5	<i>LAST DAY to deliver precinct list of registered voters, with the early voting voters marked, to presiding judges and recommended date for delivery of supplies to presiding judges.</i>	City Secretary	9.83(e)	1st	
May 5	One-year deadline to post certain information on the city's website for the next general election to be held on May 4, 2024. Note: See endnote 1.	City Secretary	2.13(d)(2)	next May election - 365 days	
May 5	Recommended date for delivery of equipment to polling places. Note: Statutory deadline is 6 a.m. on election day.	City Secretary	6.65(b)	*1st	
May 5	Recommended day to post notice of council meeting to canvass the returns if canvass will be on 3rd day after election. Note: Notice must be posted at least 72 hours before time of meeting. Due to late ballots that can be counted, a later canvass is likely.	City Secretary	11.13	*1st	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Sat May 6 7 a.m.- 7 p.m.	ELECTION DAY. Polls are open. Voting by sick or disabled voters at main early voting place, where electronic voting systems are used at precinct polling place. <i>Early voting clerk's office must remain open for early voting activities</i>	City Secretary	9.71 10.13(c)	E Day	
May 6	<i>Deliver early voting ballots, etc., to EVBB.</i> Note: Second key to ballot box is delivered by chief of police or marshal.	City Secretary Judge EVBB (sets time)	10.13(c)(1) 9.57(b)(1)	E Day	
May 6 5 p.m.	<i>LAST HOUR for late applications for ballots (SOS Form 5-18) from voters who became ill or disabled Apr 24 or later.</i>	City Secretary	9.72(b)	E Day	
May 6 7 p.m.	<i>LAST HOUR for receiving ballots from voters who became ill or disabled Apr 24 or later.</i>	City Secretary	9.72(b)	E Day	
May 6 7 p.m.	<i>LAST HOUR to receive mailed ballots with no postmark, except overseas and armed forces ballots and certain ballots placed for delivery before this deadline.</i> Note: Check mailbox at 7 pm regardless of regular delivery schedule. See deadline E Day +1 day.	City Secretary	9.50(a)	E Day	
May 6	Receive precinct records, voted ballots, etc. Note: Chief of police or marshal receives keys to ballot boxes containing voted ballots.	City Secretary Mayor	10.13(c) 10.32(d)	E Day	
May 6	Prepare unofficial tabulation of results. Note: Presiding judge must notify City Secretary if counting will not be complete by 2 a.m.	City Secretary	10.34 10.32(b)	E Day	
Mon May 8 5 p.m.	<i>LAST DAY to receive mailed ballots if the carrier envelope arrives before 5 p.m. and has a cancellation mark indicating it was placed for delivery at or before 7 p.m. local time for the place of election.</i> Note: Because the deadline falls on Sun, it moves to Mon. This deadline applies to voters who applied for a ballot by mail and cast a by-mail ballot from within the U.S.	City Secretary	9.50(a)	+1 (+2)	
May 8	<i>FIRST DAY for public access to early voting by mail applications, ballot materials, and annual ABBMs.</i>	City Secretary	11.70(d)(2)	+1 (+2)	
May 8	<i>LAST DAY to deliver provisional ballots to voter registrar of each county in which city is located.</i>	City Secretary	10.30(a)(2)	+1 (+2)	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Tue May 9	Recommended day to provide official statement of elected officer (SOS Form 10-3) and oath of office (SOS Form 10-2) to candidates who appear to have won or may win. Note: Provided for information; they must be signed after the canvass.	City Secretary	11.20 11.21	+3	
May 9 - Mon May 15	<i>Period during which EVBB may meet to count ballots received from outside the U.S. if the early voting clerk certifies that all ballots mailed from outside the U.S. have been received.</i>	Early Voting Ballot Board	11.02	+3 thru +9	
May 9 - Tue May 30	Period for partial manual count of electronically counted ballots to begin not later than 72 hours after polls close and be completed by E Day +21st day. Note: Because the deadline falls on Sat and Mon is Memorial Day, the deadline moves to Tue.	City Secretary	11.31	+3 thru +21 (+25)	
May 9- 17	<i>Recommended period to complete report of early votes cast for each candidate or measure, by election precinct.</i> Note: must occur before canvass.	City Secretary	11.04(b)	*+3 thru *+11	
May 9 - 17	Period for official canvass. Note: Canvass may occur only if all FPCA ballots have been received, the EVBB has completed the count of provisional ballots, and there are no deficiencies in mailed ballot carrier envelopes (certain deficiencies can be cured up to 6th day after election day). The canvass period of even-numbered Novembers is 14 days long.	Mayor (sets time) City Secretary (records results) City Council (takes action)	11.12 6.72	+3 thru +11	
May 9 - 17	Recommended period after canvass to issue certificates of election and collect signed oath and anti-bribery statement. Note: If a recount is requested, documents are not issued until after the recount.	Mayor	11.20	*+3 thru *+11	
Thu May 11	<i>LAST DAY to receive a ballot from outside the U.S., from a non-military voter, IF cancellation or receipt mark indicates ballot was placed for delivery by 7 p.m. on election day.</i>	City Secretary	9.50(b)(1) 9.68 11.02	+5	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Fri May 12	<i>LAST DAY to receive an FPCA ballot from a member of the U.S. Armed Services or Merchant Marines or a spouse or dependent of a member. Note: NO cancellation or receipt mark showing date placed for delivery is required on these ballots.</i>	City Secretary	9.50(b)(2)	+6	
May 12	LAST DAY for provisional voter to present ID to voter registrar or execute required affidavit (SOS Form 7-15).	Voter Registrar	10.30(d) 9.26(d)(3)	+6	
May 12	LAST DAY for voter registrar to complete the review of provisional ballots. Note: The period is one day longer for elections in November of even-numbered years	Voter Registrar	10.30(d)	+6	
May 12	<i>LAST DAY for a vote-by-mail voter to cure certain deficiencies in the carrier envelope.</i>	Voter	6.72	+6	
May 12	Type A cites: FIRST DAY elected officials may qualify and assume duties of office. Note: LGC §22.006 states 5th day after election not counting Sun. The resulting day is the 6th day after. Officials may not take office until the canvass is complete unless the election was cancelled.	Candidate with City Secretary	11.23(a)	+6	
Sun May 14 - Mon May 22	Period to order a runoff election, if necessary. Note: This must occur not later than 5th day after canvass. Home-rule cities see endnote 3.	City Council or Mayor	12.01(c)(2)	+8 thru +16	
Mon May 15	LAST DAY for voter registrar to designate a time of delivery of provisional ballots to the general custodian of election records or presiding judge of the EVBB. Note: Must occur before EVBB convenes. Because the deadline falls on Sat, it moves to Mon.	Voter Registrar	10.30(d)	+7 (+9)	
May 15	FIRST DAY a mailed ballot can be rejected if the carrier envelope was not properly executed, the signatures do not match, or is missing a statement of residence.	Early Voting Ballot Board	6.72	+7 (+9)	
May 15	LAST DAY for general custodian of election records or presiding judge of the EVBB to retrieve the provisional ballots from the voter registrar.	City Secretary or Judge of EVBB	10.30(d)	+9	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
May 15	LAST DAY for the EVBB to convene for counting the provisional ballots or any mail ballots timely and properly received after election day. Note: This deadline is the 13th day for elections in November of even-numbered years.	Early Voting Ballot Board	11.01(b)	+9	
Tue May 16	LAST DAY for presiding judge of EVBB to mail notices of rejected mail ballots to voters (SOS Form 5-42).	Judge of EVBB	11.03(a)	+10	
Wed May 17	LAST DAY for conducting the official canvass of the election.	City Council	11.12	+11	
Fri May 19- Sat May 27 (May 26 recommended)	Period during which notice of disposition of provisional ballots must be mailed to voters (SOS Form 8-17). Note: EC §1.006 arguably does not apply to a timeframe set by rule, 1 TAC 81.176(e). Mon, May 29, is Memorial Day. Accordingly, Fri, May 26 is recommended.	Judge of EVBB or City Secretary	11.01(f)	varies by 10th day after canvass	
Mon May 22	Election records must be available in an electronic format no later than this day, for a fee of not more than \$50.00. Note: Because the deadline is Sun, it moves to Mon.	City Secretary	11.70(c)	+15 (+16)	
Mon May 29 - Tue July 4	Possible period for runoff election, depending on date of official canvass, unless a home-rule charter provides for a later date. Note: Because the deadline is Sat and Mon is the July 4 holiday, the deadline moves to Tues. EC §1.006 does not apply to the start of the period, but as a practical matter, an election is not likely to be held on Memorial Day. The order of the names on the runoff ballot appear in the same order as on the general election ballot, so no ballot drawing is required.	City Secretary/ City Council	12.01(d) 12.02(e)	+20th- +45th (47th) day after canvass	
Tue May 30	LAST DAY for mailing results of manual count to SOS. Note: If +21st day is Sat, the deadline is extended to Mon, but May 29 is Memorial Day, a legal national holiday.	City Secretary	11.31(c)	+21 (+25)	
May 30	LAST DAY for EVBB to mail notice of outcome of provisional vote for canvassing on the last day.	Judge of EVBB or City Secretary	11.01(f)	10th day after canvass	

*An asterisk in Column 5 "ED Interval" is a time not statutorily required; EC §1.006 does not apply.

Date	Action	By or With Whom Taken	M §	ED Interval	✓
Mon Jun 5	Type A cites: LAST DAY elected officials may qualify and assume duties of office; if they fail to qualify by this day, the office is considered vacant.	Candidate with City Secretary	11.23(a)	+30	
Thu Jun 15	LAST DAY of mandatory office hours.	City Secretary	6.80(a)	+40	
Thu July 6	FIRST DAY for transfer of voted ballots from the locked ballot box to another secure container.	City Secretary	11.70(e)	+61	
Fri July 14	LAST DAY for timely filing of semiannual report of contributions and expenditures.	City Secretary	3.12(b)	July 15	
Fri Mar 7 2025	Last day of preservation period for ballots and other precinct election records of city election, except for candidate applications.	City Secretary	11.71(c)	+22 months	
Wed May 6 2025	Last day of preservation period for candidate applications and certain petitions.	City Secretary	11.71(d)	+2 years	

Endnotes

1. The following information must be posted on a city's website [M §2.13(d)], if the city maintains a website [M §1.53]: (1) the city's contact information, including a mailing address, telephone number, and e-mail address; (2) each elected officer of the city; (3) the date and location of the next election for officers of the city; (4) the requirements and deadline for filing for candidacy of each elected office of the city for the next election (posted one year prior to the date of that election); (5) notice of city council meetings; and (6) minutes of city council meetings. A city with population of less than 5,000 located in a county with population of less than 25,000 does not have to post (5) and (6). [GC §2051.201].
2. The city's governing body may choose to conduct a mock student election under EC §276.007. The major steps taken for a general election should be taken for a student election. The student election may be held on the first day before the election, but results must not be published until after the polls close on election day.
3. Follow home-rule city's charter provision, if any.
4. If a candidate on the ballot dies on or before the filing deadline, the City Secretary MAY choose to remove the candidate from the ballot, in which case, the filing deadline is extended 5 days. If that extended filing deadline for filing falls on a weekend or holiday, it moves to the next business day. Withdrawal deadlines after the extended filing deadlines will be impacted.

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5. See Texas Ethics Commission rules [1 TAC §18.31] for the full list of threshold reporting dollar amounts. The following is a summary of the most common ones [M Ch. 3], which should be updated in January 2023:

Election Code §	Threshold Description	Original Amount	2022 Amount	2023 Amount
253.031(b)	PAC: amount of contributions or expenditures permitted before appointment of treasurer is required.	\$500	\$920	TBD
254.036	<i>Electronic Filing Exemption</i> : amount at or below which a filer may qualify.	\$20,000	\$28,800	TBD
254.095	<i>Local officeholders, contributions</i> : amount over which reporting is required.	\$500	\$940	TBD
254.181 254.182 254.183	<i>Candidate or specific-purpose PAC, modified reporting</i> : contribution or expenditure amount at or below which filers may avoid pre-election reports.	\$500	\$940	TBD

6. Election Code national and legal state holidays in the May 2023 election cycle are:

Holiday	Date
New Year's Day	January 1
Martin Luther King Day (3rd Monday of January)	January 16
Confederate Heroes Day	January 19
President's Day/Washington's Birthday (3rd Monday of February)	February 20
Texas Independence Day	March 2
<i>Good Friday (not an Election Code holiday*)</i>	<i>April 7</i>
<i>Easter (not an Election Code holiday*)</i>	<i>April 9</i>
San Jacinto Day	April 21
<i>Battle of Flowers Parade (not an Election Code holiday*)</i>	<i>April 28</i>
Memorial Day (last Monday of May)	May 29
Emancipation Day/Juneteenth	June 19
Independence Day	July 4

* EC §31.122 requires the city secretary to be open at least 3 hours each day “during regular office hours, on regular business days” during the period identified on the above calendar. EC 1.006 provides that if the last day for performance of an act is a Sat, Sun, or legal state or national holiday, the act is timely if performed on the next regular business day, except as otherwise provided by this code.” The phrase “next regular business day” is not statutorily defined; therefore, a city may define its own regular business day. SOS may not agree; consult the city attorney.

*An asterisk in Column 5 “ED Interval” is a time not statutorily required; EC §1.006 does not apply.



TOWN SECRETARY

To: Mayor and Town Council

From: Michelle Lewis Sirianni, Town Secretary

**Through: Bob Scott, Interim Town Manager
Robyn Battle, Executive Director of Community Services**

Re: Ordering May Special Election – Crime Control & Prevention District

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon an ordinance by the Town Council, acting as the Board of Directors of the Crime Control and Prevention District, ordering a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Crime Control and Prevention District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to crime control and prevention programs.

Description of Agenda Item:

In September 2022, Town staff received notification that the Crime Control and Prevention District would be dissolved on September 30, 2023, unless the district holds a continuation or dissolution referendum prior to said end date. At the October 11, 2022, Town Council Work Session, the Town Council expressed their desire to appoint an Ad Hoc Committee to provide a recommendation/charge on the continuation of said district. Therefore, at the October 25 Town Council meeting, the Town Council appointed the Ad Hoc Committee.

The Ad Hoc Committee met and held meetings to review and discuss the charge given, and review and approve the ballot language to be considered by the Town Council. At the November 16, 2022, Committee meeting, the recommendation was to take to the voters by Special Election a renewal of the district to twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to crime control and prevention programs.

In accordance with Texas Election Law, the Town Council is responsible for ordering the Special Election to be held on the Uniform Election Date in May for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Crime Control and Prevention District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to these service programs. The Town will jointly contract with Collin County and Denton County to conduct the election.

Budgetary Impact:

Cost estimates are based on participating local entities and percentage of registered voters within the Town of Prosper. These costs are subject to change until all entities are confirmed by both counties. The cost of this Election is held in conjunction with the General Election services, which

are funded through account 100-5460-10-02, Election Expenses. The estimated cost for Collin County is \$14,500.71 and the cost for Denton County is estimated not to exceed \$7,000.00.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has previously reviewed the standard contracts, and approved the ordinance as to form and legality.

Attached Documents:

1. Ordinance

Town Staff Recommendation:

Town staff recommends the Town Council acting as the Board of Directors of the Crime Control and Prevention District, order a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Crime Control and Prevention District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to crime control and prevention programs.

Proposed Motion:

I move to approve an ordinance ordering a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Crime Control and Prevention District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to crime control and prevention programs.

TOWN OF PROSPER, TEXAS

ORDER NO. 2023-XX

AN ORDER OF THE BOARD OF DIRECTORS OF THE TOWN OF PROSPER CRIME CONTROL AND PREVENTION DISTRICT, ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 6, 2023, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE DISTRICT COMPRISING THE TOWN OF PROSPER A REFERENDUM ON THE CONTINUATION OF THE TOWN OF PROSPER CRIME CONTROL AND PREVENTION DISTRICT FOR TWENTY (20) YEARS AND A SALES AND USE TAX AT THE RATE OF ONE-FOURTH OF ONE PERCENT DEDICATED TO CRIME CONTROL AND PREVENTION PROGRAMS; PROVIDING FOR ELECTION PROCEDURES AND OFFICERS; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH SPECIAL ELECTION; PROVIDING BALLOT PROPOSITION LANGUAGE; AUTHORIZING NECESSARY ACTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of Directors of the Town of Prosper Crime Control and Prevention District (the "District") is the governing board of a district validly created pursuant to Chapter 363 of the Texas Local Government Code; and

WHEREAS, on May 5, 2018, the eligible voters of the District approved a ballot proposition to adopt the District and approve a District sales and use tax at a rate of one-fourth of one percent (1/4 of 1%) as authorized by Chapter 363 of the Texas Local Government Code and Section 321.108 of the Texas Tax Code; and

WHEREAS, the District will be dissolved on September 30, 2023, unless the District holds a continuation referendum prior to the end date; and

WHEREAS, pursuant to Section 363.251 and Section 363.2515 of the Texas Local Government Code, the Board of Directors of the District may order a referendum on its own motion by a majority vote of its members on the continuation of the District for a period of twenty (20) years; and

WHEREAS, in accordance with Chapter 321 of the Texas Tax Code, the combined rate of all local sales and uses taxes imposed by the Town will not exceed two percent (2%); and

WHEREAS, Section 41.001 of the Texas Election Code, as amended, establishes Saturday, May 6, 2023, as a uniform election date for the purposes of conducting a special election; and

WHEREAS, the Town intends to contract with Collin County and Denton County for election services, administration, and equipment pursuant to Section 31.092(a) and Chapter 271 of the Texas Election Code, as amended; and

WHEREAS, the Board of Directors of the District desires to hold such referendum on the continuation of the District and the District sales and use tax on the upcoming uniform election date of May 6, 2023.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF THE TOWN OF PROSPER CRIME CONTROL AND PREVENTION DISTRICT THAT:

SECTION 1

A Special Election in the District, comprising the Town of Prosper, Texas, as prescribed by Chapter 363 of the Texas Local Government Code and Chapter 321 of the Texas Tax Code, shall be held between the hours of 7:00 a.m. and 7:00 p.m. on Saturday, May 6, 2023, for the purpose of considering the continuation of the District and its sales and use tax at the rate of one-fourth of one percent dedicated to crime reduction and other programs authorized by Chapter 363 of the Texas Local Government Code.

SECTION 2

Qualified voters of the following election precincts shall cast ballots for the Special Election at the heretofore established and designated Election Day polling places, as follows:

Town Precincts

178, 199, 214, 224, 239
(Collin County)

1016, 1017, 9102
(Denton County)

Polling Place

Prosper Town Hall Community Room
250 W. First Street
Prosper, TX 75078

Prosper Fire Station 2 Training Room
1140 S. Teel Parkway
Prosper, TX 75078

Special Election polls shall be open from 7:00 a.m. until 7:00 p.m., on the date of the Special Election, Saturday, May 6, 2023.

SECTION 3

Early voting by personal appearance for Denton County residents shall be available at the Prosper Fire Station 2 Training Room, 1140 S. Teel Parkway, Prosper, Texas, 75078 from Monday, April 24, 2023, through Saturday, April 29, 2023, from 8:00 a.m. – 5:00 p.m.; Sunday, April 30, 2023, from 11:00 a.m. – 5:00 p.m.; and Monday, May 1, 2023, through Tuesday, May 2, 2023, from 7:00 a.m. - 7:00 p.m.

Early voting by personal appearance for Collin County residents shall be available at the Prosper Town Hall Community Room, 250 W. First Street, Prosper, Texas 75078, from Monday, April 24, 2023, through Friday, April 28, 2023, from 8:00 a.m. – 5:00 p.m.; Saturday, April 29, 2023, from 8:00 a.m. – 5:00 p.m.; and Monday, May 1, 2023, through Tuesday, May 2, 2023, from 7:00 a.m. - 7:00 p.m.

Qualified voters may vote at any of the additional Early Voting locations open under full contract services with the Collin County Elections Administrator or the Denton County Elections Administrator. This previous sentence shall also be posted in the Notice of Election.

SECTION 4

The Town Manager and Town Secretary are authorized to execute a contract for an Election with the Denton County Election Department and the Collin County Election Department for all election appointments, early voting by mail, the designated voting location(s) and hours of operation, payments for election officials, and necessary election arrangements.

SECTION 5

The Town Secretary shall have the authority to approve any minor modifications as may be necessary in the best interests of the Town and within the regulations of the Texas Election Code. The early voting mail clerk for Collin County is: Bruce Sherbet, Early Voting Clerk, Collin County Elections Department, 2010 Redbud Blvd, Suite 102, McKinney, Texas 75069 (election@collincountytx.gov), and the Early Voting Clerk for Denton County is Frank Phillips, Early Voting Clerk, Denton County Elections, PO Box 1720, Denton, Texas 76202 (elections@dentoncountx.gov).

SECTION 6

The Town Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this Special Election. The Special Election, including providing notice of the Special Election, shall be conducted in accordance with the Texas Election Code and other applicable law, and all resident qualified and registered voters of the Town shall be eligible to vote at the Special Election.

SECTION 7

The Mayor and the Town Secretary of the Town, in consultation with the Town Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Texas Election Code and any other state or federal law in carrying out and conducting the Special Election, whether or not expressly authorized herein.

SECTION 8

The official ballot for the special election shall conform to the Texas Election Code, as amended, so as to permit the electors to vote "For" or "Against" the proposition. Said ballot shall have printed therein such provisions, markings, and language as may be required by law, and with the proposition being set forth on said ballot using the following form and language:

PROPOSITION A

FOR _____

AGAINST _____

"Whether the Town of Prosper Crime Control and Prevention District should be continued for 20 years and the crime control and prevention district sales tax should be continued for 20 years."

SECTION 9

The provisions of this Order are severable, so that the invalidity of one or more provisions shall not affect the validity of those valid portions.

SECTION 10

This Order for a Special Election shall be effective from and after the passage of this Order.

DULY PASSED AND APPROVED BY THE DIRECTORS OF THE PROSPER CRIME CONTROL AND PREVENTION DISTRICT ON THE 14TH DAY OF FEBRUARY, 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



TOWN SECRETARY

To: Mayor and Town Council

From: Michelle Lewis Sirianni, Town Secretary

**Through: Bob Scott, Interim Town Manager
Robyn Battle, Executive Director of Community Services**

Re: Ordering May Special Election – Fire Control & Prevention District

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon an ordinance by the Town Council, acting as the Board of Directors of the Fire Control, Prevention and Emergency Medical Services District, ordering a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Fire Control, Prevention and Emergency Medical Services District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to fire safety and emergency medical services programs.

Description of Agenda Item:

In September 2022, Town staff received notification that the Fire Control, Prevention, and Emergency Medical Services District would be dissolved on September 30, 2023, unless the district holds a continuation or dissolution referendum prior to said end date. At the October 11, 2022, Town Council Work Session, the Town Council expressed their desire to appoint an Ad Hoc Committee to provide a recommendation/charge on the continuation of said district. Therefore, at the October 25 Town Council meeting, the Town Council appointed the Ad Hoc Committee.

The Ad Hoc Committee met and held meetings to review and discuss the charge given, and review and approve the ballot language to be considered by the Town Council. At the November 16, 2022, Committee meeting, the recommendation was to take to the voters by Special Election a renewal of the district for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to fire safety and emergency medical services programs.

In accordance with Texas Election Law, the Town Council is responsible for ordering the Special Election to be held on the Uniform Election Date in May for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Fire Control, Prevention and Emergency Medical Services District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to these service programs. The Town will jointly contract with Collin County and Denton County to conduct the election.

Budgetary Impact:

Cost estimates are based on participating local entities and percentage of registered voters within the Town of Prosper. These costs are subject to change until all entities are confirmed by both

counties. The cost of this Election is held in conjunction with the General Election services, which are funded through account 100-5460-10-02, Election Expenses. The estimated cost for Collin County is \$14,500.71 and the cost for Denton County is estimated not to exceed \$7,000.00.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has previously reviewed the standard contracts, and approved the ordinance as to form and legality.

Attached Documents:

1. Ordinance

Town Staff Recommendation:

Town staff recommends the Town Council approve an ordinance, acting as the Board of Directors of the Fire Control, Prevention and Emergency Medical Services District, order a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Fire Control, Prevention and Emergency Medical Services District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to fire safety and emergency medical services programs.

Proposed Motion:

I move to approve an ordinance ordering a Special Election to be held May 6, 2023, for the purpose of submitting to the qualified voters a referendum on the continuation of the Town of Prosper Fire Control, Prevention and Emergency Medical Services District for twenty (20) years, and a sales and use tax at the rate of one-fourth of one percent dedicated to fire safety and emergency medical services programs.

TOWN OF PROSPER, TEXAS

ORDER NO. 2023-XX

AN ORDER OF THE BOARD OF DIRECTORS OF THE TOWN OF PROSPER FIRE CONTROL, PREVENTION AND EMERGENCY MEDICAL SERVICES DISTRICT, ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 6, 2023, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE DISTRICT COMPRISING THE TOWN OF PROSPER A REFERENDUM ON THE CONTINUATION OF THE TOWN OF PROSPER FIRE CONTROL, PREVENTION AND EMERGENCY MEDICAL SERVICES DISTRICT FOR TWENTY (20) YEARS AND A SALES AND USE TAX AT THE RATE OF ONE-FOURTH OF ONE PERCENT DEDICATED TO FIRE SAFETY AND EMERGENCY MEDICAL SERVICES PROGRAMS; PROVIDING FOR ELECTION PROCEDURES AND OFFICERS; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH SPECIAL ELECTION; PROVIDING BALLOT PROPOSITION LANGUAGE; AUTHORIZING NECESSARY ACTIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of Directors of the Town of Prosper Fire Control, Prevention and Emergency Medical Services District (the "District") is the governing board of a district validly created pursuant to Chapter 3443 of the Texas Local Government Code; and

WHEREAS, on May 5, 2018, the eligible voters of the District approved a ballot proposition to adopt the District and approve a District sales and use tax at a rate of one-fourth of one percent (1/4 of 1%) as authorized by Chapter 344 of the Texas Local Government Code and Section 321.108 of the Texas Tax Code; and

WHEREAS, the District will be dissolved on September 30, 2023, unless the District holds a continuation referendum prior to the end date; and

WHEREAS, pursuant to Section 344.251 of the Texas Local Government Code, the Board of Directors of the District may order a referendum on its own motion by a majority vote of its members on the continuation of the District for a period of twenty (20) years; and

WHEREAS, in accordance with Chapter 321 of the Texas Tax Code, the combined rate of all local sales and uses taxes imposed by the Town will not exceed two percent (2%); and

WHEREAS, Section 41.001 of the Texas Election Code, as amended, establishes Saturday, May 6, 2023, as a uniform election date for the purposes of conducting a special election; and

WHEREAS, the Town intends to contract with Collin County and Denton County for election services, administration, and equipment pursuant to Section 31.092(a) and Chapter 271 of the Texas Election Code, as amended; and

WHEREAS, the Board of Directors of the District desires to hold such referendum on the continuation of the District and the District sales and use tax on the upcoming uniform election date of May 6, 2023.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF THE TOWN OF PROSPER FIRE CONTROL, PREVENTION AND EMERGENCY MEDICAL SERVICES DISTRICT THAT:

SECTION 1

A Special Election in the District, comprising the Town of Prosper, Texas, as prescribed by Chapter 344 of the Texas Local Government Code and Chapter 321 of the Texas Tax Code, shall be held between the hours of 7:00 a.m. and 7:00 p.m. on Saturday, May 6, 2023, for the purpose of considering the continuation of the District and its sales and use tax at the rate of one-fourth of one percent dedicated to fire safety and emergency medical services programs authorized by Chapter 344 of the Texas Local Government Code.

SECTION 2

Qualified voters of the following election precincts shall cast ballots for the Special Election at the heretofore established and designated Election Day polling places, as follows:

Town Precincts

178, 199, 214, 224, 239
(Collin County)

1016, 1017, 9102
(Denton County)

Polling Place

Prosper Town Hall Community Room
250 W. First Street
Prosper, TX 75078

Prosper Fire Station 2 Training Room
1140 S. Teel Parkway
Prosper, TX 75078

Special Election polls shall be open from 7:00 a.m. until 7:00 p.m., on the date of the Special Election, Saturday, May 6, 2023.

SECTION 3

Early voting by personal appearance for Denton County residents shall be available at the Prosper Fire Station 2 Training Room, 1140 S. Teel Parkway, Prosper, Texas, 75078 from Monday, April 24, 2023, through Saturday, April 29, 2023, from 8:00 a.m. – 5:00 p.m.; Sunday, April 30, 2023, from 11:00 a.m. – 5:00 p.m.; and Monday, May 1, 2023, through Tuesday, May 2, 2023, from 7:00 a.m. - 7:00 p.m.

Early voting by personal appearance for Collin County residents shall be available at the Prosper Town Hall Community Room, 250 W. First Street, Prosper, Texas 75078, from Monday, April 24, 2023, through Friday, April 28, 2023, from 8:00 a.m. – 5:00 p.m.; Saturday, April 29, 2023, from 8:00 a.m. – 5:00 p.m.; and Monday, May 1, 2023, through Tuesday, May 2, 2023, from 7:00 a.m. - 7:00 p.m.

Qualified voters may vote at any of the additional Early Voting locations open under full contract services with the Collin County Elections Administrator or the Denton County Elections Administrator. This previous sentence shall also be posted in the Notice of Election.

SECTION 4

The Town Manager and Town Secretary are authorized to execute a contract for an Election with the Denton County Election Department and the Collin County Election Department for all election appointments, early voting by mail, the designated voting location(s) and hours of operation, payments for election officials, and necessary election arrangements.

SECTION 5

The Town Secretary shall have the authority to approve any minor modifications as may be necessary in the best interests of the Town and within the regulations of the Texas Election Code. The early voting mail clerk for Collin County is: Bruce Sherbet, Early Voting Clerk, Collin County Elections Department, 2010 Redbud Blvd, Suite 102, McKinney, Texas 75069 (election@collincountytx.gov), and the Early Voting Clerk for Denton County is Frank Phillips, Early Voting Clerk, Denton County Elections, PO Box 1720, Denton, Texas 76202 (elections@dentoncountx.gov).

SECTION 6

The Town Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this Special Election. The Special Election, including providing notice of the Special Election, shall be conducted in accordance with the Texas Election Code and other applicable law, and all resident qualified and registered voters of the Town shall be eligible to vote at the Special Election.

SECTION 7

The Mayor and the Town Secretary of the Town, in consultation with the Town Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Texas Election Code and any other state or federal law in carrying out and conducting the Special Election, whether or not expressly authorized herein.

SECTION 8

The official ballot for the special election shall conform to the Texas Election Code, as amended, so as to permit the electors to vote "For" or "Against" the proposition. Said ballot shall have printed therein such provisions, markings, and language as may be required by law, and with the proposition being set forth on said ballot using the following form and language:

PROPOSITION B

FOR _____

AGAINST _____

"Whether the Town of Prosper Fire Control, Prevention and Emergency Medical Services District should be continued for 20 years, and the fire control, prevention and emergency medical services district sales tax should be continued for 20 years."

SECTION 9

The provisions of this Order are severable, so that the invalidity of one or more provisions shall not affect the validity of those valid portions.

SECTION 10

This Order for a Special Election shall be effective from and after the passage of this Order.

DULY PASSED AND APPROVED BY THE DIRECTORS OF THE PROSPER CRIME CONTROL AND PREVENTION DISTRICT ON THE 14TH DAY OF FEBRUARY, 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



PARKS AND RECREATION

To: Mayor and Town Council

From: Dan Baker, Director of Prosper Parks and Recreation

Through: Bob Scott, Interim Town Manager
Robyn Battle, Executive Director of Community Services

Re: Perry Weather Consulting Inc. Software

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon approving the purchase of a subscription for weather alert software (web + mobile) from Perry Weather Consulting, Inc., for Frontier Park, Folsom Park, and Eagles Landing Park, and authorizing the Interim Town Manager to execute documents for the same.

Description of Agenda Item:

The software allows the Town to receive important information about incoming weather through emails and texts. When lightning strikes within the guidelines that we set, the strobe lights and horns are activated. The strobe lights continue until no lightning has been detected for 30 minutes. If lightning is detected before the 30 minutes is up, it will restart the count down. We have access to radars and a P.A. system as well. The P.A. system has a pre-recorded message telling people to leave the fields. We can also use the system in the event of a missing child alert and / or other emergencies. Staff can input as many cell phone numbers as we want to receive lighting, wind, and storm warnings in real time. Staff, coaches, and league board members are typically who receive these notifications. A new feature added this year is a website widget. This will direct parents and coaches to go to our web page and find out about Town field closings.

Budget Impact:

Total cost for data, software, and fees is \$25,740. This agreement is for three years and annual funding in the amount of \$8,580 which has been budgeted in FY 2022-2023 and will be budgeted in subsequent fiscal years for data, software, and fees.

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. Quote
2. Terms & Conditions

Town Staff Recommendation:

Town staff recommends that Council approve the purchase of a subscription for weather alert software (web + mobile) from Perry Weather Consulting, Inc., for Frontier Park, Folsom Park, and Eagles Landing Park, and authorizing the Interim Town Manager to execute documents for the same.

Proposed Motion:

I move to approve the purchase of a subscription for weather alert software (web + mobile) from Perry Weather Consulting, Inc., for Frontier Park, Folsom Park, and Eagles Landing Park, and authorizing the Interim Town Manager to execute documents for the same.



ORDER FORM

CUSTOMER	
Customer Name	Town of Prosper
Customer Address	1551 Frontier Pkwy Prosper, TX 75078
Exempt from Sales Tax?	<i>If your entity is exempt from sales tax, please email an exemption certificate to billing@perryweather.com to remove sales tax from your invoices.</i>
Perry Weather Rep	Meredith Chapman

PRIMARY CONTACT	
Full Name	
Title	
Email	
Phone	

EMAIL INVOICES TO	
Accounts Payable Email	
Other Email(s)	

ORDER INFORMATION	
Quote #	20221102-161659457
Itemized Pricing	See attached quote
Initial Term: Start Date	1/15/2023
Initial Term: End Date	1/14/2026
Billing Frequency	Annual
Billing Method	Email
Additional Notes	

This Order Form is governed by the terms of Perry Weather Terms & Conditions ("PW Terms") available at <https://perryweather.com/legal-terms>. The PW Terms are hereby incorporated into this document by reference. Prices listed for products and services on the Quote and/or ordered hereunder may not include any applicable taxes. Subscriptions purchased under this Order Form may be billed in advance according to the Billing Frequency listed above and will renew according to the PW Terms. **By signing below, you represent and warrant that you have the full authority to enter into this Order and the PW Terms on behalf of Customer.**

Customer:

By: _____

Name: _____

Title: _____

Perry Weather:

By:  _____

Name: James Skidmore

Title: Chief Operating Officer



Town of Prosper - Renewal Deal

Town of Prosper
1240 Frontier Pkwy
Prosper, TX 75078
United States

Reference: 20221102-161659457
Quote created: November 2, 2022
Quote expires: January 31, 2023
Quote created by: Meredith Chapman
meredith@perryweather.com

Products & Services

Item & Description	Quantity	Unit Price	Total
Software Subscription Subscription to Perry Weather software (web + mobile)	1	\$8,580.00 / year	\$8,580.00 / year for 3 years

Subtotals

Annual subtotal	\$8,580.00
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Total \$8,580.00

Questions? Contact me



Meredith Chapman
meredith@perryweather.com

Perry Weather
1355 Motor Circle
Dallas, Texas 75207
United States



Perry Weather Terms and Conditions

Last Updated: February 11, 2022

1. **DEFINITIONS.** For the purpose of these terms and conditions, the following terms have the following meaning:

- The term “**Perry Weather**” shall mean Perry Weather LLC.
- The term “**Customer**” shall mean the person or persons entering into this Agreement with Perry Weather as identified on the Order Form and/or Quote.
- The term “**Software**” shall mean software provided by Perry Weather to the Customer, such as web-based applications, mobile applications, alerting, or other software, as identified in the Order Form and/or Quote.
- The term “**Hardware**” shall mean hardware products provided by Perry Weather to the Customer, such as outdoor warning systems, weather stations, or other hardware, as identified in the Order Form and/or Quote. Hardware includes both Subscription Hardware and Sold Hardware as defined below.
- The term “**Subscription Hardware**” shall mean Hardware that shall be owned by Perry Weather and provided to Customer on a subscription basis as identified on the Order Form and/or Quote.
- The term “**Sold Hardware**” shall mean Hardware that is sold to Customer as identified on the Order Form and/or Quote.
- The term “**Meteorological Consulting**” shall mean weather forecasts, consulting services, advice, representations, or training provided by Perry Weather to the Customer.
- The term “**Order Form**” shall mean an ordering document or online order specifying the products and services to be provided hereunder that is entered into between Customer and Perry Weather, including any addenda and supplements thereto.
- The term “**Quote**” shall mean a quote for Hardware and/or Software provided by Perry Weather to Customer and referenced in an Order Form.

2. **AGREEMENT.** Perry Weather agrees to provide to Customer the applicable Software and/or Hardware upon the terms specified in the Order Form, Quote, and these Terms and Conditions (collectively, the “**Agreement**”). In the event of a conflict between the Order Form, Quote, and/or these Terms and Conditions, the terms in the Order Form shall control over both the Quote and these Terms and Conditions, and the terms of the Quote shall only control over a conflicting term in these Terms and Conditions.

3. **PAYMENT.** Customer will pay all fees specified in Order Form and/or Quote and agrees to the payment terms listed in each Order Form and/or Quote, as supplemented by these Terms and Conditions. Invoices are due upon receipt. Payments made by credit card will be subject to an additional processing fee. Late payment fees will be charged as follows: (a) one percent (1%) per month or part thereof will be charged for any payment that is more than 30 days late: (b) Payment should be made to: Perry Weather, 1355 Motor Circle, Dallas, TX 75207.

4. **TERM AND TERMINATION.** The initial term of each subscription shall be as specified in the applicable Order Form and/or Quote. Except as otherwise specified in an Order Form and/or Quote, subscriptions will automatically renew for additional periods equal to the expiring subscription term, unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. Perry Weather may terminate this Agreement for convenience upon sixty (60) days written notice to Customer, after which Perry Weather shall refund the pro-rata portion of any amounts that have been paid in advance by Customer that are in the nature of subscription payments. The termination of this Agreement shall not entitle Customer to a refund, in whole or in part, of any amounts paid for Sold Hardware.
5. **HARDWARE WARRANTY.** Perry Weather warrants that the Hardware shall conform in all materials respects to Perry Weather published specifications for a period of three (3) years from date of the Order Form. This warranty is extended only to the original Customer and only covers failures due to defects in materials or workmanship that occur during normal operation. It does not cover ordinary wear and tear, maintenance, damage that occurs in shipment, failures that are caused by products not supplied by Perry Weather, or failures that result from accident, misuse, abuse, neglect, mishandling, misapplication, alteration, modification, lightning, line power surge, or "Acts of God." Perry Weather's obligation under this warranty shall be limited to the repair or exchange of any Hardware, part or parts which may prove defective under normal use within three (3) years from date of the Order Form, and which Perry Weather's examination shall disclose to its satisfaction to be defective.
6. **CONSULTING SERVICES.** It is understood and agreed that the Software and any Meteorological Consulting services provided to Customer by Perry Weather pursuant to this Agreement are only advisory in nature. As in the case of similar products or services provided by the meteorological consulting industry, the Software and Meteorological Consulting services are in part based on data provided by third parties and user input. Therefore, Perry Weather cannot and does not warrant or assume responsibility for the accuracy of the Software or Meteorological Consulting provided by Perry Weather. From time to time, Perry Weather may reasonably change, update, discontinue, or replace the Meteorological Services or features of the Software without notice and as it deems necessary.
7. **DISCLAIMER OF WARRANTIES.** EXCEPT AS PROVIDED ABOVE, THE HARDWARE, METEOROLOGICAL CONSULTING SERVICES, SOFTWARE AND DATA DISPLAYED THEREIN ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS PROVIDED IN SECTIONS 5 AND 6 ABOVE, PERRY WEATHER MAKES NO WARRANTY, EXPRESS OR IMPLIED, TO CUSTOMER, OR TO ANY AUTHORIZED USER OR THIRD PARTY, INCLUDING ANY WARRANTIES OF QUALITY, ACCURACY, PERFORMANCE, COMPATIBILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. CUSTOMER ACKNOWLEDGES THAT PERRY WEATHER IS NOT RESPONSIBLE FOR THE ACCURACY OF ANY INFORMATION OR DATA CONTAINED IN THE HARDWARE, SOFTWARE, OR SERVICES AND PERRY WEATHER SHALL NOT BE LIABLE FOR ANY LOSSES RESULTING FROM CUSTOMER'S OR ANY AUTHORIZED USER'S RELIANCE ON ANY SUCH INFORMATION OR DATA UNDER ANY CIRCUMSTANCES. PERRY WEATHER DOES NOT WARRANT THAT THE HARDWARE, SOFTWARE, OR METEOROLOGICAL CONSULTING SERVICES WILL BE ERROR-FREE OR THAT THE HARDWARE OR SOFTWARE WILL WORK WITHOUT INTERRUPTIONS.
8. **LIGHTNING DISCLAIMER.** It is not possible to predict or detect when and where lightning will strike or has struck with 100% accuracy. Perry Weather does not guarantee or warrant that the Hardware

Software, or any associated Meteorological Consulting services, will be error-free or able to predict or detect lightning with any specified degree of accuracy. Customer acknowledges that lightning strikes are outside of Perry Weather's ability to control, detect, or predict and waives and releases Perry Weather and its data providers from any and all claims and liability related to any form of damage caused by lightning. Perry Weather uses data from Vaisala and other third parties in its Hardware, Software, and Meteorological Consulting. EXPERIENCE HAS PROVEN THAT THE TIMELINESS, RESOLUTION AND MANNER IN WHICH LIGHTNING DATA IS DISPLAYED DOES NOT SOLELY SUPPORT THE EFFECTIVE OR RELIABLE USE OF THE DATA IN MAKING DECISIONS OF AN IMMEDIATE OR SHORT-TERM NATURE THAT INVOLVE THE SAFETY OF PERSONNEL OR ASSETS. ANY SUCH APPLICATIONS OR SIMILAR USES BY CUSTOMERS ARE DONE AT THE RISK OF THE USER AND ARE NEITHER CONDONED NOR RECOMMENDED BY PERRY WEATHER, VAISALA, VAISALA'S SUPPLIERS, OR PERRY WEATHER'S OTHER THIRD-PARTY PROVIDERS.

9. **OWNERSHIP AND POSSESSION OF THE HARDWARE.** Title to any Subscription Hardware shall at all times remain in Perry Weather and Customer shall have only the right to retain the possession of said Subscription Hardware pursuant to the conditions in this Agreement. Customer shall give Perry Weather immediate notice of any claim, levy, lien, or legal process issued against the Subscription Hardware. Customer will not place, nor allow to be placed, the Subscription Hardware in the possession of any other party, save and except to return the Subscription Hardware to Perry Weather. Customer hereby agrees that it will not, nor will it allow, the Subscription Hardware to be encumbered in any form. Customer will not allow any lien to be placed upon the Subscription Hardware, will not pledge the Subscription Hardware as collateral for any debt, current or future, and will immediately notify Perry Weather of any legal actions, proceedings or the threat thereof, which might result in the encumbrance of the Subscription Hardware.
10. **OPERATION, ALTERATIONS, MAINTENANCE AND INSPECTION OF THE HARDWARE.** Customer shall be responsible for the maintenance and repair of Sold Hardware subject to the warranties set forth in Section 5. Perry Weather shall be responsible for maintenance and repair to any Subscription Hardware, including labor, material, parts, and similar items, necessitated by normal wear and tear; however, subject to the warranties in Section 5, Customer shall be responsible for maintenance and repair to Subscription Hardware made necessary by reasons other than normal wear and tear, such as vandalism, theft, hail, wind, or damage caused by neglect. In the case of maintenance or repair to Subscription Hardware required due to reasonable wear and tear, Perry Weather shall bear such expense and perform such maintenance and repair as soon as practical or, in the alternative, it may provide a reasonably similar replacement of said Subscription Hardware. Customer shall use the Hardware in a careful and proper manner and shall comply with all laws, ordinances, regulations and instruction from Perry Weather relating to the possession, use, or maintenance of the Hardware. Customer agrees that it will make no alterations to any Subscription Hardware without obtaining prior written permission from Perry Weather. If Customer desires that Perry Weather physically relocate Hardware after initial installation, additional service fees will apply. All additions and improvements to the Subscription Hardware of any kind shall immediately become the property of Perry Weather and subject to the terms of this Agreement. Customer agrees to keep the Subscription Hardware in good repair and operating condition, allowing for reasonable wear and tear. Customer shall promptly notify Perry Weather within three (3) business days following any event or occurrence that would require maintenance or repair to the Subscription Hardware. The amount payable under this Agreement shall not be reduced by the loss of use of any Hardware. Perry

Weather shall have the right at any time, following seventy-two (72) hours prior written notice to Customer, to enter the premises occupied by the Subscription Hardware and shall be given free access thereto and afforded necessary facilities for the purpose of inspection.

11. **RISK OF LOSS.** Customer hereby assumes all risks of loss of and damage to the Hardware from any cause and agrees to return any Subscription Hardware to Perry Weather in as good condition as when received, normal wear and tear excepted. No loss of or damage to the Hardware shall impair any obligation of Customer under this Agreement, and all such obligations shall continue in full force and effect until otherwise discharged.
12. **RETURN OF HARDWARE.** Upon termination of this Agreement, Customer agrees to deliver, at Customer's sole cost and expense, the Subscription Hardware in good condition, ordinary wear and tear resulting from proper use thereof alone excepted, and free and clear of encumbrances, to Perry Weather, or allow Perry Weather to enter the premises occupied by the Subscription Hardware to remove such Subscription Hardware. In the event Customer elects to have Perry Weather remove the Subscription Hardware, Customer agrees to pay an uninstallation fee equal to \$995 per unit or piece of Subscription Hardware removed.
13. **LIABILITY. CUSTOMER AND SUBSEQUENT USERS OF SOFTWARE AND HARDWARE HEREBY WAIVE AND RELEASE PERRY WEATHER FROM ANY LIABILITY FOR DAMAGE CAUSED BY METEOROLOGICAL CONSULTING, SOFTWARE AND HARDWARE OPERATION ON ANY PREMISES.**
14. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTY, OR ANY THIRD PARTY, FOR ANY INCIDENTAL, CONSEQUENTIAL, NOMINAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, DIMINUTION IN VALUE, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOST BUSINESS OPPORTUNITIES, DAMAGE TO GOOD WILL OR REPUTATION, AND COSTS OF COVER, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN. EACH PARTY'S ENTIRE AGGREGATE LIABILITY FOR ANY CLAIMS RELATING TO THIS AGREEMENT, INCLUDING ATTORNEYS' FEES, SHALL NOT EXCEED THE FEES PAID AND PAYABLE BY THE CUSTOMER TO PERRY WEATHER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. THE LIMITATIONS IN THIS SECTION DO NOT APPLY TO CUSTOMER'S PAYMENT OBLIGATIONS OR CUSTOMER'S LIABILITY FOR DAMAGE TO THE HARDWARE. THIS SECTION SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.
15. **DATA RIGHTS.** Perry Weather hereby grants to Customer a single, non-exclusive license to use any Software furnished to Customer as identified on the Order Form and/or Quote. Customer shall not have the right to assign, sublicense, distribute or otherwise transfer such license. No title to or ownership of the Software or any unmodified parts thereof is transferred to Customer under this license. Customer shall not copy any Software in whole or in part.
16. **INDEMNIFICATION.** Perry Weather will indemnify Customer as to any rightful claim that Customer's use or sale of Products infringes a United States patent or copyright. Customer agrees to indemnify, defend and hold Perry Weather, its affiliates, and their respective officers, directors, employees and agents harmless from and against all third-party claims, losses, liabilities, damages, expenses and costs, including attorney's fees and court costs, arising out of or relating to the Perry Weather

To the extent authorized by Texas Law,

Hardware, Software, or Meteorological Consulting provided under this Agreement. The party seeking indemnification shall provide the indemnifying party with prompt written notice of any claim and give complete control of the defense and settlement of the indemnifying party, and shall cooperate with the indemnifying party, its insurance company and its legal counsel in its defense of such claim(s); if, however, Customer is indemnifying Perry Weather for a claim that Perry Weather, the Hardware, and/or the Software infringes the intellectual property rights of a third party, Perry Weather shall have complete control of the defense and settlement of said claim. This indemnity shall not cover any claim in which there is a failure to give the indemnifying Party prompt notice to the extent such lack of notice prejudices the defense of the claim. In the defense or settlement of a claim, or if use of the Hardware or Software is enjoined, Perry Weather may, at its expense and option: (a) procure for Customer the right to continue using the Hardware or Software; (b) replace or modify the Hardware or Software so they become non-infringing; or if neither of these is practical, (c) grant Customer a credit for the Hardware or Software as depreciated and accept return of the Hardware or Software as applicable. Depreciation shall be an equal yearly amount over the lifetime of the Hardware or Software, as established by Perry Weather. Perry Weather will not be liable to Customer for any claim that is based upon: (i) use of the Hardware or Software in modified form or in a manner for which they were not designed; (ii) use of the Hardware or Software in combination with goods or services not provided by Perry Weather; (iii) use of the Hardware or Software in practicing any process; or (iv) furnishing to Customer of any information, service or applications assistance. The foregoing states the entire liability of Perry Weather with respect to infringement of patents or copyrights by any Hardware or Software provided by Perry Weather.

17. **GOVERNING LAW, VENUE, ARBITRATION.** The validity, construction, and interpretation of the terms and conditions herein and all rights and duties of Perry Weather and Customer, and all matters related to the products and services covered by this Agreement, shall be governed by the substantive laws of the State of Texas without regard to conflict of laws rules that would confer the matter in question to a state other than Texas. Customer and Perry Weather agree that any action brought by Customer against Perry Weather shall be venued only in the City of Dallas in the State of Texas. Other than litigation by Perry Weather to collect an amount due from Customer pursuant to this Agreement or a suit for injunctive relief, any dispute, controversy or claim arising out of or related in any manner to this Agreement which cannot be amicably resolved by the Parties shall be solely and finally settled by arbitration administered by the American Arbitration Association in accordance with its commercial arbitration rules. Any claim shall be brought individually on behalf of the person or entity seeking relief, not on behalf of a class or other persons or entities not participating in the arbitration, and shall not be consolidated with the claim of any other person. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof in Dallas, Texas. The arbitration shall take place before a panel of one (1) arbitrator sitting in Dallas, Texas. The arbitrator will make the initial determination of whether a dispute between the Parties is subject to this arbitration clause or is otherwise required to be arbitrated. The language of the arbitration shall be English. The arbitrators will be bound to adjudicate all disputes in accordance with the laws of the State of Texas. The decision of the arbitrators shall be in writing with written findings of fact and shall be final and binding on the Parties. Each Party shall bear its own costs relating to the arbitration proceedings irrespective of its outcome. This section provides the sole recourse for any disputes arising out of, in connection with, or related to this Agreement, except that a Party may seek a preliminary injunction or other injunctive relief in any court of competent

jurisdiction in Dallas, Texas if in its reasonable judgment such action is necessary to avoid irreparable



18. **EXTRAORDINARY CIRCUMSTANCES.** Except for Customer's payment obligations under this Agreement, neither Perry Weather nor the Customer shall be liable for nonperformance caused by circumstances beyond their control, including but not limited to, work stoppages, pandemics, floods, lightning and all other acts of God.
19. **ENTIRE AGREEMENT.** This Agreement is the entire agreement between Customer and Perry Weather regarding the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter.
20. **ASSIGNMENT.** Customer shall not assign this Agreement, or any interest in this Agreement, without Perry Weather's prior written consent, which consents shall be in Perry Weather's sole discretion. Customer shall not provide access to Software, or any part of it, to any third parties without Perry Weather's prior written consent, which consent shall be in Perry Weather's sole discretion. Perry Weather may assign this Agreement at its sole discretion. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors and permitted assigns.
21. **EQUITABLE REMEDIES.** The parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to equitable relief, including injunctive relief or specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.
22. **ATTORNEYS' FEES.** In the event that any party institutes any legal suit, action, or proceeding, including arbitration, against the other party to enforce the covenants contained in this Agreement (or obtain any other remedy in respect of any breach of this Agreement), the prevailing party in the suit, action, or proceeding shall be entitled to receive, in addition to all other damages to which it may be entitled, the costs incurred by such party in conducting the suit, action, or proceeding, including reasonable attorneys' fees and expenses and court costs.
23. **NOTICES.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing to the parties at the addresses set forth in the Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this Section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt by the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
24. **SEVERABILITY.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
25. **WAIVER.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial

exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

26. RELATIONSHIP OF THE PARTIES. Nothing herein shall be construed to create a joint venture or partnership between the parties hereto or an employee/employer or agency relationship. Neither party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.

27. MISCELLANEOUS. Each term and provision of this Agreement that should by its sense and context survive any termination or expiration of this Agreement, shall so survive regardless of the cause and even if resulting from the material breach of either Party to this Agreement. Each of the sections contained in this Agreement will be enforceable independently of every other section in this Agreement, and the invalidity or non-enforceability of any section will not invalidate or render unenforceable any other section contained in this Agreement. Perry Weather may amend this Agreement from time to time by sending Customer written notice thereof via email and/or a notice displayed within the web application. Such amendment will be deemed accepted and become effective immediately (the "Proposed Amendment Date") unless Customer gives Perry Weather written notice of rejection of the amendment within 30 days of the notice. In case of such rejection, this Agreement will continue under its original provisions, and the amendment will become effective at the start of Customer's next renewal term following the Proposed Amendment Date (unless Customer first terminates this Agreement pursuant to Section 4). This Agreement may not be amended in any other way except through a written agreement signed by Perry Weather and Customer. Rates are subject to increase annually, limited in non-renewal years to the greater of: the Consumer Price Index for all Urban Consumers (CPI), or three percent (3%). This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which shall constitute one and the same Agreement.

perry  weather

**FIRE DEPARTMENT**

To: Mayor and Town Council

From: Stuart Blasingame, Fire Chief

Through: Bob Scott, Interim Town Manager

Re: GT Distributor, Inc. - Public Safety Purchases

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon approving the purchase of Public Safety, Firehouse Supplies, and Equipment through the Texas Local Government Purchasing Cooperative from GT Distributors, Inc.

Description of Agenda Item:

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A. Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary materials and equipment).

The Town of Prosper entered into an interlocal participation agreement in June 2005, providing the Town's participation in the Texas Local Government Purchasing Cooperative. Participation in the cooperative purchasing program allows our local government to purchase goods and services from the cooperative's online purchasing system, BuyBoard, while satisfying all competitive bidding requirements.

This purchase will allow Town Departments to process purchase orders as needed for Public Safety, Firehouse Supplies, and Equipment.

Budget Impact:

The estimated annual expenditure for these items is \$125,000.00 and will be funded through the FY23 operating budget.

Attached Documents:

1. Buyboard Vendor Contract Information Summary

Town Staff Recommendation:

Town Staff recommends approving the purchase of Public Safety, Firehouse Supplies, and Equipment through the Texas Local Government Purchasing Cooperative from GT Distributors, Inc.

Proposed Motion:

I move to approve the purchase of Public Safety, Firehouse Supplies, and Equipment through the Texas Local Government Purchasing Cooperative from GT Distributors, Inc.

Item 7.



Vendor Contract Information Summary

Vendor Name	GT Distributors, Inc.
Contact	David Curtis
Phone Number	512-451-8298
Email	sales@gtdist.com
Website	www.gtdist.com
Federal ID	74-2339528
Accepts RFQs	Yes
Address Line 1	2545 Brockton Dr. Ste 100
Vendor City	Austin
Vendor Zip	78758
Vendor State	TX
Vendor Country	USA
Delivery Days	360
Freight Terms	FOB Destination
Payment Terms	Net 30 days
Shipping Terms	Common Carrier
Ship Via	Common Carrier
Is Designated Dealer	No
EDGAR Forms Received	Yes
Service-Disabled Veteran Owned	No
Minority Owned	No
Women Owned	No
Is National	Yes
No Excluded Foreign Terrorist Orgs	Yes
No Israel Boycott Certificate	Yes
Is MWBE	No
Regions Served	All Texas Regions
States Served	Alabama, Florida, Georgia, Louisiana, Michigan, Nebraska, New Mexico, Oklahoma, Tennessee, Texas
Contract Name	Public Safety and Firehouse Supplies and Equipment
Contract #	603-20
Effective Date	04/01/2020
Expiration Date	03/31/2023
Quote Reference Number	603-20

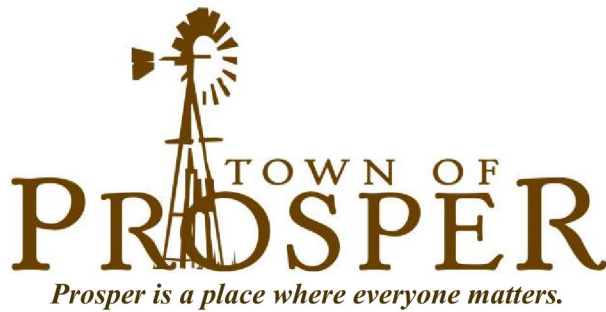
6/27/2022 2:20 PM



Vendor Contract Information Summary

Return Policy 15% restocking fee for returns. Customized goods: no returns are permitted unless the item is defective. Returns are handled on a case by case basis. Please review our full return policy.

Additional Dealers GT Distributors, Dallas, TX



To: Mayor and Town Council

From: Frank E. Jaromin, P.E., Director of Public Works

Through: Chuck Ewings, Executive Director of Development and Infrastructure Services
Bob Scott, Interim Town Manager

Re: SCADA System

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon approving a unit price, as needed contract, between DHS Automation INC., a sole source provider, and the Town of Prosper, Texas, related to SCADA, maintenance, and water and wastewater electrical services and repair; and authorizing the Interim Town Manager to execute documents for the same.

Description of Agenda Item:

Due to the integral workings of both the SCADA systems and electrical components of our water and wastewater system, this contract is essential to continue the safe and efficient service for our residents. DHS Automation INC., who had serviced the Town of Prosper for over seventeen years, will maintain our SCADA design systems, panels & components with PLC's, telemetry radio and devices, HMI computers, and other software and SCADA related components. DHS Automation, INC. will also assist with water and wastewater electrical services and repairs which include all water and wastewater pumps, electrical needs, and controls associated with water distribution and wastewater collection SCADA equipment.

The service and maintenance contract includes a monthly amount of \$3,750.00, or \$45,000.00 annually, which will be paid with water and wastewater funds. Additional costs associated with repairs and maintenance of the system, will be charged per contract pricing.

This purchase falls within the definition of a procurement that is available from only one source (Chapter 252 of the Local Government Code) and is exempt from competitive bidding requirements.

Budget Impact:

The annual cost for the contracted services will be funded from 200-5480-50-03 (Wastewater Contracted Services), 200-5680-50-03 (Wastewater Lift Station Expense) and 200-5480-50-01 (Water Contracted Services). The estimated expenditure for this four-year contract is \$150,000.00,

annually. Existing funding will be utilized, and subsequent annual expenditures will be subject to appropriations funded in future fiscal years.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard construction agreement as to form and legality.

Attached Documents:

1. DHS Automation INC. Service Maintenance Contract
2. Sole Source Letter

Town Staff Recommendation:

Town staff recommends approving a unit price, as needed contract, between DHS Automation INC., a sole source provider, and the Town of Prosper, Texas, related to SCADA, maintenance, and water and wastewater electrical services and repair; and authorizing the Interim Town Manager to execute documents for the same.

Proposed Motion:

I move to approve a unit price, as needed contract, between DHS Automation INC., a sole source provider, and the Town of Prosper, Texas, related to SCADA, maintenance, and water and wastewater electrical services and repair; and authorize the Interim Town Manager to execute documents for the same.

AGREEMENT FOR SCADA SERVICE & MAINTENANCE CONTRACTOR
(Town of Prosper, Texas)

This Agreement for Contractor Services ("Agreement") is entered into by and between **Town of Prosper, TX**, a Township/City of the State of Texas (the "Town"), and **DHS AUTOMATION, INC.**, a Texas SCADA ("Contractor"). Together, the Town and Contractor are referred to herein as the "Parties."

Recitals

WHEREAS, the Town seeks to engage Contractor to provide services on an as-needed basis to ensure the proper and continued operation of Town facilities and services; and

WHEREAS, Contractor has agreed to be available and provide such services at all times on an as-needed basis for and on behalf of the Town in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by both Parties, it is agreed as follows:

1. **Scope of Services.** Contractor hereby contracts and agrees to provide all labor, equipment, tools, machinery, transportation, storage, supervision and services of the general type set forth in **Exhibit "A"** attached hereto (the "Services"). The Services shall be performed by Contractor in accordance with all applicable regulatory requirements.
2. **Availability.**
 - a. **As-Needed Basis.** The Contractor agrees that it shall provide the Services on an as-needed basis and shall be available 24 hours per day, seven (7) days per week, throughout the term of this Agreement. The Town may contact the Contractor by telephone or by electronic mail as follows in order to request the Services:

Telephone: 817-205-9288 or 817-205-8142

Electronic Mail: Herschel@DHSAutomation.com

Contractor personnel shall be available at all times to respond and perform the Services without delay.

- b. **Time of Performance.** Time is of the essence of this Agreement and with regard to Contractor's performance of the Services. Contractor shall immediately commence and proceed with the performance of the Services with diligence upon receipt of a request by the Town.
3. **Performance by Contractor.**
 - a. **Contractor's General Obligations.** Contractor agrees to perform the Services diligently, using the Contractor's best skill and attention, and in compliance with the highest applicable industry standards. The Services will be performed by Contractor in a good and workmanlike manner. Contractor will also be responsible for proper storage and security for all equipment and materials required for the Services. Contractor will supervise and direct the performance of the Services using its best skill and attention, in a manner commensurate with the usual standards of its profession. Contractor will be solely responsible for all services, means, methods, techniques, sequences and procedures and for coordinating all portions of the construction.

- b. **Labor and Materials.** Contractor shall furnish at its own cost and expense all services, labor, equipment, materials, tools, transportation, facilities, and all other things necessary for the proper execution and completion of the Services.
- c. **Supervision and Construction Procedures; Safety.** Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Services. Contractor shall be responsible to the Town for acts and omissions of Contractor's employees, subcontractors and their agents and employees, and any other persons or entities performing portions of the Services for or on behalf of Contractor or any of its subcontractors. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Services. Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (a) employees and other persons present on the Property or performing the Services, (b) the materials and equipment used in the performance of the Services, and (c) other real and personal property at the site or adjacent thereto.
- d. **Compliance with Laws.** Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations, and lawful orders of public authorities related to the performance of the Services, including those bearing on safety of persons and property and their protection from damage, injury or loss. Contractor shall promptly remedy damage and loss to property caused in whole or in part by Contractor, a subcontractor, a sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable for and for which Contractor is responsible hereunder, except for damage or loss attributable to acts or omissions of the Town and not attributable to the fault or negligence of Contractor.
- e. **Payment to Subcontractors.** Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Town, out of the amount paid to Contractor on account of such subcontractor's or supplier's portion of the Services, the amount to which such subcontractor or supplier is entitled, reflecting percentages actually retained from payments to Contractor on account of such subcontractor's or supplier's portion of the Services. Contractor shall, by appropriate agreement with each subcontractor, require each subcontractor to make payments to sub-subcontractors in similar manner. The Town shall have no obligation to pay or see to the payment of money to a subcontractor or supplier except as may otherwise be required by law.
- f. **Warranties of the Services; Correction of Defective Services.** Contractor warrants to the Town that the performance of the Services will be free from defects not inherent in the quality required or permitted and that the performance of the Services will comply with applicable laws and regulations. Services not conforming to these requirements may be considered defective. The foregoing warranties shall commence on the date of final completion of the Services and acceptance by the Town (the "Completion Date"). Contractor shall promptly correct any Services determined by the Town to be defective or to fail to conform to the requirements of this Agreement, whether discovered before or after the Completion Date. Costs of correcting such defective or nonconforming Services shall be at Contractor's expense. In addition to the foregoing, if, within one year after the date for commencement of warranties established herein, any of the Services is deemed by the Town not to be in accordance with the requirements of this Agreement; Contractor shall correct it promptly after receipt of written notice from the Town to do so. Contractor further agrees to perform the Services in such manner so as to preserve any and all manufacturer's warranties associated with the materials. The provisions of this Section shall survive final completion of the Services or any earlier termination of this Agreement.
- g. **Cleaning Up.** Contractor will confine its activities to areas designated by the Town and must maintain these areas in a neat and clean condition. All excess material and trash generated from the prosecution of the Services will be neatly stockpiled in the area designated by the Town and removed from the site as frequently as necessary to maintain the site in a neat and safe condition. Upon the completion of any portion of the Services, Contractor will remove all equipment, materials, supplies, and temporary structures from the area of the completed portion and leave the

area in a neat and clean condition. Contractor will also keep all adjacent properties, public or private, free of dirt, trash, debris, or other materials relating to or resulting from the prosecution of the Services. At completion of the Services, Contractor shall remove from and about the job site and surrounding area waste materials, rubbish, Contractor's tools, construction equipment, machinery, and surplus material.

- h. **Contractor's Representations and Additional Warranties.** Contractor represents and warrants to the Town that:
 - i. Contractor is authorized and licensed, if applicable, to perform the Services in Texas;
 - ii. Contractor has the full right, power, legal capacity and authority to enter into, execute and deliver this Agreement and to perform the obligations to be performed by Contractor or Agents hereunder;
 - iii. Contractor is not parties to or bound by any agreement or contract or subject to any restrictions that would prevent the Contractor from entering into and performing the obligations under this Agreement.
- 4. **Prevailing Wages.** The Town is subject to the provisions of Chapter 2258, Subchapter B, Texas Government Code, pertaining to prevailing wage rates. In accordance with Section 49.279, Texas Water Code, the Town specifies the prevailing wage rate for public workers of Collin County as the Towns' prevailing wage rate. Contractor agrees to pay not less than the specified prevailing wage rate to workers employed by it in the execution of the Services, and to comply with all applicable provisions of Chapter 2258, Subchapter B, Texas Government Code, including the recordkeeping required thereunder.
- 5. **Payment.** Payment for the Services shall be made to Contractor by the Town as provided herein below.
 - a. **Total Compensation.** The Town shall pay Contractor for the performance of the Services on a time and materials basis at the rates set forth in **Exhibit "B"** to this Agreement.
 - b. **Invoice for Payment.** Contractor shall submit its application for payment upon final completion of any Services by Contractor and acceptance by the Town.
 - c. **The Town's Right to Withhold Payment.** The Town shall be entitled to withhold payment from Contractor to the extent reasonably necessary to protect the Town as a result of (a) defective Services not remedied, (b) third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Town is provided by the Contractor, (c) failure of the Contractor to make payments properly to subcontractors or for labor, materials or equipment, or (d) damage to the Town or another contractor.
 - d. **Sales Tax.** The Town is a tax-exempt, political subdivision of the State of Texas. Accordingly, no sales tax will be charged to the Town or included in the Contract Sum.
 - e. **PRICE ESCALATION:** Unless otherwise stated in the specifications herein, prices must remain firm for the initial term of the contract. The contracted vendor may request an adjustment at the time of contract renewal by submitting a request in written form to the Purchasing Manager. Basis for price escalation should be based on the Consumer Price Index for the most recent twelve-month period reported for the Dallas-Fort Worth area. The contracted vendor shall provide the Town with copies of the appropriate indices for verification purposes. The Town of Prosper reserves the right to approve or reject any and all requests for price escalations.

6. **Termination.** This Agreement will continue in effect unless terminated by either Party as provided herein below.
- a. **Termination of the Agreement by the Town.** The Town may terminate the Agreement at any time for convenience (without cause) or for cause (due to Contractor's material breach). In the event of termination, Contractor shall be paid for the Services properly executed in accordance with the Agreement prior to the effective date of termination. The Town shall not be responsible for damages or recoveries arising from the termination of the Agreement.
 - b. **Termination of the Agreement by Contractor.** Contractor may terminate the Agreement only for cause (due to the Town's material breach). Contractor may deliver a written notice of termination of the Agreement to the Town setting forth in reasonable detail the basis for such termination and providing the Town with a period of not less than ten (10) calendar days to cure such default. If the Town fails to cure the default within the time period stated in the initial notice of termination letter, Contractor may terminate the Agreement no less than five (5) calendar days following delivery of a final notice of termination letter to the Town. In the event of Contractor's termination for cause, Contractor shall be entitled to recover payment for the Services properly executed in accordance with the Agreement prior to the effective date of termination (to the extent not previously paid to or for the benefit of Contractor. The Town shall not be responsible for damages or recoveries arising from the termination of the Agreement.
 - c. **Survival of Obligations following Termination.** Except as may be expressly agreed in writing by the Parties, all warranty obligations or other obligations of the Contractor to complete or repair defective Services arising under the Agreement shall survive any termination of such Agreement (other than Contractor's termination of the Agreement for cause). Further, in the event of termination for any reason and by any Party, Contractor agrees to comply with the Town directives regarding the return of all materials purchased by the Town. Contractor shall provide reasonable cooperation to the Town in effecting a smooth and orderly transition of all matters that were being handled by Contractor prior to termination. All records, including all documents, articles or items that may be supplied by the Town to Contractor, shall be and remain the sole and exclusive property of the Town and shall be surrendered to it upon demand (and, in any event, within five (5) days of termination). Upon the termination of the Agreement (or this Agreement) or upon the demand of the Town prior to termination, Contractor shall immediately deliver to the Town at such place or places as may be designated by it, any and all other property of the Town in its possession or under its control.
7. **Relationship of Parties.** The Parties understand and agree that Contractor shall provide the Services to the Town as a non-exclusive independent contractor, with all of its attendant rights and liabilities, and not as an agent or employee of the Town. Nothing in the Agreement or otherwise is intended or will be construed to create a joint venture, partnership, employment or similar relationship. Neither Contractor nor any of Contractor's employees, representatives or agents will be deemed to be employed by the Town or be eligible for any employee benefits from the Town and, except as may be required by lawful authority, the Town will make no deductions or payment for taxes, insurance, bonds or other sums. Neither Party shall have the authority to bind the other to any contract or agreement whatsoever. Nothing in the Agreement shall be interpreted as authorizing Contractor or Agents to act for the Town in the collection of money, extension of credit, acceptance of service of process, or to make any commitment that would bind the Town to any contract or agreement. Contractor has sole authority and responsibility to hire, fire and otherwise controls its employees and neither Contractor nor its employees are employees of the Town. Contractor acknowledges and agrees that nothing herein shall entitle or render Contractor eligible to participate in any benefits or privileges provided by the Town for its employees.
8. **Taxes.** Contractor agrees to timely withhold and pay all taxes and fees assessed on Contractor or required of Contractor to pay or withhold to, for, or with respect to any person in connection with or incident to the performance of the Agreement, by the United States, any state and any governmental agency, as well as unemployment compensation insurance, social security, or any other taxes upon

Contractor. Contractor acknowledges that Contractor is responsible for payment of all income taxes, including estimated quarterly payments. Contractor shall pay all sales tax for taxable materials and labor or services (to the extent such labor or services are taxable) purchased by or furnished to Contractor by its subcontractors and suppliers. All subcontracts shall be separated so that no sales tax is incurred, charged or paid on non-taxable labor or services.

9. Insurance.

- a. As an independent contractor, Contractor acknowledges that it is solely responsible for providing its own insurance coverage, including, but not limited to, unemployment compensation and workers' compensation to its employees, and that such coverage shall be maintained by Contractor in the statutory limits which are presently in effect or which may be in effect in each of the applicable jurisdictions where Contractor will perform the Services. Without limiting the foregoing, Contractor shall, at Contractor's sole cost and expense, maintain the following insurance with insurers satisfactory to the Town and with limits no less than those states as follows:
 - i. Commercial General Liability insurance providing coverage against liability arising out of or based on any act, error or omission of Contractor under this Agreement, with limits of not less than \$1,000,000 for each occurrence of bodily injury and property damage liability, \$1,000,000 general aggregate and products/completed operations coverage; and
 - ii. Business Automobile Liability insurance as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle{s} will be used under this contract.
- b. All of the above-listed insurance must be maintained in force throughout the term of this Contract and must be written by insurance companies authorized to sell insurance where work is being performed and have an A.M. Best's rating of B++ VII or better. All insurance policies must provide that they may not be cancelled or modified without 30 days' prior written notice to the Town and that they are primary and noncontributory over any insurance that may be carried by the Town.
- c. All such insurance shall be primary. All policies shall include a waiver of subrogation in favor of the Town, and all policies shall require at least thirty (30) days prior written notice to the Town of any intention to cancel, terminate or reduce coverage provided thereby. The Town shall be named as additional insureds on the commercial general liability and business automobile liability policies. Prior to the commencement of the Services, Contractor shall furnish to the Town a Certificate of Insurance, endorsements, or evidence of coverage signed by authorized representatives of the companies providing the coverage required under the terms of the Agreement. Failure to secure the insurance coverages, or the failure to comply fully with any of the insurance provisions of the Agreement as may be necessary to carry out the terms and provisions of the Agreement shall be deemed to be a material breach of the Agreement. The lack of insurance coverage does not reduce or limit Contractor's responsibility to indemnify the Town as set forth in the Agreement. Any and all deductibles and premiums associated with the above-described insurance policies shall be assumed by, for the account of, and at the sole risk of the Contractor. The Town reserves the right to review the insurance coverage requirements of the Agreement. Contractor shall require similar insurance levels from its sub-contractors and other Agents.
- d. As required by Section 406.096, Texas Labor Code, Contractor hereby certifies that Contractor provides workers' compensation insurance coverage for each employee of Contractor who will be employed on the Project. Further, Contractor agrees that each subcontractor which Contractor engages to perform work on the Project will be required to provide a written certification that the subcontractor provides workers' compensation insurance coverage for each employee of the

subcontractor who will be employed on the Project, and that Contractor will provide such certification to the Town before the subcontractor performs any work on the Project.

10. Indemnity.

- a. **General Indemnification.** TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR WILL INDEMNIFY AND HOLD THE TOWN AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES (COLLECTIVELY, THE “INDEMNITEES”) HARMLESS FROM ALL CLAIMS, LIABILITIES, DAMAGES, LOSS, AND EXPENSE, INCLUDING BUT NOT LIMITED TO ATTORNEYS’ AND CONSULTANTS’ FEES AND EXPENSES, ARISING OUT OF OR RESULTING FROM: (1) THE PERFORMANCE OF THE SERVICES, ATTRIBUTABLE TO PERSONAL INJURY, SICKNESS, DISEASE, OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, INCLUDING THE LOSS OF USE RESULTING THEREFROM, AND CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT OR OTHER ACT OR OMISSION OF CONTRACTOR, ANY SUBCONTRACTOR, OR ANY SUPPLIER, OR ANYONE, DIRECTLY OR INDIRECTLY, EMPLOYED BY ANY OF THEM, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, OR (2) THE FAILURE OF THE SERVICES TO BE FIT FOR ITS INTENDED PURPOSE. **THE OBLIGATIONS IN THIS PARAGRAPH (A) APPLY WHETHER ALLEGED OR ACTUAL, NEGLIGENT, OR GROSS NEGLIGENT ACTS OR OMISSIONS OR OTHER FAULT OF ANY INDEMNITEE CAUSED THE LOSS IN WHOLE OR IN PART; PROVIDED HOWEVER, IN THE EVENT OF ANY JOINT OR CONCURRENT LIABILITY BETWEEN AN INDEMNITEE AND CONTRACTOR, CONTRACTOR’S OBLIGATIONS HEREIN WILL BE REDUCED BY THE PERCENTAGE OF NEGLIGENCE OR FAULT APPORTIONED TO THE INDEMNITEE; AND (B) INCLUDE WITHOUT LIMITATION, CLAIMS BY THE CONTRACTOR’S CREW OR EMPLOYEES AGAINST THE INDEMNITEES.** This provision relating to indemnification shall survive the termination of this Agreement and may be enforced by the Town, or its successors or assigns.
 - b. **Indemnification for Defense Costs.** CONTRACTOR’S OBLIGATION TO INDEMNIFY THE TOWN AND INDEMNITEES AGAINST ANY ATTORNEYS’ FEES OR OTHER COSTS OR EXPENSES INCURRED BY THE TOWN AND INDEMNITEES IN CONNECTION WITH THE DEFENSE OF ANY CLAIMS OR CAUSES OF ACTION WITHIN THE SCOPE OF THIS SECTION SHALL BE CONSTRUED AS A SEPARATE ITEM OF INDEMNIFICATION WHICH SHALL BE AN ABSOLUTE OBLIGATION OF CONTRACTOR EVEN IF SUCH CLAIMS OR CAUSES OF ACTION ARE INVALID OR GROUNDLESS.
11. **Dispute Resolution/Mediation.** The Parties agree to meet and confer in good faith on all matters of common interest or all controversies, claims, or disputes which may arise under the Agreement. The Parties agree that all disputes arising out of or relating to the Agreement that cannot be resolved through informal conference will be submitted to mediation prior to exercising any judicial remedies.
 12. **Notices.** All notices and correspondence pertaining to the Agreement shall be in writing delivered by hand or certified mail, return receipt requested and postage prepaid, or by nationally recognized courier service, and shall be addressed as follows, unless a Party notifies the other in accordance with this Section 12 of a change of address or other information provided herein:

If to the Town:

Town of Prosper
P.O. Box 307
Prosper, TX 75078
Attn: Director of Public Works
Telephone: (972) 347-9969

If to the Contractor:

DHS Automation, Inc.
615 W. White Dove St.
Azle, TX 76020
Attn: President
Telephone: (817)-205-9288

Notice shall be effective only upon receipt by the party being served, except notice shall be deemed delivered and received seventy-two (72) hours after posting by the United States Post Office, by the method described above.

13. General Provisions.

- a. **Assignment.** This Agreement and Contractor's obligation and duties to the Town hereunder are not transferable or assignable by Contractor.
- b. **Waiver.** Failure of the Town at any time to enforce any provisions of this Agreement shall not be construed to be a waiver or relinquishment of the Town's rights granted hereunder or of the future performance of such provision and the obligations of Contractor with respect thereto shall continue in full force and effect. No provision of this Agreement will be deemed waived and no breach excused unless such waiver or consent will be in writing and signed by the Party giving the waiver or consent.
- c. **Choice of Law.** This Agreement is made under, and will be enforced and construed in accordance with the laws of the State of Texas. All claims, disputes or causes of action arising hereunder will be resolved pursuant to Section 11 of this Agreement. Should, for any reason whatsoever, any claim, dispute, or cause of action fail to be resolved pursuant to Section 11 of this Agreement, such claim, dispute, or cause of action shall be filed in the court of competent jurisdiction in Denton County, Texas, which venue shall be exclusive.
- d. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute one of the same Agreements. Faxed and electronic scanned signatures and countersignatures shall be deemed originals for all purposes and proper evidence of assent of this Agreement.
- e. **Severability.** If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected thereby, and it is also the intention of the parties that, in lieu of each provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible, and is legal, valid, and enforceable.
- f. **Attorneys' Fees.** Any party to this Agreement who is the prevailing party in any legal proceeding against any other party brought under or in connection with this Agreement or the subject matter hereof will be additionally entitled to recover court costs and reasonable attorney's fees, and all other litigation expenses, including deposition costs, travel, and expert witness fees, from the non-prevailing party.
- g. **Authority.** Each party represents and warrants that it has the full right, power, and authority to execute this Agreement and all related documents. Each person executing this instrument on behalf of a party represents that he or she is an authorized representative of and has the authority to sign this document on behalf the respective party.

- h. **Boycott Israel.** For purposes of Chapter 2270 of the Texas Government Code, at the time of execution and delivery of this Agreement, neither the Contractor, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor, boycotts Israel. The Contractor agrees that, except to the extent otherwise required by applicable federal law, including, without limitation, 50 U.S.C. Section 4607, neither the Contractor, nor any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the Contractor will boycott Israel during the term of this Agreement. The terms “boycotts Israel” and “boycott Israel” as used in this clause has the meaning assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code.
- i. **Terrorist Organization.** For purposes of Subchapter F of Chapter 2252 of the Texas Government Code, at the time of execution and delivery of this Agreement, neither the Contractor, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Contractor, (i) engages in business with Iran, Sudan or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller under Sections 806.051, 807.051 or 2252.153 of the Texas Government Code. The term “foreign terrorist organization” as used herein has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

14. Service & Maintenance Contract Price.

Monthly: \$3,750.00

Bi Annual 5% discount: \$21,375.00

Annual 10% discount: \$40,500.00

Customer Purchase Order: _____

[The remainder of this page intentionally left blank.]

EXHIBIT A

Description of Services: 24 Hours

*Scada Programming

*Scada design Systems, Panels & Components with Cad Drawings
(To include all PLC's, Telemetry Radio's & devices. HMI Computers, Software and Scada related Components)

*Water & Waste Water Electrical Services & Repair
(To include all Water & Waste Water Pumps & Electrical Gear & Controls associated with Water distribution & Waste Water Collections)

*24 Hour Phone Support for City Utility Employees

*Customer represented Engineer correspondence and assistance
(To include Meetings, Phone & Email correspondence for current & upcoming Project design support and discussions)

DHS AUTOMATION, INC.**EXHIBIT B****Applicable Rates and Charges: With Service Contract**

- *Scada Programming Hourly Rate: **\$150.00**
- *Scada design Systems, Panels & Components with Cad Drawings Hourly Rate: **\$150.00**
(Unless bid Job & is included in Bid price)
- *Scada Panel assembly Shop Hourly Rate: **\$55.00**
- *Electrical, Mechanical, Scada Services & Repair for Technician Hourly: **\$130.00**
- *Electrical, Mechanical, Scada Services & Repair for Helper Hourly Rate: **\$85.00**
- ***After Hour & Holiday Rates: Regular Hourly Rates**
- *24 Hour Phone Support for City/Town/MUD Utility Employees per Call: **Free**
- *Customer represented Engineer correspondence and assistance Hourly Rate: **Free**
(Engineer & design related Meetings Hourly Rate: **\$150.00**)
- *All Material, Electrical & Mechanical Components Markup: **20 %**
- *Regular Service Truck Charge Flat Fee: **\$150**
- *3 Hour Minimum Charge per Service call out.
- ***2 Hour Minimum on Site response time for emergency repairs.**
- *Includes one of each Scada Panel Systems related Components on hand for emergency repair of Scada System)
- * Manufacture Parts and 2 Year Labor Warranty

(Note: Regular Service & Programming Hours: Monday through Friday 7:00 A.M to 5:00 P.M. excluding recognized Holidays.)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the date signed by the last signatory hereto.

CONTRACTOR:

D.H.S. AUTOMATION, INC.

[Legal name of contractor]

(Corporate Seal)

Signature: _____

Printed Name: Herschel Henson

Title: President

Date: _____

STATE OF TEXAS

COUNTY OF _____

(Seal

(Signature of Notary

TOWN:

TOWN OF PROSPER, TX

Signature: _____

Printed Name: _____

Title: _____

Date: _____

DHS AUTOMATION, INC.

Item 8.

SCADA Systems Integration

Date: January 26, 2023

Customer Name: Frank Jaromin
Town of Prosper

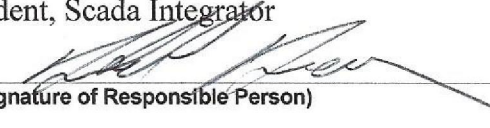
RE: Product & Service Sole-Source Declaration

DHS Automation, Inc. declares that it is the sole source provider for the Town of Prosper's Supervisory Control and Data Acquisition (SCADA) systems software, device programming, and controls integration for the Towns Water & Waste Water automated control and monitoring system.

DHS is exempt from competitive bidding under Section 252.022 of the TLGC General Exemptions. DHS Automation, Inc. has designed and implemented the Towns entire SCADA system and is the Sole-Source provider. The Towns SCADA system is unique as every Municipality and Municipal Utility Districts System.

A sole sourced Programmer and Software provider is required due to the complexity of integrating programs with Instruments, Controls, Facilities and Human Machine Interface (HMI). In-depth knowledge is necessary and required for the Town of Prosper's system to maintain, repair, upgrade and integrate all SCADA components via programming & Software. The Main Source Code programming that operates the Towns SCADA system is unique and proprietary to the Programmer that created it.

Sincerely,
DHS Automation, Inc.
Herschel Henson
President, Scada Integrator


(Signature of Responsible Person)

1-26-2023
(Date)

PUBLIC WORKS



To: Mayor and Town Council

From: Frank E. Jaromin, P.E., Director of Public Works

Through: Bob Scott, Interim Town Manager
Chuck Ewings, Executive Director of Development and Infrastructure Services

Re: Median Street Light Repairs

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon approving the purchase and installation of streetlights from Groves Electrical Services, Inc., through the Texas Local Government Purchasing Cooperative; and authorizing the Interim Town Manager to execute documents for the same.

Description of Agenda Item:

Due to recent accidents that have occurred, three streetlights are in need of replacement. The streetlights are located on Preston Road at Pasewark Circle, Lover's Lane, and Richland Blvd, total \$55,150.02, \$18,383.34 for each location. Since they were damaged in an accident, funds will be reimbursed for these repairs, via an insurance claim. The work will be completed under Buy Board Contract Number 638-21. Staff is also requesting an additional four (4) poles and eight (8) fixtures to keep on hand due to the lead time of 14 to 16 weeks for pole and fixture parts. The additional pricing for the extra poles and fixtures totals \$56,100.00.

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A. Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary materials and equipment).

In June 2005, the Town of Prosper entered into an Interlocal Participation Agreement with the Texas Local Government Purchasing Cooperative. Participation in the cooperative purchasing program allows local governments to purchase goods and services from the cooperative's online purchasing system, BuyBoard, while satisfying all competitive bidding requirements.

Budget Impact:

The total price is \$111,250.02 and will be funded from Streetlight Repairs, account number 100-5326-50-01. Additional monies will be moved from Contract Services, account number 100-5480-50-01, to supplement the cost.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard construction agreement as to form and legality.

Attached Documents:

1. Proposal – Lover's Lane
2. Proposal – Pasewark Circle
3. Proposal – Richland Blvd
4. Proposal – Additional Equipment

Town Staff Recommendation:

Town staff recommends approving the purchase and installation of streetlights from Groves Electrical Services, Inc., through the Texas Local Government Purchasing Cooperative; and authorizing the Interim Town Manager to execute documents for the same.

Proposed Motion:

I move to approve the purchase and installation of streetlights from Groves Electrical Services, Inc., through the Texas Local Government Purchasing Cooperative; and authorize the Interim Town Manager to execute documents for the same.

GROVES ELECTRICAL SERVICE, INC.

2410 SQUIRE PLACE, FARMERS BRANCH, TEXAS 75234, 972-484-2717 FAX 972-484-2263

ELECTRICAL and MECHANICAL, CONTRACTING and SERVICE

www.groveselectric.com TECL17392

"SINCE 1968"

12/12/2022

ALEX SCHMIDT
TOWN OF PROSPER
601 W. FIFTH STREET
PROSPER, TX. 75078

CELL 469-815-8778
ASCHMIDT@PROSPERTX.GOV

BID #22NOV28BJC-R2-1
BUY BOARD: 638-21

PRESTON @ LOVERS

SUBJECT: INSTALL A NEW POLE THAT WAS KNOCKED DOWN.

APPROXIMATELY A 14-16 WEEK LEAD TIME FOR THE POLE AND FIXTURES.

IT IS BEING ASSUMED THE ANCHOR BOLTS ARE IN GOOD CONDITION TO USE TO INSTALL THE NEW POLE ON AND THEY ARE PROTRUDING OUT OF THE CONCRETE PIER AS NEEDED FOR BREAK AWAYS. TRANSPORT THE POLE TO THE LOCATION.

INSTALL BREAKAWAY BOLTS ON BOTH PIER BASE AND STAND A NEW POLE WITH 2 FIXTURES AT BOTH LOCATIONS.

PRICE: \$18,383.34

The above price is based on being able to perform the same work at 2 other locations.

1 ARROW BOARD and CONES WILL BE USED FOR TRAFFIC CONTROL AT EACH LOCATION. IF THE CUSTOMER IS REQUESTING 2 ARROW BOARDS, ADD \$800.00 TO THE ABOVE PRICE.

AUTHORIZED SIGNATURE

PO #

ESTIMATOR, JIMMY CLARK

FOR ACCEPTANCE, PLEASE SIGN AND RETURN ONE COPY.

PAYMENTS TO BE COD OR NET 10TH PROXY MONTH WITH APPROVED CREDIT. 70% ROUGH AND 30% ON COMPLETION WHEN APPLICABLE. **UNLESS SPECIFICALLY NOTED TO THE CONTRARY HEREIN, COVERAGE OF THESE ITEM ARE SPECIFICALLY EXCLUDED:** Tax, permit fee, rock digging or excavation; erosion control; casing of piers, repair of unmarked underground utilities, conformance with *The International Electrical Energy Conversation Code (IEECC)*; excavations of any nature in excess of four feed deep; COMPACTION to a specified density; utility communication co. charges; wage rates; requirements of any "Building Standards"; Specifications by Owner, Architect or Engineer; work show on any drawings, addenda or specification that could be concurred to be within our trade or responsibility other than those listed within our Scope of Work; temporary power or lighting; temporary power usage or deposit; installation of overhead power lines for temporary; bond fees; scheduled overtime; insurance in excess that listed or Builder's Risk; fire or smoke stoppage for devices, light fixtures, raceways or conductors.

Regulated by the Texas Department of Licensing and Regulations, PO Box 12157, Austin, TX 78711, 800-803-9202, 512-463-6599: website:

www.license.state.tx.us/complaints. Owner or General Contractor to provide, toilet, water, electrical power, on site trash and debris disposal location.

Price is void after 30 days. Contract review fee add \$2,500.00

GROVES ELECTRICAL SERVICE, INC.

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12/12/2022

ALEX SCHMIDT
TOWN OF PROSPER
601 W. FIFTH STREET
PROSPER, TX. 75078

CELL 469-815-8778
ASCHMIDT@PROSPERTX.GOV

BID #22NOV28BJC-R2-3
BUY BOARD: 638-21

PRESTON @ PASEWARK CIRCLE

SUBJECT: INSTALL A NEW POLE THAT WAS KNOCKED DOWN.

APPROXIMATELY A 14-16 WEEK LEAD TIME FOR THE POLE AND FIXTURES.

IT IS BEING ASSUMED THE ANCHOR BOLTS ARE IN GOOD CONDITION TO USE TO INSTALL THE NEW POLE ON AND THEY ARE PROTRUDING OUT OF THE CONCRETE PIER AS NEEDED FOR BREAK AWAYS. TRANSPORT THE POLE TO THE LOCATION.

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"SINCE 1968"

12/12/2022

ALEX SCHMIDT
TOWN OF PROSPER
601 W. FIFTH STREET
PROSPER, TX. 75078

CELL 469-815-8778
ASCHMIDT@PROSPERTX.GOV

BID #22NOV28BJC-R2-2
BUY BOARD: 638-21

PRESTON @ RICHLAND BLVD.

SUBJECT: INSTALL A NEW POLE THAT WAS KNOCKED DOWN.

APPROXIMATELY A 14-16 WEEK LEAD TIME FOR THE POLE AND FIXTURES.

IT IS BEING ASSUMED THE ANCHOR BOLTS ARE IN GOOD CONDITION TO USE TO INSTALL THE NEW POLE ON AND THEY ARE PROTRUDING OUT OF THE CONCRETE PIER AS NEEDED FOR BREAK AWAYS. TRANSPORT THE POLE TO THE LOCATION.

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www.license.state.tx.us/complaints.

Owner or General Contractor to provide, toilet, water, electrical power, on site trash and debris disposal location.

Price is void after 30 days. Contract review fee add \$2,500.00

GROVES ELECTRICAL SERVICE, INC.

2410 SQUIRE PLACE, FARMERS BRANCH, TEXAS 75234, 972-484-2717 FAX 972-484-2263

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"SINCE 1968"

1/13/2023

ALEX SCHMIDT
TOWN OF PROSPER
601 W. FIFTH STREET
PROSPER, TX. 75078

CELL 469-815-8778
ASCHMIDT@PROSPERTX.GOV

BID #22DEC27AJC-R1
BUY BOARD: 638-21

SUBJECT: PURCHASE 4 COMPLETE POLES WITH 2 FIXTURES PER POLE.

PURCHASE 4 COMPLETE POLES THAT ARE USED FOR STREET LIGHTING.
POLES CONSIST OF 2 FIXTURES EACH.

THE ORDER WILL BE SHIPPED DIRECTLY TO THE CUSTOMER (LOCATION TBD) TO UNLOAD BY THE CUSTOMER AND STORE FOR FUTURE USAGE.
NO LABOR BY GROVES IS INCLUDED FOR HANDLING OR INSTALLATION.

PRICE: \$56,100.00 (plus tax if applicable)

THE ABOVE PRICE IS GOOD UNTIL 1/30/23. Must have the approval to purchase before 2pm.
ESTIMATED LEAD TIME FROM DATE OF ORDER IS APPROXIMATELY 12-15 WEEKS.

Groves' reserves the right to amend, withdraw or otherwise alter this submission without penalty or charge as a result of any event beyond its control arising from increase and commodity prices or due to the current COVID-19 epidemic or events subsequent to this epidemic / pandemic including changes in the laws, regulations, by laws, or direction from a competent authority.

AUTHORIZED SIGNATURE

PO #

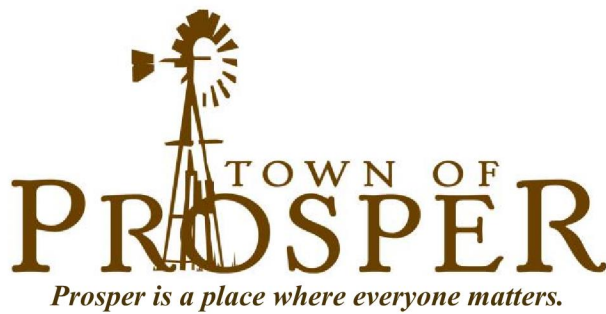
ESTIMATOR, JIMMY CLARK

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Regulated by the Texas Department of Licensing and Regulations, PO Box 12157, Austin, TX 78711, 800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints. Owner or General Contractor to provide, toilet, water, electrical power, on site trash and debris disposal location.

Price is void after 30 days. Contract review fee add \$2,500.00



POLICE DEPARTMENT

To: Mayor and Town Council
From: Doug Kowalski, Chief of Police
Through: Bob Scott, Interim Town Manager
Re: Ammunition and Range Supplies

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon the purchase of ammunition and range supplies from GT Distributors Inc., utilizing the Buyboard Contract #603-20; and authorizing the Interim Town Manager to execute documents for same.

Description of Agenda Item:

Request for the Interim Town Manager to authorize a Purchase Order in the amount of \$61,238 for the Police Department's annual purchase of duty ammunition and range supplies through GT Distributors and utilizing BuyBoard Contract #603-20.

Budget Impact:

Budgeted for FY 2022-2023 in Police Operations, Ammunition Account #100-5215-20-01.

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. Vendor's Quote

Town Staff Recommendation:

Town staff recommends approval of the purchase of ammunition and range supplies from GT Distributors Inc., utilizing the Buyboard Contract #603-20; and authorizing the Interim Town Manager to execute documents for same.

Proposed Motion:

I move to approve the purchase of ammunition and range supplies from GT Distributors Inc., utilizing the Buyboard Contract #603-20; and authorizing the Interim Town Manager to execute documents for same.



GT Distributors - Austin
1124 New Meister Ln., Ste 100
Pflugerville TX 78660
(512) 451-8298 Ext. 0000

Quote	QTE01648
Date	11/30/2022
Page:	2

Item 10.

Bill To:

Prosper, Town of (TX)
Attn: Accounts Payable
P.O. Box 307
Prosper TX 75078

Ship To:

Prosper, Town of (TX)
801 Safety Way
Attn: Lt. Barrett Morris
PO #:
Prosper TX 75078

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Reg Ship Date	Master No.
MORRIS 30NOV22 AM	005576	MPH	FACTORY DIRECT	NET 15	0/0/0000	2,680,101
Quantity	Item Number	Description	UOM	Unit Price	Ext. Price	
5	HL-R-01526	Bacou/Howard Leight Electronic Ear Muff	EA	\$62.99000	\$314.95	
1	NOTES:	Notes:	EA	\$0.00	\$0.00	
		Contact Name: Lt. Barret Morris Phone number: 972-569-1032 Special Instructions: N/A				
1	NOTES:	Notes:	EA	\$0.00	\$0.00	
		Quotation reflects BuyBoard Contract 603-20. Contract period 04/01/22-03/31/23. Email BuyBoard PO's to info@buyboard.com				
1	NOTES:	Notes:	EA	\$0.00	\$0.00	
		Quote is valid for 30 days. Please, reference quote number on PO. Freight may vary with quantity changes or lift-gate requirements.				
1	NOTES:	Notes:	EA	\$0.00	\$0.00	
		Def Tech is currently quoting lead-times of 45-60 days (not including launchers). Def Tech is currently quoting lead-times of 12-months, or greater for launchers.				
1	NOTES:	Notes:	EA	\$0.00	\$0.00	
		Ammo manufacturers are currently quoting lead-times of 18-24 months, or greater.				

QUOTE IS GOOD FOR 30 DAYS. IN ORDER TO RECEIVE QUOTED PRICE
PLEASE PRESENT A COPY OF QUOTE AT POINT OF SALE IN STORES OR
REFERENCE QUOTE NUMBER ON PO OR REQUISITION

Subtotal	\$60,997.98
Misc	\$0.00
Tax	\$0.00
Freight	\$239.99
Total	\$61,237.97

Morris, Barrett
BMorris@prospertx.gov
Your salesperson was James.
We appreciate your business!



GT Distributors - Austin
1124 New Meister Ln., Ste 100
Pflugerville TX 78660
(512) 451-8298 Ext. 0000

Quote	QTE0164896
Date	11/30/2022
Page:	1

Bill To:

Prosper, Town of (TX)
Attn: Accounts Payable
P.O. Box 307
Prosper TX 75078

Ship To:

Prosper, Town of (TX)
801 Safety Way
Attn: Lt. Barrett Morris
PO #:
Prosper TX 75078

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Reg Ship Date	Master No.
MORRIS 30NOV22 AM	005576	MPH	FACTORY DIRECT	NET 15	0/0/0000	2,680,101
Quantity	Item Number	Description	UOM	Unit Price	Ext. Price	
50	DT-6325*	Def Tec *FEL* 40Mm Exact Impact Munitions	EA	\$26.39	\$1,319.50	
50	DT-6325LE*	Def Tec *FEL* eXact iMPact 40mm Sponge Rd	EA	\$28.35	\$1,417.50	
50	DT-6325-A*	Def Tech *FEL* eXact iMPact™ Sponge Round	EA	\$36.59	\$1,829.50	
10.00	CCI-53617*	CCI Gold Dot 9Mm +P 124 Grain	M	\$621.99	\$6,219.90	
5.00	CCI-53962*	Cci Speer 40 S/W 180 Gr Gold	M	\$688.77	\$3,443.85	
20.00	FC-LE223T3*	Federal Cartridge-.223 62 Gr. Tactical	M	\$1,913.53	\$38,270.60	
0.50	FC-LE127RS*	Federal Cartridge Le Tactical 12Ga Rifle Slug	M	\$819.20	\$409.60	
0.50	FC-LE13200*	Federal Cart. 12 Ga Tactical 00 Buck	M	\$824.00	\$412.00	
5.00	HORNADY-80/25*	Hornady 308 Wln 168 Gr Eld Match Tap	M	\$1,259.69	\$6,298.45	
5	HOP-1202S	Hoppe's Patch .22 - .270 Caliber 500 Pack	EA	\$3.29	\$16.45	
5	HOP-1204S	Hoppe's Patch .38 - .45 Caliber 500 Pack	EA	\$5.99	\$29.95	
5	HOP-1205S	Hoppe's Patch 16-12 Gauge 300 Pack	EA	\$5.99	\$29.95	
20	TRIPLEK-807*	Triple K 807 9MM Plastic Snap Caps 5 Pack	EA	\$15.74	\$314.80	
20	TRIPLEK-811*	Triple K A811 .223 Plastic Snap Caps 2 Pack	Each	\$12.86	\$257.20	
20	TRIPLEK-818*	Triple K A818 .40 Cal. Plastic Snap Caps 5 Pack	EA	\$17.99	\$359.80	
1	MMD-CRT-15	Magna Matic Defense (CRT-AR) Bolt Carrier Cl	EA	\$32.39	\$32.39	
1	TEK-R44-AR15-CA	TekMat Ultra 44 - AR-15 -Cut Away Cleaning M	EA	\$21.59	\$21.59	



POLICE DEPARTMENT

To: Mayor and Town Council

From: Whitney Rehm, Grants Administrator

Through: Bob Scott, Interim Town Manager
Doug Kowalski, Chief of Police

Re: General Victim Assistance Grant Program

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program and consider and act upon authorizing the Interim Town Manager and/or his/her designee to accept the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program upon award.

Description of Agenda Item:

The Office of the Governors' FY2024 General Victim Assistance Grant Program has funding available to potentially fund one Crime Victim Advocate. This position will serve as liaison to crime victims to assist with emotional support, victims' rights information, safety planning, shelter assistance, help in finding needed resources or assistance in filling out crime victim-related forms, and assistance in guiding victims through criminal justice process. This grant will support the position for one year, with eligibility under current guidelines for renewal in years two (2) and three (3). If the project goes unfunded or underfunded in FY2024, or subsequent years, the item will be brought back to Council for alternative funding considerations.

This grant is funded at 100% if selected by the OOG. The Town of Prosper will be responsible to initially fund all expenses out of General Fund, and the State will reimburse the Town of Prosper.

Budget Impact:

The estimated request for this position is \$131,573, which will be paid out of the appropriate Police Department Expense accounts. The request amount is comprised of the following totals: Salary - \$69,374, Benefits - \$27,689, Other Expenses - \$34,510

\$8,303 has also been allocated for the hiring of Blais & Associates for professional grant writing services and will be funded through Professional Services 100-5410-10-99.

Grant program is on a reimbursement basis. A future budget amendment will be requested to account for the grant income and to allocate funding for this project (expected announcement in Summer 2023).

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. Funding Announcement
2. Resolution

Town Staff Recommendation:

Town staff recommends the Town Council approve a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program and approve authorizing the Interim Town Manager and/or his/her designee to accept the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program upon award. A future budget amendment will be requested to account for the grant income and to allocate funding for this project.

Proposed Motion:

I move to approve a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program and accept authorizing the Interim Town Manager, and/or his/her designee, to accept the Office of the Governor, FY 2024 Criminal Justice Division, General Victim Assistance Grant Program upon award.



Office of the Governor, Public Safety Office Criminal Justice Division Funding Announcement: ***General Victim Assistance Grant Program, FY2024***

Purpose

The purpose of this program is to provide services and assistance directly to victims of crime to speed their recovery and aid them through the criminal justice process.

Services may include the following:

- Responding to the emotional and physical needs of crime victims;
- Assisting victims in stabilizing their lives after a victimization;
- Assisting victims to understand and participate in the criminal justice system; and
- Providing victims with safety and security.

Projects seeking to provide specialized programs for victims of commercial sexual exploitation or sex trafficking under the age of 25 must apply under either the Residential and Community-Based Services for Victims of Commercial Sexual Exploitation or the CSEY Advocacy Program Request for Application. Projects seeking to provide general victim services to broad categories of victim populations that may include victims of commercial sexual exploitation or trafficking should apply under this General Victims Services Request for Application.

Projects seeking to prevent, investigate or prosecute commercial sexual exploitation should refer to the funding announcement designed for those projects.

Agencies applying for funds to support a CASA or Children's Advocacy Center program must apply through either Texas CASA, Inc. or Children's Advocacy Centers of Texas.

Available Funding

Federal funding is authorized for these projects under the following sources:

- Victims of Crime Act of 1984 (VOCA) as amended and codified in 34 U.S.C. §20103. VOCA funds are made available through a Congressional appropriation to the U.S. Department of Justice, Office for Victims of Crime. All awards are subject to the availability of appropriated federal funds and any modifications or additional requirements that may be imposed by law.
- Section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2, which amends Title VI of the Social Security Act by adding sections 602 to establish the Coronavirus State Fiscal Recovery Fund.

Eligible Organizations

Applications may be submitted by state agencies, public and private non-profit institutions of higher education, independent school districts, Native American tribes, councils of governments, non-profit corporations (including hospitals and faith-based organizations) and units of local government, which are defined as a non-statewide governmental body with the authority to establish a budget and impose taxes (includes hospital districts). Other local governmental agencies should apply through an associated unit of local government.

Application Process

Applicants must access the PSO's eGrants grant management website at <https://eGrants.gov.texas.gov> to register and apply for funding. For more instructions and information, see the OOG's *eGrants User Guide to Creating an Application*, available [here](#).

1. For eligible local and regional projects:
 - a. Applicants must contact their applicable regional council of governments (COG) regarding their application.
 - b. Each of Texas' 24 COGs holds its own application planning workshops, workgroups, and/or subcommittees and facilitates application prioritization for certain programs within its region. Failure to comply with regional requirements imposed by the COG may render an application ineligible.
2. State agencies, and other organizations proposing projects with a statewide impact, may submit applications directly to PSO.

Applicants are required to submit fully developed and detailed grant budgets at the time of application, PSO will not accept placeholder applications and/or budget line items in lieu of a well written and detailed grant application.

Non-profit applicants are limited to a single application per agency, and all other eligible organizations are limited to one application per unit, district or division.

Key Dates

Action	Date
Funding Announcement Release	12/12/2022
Online System Opening Date	12/12/2022
Final Date to Submit and Certify an Application	2/09/2023 at 5:00pm CST
Project Start Date	10/01/2023

Project Period

Projects **may not exceed 12 months** and must begin on or after 10/01/2023 and expire on or before 9/30/2024.

Funding Levels

Minimum: \$10,000

Maximum: No Maximum

Match Requirement: None

Note: Applicants are strongly cautioned to only apply for the amount of funding they can responsibly expend in the grant period. PSO will be tracking expenditure rates throughout the life of the grants and may take action to avoid large de-obligations at the end of grant periods.

Standards

Grantees must comply with standards applicable to this fund source cited in the Texas Grant Management Standards ([TxGMS](#)), [Federal Uniform Grant Guidance](#), and all statutes, requirements, and guidelines applicable to this funding.

Eligible Activities and Costs

The following list of eligible activities and costs apply generally to all projects under this announcement.

Crisis Services

- Services that respond to immediate needs (other than medical care), emotional, psychological, and physical health and safety including:
 - Crisis intervention services;
 - Accompanying victims to hospitals for medical examinations¹;
 - Hotline counseling;
 - Safety planning;
 - Emergency food, clothing, and transportation;
 - Window, door, or lock replacement or repair, and other repairs necessary to ensure a victim's safety;
 - Costs of the following, on an emergency basis (i.e., when the State's compensation program, the victim's health insurance plan, Medicaid, or other health care funding source, is not reasonably expected to be available quickly enough to meet the emergency needs of a victim (typically within 48 hours of the crime): Non-prescription and prescription medicine, prophylactic or other treatment to prevent HIV/AIDS infection or other infectious disease, durable medical equipment (such as wheel-chairs, crutches, hearing aids, eyeglasses), and other healthcare items; in all cases the grant must be considered the option of last resort; and

¹ Note related to hospital accompaniment with sexual assault survivors: In accordance with Art. 56A.351, Texas Code of Criminal Procedure, a victim shall be offered the opportunity to have a sexual assault program advocate available during a sexual assault forensic exam. Sec. 420.051, Texas Government Code defines a sexual assault program advocate as an individual who has completed a sexual assault training program certified by the attorney general and is an employee or volunteer of a sexual assault program.

- Emergency legal assistance, such as for filing for restraining or protective orders, and obtaining emergency custody orders and visitation rights;
- Personal advocacy and emotional support including:
 - Working with a victim to assess the impact of the crime;
 - Identification of victim's needs;
 - Case management;
 - Management of practical problems created by the victimization;
 - Identification of resources available to the victim;
 - Provision of information, referrals, advocacy, and follow-up contact for continued services, as needed;
 - Traditional, cultural, and/or alternative therapy/healing (e.g., art therapy, yoga – with appropriate training, certification, or licensure);
 - Transportation of victims to receive services and to participate in criminal justice proceedings; and
 - Public awareness and education presentations (including the development of presentation materials, brochures, newspaper notices, and public service announcements) in schools, community centers, and other public forums that are designed to inform crime victims of specific rights and services and provide them with (or refer them to) services and assistance, this activity will only be funded in conjunction with programs providing direct services.

Forensic Interviews (with the following parameters):

- Results of the interview will be used not only for law enforcement and prosecution purposes, but also for identification of needs such as social services, personal advocacy, case management, substance abuse treatment, and mental health services;
- Interviews are conducted in the context of a multi-disciplinary investigation and diagnostic team, or in a specialized setting such as a child advocacy center; and
- The interviewer is trained to conduct forensic interviews appropriate to the developmental age and abilities of children, or the developmental, cognitive, and physical or communication disabilities presented by adults.

Legal Advocacy

- Facilitating participation in criminal justice and other public proceedings arising from the crime, including:
 - Advocacy on behalf of a victim;
 - Accompanying a victim to offices and court;
 - Transportation, meals, and lodging to allow a victim who is not a witness to participate in a proceeding;
 - Interpreting for a non-witness victim who is deaf or hard of hearing, or with limited English proficiency;

- Providing child care and respite care to enable a victim who is a caregiver to attend activities related to the proceeding;
- Notification to victims regarding key proceeding dates (e.g., trial dates, case disposition, incarceration, and parole hearings);
- Assistance with Victim Impact Statements;
- Assistance in recovering property that was retained as evidence; and
- Assistance with restitution advocacy on behalf of crime victims.
- Legal assistance services (including those provided on an emergency basis), where reasonable and where the need for such services arises as a direct result of the victimization, including:
 - Those (other than criminal defense) that help victims assert their rights as victims in a criminal proceeding directly related to the victimization, or otherwise protect their safety, privacy, or other interests as victims in such a proceeding; and
 - Those actions (other than tort actions) that, in the civil context, are reasonably necessary as a direct result of the victimization.

Multi-Disciplinary Teams and Case Coordination

- Representatives of several agencies meet regularly to discuss common cases and share information to enhance investigation, prosecution, and victim restoration. Cases are followed through in this manner to closure. Participating agencies may include Child Protective Service, law enforcement, prosecutors' offices, Sexual Assault Nurse Examiners or other medical personnel, mental health professionals, etc.

Peer Support Groups

- Peer-support, including activities that provide opportunities for victims to meet other victims, share experiences, and provide self-help, information, and emotional support.

Professional Therapy and Counseling

- Mental health counseling and care, including, but not limited to, out-patient therapy/counseling provided by a person who meets professional standards to provide these services in the jurisdiction in which the care is administered.

Protective Order Assistance:

- Legal representation provided by program staff and/or staff attorneys to obtain protective orders and assistance;
- May be provided by law enforcement personnel, prosecution staff or other service providers; and
- Services may be available at non-traditional locations and times.

Shelter Programs

- Providing a safe place for victims/survivors and their children;
- Short-term (up to 45 days) in-home care and supervision services for children and adults who remain in their own homes when the offender/caregiver is removed; and

- Short-term (up to 45 days) nursing-home, adult foster care, or group-home placement for adults for whom no other safe, short-term residence is available;

Victim-Offender Meetings

- Meetings between the survivor and the offender who perpetrated the crime against the survivor. At a minimum grantees must consider:
 - The safety and security of the survivor;
 - The benefit of therapeutic value to the survivor;
 - The procedures for ensuring that participation of the survivor and offender are voluntary and that everyone understands the nature of any meeting or other activity;
 - The provision of appropriate support and accompaniment for the survivor;
 - Appropriate debriefing opportunities for the survivor after a meeting;
 - The credentials of the facilitators; and
 - The opportunity for a survivor to withdraw from the process at any time.

Transitional Housing

- Travel, rental assistance, security deposits, utilities, and other costs incidental to relocation of survivors into transitional housing, as well as voluntary support services such as childcare and counseling. Provision of this service is limited to 18 months in duration per client and must require active participation in program services designed to enable self-sufficiency of the client. PSO should be considered the payee of last resort for this service. To be eligible, this service must be included in the original application budget prioritized by the local Council of Government's Criminal Justice Advisory Committee.

Program-Specific Requirements

All projects under this funding announcement must meet the following requirements:

Cultural competency: Applicants must be culturally competent when providing services to victims. Victim service providers must have the ability to blend cultural knowledge and sensitivity with victim restoration skills for a more effective and culturally appropriate recovery process. Cultural competency occurs when: (1) cultural knowledge, awareness and sensitivity are integrated into action and policy; (2) the service is relevant to the needs of the community and provided by trained staff, board members, and management; and (3) an advocate or organization recognizes each client is different with different needs, feelings, ideas and barriers.

Victim services assessment survey: All recipients of funding under this announcement may be required to participate in a victim services assessment during their grant period, as directed by PSO.

Special requirements for vehicle purchases:

Only non-profits will be eligible to purchase vehicles under this funding announcement. The vehicles must be for the purpose of transporting victims to receive various services.

Eligibility Requirements

1. Entities receiving grant funds must demonstrate a record of effective services to victims of crime and financial support from sources other than the Crime Victims Fund; or substantial support from sources other than the Crime Victims Fund.
 - A program has demonstrated a record of effective direct services and support when, for example, it demonstrates the support and approval of its direct services by the community, its history of providing direct services in a cost-effective manner, and the breadth or depth of its financial support from sources other than the Crime Victims Fund.
 - A program has substantial financial support from sources other than the Crime Victims Fund when at least twenty-five percent of the program's funding in the year of, or the year preceding the award comes from such sources.
2. Local units of governments must comply with the Cybersecurity Training requirements described in Section 772.012 and Section 2054.5191 of the Texas Government Code. Local governments determined to not be in compliance with the cybersecurity requirements required by Section 2054.5191 of the Texas Government Code are ineligible for OOG grant funds until the second anniversary of the date the local government is determined ineligible. Government entities must annually certify their compliance with the training requirements using the [Cybersecurity Training Certification for State and Local Governments](#). A copy of the Training Certification must be uploaded to your eGrants application. For more information or to access available training programs, visit the Texas Department of Information Resources [Statewide Cybersecurity Awareness Training](#) page.
3. Entities receiving funds from PSO must be located in a county that has an average of 90% or above on both adult and juvenile dispositions entered into the computerized criminal history database maintained by the Texas Department of Public Safety (DPS) as directed in the Texas Code of Criminal Procedure, Chapter 66. This disposition completeness percentage is defined as the percentage of arrest charges a county reports to DPS for which a disposition has been subsequently reported and entered into the computerized criminal history system.

Counties applying for grant awards from the Office of the Governor must commit that the county will report at least 90% of convictions within five business days to the Criminal Justice Information System at the Department of Public Safety.
4. Eligible applicants operating a law enforcement agency must be current on reporting complete UCR data and the Texas specific reporting mandated by 411.042 TGC, to the Texas Department of Public Safety (DPS) for inclusion in the annual Crime in Texas (CIT) publication. To be considered eligible for funding, applicants must have submitted a full twelve months of accurate data to DPS for the most recent calendar year by the deadline(s) established by DPS. Due to the importance of timely reporting, applicants are required to submit complete and accurate UCR data, as well as the Texas-mandated reporting, on a no less than monthly basis and respond promptly to requests from DPS related to the data submitted.

5. Local units of government, including cities, counties and other general purpose political subdivisions, as appropriate, and institutions of higher education that operate a law enforcement agency, must comply with all aspects of the programs and procedures utilized by the U.S. Department of Homeland Security (“DHS”) to: (1) notify DHS of all information requested by DHS related to illegal aliens in Agency’s custody; and (2) detain such illegal aliens in accordance with requests by DHS. Additionally, counties and municipalities may NOT have in effect, purport to have in effect, or make themselves subject to or bound by, any law, rule, policy, or practice (written or unwritten) that would: (1) require or authorize the public disclosure of federal law enforcement information in order to conceal, harbor, or shield from detection fugitives from justice or aliens illegally in the United States; or (2) impede federal officers from exercising authority under 8 U.S.C. § 1226(a), § 1226(c), § 1231(a), § 1357(a), § 1366(1), or § 1366(3). Lastly, eligible applicants must comply with all provisions, policies, and penalties found in Chapter 752, Subchapter C of the Texas Government Code.

Each local unit of government, and institution of higher education that operates a law enforcement agency, must download, complete and then upload into eGrants the [CEO/Law Enforcement Certifications and Assurances Form](#) certifying compliance with federal and state immigration enforcement requirements. This Form is required for each application submitted to OOG and is active until August 31, 2024, or the end of the grant period, whichever is later.

6. Each non-profit 501(c)(3) organization must certify that it does not have, and will continue not to have any policy, procedure, or agreement (written or unwritten) that in any way encourages, induces, entices, or aids any violations of immigration laws. Additionally, the organization certifies that it does not have in effect, purport to have in effect, and is not subject to or bound by any rule, policy, or practice (written or unwritten) that would: (1) encourage the concealment, harboring, or shielding from detection of fugitives from justice or aliens who illegally came to, entered, or remained in the United States; or (2) impede federal officers from exercising authority under 8 U.S.C. § 1226(a), § 1226(c), § 1231(a), § 1357(a), § 1366(1), or § 1366(3). Lastly, the organization certifies that it will not adopt, enforce, or endorse a policy which prohibits or materially limits the enforcement of immigration laws, and will not, as demonstrated by pattern or practice, prohibit or materially limit the enforcement of immigration laws.

Each non-profit organization must download, complete and then upload into eGrants the [CEO/NGO Certifications and Assurances Form](#) certifying compliance with federal and state immigration enforcement requirements.

7. Eligible applicants must be registered in the federal System for Award Management (SAM) database located at <https://www.sam.gov/>.

Failure to comply with program or eligibility requirements may cause funds to be withheld and/or suspension or termination of grant funds.

Prohibitions

Grant funds may not be used to support the unallowable costs listed in the [Guide to Grants](#) or any of the following unallowable costs:

1. Lobbying or advocacy activities with respect to legislation or to administrative changes to regulations or administrative policy (cf. 18 U.S.C. 1913), whether conducted directly or indirectly;

2. The active investigation and prosecution of criminal activity, except for the provision of victim assistance services (e.g., emotional support, advocacy, and legal services) to crime victims, under 28 CFR § 94.119, during such investigation and prosecution;
3. Any activities related to fundraising;
4. Capital improvements; property losses and expenses; real estate purchases; mortgage payments; remodeling; and construction;
5. Reimbursement of crime victims for expenses incurred as a result of a crime;
6. Salaries, benefits, fees, furniture, equipment, and other expenses of executive directors, board members, and other administrators (except as specifically allowed);
7. Counseling or treatment for substance abuse (general counseling that includes a component addressing substance abuse is eligible);
8. Victim-offender meetings that serve to replace (or as a part of) criminal justice proceedings;
9. Medical training;
10. Medical care or expenses (except as specifically allowed);
11. Forensic medical evidence collection to include the salary, overtime or on-call cost of SANE Nurses;
12. Cash payments to victims, gift cards, or fuel vouchers;
13. Creation of a voucher program where victims are directly given vouchers for such services as housing or counseling;
14. Transportation, lodging, per diem or any related costs for third-party participants to attend a training, when grant funds are used to develop and conduct training;
15. Leasing of vehicles;
16. Training of external partners or the community;
17. Program income;
18. Research and studies;
19. Activities that may compromise victim safety;
20. Entertainment, including amusement, diversion, social activities, field trips, excursions and any associated costs (i.e. tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) unless there is a clear programmatic purpose and the costs are approved in advance by PSO; and
21. Nonessential maintenance on buildings, lawn care, and landscaping; and
22. Any other prohibition imposed by federal, state or local law or regulation.

Selection Process

Application Screening: The Office of the Governor will screen all applications to ensure that they meet the requirements included in the funding announcement.

Merit Review – Local Projects: Projects with a local impact will be reviewed by a panel appointed by the local Council of Governments using their own criteria. The merit review panels will assess the applications for quality and rank by priority, and then report their findings to the Office of the Governor. Applicants must contact their applicable regional Council of Governments (COG). Each of Texas' 24 COGs holds its own application planning workshops, workgroups, and/or subcommittees and facilitates application prioritization for certain programs within its region. Failure to comply with regional requirements imposed by the COG may render an application ineligible.

Merit Review – Statewide Projects: The Office of the Governor will review applications to understand the overall demand for the program and for significant variations in costs per item. After this review, the Office of the Governor will determine if all eligible applications can be funded based on funds available, if there are cost-effectiveness benefits to normalizing or setting limits on the range of costs, and if other fair-share cuts may allow for broader distribution and a higher number of projects while still remaining effective.

Final Decisions – All Projects: The Office of the Governor will consider rankings along with other factors and make all final funding decisions. Other factors may include cost effectiveness, overall funds availability, PSO or state government priorities and strategies, legislative directives, need, geographic distribution, or other relevant factors.

PSO may not fund all applications or may only award part of the amount requested. In the event that funding requests exceed available funds, PSO may revise projects to address a more limited focus.

Contact Information

For more information, contact the eGrants help desk at eGrants@gov.texas.gov or (512) 463-1919.

TOWN OF PROSPER, TEXAS**RESOLUTION NO. 2023-XX**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AUTHORIZING THE TOWN TO SUBMIT A GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR FOR THE 2024 CRIMINAL JUSTICE DIVISION PROGRAM FOR VICTIM ASSISTANCE, GENERAL VICTIM ASSISTANCE DIRECT SERVICES PROGRAM (VOCA), GRANT NUMBER 4709301; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Prosper finds it in the best interests of the citizens of the Town of Prosper ("Town") that the Town submit a grant application for Victim Assistance, General Victim Assistance Direct Services Program (VOCA) to be funded by the Office of the Governor's Criminal Justice Division for the 2024 fiscal year; and

WHEREAS, the Town agrees to provide applicable matching funds for said project as required by the Office of the Governor's Criminal Justice Division grant application; and

WHEREAS, the Town agrees that in the event of the loss or misuse of the funds Office of the Governor, the Town assures that the funds will be returned to the Office of the Governor in full; and

WHEREAS, the Town designates the Grants Administrator as the grantee's authorized official and the authorized official is hereby authorized to apply for, accept, reject, alter, or terminate the grant on behalf of the Town.

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

SECTION 1

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

SECTION 2

The Town Council of the Town of Prosper does hereby approve the submission of the grant application for the 2024 Criminal Justice Division Program – Town of Prosper Victim Assistance, General Victim Assistance Direct Services Program (VOCA) to the Office of the Governor.

SECTION 3

This Resolution shall be effective from and after its passage by the Town Council.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS THE ____ DAY OF _____, 2023.

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



POLICE DEPARTMENT

To: Mayor and Town Council

From: Whitney Rehm, Grants Administrator

Through: Bob Scott, Interim Town Manager
Doug Kowalski, Chief of Police

Re: Office of the Governor, Criminal Justice Division, Bullet Resistant
Shield Grant Program Award

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon authorizing the Interim Town Manager, and/or his/her designee, to accept the award for the Office of the Governor, Criminal Justice Division, Bullet Resistant Shield Grant Program, FY2023.

Description of Agenda Item:

Office of the Governor, Criminal Justice Division, Bullet Resistant Shield Grant Program, FY2023 grant award.

Budget Impact:

The total award amount is \$79,561.58. \$16,402.03 will be funded from Tools and Equipment 100-5620-20-01, and \$63,159.55 will be funded from Capital Equipment 100-6140-20-01.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the terms and conditions and all award documentation as to form and legality.

Attached Documents:

1. OOG Statement of Grant Award
2. GT Distributors Quote

Town Staff Recommendation:

Town staff recommends the Town Council approve authorizing the Interim Town Manager, and/or his/her designee, to accept the award for the Office of the Governor, Criminal Justice Division, Bullet Resistant Shield Grant Program, FY2023. A future budget amendment will be requested to account for the grant income and to allocate funding for this project.

Proposed Motion:

I move to approve authorizing the Interim Town Manager, and/or his/her designee, to accept the award for the Office of the Governor, Criminal Justice Division, Bullet Resistant Shield Grant Program, FY2023.

Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the 'Narrative' and 'Budget/Details' tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

Grant Number:	4644201	Award Amount:	\$79,561.58
Date Awarded:	1/12/2023	Grantee Cash Match:	\$0.00
Grant Period:	10/01/2022 - 09/30/2023	Grantee In Kind Match:	\$0.00
Liquidation Date:	12/29/2023	Grantee GPI:	\$0.00
Program Fund:	SH-Bullet-Resistant Shield Grant Program	Total Project Cost:	\$79,561.58
Grantee Name:	Prosper, Town of		
Project Title:	Level III & IV Shield		
Grant Manager:	Marvin Alcorn		
Unique Entity Identifier (UEI):	U87NETLMANX5		

CFDA:	N/A
Federal Awarding Agency:	NA
Federal Award Date:	N/A - State Funds
Federal/State Award ID Number:	2023-SH-ST-0000
Total Federal Award/State Funds Appropriated:	\$50,000,000.00
Pass Thru Entity Name:	Texas Office of the Governor – Criminal Justice Division (CJD)
Is the Award R&D:	No
Federal/State Award Description:	This purpose of this funding is to equip peace officers with bullet-resistant shields.



GT Distributors - Austin
1124 New Meister Ln., Ste 100
Pflugerville TX 78660
(512) 451-8298 Ext. 0000

Quote	QTE0160517
Date	8/31/2023 Item 12.
Page:	1

Bill To:

Prosper, Town of (TX)
 Attn: Accounts Payable
 P.O. Box 307
 Prosper TX 75078

Ship To:

Prosper, Town of (TX)
 801 Safety Way
 Attn: Lt. Barrett Morris
 PO #:
 Prosper TX 75078

Purchase Order No.		Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
MORRIS 31AUG22 PT		005576	DJ	FACTORY DIRECT	NET 15	0/0/0000	2,639,623
Quantity	Item Number	Description			UOM	Unit Price	Ext. Price
20	PTA-1347352*	Protech Assault VP Shield Level III W/Viewport Dimensions: 16"x30" Viewport: 5" x 7" Weight 20 LBS MSRP: \$6,600.00			EA	\$3,157.98	\$63,159.55
1	PTA-1002711*	ProTech Phoenix IV Shield 24x48 3 panels, wh Level 4 AP Rated: YES Dimensions: 24"x48" Weight: 157 LBS MSRP: \$23,000.00			EA	\$11,734.69	\$11,734.69
1	PTA-1002564*	ProTech Phoenix IV Shield Additional Panel w/ Level 4 AP Rated: YES Dimensions: 24"x16" Weight: : 65 LBS Viewport: 6"x12" MSRP: \$6,600.00			EA	\$3,367.35	\$3,367.35
1	NOTES:	Notes: Quotation reflects BuyBoard Contract 603-20. Contract period 04/01/22-03/31/23. Email BuyBoard PO's to info@buyboard.com			EA	\$0.00	\$0.00
1	NOTES:	Notes: Quote is valid for 30 days. Please, reference quote number on PO. Freight may vary with quantity changes.			EA	\$0.00	\$0.00

**QUOTE IS GOOD FOR 30 DAYS. IN ORDER TO RECEIVE QUOTED PRICE
 PLEASE PRESENT A COPY OF QUOTE AT POINT OF SALE IN STORES OR
 REFERENCE QUOTE NUMBER ON PO OR REQUISITION**

Morris, Barrett
 bmmorris@prospertx.gov

Subtotal	\$78,261.59
Misc	\$0.00
Tax	\$0.00
Freight	\$1,299.99
Total	

Thank you, Your salesperson was James.



POLICE DEPARTMENT

To: Mayor and Town Council

From: Whitney Rehm, Grants Administrator

Through: Bob Scott, Interim Town Manager
Doug Kowalski, Chief of Police

Re: SWAT Communication Headsets Project Grant

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant and consider and act upon authorizing acceptance of the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant, if awarded. (DK)

Description of Agenda Item:

This item is being submitted as a supplement request of NCTCOG's regional project for funding through the Office of the Governor, Public Safety Office's State Homeland Security Program (SHSP), as required by project eligibility requirements. The communications gear creates an improved level of safety and situational awareness for SWAT Operators and can provide operators the ability to address day-to-day Operational Communications as well as critical incident/disaster Operational Communications. The original application was funded in the amount of \$6,705.54, which funded 8 of the requested 19 headsets. NCTCOG has re-prioritized this project for additional funding, which will allow the Prosper Police Department to receive the additional 11 headsets needed to outfit the SRT team.

This grant is funded at 100%. The Town of Prosper will be responsible to initially fund the headsets out of General Fund, and the State will reimburse the Town of Prosper.

Budget Impact:

This application is requesting an amount of \$15,276.00 and will be funded from the Police Department's Tactical Supplies Account, 100-5214-20-01.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the terms and conditions and all award documentation as to form and legality.

Attached Documents:

1. Invisio Quote and Sole Source Letter
2. Resolution

Town Staff Recommendation:

Town staff recommends the Town Council approve a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant and approve the authorization to accept the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant, if awarded. A future budget amendment will be requested to account for the grant income and to allocate funding for this project.

Proposed Motion:

I move to approve a resolution authorizing the Interim Town Manager, and/or his/her designee, to apply for the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant and authorize the Interim Town Manager, and/or his/her designee, to accept the Office of the Governor, Homeland Security Grants Division, 2022 SHSP – Town of Prosper SWAT Communication Headsets Project Grant, if awarded.

**SALES QUOTE**

Invoice Address:
Prosper Police Department
Lt. Barrett Morris
801 Safety Way
PROSPER, TX 75078
USA

Att: Lt. Barrett Morris

Date 02/01/2023
Quote Version 0
Page Page 1 of 2

Account No. US-6889
VAT No.

Ref. No.
Your reference

Quote no. SQ-US009949
Salesperson Nicholas Volk

Quote Valid Until 05/02/2023

Payment Terms Net 30 Days

Delivery
Shipment Method Ex Works
Carrier

Delivery Address:
Prosper Police Department
Lt. Barrett Morris
801 Safety Way
PROSPER, TX 75078
USA

Att: Lt. Barrett Morris

Invisio POC of this quote

Nicholas Volk, Regional Sales Manager
Email: ndv@invisio.com, Phone: +1 412 992 7574

INVISIO Communications Inc, 150 N Michigan Ave, Suite 1950, Chicago, IL 60601, USA
Phone: +1-844-968-4746 * www.invisio.com

INVISIO®

SALES QUOTE

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Item No.	INVISIO COMMUNICATION EQUIPMENT Description	Qty.	Unit	Unit Price	Amount
INV21346	LE Kit - V50 Gen II - X5 - Black	2	EA	1,422.00	2,844.00
INV21344	LE Kit - V10 Gen II - X5 - Black	9	EA	1,060.00	9,540.00
PRD12207	Com Cable - CC01 - 12-Pin (MotorolaMTP850S/APX/SRX) - Black - 800mm NSN: 5995-22-626-2363	11	PCS	221.00	2,431.00
CUP11424	Comply Canal Tips, Demo Kit, 6 Sizes of15-Pairs Case NSN: 6515-14-577-4496	1	PCS	361.00	361.00
02	Shipping and Handling Fee Sales quote condition: This quote is conditioned upon the customer being approved in accordance with INVISIO's credit check process and upon the issuance of a written sale acknowledgement by INVISIO. Shipping: Please note that shipping will be handled by INVISIO and billed to the customer as quoted. Also note that all shipments are EXW Malmö, Sweden or EXW Hvidovre, Denmark, unless otherwise agreed. Sales tax: Sales tax may be added if no Sales tax exempt certificate is received.	1	PCS	100.00	100.00

Invisio POC of this quote Nicholas Volk, Regional Sales Manager
Email: ndv@invisio.com, Phone: +1 412 992 7574

Amount	Qty total	Sales Tax Basis	Sales Tax Rate	Sales Tax Amount	CUR	Invoice Total
15,276.00	48.00	15,176.00	0.00	0.00	USD	15,276.00

INVISIO Communications Inc, 150 N Michigan Ave, Suite 1950, Chicago, IL 60601, USA
Phone: +1-844-968-4746 * www.invisio.com

INVISIO®

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Invisio POC of this quote	Nicholas Volk, Regional Sales Manager Email: ndv@invisio.com, Phone: +1 412 992 7574				

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Shipment Method Ex Works
Carrier

Delivery Address:
Prosper Police Department
Lt. Barrett Morris
801 Safety Way
PROSPER, TX 75078
USA

Att: Lt. Barrett Morris

For Terms & Conditions, please refer to attached General Conditions for Sale.

Invisio POC of this quote Nicholas Volk, Regional Sales Manager
Email: ndv@invisio.com, Phone: +1 412 992 7574

Amount	Qty total	Sales Tax Basis	Sales Tax Rate	Sales Tax Amount	CUR	Invoice Total
15,276.00	48.00	15,176.00	0.00	0.00	USD	15,276.00

INVISIO Communications Inc, 150 N Michigan Ave, Suite 1950, Chicago, IL 60601, USA
Phone: +1-844-968-4746 * www.invisio.com

Sole Source Letter

13 October 2022

This letter is to provide notification that INVISIO is the sole source manufacturer of INVISIO LE Kits, for law enforcement use.

We appreciate your interest in our products. If I may be of further assistance, please contact me.

Sincerely,

Nick Volk

Sales Manager, North America

TOWN OF PROSPER, TEXAS**RESOLUTION NO. 2023-XX**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AUTHORIZING THE TOWN TO SUBMIT A GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR FOR THE 2022 STATE HOMELAND SECURITY PROGRAM FOR SWAT COMMUNICATION HEADSETS, GRANT NUMBER 4478002; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Prosper finds it in the best interests of the citizens of the Town of Prosper ("Town") that the Town submit a grant application for SWAT Communication Headsets to be funded by the Office of the Governor's 2022 State Homeland Security Program ("SHSP") for the 2023 calendar year; and

WHEREAS, the Town agrees to provide applicable matching funds for said project as required by the Office of the Governor's SHSP grant application; and

WHEREAS, the Town agrees that in the event of the loss or misuse of the funds Office of the Governor, the Town assures that the funds will be returned to the Office of the Governor in full; and

WHEREAS, the Town designates the Grants Administrator as the grantee's authorized official and the authorized official is hereby authorized to apply for, accept, reject, alter, or terminate the grant on behalf of the Town.

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

SECTION 1

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

SECTION 2

The Town Council of the Town of Prosper does hereby approve the submission of the grant application for the 2022 SHSP – Town of Prosper SWAT Communication Headsets to the Office of the Governor.

SECTION 3

This Resolution shall be effective from and after its passage by the Town Council.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS THE ____ DAY OF _____, 2023.

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



Prosper Economic Development Corporation

To: Mayor and Town Council

From: Whitney Rehm, Grants Administrator

**Through: Bob Scott, Interim Town Manager
Mary Ann Moon, Executive Director Prosper EDC**

Re: Subregional Broadband Assessment & Strategy Project

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon awarding RFP No. 2022-57-B Comprehensive Broadband Analysis to Lit Communities, related to the EDA Prosper Subregional Broadband Assessment & Strategy Project, and authorizing the Interim Town Manager execute an agreement for the same.

Description of Agenda Item:

The Town received three (3) responses for the Request for Proposal (RFP) 2022-57-B Comprehensive Broadband Analysis. This is for a multi-jurisdictional assessment of existing broadband infrastructure that includes four additional communities to the North and East of Prosper- Anna, Melissa, Gunter, and Van Alstyne. The project was advertised as an RFP to allow the Town to award the project to the contractor that offered the best value proposal based on the following criteria:

- Organization Capabilities (15%)
- Staff Qualifications/References (15%)
- Proposed Project Timeline (15%)
- Project Approach (20%)
- Completeness of Proposal (10%)
- Cost Proposal (25%)

The verified proposal totals ranged between \$88,404.80 and \$295,825.00. Project timelines range from 105 calendar days to 196 calendar days. Staff checked the references provided and received positive feedback.

Budget Impact:

This reimbursement grant was awarded in the amount of \$450,000, with a 20% Town cost share. The Federal match is \$360,000 and the Town's match is \$90,000, for a total project cost of \$450,000.

The awarded bid amount totals \$88,404.80 and will be paid for out of Professional Services 100-5410-10-99. The 80% Federal reimbursement is estimated at \$70,723.84, with the 20% Town

share being estimated at \$17,680.96. A future budget amendment will be requested to account for the grant income and to allocate funding for this project

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. 2022-57-B Bid Tabulation Summary
2. Standard Contract for Services

Town Staff Recommendation:

Town staff recommends the Town Council award RFP No. 2022-57-B Comprehensive Broadband Analysis to Lit Communities, related to the EDA Prosper Subregional Broadband Assessment & Strategy Project, and authorize the Interim Town Manager execute an agreement for the same.

Proposed Motion:

I move to approve awarding RFP No. 2022-57-B Comprehensive Broadband Analysis to Lit Communities, related to the EDA Prosper Subregional Broadband Assessment & Strategy Project, and authorizing the Interim Town Manager execute an agreement for the same.

**TOWN OF PROSPER
CONTRACT FOR SERVICES
RFP NO. 2022-57-B
COMPREHENSIVE BROADBAND ANALYSIS**

This Contract is made by the **Town of Prosper, Texas**, a municipal corporation ("Town") and **Lit Fiber, LLC** ("Contractor"). The Town and Contractor agree:

1. **ENGAGEMENT OF THE CONTRACTOR.** The Town agrees to retain the Contractor, and the Contractor agrees to provide services relative to: **Comprehensive Broadband Analysis** (hereinafter referred to as "Services") in connection with the terms and conditions as set forth in Exhibit A, attached hereto and incorporated by reference.
2. **SCOPE OF SERVICES.** The Services to be performed are specified in Exhibit A. Deviations from the scope of work may be authorized from time to time by the Town in writing.
3. **SCHEDULE OF WORK.** The Contractor agrees to begin work promptly upon receipt of written authorization from the Town. Time is of the essence for this Contract and work is to commence immediately.
4. **CONTRACT PERIOD.** The contract period is for 12 months from date of award of contract. All pricing is to remain firm during the contract period.
5. **COMPENSATION.** Contractor's total compensation for services to be performed and expenses to be incurred is specified in Exhibit B.
6. **PAYMENTS.** Payments will be processed on a monthly basis with payment available within thirty (30) days after receipt of the invoice for the previous month's service or as set forth in Exhibit A.
7. **INVOICING.** Invoices should be prepared and submitted to the Town for payment in accordance with Exhibit A. Invoices should be mailed to Town of Prosper, Accounts Payable, P.O. Box 307, Prosper, TX 75078, or emailed to ap@prospertx.gov.
8. **RIGHTS OF WITHHOLDING.** After providing written notice of objection to Contractor, The Town may withhold any payment or partial payment otherwise due the Contractor on account of unsatisfactory performance by the Contractor. The amount to be withheld will be calculated based on the work not performed and the impact to the Town. Any payment or partial payment that may be withheld for unsatisfactory performance can be used to remedy the lack of performance and will not be paid to the Contractor.
9. **INFORMATION PROVIDED BY THE TOWN.** Although every effort has been or will be made to furnish accurate information, the Town does not guarantee the accuracy of information it furnishes to Contractor.
10. **INSURANCE.** Upon written request, the Contractor shall provide reasonable proof that it has obtained and will continue to maintain throughout the duration of the Contract the insurance requirements set forth in Exhibit A. Failure to maintain the required insurance may result in immediate termination of the Contract.

11. **INDEMNIFICATION.** As specified in Exhibit A.
12. **TRANSFER OF INTEREST.** Neither Town nor Contractor may assign or transfer its interests in the Contract without the written consent of the other party. Such consent shall not be unreasonably withheld. This Contract is binding on Town, Contractor, and their successors and assigns. Nothing herein is to be construed as creating a personal liability on the part of any Town officer, employee or agent.
13. **AUDITS AND RECORDS.** At any time during normal business hours and as often as the Town may deem necessary, the Contractor shall make available to the Town for examination all of its records with respect to all matters covered by the Contract and will permit the Town to audit, examine and make copies, excerpts, or transcripts from such records. The Town may also audit all contracts, invoices, payroll records of personnel, conditions of employment and other data relating to the Contract.
14. **EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor shall not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin, disability or any other protected characteristic. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, color, religion, sex, national origin, disability or any other protected characteristic. Such actions shall include, but not be limited to the following: employment, promotions, demotion, transfers, recruitment or recruitment advertising, layoffs, terminations, selection for training (including apprenticeships), and participation in recreational activities.

The Contractor agrees to post in conspicuous places, accessible to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Contract so that such provisions will be binding upon each subcontractor, except that the foregoing provisions shall not apply to contracts or subcontracts for customary office supplies.

The Contractor shall keep records and submit reports concerning the racial and ethnic origin(s) of applicants employment and employees as the law may require.

15. **TERMINATION OF CONTRACT.** Either party may terminate this Contract upon sixty (60) days' written notice to the party, except in the event (i) any party is in breach of this Contract or (ii) any party fails to comply with the terms of Exhibit A after written notice and expiration of the applicable cure period specified in the following sentence. If either of the foregoing conditions exists, the non-breaching party shall notify the other party and the alleged breaching party shall be given not less than ten (10) days (for breaches that pertain solely to payment, or thirty (30) days to cure any other breach or failure to comply. Should Contractor fail to cure to the satisfaction of the Town, Town may terminate this Contract upon written notice.

Furthermore, the Town retains the right to terminate this Contract at the expiration of each Town budget period (September 30) during the term of this Contract, even without prior notice as described in the preceding sentence.

In the event of any termination hereunder, Contractor consents to Town's selection of another Contractor to assist the Town in any way in completing the Services. Contractor further agrees to cooperate and provide any information requested by Town in connection with the completion of the Services.

Contractor shall be compensated for Services performed and expenses incurred for satisfactory work up to the termination date in that Contractor shall receive a portion of fees and expenses permitted under this Contract in direct proportion to percentage of work actually completed up to the termination date. This provision shall not deprive the Town of any remedies against Contractor that may be available under applicable law.

16. **CONTRACTOR'S REPRESENTATIONS.** Contractor hereby represents to Town that Contractor is financially solvent and possesses sufficient experience, licenses, authority, personnel, and working capital to complete the Services required.
17. **TOWN APPROVAL FOR ADDITIONAL WORK.** No payment, of any nature whatsoever, will be made to Contractor for additional work without the Town's written approval before such work begins.
18. **PERFORMANCE BY CONTRACTOR.** All Services provided by the Contractor hereunder shall be performed in accordance with the highest professional standards and in accordance with Exhibit A, and Contractor shall be responsible for all Services provided hereunder whether such services are provided directly by Contractor or by any subcontractors hired by Contractor. The Contractor shall perform all duties and Services and make all decisions called for hereunder promptly and without unreasonable delay. Contractor shall not utilize subcontractors to perform Services without the Town's prior written consent.
19. **DAMAGE.** In all instances where Town property and/or equipment is damaged by the Contractor's employees, a full report of the facts, extent of the damage and estimated impact on the Contractor's schedule shall be submitted to the Town by 8 a.m. within two (2) Town business day after the incident. If damage may result in further damages to the Town or loss of Town property, the Contractor must notify Police Dispatch immediately. The Contractor shall be fully liable for all damage to Town property or equipment caused by the Contractor's officers, employees or agents.
20. **TOWN OBJECTION TO PERSONNEL.** If at any time after entering into this Contract, Town has any reasonable objection to any of Contractor's personnel, or any personnel retained by Contractor, then Contractor shall promptly propose substitutes to whom the Town has no reasonable objection, and the Contractor's compensation shall be equitably adjusted to reflect any difference in the Contractor's costs occasioned by such substitution.
21. **COMPLIANCE WITH LAWS.** The contractor warrants and covenants to the Town that all Services will be performed in compliance with all applicable federal, state, county and Town laws, rules, and regulations including, but not limited to, the Texas Industrial Safety and Health Act and the Workers Right-to-Know Law. All necessary precautions shall be taken to assure that safety regulations prescribed by OSHA and the Town's representative are followed.

22. **"ANTI-ISRAEL BOYCOTT" PROVISION.** In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Contract on behalf of the company verifies by its signature to this Contract that the company does not boycott Israel and will not boycott Israel during the term of this Contract.
23. **NON-BINDING MEDIATION.** In the event of any disagreement or conflict concerning the interpretation of this Contract, and such disagreement cannot be resolved by the Town and the Contractor, the Town and Contractor agree to submit such disagreement to non-binding mediation.
24. **ENTIRE CONTRACT.** This instrument together with Exhibit A attached hereto contains the entire Contract between the Town and Contractor concerning the Services. There will be no understandings or contracts other than those incorporated herein. The Contract may not be modified except by an instrument in writing signed by the parties hereto. In the event of a conflict between an attachment to this Contract and this Contract, this Contract shall control.
25. **MAILING ADDRESSES.** All notices and communications concerning this Contract to be mailed or delivered to the Town shall be sent to the address of the Town as follow, unless and until the Contractor is otherwise notified:

Town of Prosper
 Attn: Jay Carter, Purchasing Manager
 P.O. Box 307
 Prosper, TX 75078
jcarter@prospertx.gov

All notices and communications under this Contract to be mailed or delivered to the Contractor shall be sent to the address listed below until the Town is otherwise notified:

Lit Fiber, LLC
 Attn: Brian Snider, Chief Executive Officer
 3500 Blue Lake Drive, Suite 225
 Birmingham, Alabama 35243
brian@litcommunities.net

Any notices and communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date in the notice or communication is placed in the United States Mail or hand-delivered.

26. **APPLICABLE FEDERAL LAWS AND REGULATIONS GOVERNING GRANT FUNDS.** Contractor agrees and acknowledges that funds received by it from the Town of Prosper, Texas, are subject to certain federal grant restrictions, as noted and as applicable:

- (a) All provisions related to Nondiscrimination and Equal Employment Opportunities, as referenced in 28 C.F.R. Part 38; 28 C.F.R. Part 42 and 28 C.F.R. Part 54.
- (b) Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in United States Department of Labor regulations in 41 C.F.R. Part 60;
- (c) Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d. Specifically, during the performance of this Contract, the Contractor agrees as follows:
 - 1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, creed, color, or national origin. Such action shall include but not be limited to employment, upgrading, demotion or transfer, recruitment or retirement, advertising, layoff or termination, rates of pay or other forms of compensation, and selection training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.
 - 2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, creed, color, sex, or national origin.
 - 3) The Contractor will send to each labor union or representative of workers with whom he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order Number 11246, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - 4) The Contractor will comply with all provisions of Executive Order Number 11246, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - 5) The Contractor will furnish all information and reports required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - 6) In the event of the Contractor's non-compliance with the non-discrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order Number 11246, as amended or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

- 7) The Contractor will include the provisions of Paragraphs 1 and 6 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order Number 11246, as amended, so that such provisions will be binding upon each subcontractor or purchase order, as the contracting agency may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided however, that in the event the Contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.
- (d) No funds received by Contractor shall be utilized, either directly or indirectly, to support or oppose the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, including paying any person to influence, or attempt to influence, a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract or loan, or with respect to actions such as renewing, extending or modifying any such award. See 31 U.S.C. § 1352.
- (e) All provisions contained in the Davis-Bacon Act, 40 U.S.C. §§ 3141-3148.
- (f) All contract work hours and selection standards, and all applicable provisions related thereto, pursuant to 40 U.S.C. §§ 3701-3708.
- (g) Rights to invention made under contract or agreement, and all applicable provisions related thereto, pursuant to 37 C.F.R. Part 401.
- (h) All provisions contained in the Clean Air Act, 42 U.S.C. §§ 7401-7671; the Energy Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387; and the Energy Policy Conservation Act, 42 U.S.C. § 6201.
- (i) Contractor hereby agrees and confirms that it is not debarred or suspended or otherwise excluded from or ineligible for participation in any federal assistance programs under Executive Order 12549.
- (j) Contractor must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct. Contractor acknowledges that any potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).
- (n) Contractor acknowledges that it may not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or

restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information. The foregoing is not intended and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

- (o) Any other federal laws, regulations or guidelines related to the grant funds received by the Town of Prosper or by Contractor.
- (p) Any other federal laws, regulations or guidelines related to this award, including but not limited to any requirement contained in 2 C.F.R. Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Appendix II to Part 200, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards."

- 27. **LEGAL CONSTRUCTION.** If any one or more of the provisions contained in the Contract for any reason is held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been included.
- 28. **GOVERNING LAW.** The validity of this Contract and any of its terms or provisions as well as the rights and duties hereunder, shall be governed by and construed in accordance with Texas law. Venue for this Contract shall be located in Collin County, Texas.
- 29. **COUNTERPARTS.** The Contract may be signed in counterparts, each of which shall be deemed to be an original.
- 30. **EFFECTIVE DATE.** This Contract shall be effective once it is signed by the Town and Contractor.

AGREED TO BY:

Lit Fiber, LLC

By: _____

Brian Snider
Chief Executive Officer

Date: _____

9/10/23

TOWN OF PROSPER, TEXAS

By: _____

Bob Scott
Interim Town Manager

Date: _____

RFP NO. 2022-57-B
Comprehensive Broadband Analysis

EVALUATION MATRIX		Cobb, Fendley and Associates		Foresite Consulting Group		Lit Communities	
EVALUATION CRITERIA	WEIGHTING	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE
Organization Capabilities	15%	14.83	1.48	12.83	1.28	11.50	1.15
Staff Qualifications/References	15%	5.00	0.50	15.00	1.50	15.00	1.50
Proposed Project Timeline	15%	15.00	1.50	8.04	0.80	8.75	0.88
Project Approach	20%	17.00	1.70	14.00	1.40	16.17	1.62
Completeness of Proposal	10%	10.00	1.00	10.00	1.00	8.67	0.87
Cost Proposal	25%	22.14	2.21	7.47	0.75	25.00	2.50
TOTAL	100%		8.40		6.73		8.51



ENGINEERING SERVICES

To: Mayor and Town Council

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

Through: Bob Scott, Interim Town Manager
Chuck Ewings, Executive Director of Development and Infrastructure Services

Re: Professional Engineering Services Agreement - Freese and Nichols, Inc.
Water, Wastewater, and Roadway Impact Fee Update

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon authorizing the Interim Town Manager to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Water, Wastewater, and Roadway Impact Fee Update project.

Description of Agenda Item:

Chapter 395 of the Texas Local Government Code requires an impact fee analysis before impact fees can be created and assessed. Chapter 395 defines an impact fee as “a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development.” Chapter 395 identifies impact fee eligible costs, which includes fees paid to the consultant preparing or updating the impact fee Capital Improvement Plan (CIP). Chapter 395 also requires that a political subdivision imposing an impact fee update the land use assumptions and capital improvements plan at least every five years. The Town of Prosper adopted its current water, wastewater, and roadway impact fees on February 28, 2017.

The purpose of this project is to update the Town’s water, wastewater, and roadway CIP and impact fees in accordance with Chapter 395 of the Texas Local Government Code. Major tasks include the following, and are further detailed in the attached agreement:

- Kickoff Meeting, Data Collection & Land Use Assumptions
- Water and Wastewater System Analysis and CIP Update
- Water and Wastewater Impact Fee Analysis
- Roadway Impact Fee Analysis
- Impact Fee Report Development and Meeting Attendance

At the April 9, 2019, Town Council meeting, the Town Council approved a list of qualified engineering firms, which included services for engineering studies. Freese and Nichols, Inc., is included on the list and has successfully completed several projects for the Town including the previous 2006, 2011, and 2017 Water, Wastewater, and Roadway Impact Fee Update projects.

Budget Impact:

The cost for the Water, Wastewater, and Roadway Impact Fee Update project is \$299,600. The 2022-2023 Capital Improvement Program includes funding in the following accounts, 630-5410-50-00-2210-WA (\$100,000), 640-5410-50-00-2210-WW (\$100,000), 660-5410-50-00-2210-ST (\$50,000), and in 680-5410-50-00-2210-ST (\$50,000), for a total budget of \$300,000.

Legal Obligations and Review:

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

Attached Documents:

1. Professional Engineering Services Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Interim Town Manager to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Water, Wastewater, and Roadway Impact Fee Update project.

Proposed Motion:

I move to authorize the Interim Town Manager to execute a Professional Engineering Services Agreement between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the Water, Wastewater, and Roadway Impact Fee Update project.

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.,
FOR THE WATER, WASTEWATER, AND ROADWAY IMPACT FEE UPDATE PROJECT**

This Agreement for Professional Engineering Services, hereinafter called "Agreement," is entered into by the **Town of Prosper, Texas**, a municipal corporation, duly authorized to act by the Town Council of said Town, hereinafter called "Town," and **Freese and Nichols, Inc.**, 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, Town desires to obtain professional engineering services in connection with the Water, Wastewater, and Roadway Impact Fee Update Project, hereinafter called "Project".

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

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

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

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

4. **Compensation of Consultant.** Town agrees to pay to Consultant for satisfactory completion of all services included in this Agreement a total fee of Two Hundred Ninety Nine Thousand Six Hundred Dollars (\$299,600) for the Project as set forth and described in **Exhibit B - Compensation Schedule** and incorporated herein as if written word for word. Lump sum fees shall be billed monthly based on the percentage of completion. Hourly not to exceed fees shall be billed monthly based on hours of work that have been completed. Direct Costs for expenses such as mileage, copies, scans, sub-consultants, and similar costs are included in fees and shall be billed as completed.

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

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

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

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

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

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

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

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

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

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

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

Freese and Nichols, Inc.
Melissa Brunger, P.E., Associate
2711 N Haskell Ave, Suite 3300
Dallas, TX 75204
Melissa.brunger@freese.com

Town of Prosper
Bob Scott, Interim Town Manager
PO Box 307
Prosper, TX 75078
bscott@prosper.tx.gov

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

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

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

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

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

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

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

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

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

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

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

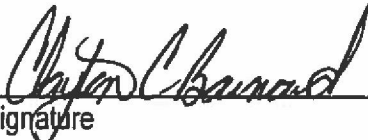
20. **Signatories.** Town warrants and represents that the individual executing this Agreement on behalf of Town has full authority to execute this Agreement and bind Town to the same. Consultant warrants and represents that the individual executing this Agreement on its behalf has full authority to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

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

FREESE AND NICHOLS, INC.

TOWN OF PROSPER, TEXAS

By:


Signature

Clayton Barnard, P.E.

Printed Name

Vice-President / Principal

Title

2-3-2023

Date

By:

Signature

Bob Scott

Printed Name

Interim Town Manager

Title

Date

EXHIBIT A SCOPE OF SERVICES

PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC., FOR THE WATER, WASTEWATER, AND ROADWAY IMPACT FEE UPDATE PROJECT

I. PROJECT DESCRIPTION:

The purpose of this project is to update the Town's water, wastewater, and roadway capital improvement plans and impact fees.

II. TASK SUMMARY

BASIC SERVICES (LUMP SUM)

Task 1: Kickoff Meeting, Data Collection & Land Use Assumptions

- A1. Project Management: FNI will perform project management duties, including preparing and updating the project schedule, monthly invoicing, development of monthly progress reports, and informal project collaboration.
- A2. Project Kickoff Meeting and Obtain Data: Freese and Nichols, Inc. (FNI) will provide the Town with a Data Request Memorandum listing the data needed for this study. FNI will hold a conference call with the Town that will include discussion of the following:
 - Present and discuss methodology and approach
 - Scheduling and project coordination
 - Information and data needs from the Town
 - Advisory Committee Meetings
- A3. Roadway Data Collection: FNI will collect traffic volume count data at up to fifteen (15) locations for the program update. Peak hour bi-directional counts will be collected by contractor GRAM Traffic North Texas, and GRAM will be a subconsultant to FNI. FNI will assemble available roadway inventory, pertinent roadway construction cost data and traffic count data available from the Town.
- A4. Develop Land Use Assumptions: Town Staff will develop non-residential and population projections for existing, 5-year, 10-year, and buildout conditions by planning area and provide the data to FNI in a GIS shapefile or Excel spreadsheet.

Task 2: Water and Wastewater System Analysis and CIP Update

- B1. Develop and Distribute Updated Water Demands: FNI will review historical water usage records and use information to update per capita water usage, non-residential usage and peaking factors. FNI will develop water demand projections for existing, 5-year, 10-year and buildout conditions. FNI will obtain and geocode water billing records to distribute existing calculated water demands. FNI will utilize population and non-residential growth by service area to distribute future calculated water demands.
- B2. Develop and Distribute Updated Wastewater Flows: FNI will review historical wastewater flows to update per capita wastewater usage, non-residential usage and peaking factors. FNI will develop wastewater flow projections for existing, 5-year, 10-year and buildout conditions. FNI will allocate existing and future calculated wastewater flows into the wastewater model based on population and non-residential growth by service area.

- B3. Identify and Map Pressure Recorder Locations: FNI will identify focused locations for field pressure testing based on specific areas of concern from Town. Up to ten (10) pressure testing recorders will be furnished by FNI. FNI will prepare procedures for field testing showing proposed location of testing, duration of testing, required SCADA data during testing period, and assistance from water utility department.
- B4. Conduct Temporary Pressure Testing: FNI will assist and coordinate with Town in performing pressure testing. Testing will consist of recording pressure readings for a one to two week time period along with needed SCADA data during field testing. The Town will be responsible for installing and removing the pressure recorders on the designated fire hydrants.
- B5. Water System Model Update and Calibration: FNI will utilize updated GIS files of the water system and record drawings of recently constructed improvements to update the existing InfoWater model with all pipelines. FNI will conduct a 24-hour extended period simulation model calibration run for the water system model to confirm the model represents real-world operational conditions.
- B6. Perform Modeling of Existing Water System: FNI will utilize the updated water model to perform a 24-hour extended period simulation modeling of the existing water system under maximum day water demand conditions, which includes peak hour. FNI will also develop a maximum day steady state run to evaluate fire flow operating conditions. These model runs will be used to determine capacity and deficiencies within the existing water system. The task will also include an evaluation of hourly SCADA data to develop the demand pattern for the maximum day extended period model run. FNI will evaluate the Town's compliance with TCEQ capacity requirements including elevated storage, total storage, and pumping capacity.
- B7. Identify and Map Flow Monitoring Locations: FNI will identify up to ten (10) locations for flow monitoring based on model calibration needs and areas of concern from the Town. FNI will prepare procedures for testing showing proposed locations of testing, duration of testing, and required data and assistance from the Town during testing period.
- B8. Conduct Flow Monitoring: FNI will assist and coordinate with the Town in performing flow monitoring. Velocity and depth readings will be obtained at 15-minute intervals to allow analysis of flow at that point. The flow metering equipment will be maintained, and data collected for a period of sixty (60) days to cover representative dry weather flows and any rainfall events which may happen to occur. Two (2) rainfall gauges will also be installed within the study area to obtain localized rainfall data.
- B9. Flow Data Analysis and Evaluation: FNI will reduce raw field monitoring data and tabulate 15-minute flow data for the entire flow monitoring period. FNI will evaluate temporary flow meter data to quantify base average dry weather flow, peak dry weather flow, and peak wet weather flow rates, quantity of infiltration and inflows from each sewer basin, and update recommendations for infiltration and inflow allowances.
- B10. Conduct Wastewater Model Calibration: FNI will conduct model calibration by adjusting Manning's roughness factors, force main C-factors, peaking factors, and load distribution until modeling results match the field measurements. FNI will provide comparison graphs and mapping to document model calibration results.
- B11. Update Wastewater System Model and Existing System Analysis: FNI will convert the wastewater model from H2OMAP Sewer to InfoSewer software and update the model using the updated GIS and as-built drawings of facilities. The model will consist of 10-inch and larger lines and critical 8-inch lines. FNI will utilize the updated model to perform modeling of the existing wastewater system.
- B12. Review Meeting: FNI will meet with Town Staff to discuss water demand and wastewater flow projections, water model calibration, wastewater model calibration and existing system analysis.
- B13. Determine Water and Wastewater System Improvement Alternatives: FNI will utilize buildout system water and wastewater model runs to determine improvement alternatives needed to meet projected growth through Buildout. FNI

will utilize the 5-year and 10-year model runs to determine which improvement alternatives are needed in the next 5 and 10 years, respectively. Wastewater facilities and lines will be sized to meet peak wet weather flows, and water facilities and lines will be sized to provide adequate fire flows under maximum day demand conditions and meet peak hour demands with adequate residual pressures. Water system analysis will include 24-hour extended period analysis.

- B14. Develop Draft Water and Wastewater Capital Improvement Plan (CIP) Costs, Phasing Plan & Mapping: FNI will develop costs for each proposed water and wastewater system project. Costs will be in Year 2023 dollars and will include engineering and contingencies. FNI will develop draft CIP scheduling of projects based on modeling and mapping showing project locations. FNI will also develop maps with only impact fee eligible projects.
- B15. Review Meeting: FNI will meet with the Town to discuss future water and wastewater system improvements.

Task 3: Water and Wastewater Impact Fee Analysis

- C1. Determine Water and Wastewater CIP Capacity and Calculate Water & Wastewater Costs Eligible for Impact Fee Cost Recovery: Following approval of the water and wastewater impact fee CIPs by Town Staff, FNI will determine the existing and projected 10-year utilized capacity of water and wastewater capital improvements. FNI will utilize project costs of water and wastewater system improvements and percent utilization of improvements to support growth over the next 10-year time period to calculate water and wastewater costs to be applied for impact fee analysis.
- C2. Develop Service Unit Equivalents (SUEs) for Water & Wastewater: FNI will utilize equivalent capacity of water meters to establish the service unit equivalents (SUEs) required in Chapter 395 of the Local Government Code for both existing and 10-year projected growth conditions for water and wastewater.
- C3. Calculate Maximum Allowable Water and Wastewater Impact Fees without Credit Calculation: FNI will develop maximum allowable water and wastewater impact fees in accordance with Chapter 395 of the Texas Local Government Code using existing and proposed capital improvement costs to support 10-year growth based on projected increase in SUEs. FNI will utilize the 50% credit methodology outlined in Chapter 395. A detailed credit calculation will not be performed.

Task 4: Roadway Impact Fee Analysis

- D1. Existing Capital Improvements Inventory Update: Based on the data assembled and collected and service area boundaries, an inventory and analysis of existing roadways will be prepared for major roadways in the Town. The inventory will contain the following information of existing collector and arterial status roadways by service area:

- Roadway segment name and limits
- Length (in miles), number of lanes and facility type (divided, undivided, collector, arterial, etc.)
- PM peak hour directional volumes

As existing conditions analysis will be prepared to calculate capacity provided and utilized of existing capital improvements. Any roadway deficiencies identified will be summarized by service area for use in the capital improvements analysis.

- D2. Determination of Projected Roadway Demand: Determination of projected roadway demand over the 10-year planning period will be based on socio-demographic data developed in the land use assumptions report prepared as part of the update process. FNI will coordinate with the Study Team to ensure growth projections are compatible with travel forecast needs. The service unit equivalency table developed in Task D5 will serve as the basis for determination of the number of service units generated within individual service areas over the ten-year planning period.
- D3. Prepare Roadway Capital Improvements Program: An updated impact fee CIP will be prepared incorporating growth considerations over the ten-year plan period, the Town Thoroughfare Plan, fiscal constraints and Town Staff input.

This process will include the identification and recommendation of specific roadway projects for inclusion into the impact fee CIP list. Cost information of both existing and proposed capital projects will be collected and developed for inclusion into an updated CIP database. For completed projects (identified as part of the previous impact fee system CIP), incorporation of actual cost data will be included as per legislative requirements. The Town will provide cost data for completed projects and will include costs incurred for construction, engineering right-of-way and debt service. For projects additions to CIP, appropriate historic unit cost data will be collected from the Town and used as a basis for cost estimates by FNI.

An evaluation of existing impact fee CIP projects will also be performed to confirm that excess capacity is available for projects to be retained in the impact fee program.

- D4. Roadway CIP Database Update and Maximum Fee Calculation: CIP data will be compiled into an updated roadway projects database. This database will be prepared by service area and include the following information:
- Roadway segment name and limits.
 - Number of lanes, length and facility type.
 - Project cost information (construction, engineering, ROW, debt service).
 - Capacity provided by CIP projects, utilized and percent attributable to new development.
 - Project cost attributable to new development.

Based on data compiled into the CIP database, an updated maximum cost per service unit will be calculated for service areas within the Town.

- D5. Update of Land Use Equivalency Table: The land use equivalency table will be updated/expanded based on Town Staff input. Traffic data will be based on information presented in the Institute of Transportation Engineers, Trip Generation Manual, 11th Edition or available supplemental information of trip type activity. Subject to availability of data, up to five (5) land uses not listed in ITE's Trip Generation will be researched and incorporated. Trip length information will be derived from the latest work place survey compiled by the North Central Texas Council of Governments.

Task 5: Impact Fee Report Development and Meeting Attendance

- E1. Develop Draft Impact Fee Update Report: FNI will prepare and provide one (1) electronic PDF copy of the draft water, wastewater and roadway impact fee update report discussing methodology and impact fee calculations. The report will include mapping showing the existing system and proposed system improvements required to meet projected 10-year growth and maximum allowable water, wastewater, and roadway impact fees.
- E2. Conference Call: FNI will have a conference call with the Town Staff to discuss the report findings, impact fee calculations, and maximum allowable water, wastewater and roadway impact fees for the Town. Following the conference call, FNI will incorporate revisions into the Impact Fee Update Report.
- E3. Impact Fee Process Meetings: Meetings with Town Staff, advisory committee and the Town Council will be held at critical project milestones to present data and obtain project feedback. In addition to meetings with Town Staff, it is anticipated that four (4) meetings will be held throughout the impact fee process and include three (3) advisory committee meetings and one (1) public hearing. FNI will prepare presentations and obtain feedback from Town Staff prior to the meetings.
- E4. Impact Fee Benchmarking: FNI will develop comparison tables of impact fees of the Town with area peer cities for use by the Town in considering collection rates. Town Staff and/or the CIAC will identify up to eight (8) area cities for the comparison. Fee comparisons will be based on land use types of single-family residential, general retail or office, restaurant, etc. Up to five (5) land use types will be compared. FNI will prepare a chart depicting the combined result of wastewater and roadway impact fees for each land use.
- E5. Impact Fee Calculator: FNI will update the automated impact fee calculation form to help Town administrators in the

calculation of assessment and collection rates for specific development applications.

- E6. Finalize Impact Fee Study Report: Based on comments by Town Staff, FNI will finalize and provide one (1) electronic PDF copy and five (5) hardcopies of the final Water, Wastewater and Roadway Impact Fee Study to the Town.

SPECIAL SERVICES

No special services have been identified.

ADDITIONAL SERVICES: Additional Services to be performed by Consultant, if authorized by the Town, which are not included in the above described scope of services, are described as follows:

- A. Providing consultation concerning the replacement of any Work damaged by fire or other cause during the construction and providing services as may be required in connection with the replacement of such Work.
- B. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by the Town.
- C. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- D. Preparing Operation and Maintenance Manuals or conducting operator training.
- E. Assisting the Town in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
- F. Performing investigations, studies, and analysis of substitutions of equipment and/or materials or deviations from the drawings and specifications.
- G. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective work.
- H. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this Agreement.
- I. Any services required as a result of default of the contractor(s) or the failure, for any reason, of the contractor(s) to complete the work within the contract time.
- J. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.
- K. Providing services to review or evaluate construction contractor(s) claim(s), provided said claims are supported by causes not within the control of Consultant.
- L. Providing value engineering studies or reviews of cost savings proposed by construction contractors after bids have been submitted.

- M. Provide follow-up professional services during Contractor's warranty period.
- N. Furnishing the services of a Resident Project Representative to act as the Town's on-site representative during the Construction Phase.
- O. Detailed settlement studies or other engineering issues resulting from soft soil conditions or other unexpected site conditions.
- P. Cathodic control design and construction consisting of field evaluations, engineering analysis and construction services.
- Q. Providing easement acquisition services.

III. DELIVERABLES

Task 1 - Kickoff Meeting, Data Collection & Land Use Assumptions -Documentation of land use assumptions (included in report)

Task 2 - Water and Wastewater System Analysis and CIP Update -One (1) PDF copy of the Water Impact Fee CIP with costs
 -One (1) PDF copy of the Water CIP with costs
 -One (1) PDF copy of the Wastewater Impact Fee CIP with costs
 -One (1) PDF copy of the Wastewater CIP with costs
 -Updated calibrated water and wastewater models

Task 3 - Water and Wastewater Impact Fee Analysis -Documentation of water and wastewater impact fee calculations and maximum allowable fee (included in report)

Task 4 - Roadway Impact Fee Analysis -One (1) PDF copy of the Roadway Impact Fee CIP with costs
 -Documentation of roadway impact fee calculations and maximum allowable fee (included in report)

Task 5 - Impact Fee Report Development and Meeting Attendance -One (1) PDF copy of the draft Water, Wastewater and Roadway Impact Fee Study Report
 -One (1) PDF copy and five (5) hardcopies of the final Water, Wastewater and Roadway Impact Fee Study Report

**EXHIBIT B
COMPENSATION SCHEDULE**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.,
FOR THE WATER, WASTEWATER, AND ROADWAY IMPACT FEE UPDATE PROJECT**

I. COMPENSATION SCHEDULE

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	February 2023	
Task 1 - Kickoff Meeting, Data Collection & Land Use Assumptions	May 2023	\$22,900
Task 2 - Water and Wastewater System Analysis and CIP Update	January 2024	\$167,200
Task 3 - Water and Wastewater Impact Fee Analysis	March 2024	\$20,700
Task 4 - Roadway Impact Fee Analysis	March 2024	\$22,700
Task 5 - Impact Fee Report Development and Meeting Attendance	August 2024	\$66,100
Total Compensation		\$299,600

II. COMPENSATION SUMMARY

Basic Services (Lump Sum)	Amount
Task 1 - Kickoff Meeting, Data Collection & Land Use Assumptions	\$22,900
Task 2 - Water and Wastewater System Analysis and CIP Update	\$167,200
Task 3 - Water and Wastewater Impact Fee Analysis	\$20,700
Task 4 - Roadway Impact Fee Analysis	\$22,700
Task 5 - Impact Fee Report Development and Meeting Attendance	\$66,100
Total Basic Services:	\$299,600

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

Direct Expenses	Amount
None	\$0
Total Direct Expenses:	\$0

EXHIBIT B COMPENSATION/PRICING SCHEDULE

COMPENSATION

Compensation to FNI for Basic Services in Attachment SC shall be the lump sum of Two Hundred Ninety Nine Thousand Six Hundred Dollars (\$299,600).

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment SC, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

<u>Position</u>	<u>Hourly Rate</u>	
	<u>Min</u>	<u>Max</u>
Professional 1	86	151
Professional 2	112	176
Professional 3	108	246
Professional 4	170	256
Professional 5	201	360
Professional 6	218	426
Construction Manager 1	107	138
Construction Manager 2	93	177
Construction Manager 3	136	168
Construction Manager 4	160	218
CAD Technician/Designer 1	71	148
CAD Technician/Designer 2	115	172
CAD Technician/Designer 3	151	219
Corporate Project Support 1	59	120
Corporate Project Support 2	77	191
Corporate Project Support 3	121	286
Intern / Coop	51	87

Rates for In-House Services and Equipment

<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>		<u>Equipment</u>	
Standard IRS Rates			Valve Crew Vehicle (hour)	\$75
	Small Format (per copy)	\$0.10	Pressure Data Logger (each)	\$200
	Large Format (per sq. ft.)		Water Quality Meter (per day)	\$100
<u>Technology Charge</u>	Bond	\$0.25	Microscope (each)	\$150
\$8.50 per hour	Glossy / Mylar	\$0.75	Pressure Recorder (per day)	\$100
	Vinyl / Adhesive	\$1.50	Ultrasonic Thickness Gauge (per day)	\$275
			Coating Inspection Kit (per day)	\$275
	Mounting (per sq. ft.)	\$2.00	Flushing / Cfactor (each)	\$500
	Binding (per binding)	\$0.25	Backpack Electrofisher (each)	\$1,000
			<u>Survey Grade</u>	<u>Standard</u>
			Drone (per day)	\$200 \$100
			GPS (per day)	\$150 \$50

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.15. For Resident Representative services performed by non-FNI employees and CAD services performed in-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

These ranges and/or rates will be adjusted annually in February. Last updated 2022.

3/0062022

EXHIBIT C INSURANCE REQUIREMENTS

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

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

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

B. MINIMUM LIMITS OF INSURANCE

Service Provider shall maintain throughout contract limits not less than:

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

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

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

D. OTHER INSURANCE PROVISIONS

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

1. General Liability and Automobile Liability Coverages

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

2. Workers Compensation and Employer's Liability Coverage:

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

3. All Coverages:

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

4. Professional Liability and / or Errors and Omissions:

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

E. ACCEPTABILITY OF INSURERS

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

F. VERIFICATION OF COVERAGE

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

Certificate holder to be listed as follows:

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

**EXHIBIT D
CONFLICT OF INTEREST AFFIDAVIT**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.,
FOR THE WATER, WASTEWATER, AND ROADWAY IMPACT FEE UPDATE PROJECT**

THE STATE OF TEXAS

§

§

COUNTY OF COLLIN

§

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

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

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

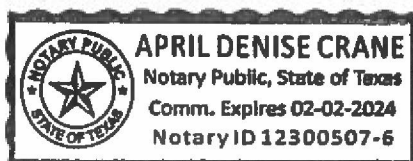
Upon filing this affidavit with the Town of Prosper, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of the public body which took action on the agreement.

Signed this 3rd day of February, 2023.

Clayton Barnard / Principal / Vice President
Signature of Official / Title

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

Sworn to and subscribed before me on this 3rd day of February, 2023.

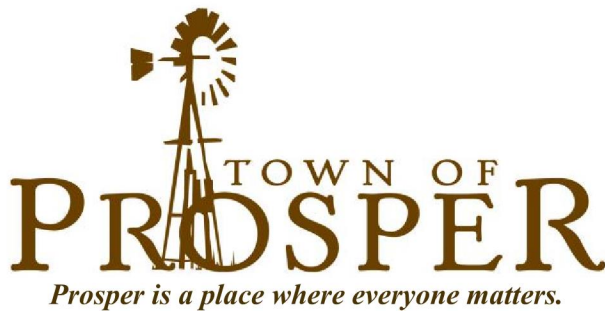


[Signature]
Notary Public in and for the State of Texas

My Commission expires: 2-2-2024

EXHIBIT E CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	OFFICE USE ONLY Date Received	
1 Name of vendor who has a business relationship with local governmental entity. <div style="text-align: center; font-size: 1.5em;">N/A</div>		
2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)		
3 Name of local government officer about whom the information is being disclosed. <div style="text-align: center; font-size: 1.5em;">N/A</div> <div style="text-align: center; font-size: 0.8em;">Name of Officer</div>		
4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.		
<p>A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="text-align: center;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>		
5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.		
6 <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).		
7 <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 45%;"> <div style="border-top: 1px solid black; width: 100%;"></div> <div style="font-size: 0.8em;">Signature of vendor doing business with the governmental entity</div> </div> <div style="width: 45%; text-align: right;"> <div style="border-top: 1px solid black; width: 100%;"></div> <div style="font-size: 0.8em;">Date</div> </div> </div>		



ENGINEERING SERVICES

To: Mayor and Town Council

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

Through: Bob Scott, Interim Town Manager
Chuck Ewings, Executive Director of Development and Infrastructure Services

Re: Contract Amendment No. 2 - Freese and Nichols, Inc.
Custer Road Pipeline and Meter Vault Relocation Project

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon authorizing the Interim Town Manager to execute Contract Amendment No. 2 to the Professional Services Agreement, between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the design of the Custer Road Pipeline and Meter Vault Relocation project.

Description of Agenda Item:

At the November 13, 2018, Town Council meeting, Freese and Nichols, Inc. (FNI), was awarded a Professional Services Agreement, in the amount of \$290,325, for the design of the Custer Road Pipeline and Meter Vault Relocation project, related to the widening of Custer Road (FM 2478) through the Town of Prosper. The original design proposed to relocate the existing 36-inch water line and meter vault along Custer Road just outside the limits of the proposed TxDOT Right-of-Way (ROW).

Contract Amendment No. 1, in the amount of \$68,900, was awarded to FNI on July 28, 2020, for additional design services associated with the relocation of the meter vault from the original proposed site along the existing access road to the southern edge of the site. Additional survey information was required for the new pipeline alignment as well as new structural and geotechnical analysis performed based on the final approved location. The design included the extension of the retaining wall, grading and paving plans for the new access road to the existing pump station. Additional coordination with TxDOT was required to substantiate the requested reimbursement amount for the required improvements.

Contract Amendment No. 2, in the amount of \$47,450, is for additional construction related services provided by FNI beyond the original timeline of construction of the project. During the construction of the project, several items delayed the completion of the project, including coordination with TxDOT's contractor on completing the driveway connections to Custer Road, NTMWD's delays in connecting to their water system (TxDOT also had NTMWD relocate their

water line), and several delays caused by supply chain disruptions. The original substantial completion date of February 5, 2021, was extended to September 22, 2021, and the final completion date of September 7, 2022, was nearly a year later due to the significant delay with the construction coordination of the access driveway connection to Custer Road with TxDOT's Custer Road widening project.

Budget Impact:

The cost for the additional construction related services is \$47,450, will be funded through projects savings in other projects and is 100% reimbursable from TxDOT through the Standard Utility Agreement (SUA) approved at the July 28, 2020, Town Council meeting. The funding source is Account No. 760-6610-10-00-1902-WA.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard Contract Amendment as to form and legality.

Attached Documents:

1. Contract Amendment No. 2
2. Location Map

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Interim Town Manager to execute Contract Amendment No. 2 to the Professional Services Agreement, between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the design of the Custer Road Pipeline and Meter Vault Relocation project.

Proposed Motion:

I move to authorize the Interim Town Manager to execute Contract Amendment No. 2 to the Professional Services Agreement, between Freese and Nichols, Inc., and the Town of Prosper, Texas, related to the design of the Custer Road Pipeline and Meter Vault Relocation project.

CONTRACT AMENDMENT #2
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.
FOR THE CUSTER ROAD PIPELINE AND METER VAULT RELOCATIONS PROJECT

This Contract Amendment for Professional Engineering 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 **Freese and Nichols, Inc.**, a Texas corporation, 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."

W I T N E S S E T H:

WHEREAS, the Town previously engaged the services of the Consultant to provide engineering services in connection with the **Custer Road Pipeline and Meter Vault Relocations**, hereinafter called "Project"; and

WHEREAS, the Parties previously entered into an professional services agreement regarding the Project on or about November 13, 2018, in the amount of Two Hundred Ninety Thousand Three Hundred Twenty-Five Dollars (\$290,325), 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 easement acquisition services.

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 A2 – 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, A1 and A2."

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 Forty-Seven Thousand Four Hundred Fifty Dollars (\$47,450) for the additional services as set forth and described in **Exhibit B2 – 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, B1 and B2."

3. **Revised Compensation for Consultant's Services.** Paragraph 4 of the Original Agreement is hereby amended to increase Consultant's total compensation by deleting "Two Hundred Ninety Thousand Three Hundred Twenty-Five Dollars (\$290,325)" and replacing it with "Four hundred Six Thousand Six Hundred Seventy-Five Dollars (\$406,675)."

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 _____, 2023.

Freese and Nichols, Inc.

TOWN OF PROSPER, TEXAS

By: Clayton C Barnard
Signature

Clayton Barnard
Printed Name

Principal/ Vice President
Title

February 3, 2023
Date

By: _____
Signature

Bob Scott
Printed Name

Interim Town Manager
Title

Date

EXHIBIT A2 SCOPE OF SERVICES

CONTRACT AMENDMENT #2 BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC., FOR THE CUSTER ROAD PIPELINE AND METER VAULT RELOCATIONS PROJECT

I. PROJECT DESCRIPTION

Provide additional construction representative as described in the Construction Phase services within the Agreement for an additional 9 months due to construction schedule exceeding the contractual duration.

II. TASK SUMMARY

BASIC SERVICES

Task 1 – Additional Construction Phase Representation

1. Maintain project documentation system consistent with the requirements of the construction contract documents. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation. Review contractor's submittals including requests for information, modification requests, shop drawings, schedules, and other submittals in accordance with the requirements of the construction contract documents for the projects.
2. Based on Consultant's observations as an experienced and qualified design professional and review of the Payment Requests and supporting documentation submitted by Contractor, determine the amount that Consultant recommends Contractor be paid on monthly and final estimates, pursuant to the General Conditions of the Construction Contract.
3. Make one visit per month for the additional 9-month construction duration to the project site to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Construction Contract Documents. In this effort Consultant will endeavor to protect the Town against defects and deficiencies in the work of Contractors and will report any observed deficiencies to the Town.
4. Notify the contractor of non-conforming work observed on site visits. Review quality related documents provided by the contractor such as test reports, equipment installation reports or other documentation required by the Construction contract documents.
5. Establish procedures for administering constructive changes to the construction contracts. Process contract modifications and negotiate with the contractor on behalf of the Town to determine the cost and time impacts of these changes. Prepare change order documentation for approved changes for execution by the Town. Documentation of field orders, where cost to Town is not impacted, will also be prepared. Investigations, analyses, studies or design for substitutions of equipment or materials, corrections of defective or deficient work of the contractor or other deviations from the construction contract documents requested by the contractor and approved by the Town are an additional service.

6. Prepare documentation for contract modifications required to implement modifications in the design of the project. Receive and evaluate notices of contractor claims and make recommendations to the Town on the merit and value of the claim on the basis of information submitted by the contractor or available in project documentation. Endeavor to negotiate a settlement value with the Contractor on behalf of the Town if appropriate. Providing these services to review or evaluate construction contractor(s) claim(s), supported by causes not within the control of Consultant are an Additional Service.

III. DELIVERABLES

Task 1 – Additional Construction Phase Representation Continue to provide general construction representative services throughout the construction of the project.

**EXHIBIT B2
COMPENSATION SCHEDULE**

**CONTRACT AMENDMENT #2
BETWEEN THE TOWN OF PROSPER, TEXAS, AND FREESE AND NICHOLS, INC.,
FOR THE CUSTER ROAD PIPELINE AND METER VAULT RELOCATIONS PROJECT**

I. COMPENSATION SCHEDULE

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	February 2021	
<u>Task 1 – Additional Construction Phase Representation</u>	October 2021	\$19,500
Total Compensation		\$19,500

II. COMPENSATION SUMMARY

Basic Services (Lump Sum)	Amount
<u>Task 1 – Additional Construction Phase Representation</u>	\$19,500
Total Basic Services:	\$19,500

Special Services (Hourly Not-to-Exceed)	Amount
None	\$0,000
Total Special Services:	\$0,000

Direct Expenses	Amount
None	\$0,000
Total Direct Expenses:	\$0,000

Basic Services Compensation Schedule	Original Contract	Amendment No. 1	Amendment No. 2	Total Contract
Task 1 – General & Preliminary Design	\$29,525	-	-	\$29,525
Task 2 – Final Design	\$153,250	\$68,900	-	\$222,150
Task 3 – Bid Phase	\$14,600	-	-	\$14,600
Task 4 – Construction Phase	\$51,950	-	\$47,450	\$99,400
Total Basic Services	\$249,325	-	-	\$365,675

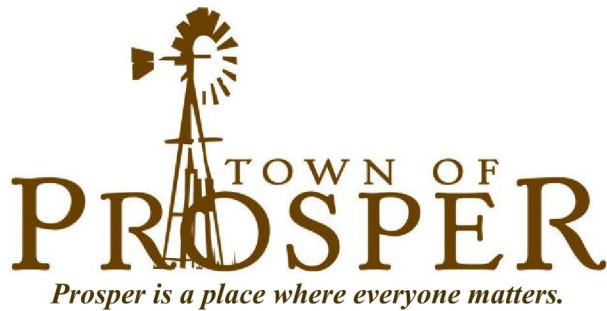
Special Services Compensation Schedule	Original Contract	Amendment No. 1	Amendment No. 2	Total Contract
Task 5 – Topographical Survey	\$8,650	-	-	\$8,650
Task 6 – Easement Documents	\$5,300	-	-	\$5,300
Task 7 – Subsurface Utility Engineering	\$5,050	-	-	\$5,050
Task 8 – Environmental Services	\$9,350	-	-	\$9,350
Task 9 – Geotechnical Engineering	\$12,650	-	-	\$12,650
Total Special Services	\$41,000	-	-	\$41,000

LOCATION MAP



Custer Road Pipeline and Meter Vault Relocation Project





FINANCE DEPARTMENT

To: Mayor and Town Council

From: Bob Scott, Interim Town Manager

Re: Revised Atmos Franchise Ordinance

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon an ordinance granting a non-exclusive gas franchise to Atmos Energy Corporation and repealing Ordinance No. 2023-02.

Description of Agenda Item:

At the January 24, 2023, Town Council meeting, the Atmos gas franchise was approved. Since that time, Atmos has contacted the Town with two minor suggested revisions. One of the suggested revisions is that in the event a request is made by the Town to Atmos to remove or relocate Atmos infrastructure solely for the benefit of private development, Atmos will not be responsible for such removal or relocation costs. The second revision is that in the event that the Town receives funds under federal, state, county or local programs for the removal or relocation of Atmos infrastructure, and the Town has been fully reimbursed for any costs it incurs, then Atmos shall be reimbursed any costs it may have incurred for such removal or relocation. There are no other revisions to the ordinance originally adopted on January 24.

Budget Impact:

The Town has budgeted \$255,000 for the current fiscal year for gas franchise fees.

Legal Obligations and Review:

The Town Attorney has prepared the revised gas franchise ordinance.

Attached Documents:

1. Ordinance.

Town Staff Recommendation:

Town staff recommends the Town Council approve the attached ordinance repealing Ordinance No. 2023-02 and granting a non-exclusive gas franchise to Atmos Energy Corporation.

Proposed Motion:

I move to approve an ordinance granting a non-exclusive gas franchise to Atmos Energy Corporation and repealing Ordinance No. 2023-02.

TOWN OF PROSPER, TEXAS**ORDINANCE NO. 2023-__**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE TOWN OF PROSPER, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID TOWN FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; AND REPEALING ORDINANCE NO. 2023-02 IN ITS ENTIRETY AND ALL PREVIOUS GAS FRANCHISE ORDINANCES.

WHEREAS, the Town of Prosper and Atmos Energy Corporation have agreed to the terms of this Franchise Agreement; and

WHEREAS, this Franchise Agreement is consistent with other such Franchise Agreements between Texas municipalities and Atmos Energy Corporation.

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

SECTION 1. GRANT OF AUTHORITY

The Town of Prosper, Texas, hereinafter called "Town," hereby grants to Atmos Energy Corporation, Mid-Tex Division, hereinafter called "Atmos Energy," its successors and assigns, consent to use and occupy the present and future streets, alleys, highways, public utility easements, public ways and other public places ("Public Rights-of-Way"), for the purpose of laying, maintaining, constructing, protecting, operating, and replacing therein and thereon pipelines and all other appurtenant equipment (the "System") to deliver, transport, and distribute gas in, out of, and through Town for persons, firms, and corporations, including all the general public, and to sell gas to persons, firms, and corporations, including all the general public, within the Town corporate limits, as such limits may be amended from time to time during the term of this franchise, said consent being granted for a term ending December 31, 2043.

**SECTION 2. CONSTRUCTION, MAINTENANCE, OPERATION & RELOCATION
OF ATMOS ENERGY FACILITIES**

- A. Atmos Energy shall lay, maintain, construct, operate, and replace its pipes, mains, laterals, and other equipment to minimize interference with traffic, place or cause to be placed appropriate barriers to mark excavations or obstructions, and restore to approximate original condition all Public Rights-of-Way that it may disturb. In determining the location of the facilities of the Town and other users of Public Right-of-Way within Town, Town shall endeavor to minimize interference with then existing facilities of Atmos Energy and shall endeavor to require other users of Public Rights-of-Way to minimize interference with existing facilities of Atmos Energy. In the event of a conflict between the location of the proposed facilities of Atmos Energy and the location of the existing facilities of Town or other users of Public Rights-of-Way within Public Rights-of-Way that cannot otherwise be resolved, Town or an authorized agent of Town

shall resolve the conflict and determine the location of the respective facilities within the Public Rights-of-Way.

Atmos Energy or contractors working on behalf of Atmos Energy shall not be required to pay for street cutting, street excavation or other special permits related to excavations in Public Rights-of-Way in connection with Atmos Energy's operations in Public Rights-of-Way. Town shall provide Atmos Energy with its annual capital improvements plan as well as any updates or changes as soon as the plan, update, or change becomes available. Town shall notify Atmos Energy as soon as reasonably possible of any projects that will affect Atmos Energy's facilities located in the Public Rights-of-Way. When required by Town to remove or relocate its mains, laterals, and/or other facilities lying within Public Rights-of-Way, Atmos Energy shall do so as soon as practically possible with respect to the scope of the project. In no event shall Atmos Energy be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to Atmos Energy by Town; however, Atmos Energy shall promptly endeavor to remove or relocate such facilities.

- B. If Town, in constructing its sewers, drainage, water lines, streets, or utilities, should request that Atmos Energy remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way, Atmos Energy shall do so at its own expense for facilities that are in conflict, unless such work is for the primary purpose of beautification, performed solely at the request of a private developer. Facilities are deemed to be in conflict to the extent that the proposed Town facilities are determined by Atmos Energy to be inconsistent with gas distribution industry safe operating practices for existing facilities. Atmos Energy shall not be required to relocate facilities to a depth of greater than four (4) feet unless prior agreement is obtained from Atmos Energy.

When Atmos Energy is required by Town to remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way to accommodate a request by Town, and costs of utility removals or relocations are eligible under federal, state, county, local or other programs for reimbursement of costs and expenses incurred by Atmos Energy as a result of such removal or relocation, and such reimbursement is required to be handled through Town, Atmos Energy costs and expenses shall be included in any application by Town for reimbursement if Atmos Energy submits its cost and expense documentation to Town prior to the filing of the application. Town shall provide reasonable written notice to Atmos Energy of the deadline for Atmos Energy to submit documentation of the costs and expenses of such relocation to Town. Upon receipt of an amount of reimbursement intended for utility relocations including gas utilities, Town shall remit to Atmos Energy, within thirty (30) days of receipt, any portion of such reimbursement specifically designated as a reimbursement of Atmos Energy's costs incurred in the relocation or removal of Atmos Energy's facilities but only after Town has been fully reimbursed for its own costs of relocation or removal of utilities and related facilities.

If Atmos Energy is required by Town to remove or relocate its mains, laterals, or other facilities lying within Public Rights-of-Way for any reason other than the construction or reconstruction of sewers, drainage, water lines, streets or utilities by Town, Atmos Energy shall be entitled to reimbursement from Town or others of the cost and expense of such removal or relocation.

- C. When Atmos Energy is required to remove or relocate its mains, laterals or other facilities to accommodate construction by Town without reimbursement from Town, Atmos Energy shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of Atmos Energy to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law. Town shall not oppose recovery of relocation costs when Atmos Energy is required by Town to perform relocation. Town shall not require that Atmos Energy document request for reimbursement as a pre-condition to recovery of such relocation costs.
- D. If Town abandons any Public Rights-of-Way in which Atmos Energy has facilities, such abandonment shall be conditioned on Atmos Energy's right to maintain its use of the former Public Right-of-Way and on the obligation of the party to whom the Public Right-of-Way is abandoned to reimburse Atmos Energy for all removal or relocation expenses if Atmos Energy agrees to the removal or relocation of its facilities following abandonment of the Public Right-of-Way. If the party to whom the Public Right-of-Way is abandoned requests Atmos Energy to remove or relocate its facilities and Atmos Energy agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Right-of-Way, the expense of any Right-of-Way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 3. INDEMNITY & INSURANCE

In the event of injury to any person or damage to any property by reason of Atmos Energy's construction, operation, maintenance, or replacement of Atmos Energy's pipeline system within Public Rights-of-Way, Atmos Energy shall indemnify and keep harmless Town from any and all liability in connection therewith, except to the extent such injury or damage is attributable to the fault of the Town, including, without limitation, the Town's negligent or intentional acts or omissions. Atmos Energy's insurance of its obligations and risks undertaken pursuant to this franchise may be in the form of self-insurance to the extent permitted by applicable law, under an Atmos Energy plan of self-insurance maintained in accordance with sound accounting and risk-management practices.

SECTION 4. NON-EXCLUSIVE FRANCHISE

The rights, privileges, and franchises granted by this ordinance are not to be considered exclusive, and Town hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of transporting, delivering, distributing, or selling gas to and for Town and the inhabitants thereof.

SECTION 5. PAYMENTS TO TOWN

- A. Atmos Energy, its successors and assigns, agrees to pay and Town agrees to accept, on or before the 1st day of March, 2023, and on or before the same day of each succeeding year during the term of this franchise the last payment being made on the 1st day of March, 2043, a sum of money which shall be equivalent to five percent (5%) of the Gross Revenues, as defined in 5.B. below, received by Atmos Energy during the preceding calendar year.

B. "Gross Revenues" shall mean:

- (1) all revenues received by Atmos Energy from the sale of gas to all classes of customers (excluding gas sold to another gas utility in the Town for resale to its customers within Town) within the Town;
- (2) all revenues received by Atmos Energy from the transportation of gas through the System of Atmos Energy within the Town to customers located within the Town (excluding any gas transported to another gas utility in Town for resale to its customers within Town);
- (3) the value of gas transported by Atmos Energy for Transport Customers through the System of Atmos Energy within the Town ("Third Party Sales")(excluding the value of any gas transported to another gas utility in Town for resale to its customers within Town), with the value of such gas to be established by utilizing Atmos Energy's monthly Weighted Average Cost of Gas charged to industrial customers in the Mid-Tex division, as reasonably near the time as the transportation service is performed; and
- (4) "Gross Revenues" shall also include the following "miscellaneous charges": charges to connect, disconnect, or reconnect gas and charges to handle returned checks from consumers within the Town.
- (5) "Gross Revenues" shall not include:
 - (a) revenues billed but not ultimately collected or received by Atmos Energy;
 - (b) contributions in aid of construction;
 - (c) the revenue of any affiliate or subsidiary of Atmos Energy;
 - (d) sales tax and franchise fees paid to the Town;
 - (e) interest or investment income earned by Atmos Energy; and
 - (f) monies received from the lease or sale of real or personal property, provided, however, this exclusion does not apply to the lease of facilities within the Town's Right-of-Way.

C. The initial payment for the rights and privileges herein provided shall be for the privilege period January 1 through December 31, 2023, and each succeeding payment shall be for the privilege period of the calendar year in which the payment is made.

It is also expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges (whether levied as an ad valorem, special, or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that Town may now impose or hereafter levy and collect from Atmos Energy or Atmos Energy's agents, excepting only the usual general or special ad valorem taxes that Town is authorized to levy and impose upon real and personal property. If the Town does not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of taxes, licenses, fees, street or alley rentals or charges, easement or franchise taxes or charges aforesaid, then Town agrees

that it will apply so much of said sums of money paid as may be necessary to satisfy Atmos Energy's obligations, if any, to pay any such taxes, licenses, charges, fees, rentals, easement or franchise taxes or charges aforesaid.

D. Effect of Other Municipal Franchise Ordinance Fees Accepted and Paid by Atmos Energy

If Atmos Energy should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in Atmos Energy's Mid-Tex Division, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its public Rights-of-Way in a manner that, if applied to Town, would result in a franchise fee greater than the amount otherwise due Town under this Ordinance, then the franchise fee to be paid by Atmos Energy to Town pursuant to this Ordinance may, at the election of Town, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to Town were the franchise fee provisions of that other franchise ordinance applied to Town. Town acknowledges that the exercise of this right is conditioned upon Town's acceptance of all terms and conditions of the other municipal franchise *in toto*. Town may request waiver of certain terms and Atmos Energy may grant, in its sole reasonable discretion, such waiver.

E. Atmos Energy Franchise Fee Recovery Tariff

- (1) Atmos Energy may file with Town a tariff or tariff amendment(s) to provide for the recovery of the franchise fees under this agreement.
- (2) Town agrees that (i) as regulatory authority, it will adopt and approve the ordinance, rates or tariff which provide for 100% recovery of such franchise fees as part of Atmos Energy's rates; (ii) if Town intervenes in any regulatory proceeding before a federal or state agency in which the recovery of Atmos Energy's franchise fees is an issue, Town will take an affirmative position supporting 100% recovery of such franchise fees by Atmos Energy and; (iii) in the event of an appeal of any such regulatory proceeding in which Town has intervened, Town will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Atmos Energy.
- (3) Town agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Atmos Energy.

F. Lease of Facilities Within Town's Rights-of-Way. Atmos Energy shall have the right to lease, license or otherwise grant to a party other than Atmos Energy the use of its facilities within Town's public rights-of-way provided: (i) Atmos Energy first notifies Town of the name of the lessee, licensee or user; the type of service(s) intended to be provided through the facilities; and the name and telephone number of a contact person associated with such lessee, licensee or user and (ii) Atmos Energy makes the franchise fee payment due on the revenues from such lease pursuant to Section 5 of this Ordinance. This authority to Lease Facilities within Town's Rights-of-Way shall not affect any such lessee, licensee or user's obligation, if any, to pay franchise fees.

G. Town shall within thirty (30) days of final approval, give Atmos Energy notice of annexations and disannexations of territory by Town, which notice shall include a map

and addresses, if known. Upon receipt of said notice, Atmos Energy shall promptly initiate a process to reclassify affected customers into Town limits no later than sixty (60) days after receipt of notice from Town. The annexed areas added to Town limits will be included in future franchise fee payments in accordance with the sales tax effective date of the annexation if notice was timely received from Town. Upon request from Town, Atmos Energy will provide documentation to verify that affected customers were appropriately reclassified and included for purposes of calculating franchise fee payments. In no event shall the Atmos Energy be required to add premises for the purposes of calculating franchise payment prior to the earliest date that the same premises are added for purposes of collecting sales tax.

SECTION 6. ACCEPTANCE OF FRANCHISE

In order to accept this franchise, Atmos Energy must file with the Town Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by Town. If such written acceptance of this franchise ordinance is not filed by Atmos Energy, the franchise ordinance shall be rendered null and void.

When this franchise ordinance becomes effective, all previous ordinances of Town granting franchises for gas delivery purposes that were held by Atmos Energy, and specifically including Ordinance No. 2023-02, shall be automatically repealed, canceled and annulled, and shall be of no further force and effect.

SECTION 7. PARAGRAPH HEADINGS. CONSTRUCTION

The paragraph headings contained in this ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the preparation of this ordinance and this ordinance shall not be construed either more or less strongly against or for either party.

SECTION 8. EFFECTIVE DATE

If Atmos Energy accepts this ordinance, it becomes effective as of February 14, 2023.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 14TH DAY OF FEBRUARY, 2023.

APPROVED:

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

TOWN OF PROSPER

WITNESS MY HAND AND SEAL OF SAID TOWN, this the ____ day of _____, 2023.

Michelle Lewis Sirianni, Town Secretary
Town of Prosper, Texas



TOWN COUNCIL

To: Mayor and Town Council

From: Terrence S. Welch, Town Attorney

Through: Bob Scott, Interim Town Manager

Re: Opioid Settlements

Town Council Meeting – February 14, 2023

Agenda Item:

Consider authorizing the Interim Town Manager to execute on behalf of the Town settlement documentation relative to the State of Texas' and other governmental entities' litigation against Allergan, CVS, Walmart and Walgreens for the marketing, sale and dispensing of opioids, and to take all actions incident and related thereto.

Description of Agenda Item:

Several years ago, the State of Texas, along with a broad coalition of states and political subdivisions from across the country, sued three (3) major opioid distributors—McKesson, Cardinal Health and Amerisource Bergen—along with an opioid manufacturer, Johnson & Johnson—for their role in the national opioid crisis. Those manufacturers entered into a settlement agreement with the coalition of states and over governmental entities and upon the request and urging of the Office of the Texas Attorney General, most Texas local governments participated in the settlement. The Town opted to participate in August 2021, with the funds required to be utilized for opioid remediation purposes.

Similarly, the State of Texas and other coalition members have settled their cases against Allergan, CVS, Walmart and Walgreens relative to the marketing, sale and dispensing of opioids, in the following amounts: Allergan—\$135 million; CVS—\$304 million; Walmart—\$170 million; and Walgreens—\$340 million. Again, the Office of the Attorney General has strongly encouraged Texas political subdivisions to participate in the settlement, with settlement amounts for each political subdivision yet undetermined. Settlement amounts will be based upon the number of participating governmental entities, and proceeds will be spent on additional opioid remediation. The Attorney General's Office has indicated that settlement discussions are proceeding against numerous other defendants in the opioid industry. Detailed information about the State of Texas' opioid litigation efforts may be found on the Texas Attorney General's website.

Budget Impact:

At the present time, the amount of funds to be received by the Town is unknown.

Legal Obligations and Review:

The settlement documentation to be provided to the Office of the Attorney General has been approved by the Town Attorney.

Attached Documents:

1. Settlement Form. (The Settlement Forms for each of the four defendants are identical.)

Town Staff Recommendation:

Town staff recommends the Town Council authorize the Interim Town Manager to execute on behalf of the Town settlement documentation relative to the State of Texas' and other governmental entities' litigation against Allergan, CVS, Walmart and Walgreens for the marketing, sale and dispensing of opioids.

Proposed Motion:

I move to authorize the Interim Town Manager to execute on behalf of the Town settlement documentation relative to the State of Texas' and other governmental entities' litigation against Allergan, CVS, Walmart and Walgreens for the marketing, sale and dispensing of opioids, and to take all actions incident and related thereto.

EXHIBIT K
Subdivision and Special District Settlement Participation Form

Governmental Entity:	State:
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Allergan Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Allergan Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Allergan Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within fourteen (14) days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the MDL Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions and Special Districts as defined therein.
5. By agreeing to the terms of the Allergan Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.



7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.
8. The Governmental Entity has the right to enforce the Allergan Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of **Section V (Release)**, and along with all departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Allergan Settlement are intended to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Allergan Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Allergan Settlement.
11. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

12. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Settlement Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.



I have all necessary power and authorization to execute this Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

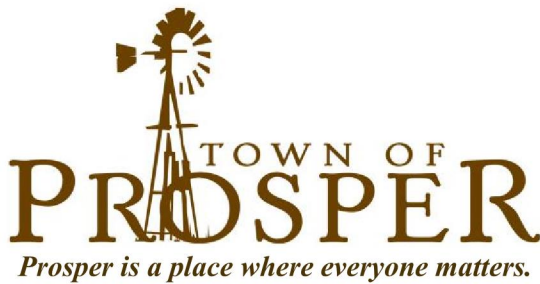
Name: _____

Title: _____

Date: _____



PLANNING



To: Mayor and Town Council

From: David Soto, Planning Manager

Through: Bob Scott, Interim Town Manager
Chuck Ewings, Executive Director of Development and Infrastructure Services

Re: Rezoning of 207 E. Broadway

Town Council Meeting – February 14, 2023

Agenda Item:

Consider and act upon an ordinance to rezone 0.177± acres from Single Family-15 (SF-15) to Downtown Office (DTO), on Lots 10A & 11B, located on the north side of Broadway Street, east of Coleman Street. (Z22-0017).

Description of Agenda Item:

On January 24, 2023, the Town Council approved the proposed request, by a vote of 7-0. A zoning ordinance has been prepared accordingly.

Legal Obligations and Review:

Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attachments:

1. Ordinance
2. Ordinance Exhibit A

Town Staff Recommendation:

Town Staff recommends approval of an ordinance to rezone 0.177± acres from Single Family-15 (SF-15) to Downtown Office (DTO), on Lots 10A & 11B, located on the north side of Broadway Street, east of Coleman Street. (Z22-0017).

Proposed Motion:

I move to approve an ordinance to rezone 0.177± acres from Single Family-15 (SF-15) to Downtown Office (DTO), on Lots 10A & 11B, located on the north side of Broadway Street, east of Coleman Street. (Z22-0017).

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2023-__

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING PROSPER'S ZONING ORDINANCE BY REZONING A TRACT OF LAND CONSISTING OF 0.177 ACRE, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS FROM SINGLE FAMILY-15 (SF-15) TO DOWNTOWN OFFICE (DTO); 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 from Sara Sangani ("Applicant"), to rezone 0.177 acre of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, from Single Family-15 (SF-15) to Downtown Office (DTO) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

WHEREAS, the Town Council has investigated 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, Public Hearings have been held, and all other requirements of notice and completion of such 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:

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 0.177 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads, and alleyways contiguous and/or adjacent thereto is hereby zoned as Downtown Office (DTO) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

All development plans, standards, and uses for the Property shall comply fully with the requirements of all ordinances, rules, and regulations of the Town of Prosper, as they currently exist or may be amended.

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 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 any and 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 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 14TH DAY OF FEBRUARY, 2023.

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT "A"

Metes and Bounds Description: (0.177 Acres)

Being a tract of land, situated in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, and being all of that tract of land, described in deed to ██████████, recorded under Document No. 2022000120499, of the Official Public Records, Collin County, Texas (O.P.R.C.C.T.), and also being part of Lots 10 and 11, Block 10, of BRYANT'S ADDITION TO PROSPER, an addition to the Town of Prosper, as recorded in Volume 116, Pages 162-163, of the Deed Records, Collin County, Texas (D.R.C.C.T.), said tract being more particularly described, as follows:

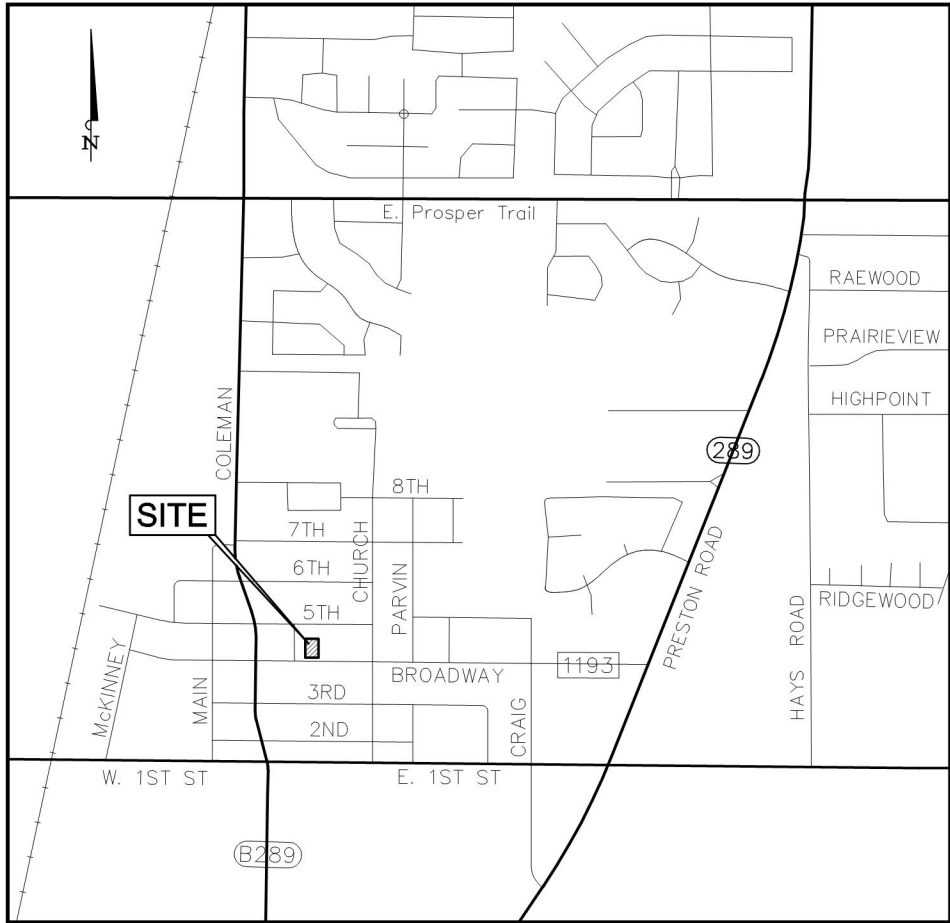
BEGINNING at an "X" found in concrete for the southeasterly corner of said ██████████ tract, same being the southwesterly corner of a tract of land, described in deed to Legacy Premier Group, LLC, as recorded under Document No. 20140919001020830, O.P.R.C.C.T., said corner also being in the northerly monumented line of E. Broadway Street, said corner also being in the southerly line of said Lot 10;

THENCE South 89°07'20" West, along the northerly monumented line of E. Broadway Street, same being along the southerly line of said Lots 10 and 11, a distance of 55.00' to a 1/2" iron rod with a plastic cap stamped "CBG" found for the southwesterly corner of said ██████████ tract, same being the southeasterly corner of a called 0.289 acre tract of land, described in deed to Gold Metal LLC, as recorded under Document No. 20171204001604120, O.P.R.C.C.T.;

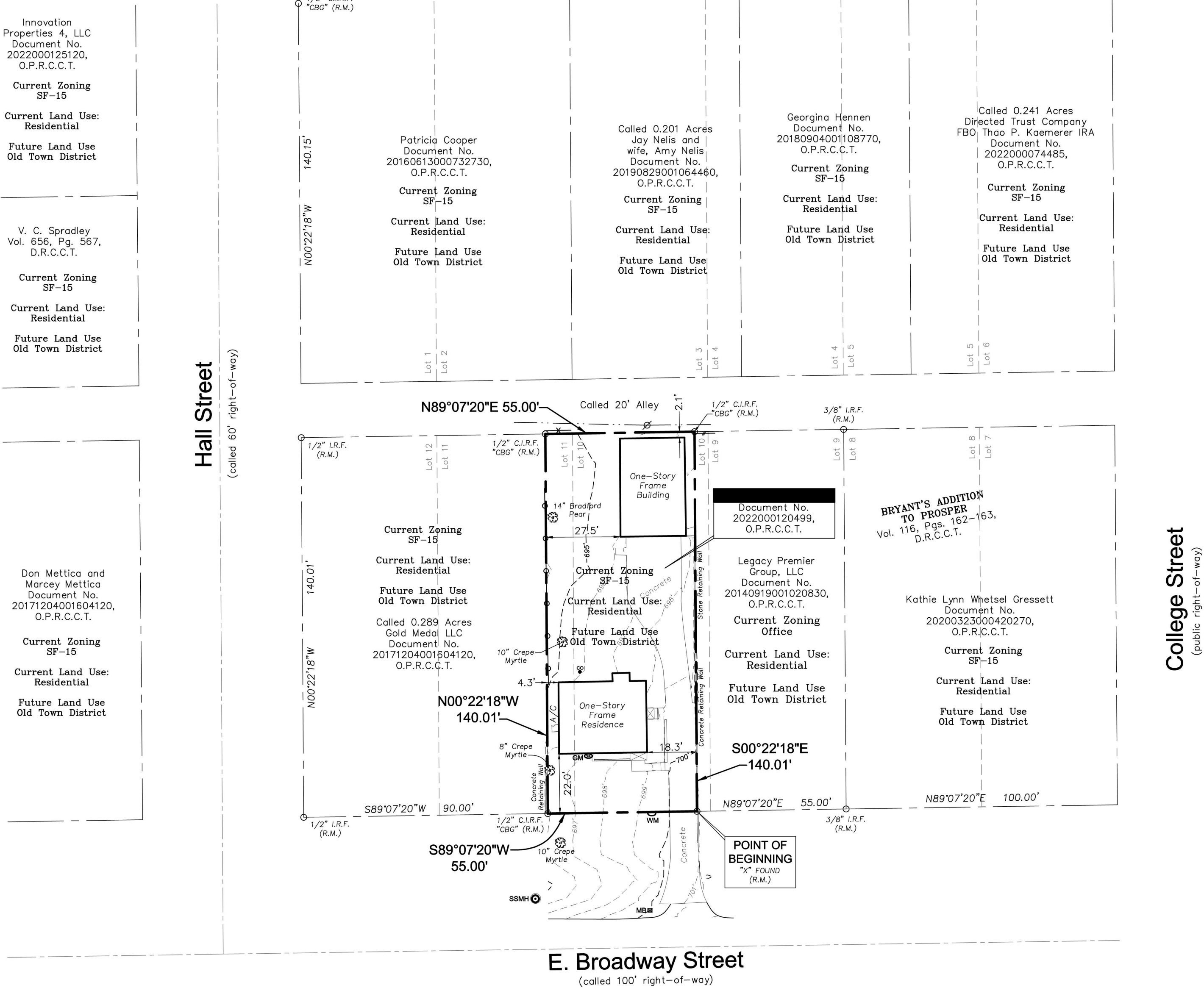
THENCE North 00°22'18" West, over and across said Lot 11, same being along the common line between said ██████████ tract and said 0.289 acre tract, a distance of 140.01' to a 1/2" iron rod with a plastic cap stamped "CBG" found for the northwesterly corner of said ██████████ tract, same being the northeasterly corner of said 0.289 acre tract, said corner also being in the southerly monumented line of a called 20' alley and being in the northerly line of said Lot 11;

THENCE North 89°07'20" East, along the southerly line of said 20' alley, same being the northerly line of Lots 11 and 10, same also being the northerly line of said ██████████ tract, a distance of 55.00' to a 1/2" iron rod with a plastic cap stamped "CBG" found for the northeasterly corner of said ██████████ tract, same being the northwesterly corner of the aforementioned Legacy Premier Group, LLC tract;

THENCE South 00°22'18" East, over and across said Lot 10, same being along the common line between said ██████████ tract and said Legacy Premier Group, LLC tract, a distance of 140.01' to the **POINT OF BEGINNING** and containing 7,700 square feet or 0.177 acres of land, more or less.



Vicinity Map
(not to scale)



General Notes:

- According to the Flood Insurance Rate Map of Collin County, Texas, Map No. 48085C0235J, Map Revised June 02, 2009, the herein described property is located in Zone "X", described by said map to be, "areas determined to be outside the 0.2% annual chance floodplain". This flood statement does not imply that the property and/or the structure thereon will be free from flooding or flood damage. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor in any way. No floodplain exists on the herein described property.
- The surveyor has relied on the herein described subject deed and plat with regard to any easements, restrictions, or rights-of-way affecting the above described Property. No additional research regarding said easements, restrictions or rights-of-way has been performed by the surveyor.
- Bearings are based on the Texas State Plane Coordinate System, North Central Zone (4202), NAD83 (2011). Surface values shown can be converted to Grid by dividing by the combined scale factor of 0.9998445731.
- The thoroughfare alignment(s) shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at the time of Final Plat.

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT

Surveyor's Certification:

This survey was completed without the benefit of a current title commitment.
I, Michael B. Arthur, Registered Professional Land Surveyor in and for the State of Texas, hereby certify that the plat hereon represents an actual survey made on the ground and that all lines and dimensions shown are correct to the best of my knowledge. There were no visible conflicts found during the time of this survey, except as shown. This survey substantially complies with the current Texas Society of Professional Surveyors Manual of Practice for a Category 1A, Condition II, Survey.

Michelle Loretta Martinez
Document No.
20100218000160900,
O.P.R.C.C.T.
Current Zoning
SF-15
Current Land Use:
Residential
Future Land Use
Old Town District

Kevin R. and
Barbara G. Carter
C.C.F.# 99-0134055,
D.R.C.C.T.
Current Zoning
SF-15
Current Land Use:
Residential
Future Land Use
Old Town District

Cursum Perricio 2, LLC
Document No.
20210806001587560,
O.P.R.C.C.T.
Current Zoning
SF-15
Current Land Use:
Residential
Future Land Use
Old Town District

Hector Morelos and
wife, Maria Morelos
Vol. 4722, Pg. 3154,
D.R.C.C.T.
Current Zoning
SF-15
Current Land Use:
Residential
Future Land Use
Old Town District

Ethelyn M. Bell and
Charles Thomas Bell
Document No.
20150625000768640,
O.P.R.C.C.T.
Current Zoning
SF-15
Current Land Use:
Residential
Future Land Use
Old Town District

Broadway Station
Office Park, LLC
Document No.
20180918001174110,
O.P.R.C.C.T.
Current Zoning
Office
Current Land Use:
Residential
Future Land Use
Old Town District

OWNER:

CASE NO.: Z22-0017

ZONING EXHIBIT
0.177 ACRES
PART OF
LOTS 10 AND 11, BLOCK 10
BRYANT'S ADDITION
TO PROSPER
TOWN OF PROSPER,
COLLIN COUNTY, TEXAS



North Texas
Surveying, L.L.C.

Registered Professional Land Surveyors

1010 West University
McKinney, Tx. 75069
Ph. (469) 424-2074 Fax: (469) 424-1997
www.northtexasurveying.com
Firm Registration No. 10074200

ABBREVIATIONS

I.R.F. = Iron Rod Found
(R.M.) = Reference Monument
C.I.R.F. = Capped Iron Rod Found
C.I.R.S. = 1/2" iron rod with yellow plastic cap stamped "RPLS 5686" set
M.R.C.C.T. = Map Records, Collin County, Texas
D.R.C.C.T. = Deed Records, Collin County, Texas
O.P.R.C.C.T. = Official Public Records, Collin County, Texas

SYMBOLS LEGEND

✕-✕	Pipe Roll Fence	⦿ WM	Water Valve
✕-✕	Wood Fence	⦿	Water Meter
⦿	Chain Link Fence	⦿	Fire Hydrant
⦿	Concrete	⦿ ICV	Irrigation Control Valve
⦿	Asphalt	⦿	Sanitary Sewer Cleanout
⦿	Light Standard	⦿ SSMH	Sanitary Sewer Manhole
⦿	Guy Wire/Anchor	⦿ STMH	Storm Drain Manhole
⦿	Utility Pole	⦿ GM	Gas Meter
⦿	Overhead Wires	⦿ GV	Gas Valve