



**Agenda**  
**Prosper Town Council Meeting**  
Prosper Town Hall, Council Chambers  
250 W. First Street, Prosper, Texas  
Tuesday, March 14, 2023  
**6:15 PM**

Welcome to the Prosper Town Council Meeting.

Citizens may watch the meeting live by using the following link:  
<https://prospertx.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.**

**Presentations.**

1. Presentation of a Proclamation declaring March 2023, as Ask a Master Gardner Month. (MLS)
2. Presentation of a Proclamation declaring March 2023, as Theatre in our Schools Month. (MLS)

### **CONSENT AGENDA:**

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

3. Consider and act upon the minutes from the February 28, 2023, Town Council Joint Work Session meeting. (MLS)
4. Consider and act upon the minutes from the February 28, 2023, Town Council Regular meeting. (MLS)
5. Consider and act upon approving a resolution supporting U.S. Highway 380 as a Controlled Access Highway within the corporate limits of the Town of Prosper, in accordance with recommendations by the Texas Department of Transportation in its December 2022 Draft Environmental Impact Statement for U.S. Highway 380 from Coit Road to FM 1827, and January 2023 Draft Environmental Assessment for U.S. Highway 380 from Teel Parkway to Lakewood Drive; acknowledging the preferred alignment of the future expansion of U.S. Highway 380 within the corporate limits of the Town is consistent with the Town's Thoroughfare Plan; requesting that the Texas Department of Transportation's final Environmental Impact Statement and Environmental Assessment reflect the alignment of U.S. Highway 380 within the corporate limits of the Town of Prosper as recommended; and authorize the Mayor to submit comments to the Texas Department of Transportation on the Draft Environmental Impact Statement and/or Draft Environmental Assessment. (HW)
6. Consider and act upon approval of annual software maintenance and operational open purchase orders with MCCi, for the Information Technology Department during FY 2023. (LJ)
7. Consider and act upon authorizing the Town Manager to execute a Professional Engineering Services Agreement between Lockwood, Andrews & Newnam, Inc., and the Town of Prosper, Texas, related to the design of the Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium) project. (HW)
8. Consider and act upon awarding RFP No. 2023-09-A for Benefits and Risk Management Consultant services for the Town of Prosper, effective March 14, 2023, and authorizing the Town Manager to execute all documents for the same. (JE)

### **CITIZEN COMMENTS**

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

### **REGULAR AGENDA:**

If you wish to address the Council, please fill out a "Public Comment Request Form" and present it to the Town Secretary, preferably before the meeting begins. Pursuant to Section 551.007 of the Texas Government Code, individuals wishing to address the Council for items listed as public hearings will be recognized when the public hearing is opened. For individuals wishing to speak on a non-public hearing item, they may either address the Council during the Citizen Comments portion of the meeting or when the item is considered by the Town Council.

**Items for Individual Consideration:**

9. Consider and act upon a resolution of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain water line easements and temporary construction easements for the construction of the Town's Lower Pressure Plane Water Line Phase 2A project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property rights if purchase negotiations are not successful. (HW)

**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 including federal Economic Development Administration projects.*

*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.*

**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, March 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.



## MINUTES

Item 3.

**Prosper Town Council & Planning and Zoning  
Commission Joint Work Session**  
Prosper Town Hall – Council Chambers  
250 W. First Street, Prosper, Texas  
Tuesday, February 28, 2023

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

Mayor Bristol called the meeting to order at 4:30 p.m. and declared a quorum present of the Town Council

### **Planning and Zoning Commission Call to Order/Roll Call**

Mr. Daniel called to order and declared a quorum present of the Planning and Zoning Commissioners.

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

Mayor David F. Bristol  
Deputy Mayor Pro-Tem Craig Andres  
Councilmember Marcus E. Ray (Arrived at 4:41 p.m.)  
Councilmember Amy Bartley  
Councilmember Chris Kern  
Councilmember Charles Cotten

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

Mayor Pro-Tem Jeff Hodges

#### **Planning and Zoning Commissioners Present:**

Brandon Daniel, Chair  
Mike Pettis  
Cameron Reeves  
Sekou Harris  
Tommy Van Wolfe  
Doug Charles (Arrived at 4:35 p.m.)

#### **Planning and Zoning Commissioners Absent:**

Damon Jackson

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

Mario Canizares, Town Manager  
Michelle Lewis Sirianni, Town Secretary  
Terry Welch, Town Attorney  
Bob Scott, Executive Director of Administrative Services  
Robyn Battle, Executive Director of Community Services  
Chuck Ewings, Executive Director of Development and Infrastructure Services  
Hulon Webb, Engineering Director  
David Soto, Planning Manager

### **Items for Individual Consideration**

#### **1. Discuss Planned Development (PD) Guidelines. (DS)**

Mr. Soto stated staff is seeking input on Planned Development Guidelines specific to Mixed-Use Developments.

Mayor Bristol stated he would like the Council and Planning and Zoning Commission to have an open dialogue regarding Mixed-Use Developments including multi-family and desired location(s) and the total number to be built within the Town.

The Town Council and Planning and Zoning Commission discussed the evaluation of plans submitted and how they are managed by staff using Town approved documents such as the Comprehensive Plan and Design Guidelines. They also discussed how to decide what the maximum number of units to be built should be, using conditions and/or triggers, the styles/types of projects they would like to see presented, location(s) of developments that include multi-family, and understanding building materials and the utilization of a Development Agreement.

**Planning and Zoning Commission Adjourn**

Mr. Daniel adjourned the Planning and Zoning Commissioners at 5:44 p.m.

**2. Discuss the Town logo and Brand Guide. (RB)**

Ms. Battle presented a comparison of the old log to the new updated logo. Ms. Battle indicated with the launch of the new website; staff would like the Town Council to see it one last time to ensure they are in consensus of moving forward with the new version of the logo.

Councilmember Ray commented on liking the more modern look and cleaner lines of the logo. He also noted the Community Engagement Committee reviewed and was also in favor of a logo redesign.

The Town Council agreed to move forward with the updated logo.

The meeting was adjourned at 5:53 p.m.

These minutes approved on the 14<sup>th</sup> day of March 2023.

**APPROVED:**

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

**ATTEST:**

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



**MINUTES**  
**Prosper Town Council Meeting**  
Prosper Town Hall, Council Chambers  
250 W. First Street, Prosper, Texas  
Tuesday, February 28, 2023

**Call to Order/ Roll Call.**

The meeting was called to order at 6:15 p.m.

**Council Members Present:**

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

**Council Members Absent:**

Mayor Pro-Tem Jeff Hodges

**Staff Members Present:**

Mario Canizares, Town Manager  
Michelle Lewis Sirianni, Town Secretary  
Terry Welch, Town Attorney  
Bob Scott, Executive Director of Administrative Services  
Robyn Battle, Executive Director of Community Services  
Chuck Ewings, Executive Director of Development and Infrastructure Services  
Hulon Webb, Engineering Director  
David Soto, Planning Manager  
Chris Landrum, Finance Director  
Todd Rice, Communications Manager  
Jessika Hotchkin, Help Desk Technician/Broadband Support  
Doug Kowalski, Police Chief

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

Mike Martin with Hope Fellowship 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:

The Downtown Prosper Park Public Input Survey is underway. Town residents and Prosper business owners have one more day to watch a descriptive video and respond to the survey to share thoughts and visions for the park. Developing the Downtown Prosper Park will add an exciting, yet passive, dimension to the revitalization of the downtown area. Residents may access the video and survey through the Parks and Recreation page on the Town's website.

Get to know your local police officers and connect with your neighbors over coffee and a casual conversation. Bring the kids along and feel free to ask questions while you're here! This event will take place tomorrow, Wednesday, March 1 from 7:30-9:30 a.m. at 1418 Coffee in Downtown Prosper (102 East Broadway, Prosper, TX).

The Discover Downtown Series kicks off on Friday, March 31 with a Moonlight Movie. Bring the family to Downtown Prosper for fun, games, popcorn, and to watch Sonic the Hedgehog 2, an action-adventure comedy film. Fun begins at 7:00 p.m. Parking will be on the north side of Town Hall with the movie beginning at dusk.

Deputy Mayor Pro-Tem Andres announced the Nutrition Workshop series being held by the Parks and Recreation Department beginning on Wednesday, March 15 through April 5 from 6:00 p.m. to 7:00 p.m. at 407 E. First Street.

### **Presentations.**

1. **Presentation of a Proclamation declaring February 28, 2023, as Prosper Community Library Day. (LS)**

Ms. Scott provided an overview of the Achievement of Excellence Award received by the Prosper Community Library.

Mayor Bristol read and presented a Proclamation to Ms. Scott and library staff.

### **CONSENT AGENDA:**

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2. **Consider and act upon the minutes from the February 14, 2023, Town Council Work Session meeting. (MLS)**
3. **Consider and act upon the minutes from the February 14, 2023, Town Council Regular meeting. (MLS)**
4. **Consider and act upon the minutes from the February 18, 2023, Town Council Work Session meeting. (MLS)**
5. **Consider and act upon Ordinance 2023-21 canceling the May 6, 2023, General Election. (MLS)**
6. **Receive the Quarterly Investment Report. (CL)**
7. **Consider and act upon Resolution 2023-22 authorizing various individuals as signers of specific accounts and certain investment matters. (CL)**
8. **Consider and act upon approval of annual software maintenance and operational open purchase orders with MCCi, for the Information Technology Department during FY 2023. (LJ)**
9. **Consider and act upon awarding RFP No. 2023-09-A for Benefits and Risk Management Consultant services for the Town of Prosper, effective February 28, 2023, and authorizing the Town Manager to execute all documents for the same. (JE)**
10. **Consider and act upon approving an update to the Library Policies. (LS)**
11. **Receive the 2022 Annual Racial Profiling Report for the Prosper Police Department as required by state law. (DK)**

12. Consider and act upon Ordinance 2023-23 to rezone for a Specific Use Permit for a Restaurant with Drive-Through Service on 1.12± acres, located on the north side of US 380, west of Custer Road. (S22-0002) (DS)
13. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Eric Walker, and the Town of Prosper, Texas, related to the Prosper Plaza development, located on the north side of US 380, west of Custer Road. (DS)
14. Consider and act upon Ordinance 2023-24 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)
15. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Srkmer Real Estate Holding 2 LLC, and the Town of Prosper, Texas, related to the Prosper Center development, located on the north side of Prairie Drive, west of Legacy Drive. (DS)
16. Consider and act upon Ordinance 2023-25 for a Specific Use Permit for a new Wireless Communications and Support Structure, on .05± acre, located on the north side of Prosper Trail, west of Legacy Drive. (S22-0011) (DS)
17. Consider and act upon authorizing the Town Manager to execute a Development Agreement between Anthemnet Inc, and the Town of Prosper, Texas, related to the Legacy Tower, located on the north side of Prosper Trail, west of Legacy Drive. (DS)

Mayor Bristol stated staff would like to pull items 8 and 9 to a future meeting.

Councilmember Kern requested to pull item 12.

Councilmember Ray made a motion to approve consent agenda items 2 through 7, 10, 11, and 13 through 17. Councilmember Kern seconded that motion, and the motion was unanimously approved.

Councilmember Kern stated in regard to item #12, he wanted to note the drive-thru associated with the item.

Councilmember Ray made a motion to approve consent agenda item 12. Deputy Mayor Pro-Tem Andres seconded that motion. The motion passed with a 5-1 vote, with Councilmember Kern voting in opposition.

### **CITIZEN COMMENTS**

No comments were made.

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

18. Conduct a public hearing and consider and act upon a request to amend Planned Development-94 (PD-94), for the Westside Development, on 63.7± acres., located northside of University Drive and east of FM 1385. (Z22-0020) (DS)

Mr. Soto presented this item indicating the amendment to the PD was for a big box retail use and to allow for the use of gas pumps. In addition, the revised plan changes locations of the restaurant uses to be located along US 380 and reduces the number

of multi-family units. The applicant is also including additional landscape and buffering along the residential border. Mr. Soto said the plan conforms to the Comprehensive Plan. Staff received seven letters: five in opposition due to the screening wall. The Planning and Zoning Commission approved the item subject to the applicant revising the screening wall to a masonry screening wall along the multi-family side. Staff recommends approval.

The Town Council discussed the retaining wall and if there would be a direct connection to the neighborhood or not, as well as who is responsible for maintaining.

David Bond with Spiars Engineering spoke on behalf of the applicant. He provided an overview of the proposed amendments to the PD. He indicated that they met with the HOA to discuss the proposed plan. As a result, the developer agreed to have a continuous wall alongside the back of the property for the residents, which would be built when the big box is being constructed.

Steve Cross authorized representative for Costco noted the modifications on the plan to improve the layout. The company is also working with TxDOT for the light at 1385, the additional landscape buffer along the north side of the property, and the higher dock wall to help shield from the neighborhood.

Risa Yuki, Principal with MG2, spoke to the architecture and elements of design selected for the building.

Mayor Bristol opened the public hearing.

Catherine Ashley, 960 Westmoreland Drive, expressed her support of the item, including the recommendation by the Planning and Zoning Commission to extend the wall the full distance of the Glenbrooke subdivision.

Blake Patton, 5590 Manitou Drive, current HOA President, provided insight from the meetings that have been held. The residents desired restricted access to the neighborhood and preferred to have a continuous wall the length of the property between the neighborhood and the development.

Chester Johnson, 5451 Exeter Drive, noted he was in favor of the development; however, expressed his frustration of not receiving adequate communications from the HOA regarding the changes, and being able to provide feedback. He requested reconsideration with the developer regarding the trail versus the wall.

Shannon and Donny Crawford, 951 English Ivy Drive, submitted their comment of support for the full wall between the community and the development. They also requested that the walking path and gate at Kent Street be retained along with a method for limited access such as key cards issued to the residents of Glenbrooke residents only.

Jay Reesler, 5561 Exeter Drive, commented that he is opposed to a continuous barrier separating the neighborhood from the new development. He indicated a walking trail on Kent Drive accessing the development with a partial wall will greatly benefit the resident of Glenbrooke.

Donald Crawford, 951 English Ivy Drive, is opposed. He commented that he understands there has been a change to the North wall to extend all the way to the east without the pedestrian walkway that used to be the Kent Drive dead end. He is against not having a walkway in the middle.

Mayor Bristol closed the public hearing.

The Town Council further discussed the wall, concerns regarding the use and percentages of materials being used, lighting including accent and parking, and design of the gas pump area.

Mr. Cross and Ms. Yuki commented that they can make modifications to the design elements to address the concerns by the Town Council. They also indicated the lighting is all LED's and any accent lighting is down facing and the poles closer to the subdivision are lower as well as down facing to avoid light pollution into the neighborhood.

Mayor Bristol reminded the Town Council that they are considering an amendment to the entire PD-94.

Deputy Mayor Pro-Tem Andres made a motion to approve a request to amend Planned Development-94 (PD-94), for the WestSide Development, on 63.7± acres., located on the north side of University Drive and east of FM 1385 (Z22- 0020), subject to the following:

1. The 8-foot screening wall on the north side of the property may have a pedestrian entryway adjacent to Kent Drive.
2. Property Owner Association (POA) documentation may be approved by the Executive Director of Development Services.
3. There shall be increased landscaping on the east façade of the Costco building.
4. There shall be revisions to the west and south elevations of the Costco building.

Councilmember Bartley seconded that motion, and the motion was unanimously approved.

**19. Conduct a public hearing and consider and act upon a request to rezone 34.7± acres from Commercial District (C) to a new Planned Development for Mixed Use, located northside of Prosper Trail and west of Dallas Parkway. (Z22-0019) (DS)**

Councilmember Ray made a motion to remand this item back to the Planning and Zoning Commission to be re-worked. Councilmember Cotten seconded that motion, and the motion was unanimously passed.

Mayor Bristol noted that one comment card was received by Barbara Nugent noting her opposition to the item and requested staff to reach out to the applicant regarding the action taken.

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

Deputy Mayor Pro-Tem Andres stated due to the parking along Broadway by 1418 Coffee due to the amount of people and citizens utilizing adjacent parking, would like to discuss the possibility of crosswalks and/or stop signs. Mr. Ewings commented that watch for pedestrian signs were being installed.

Councilmember Bartley requested to schedule a Capital Improvements Sub Committee meeting to discuss CIP projects.

**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 551.071 - Raphael Sanseverino v. Town of Prosper, Case No. 429-00932-2020, pending in the 429th Judicial District Court of Collin County.*

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

The Town Council recessed into Executive Session at 7:53 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 8:29 p.m.

Deputy Mayor Pro-Tem Andres made a motion to authorize the Town Manager to execute a Settlement Agreement with Raphael Sanseverino relative to a motor vehicle accident and to negotiate on behalf of the Town by its insurance carrier. Councilmember Ray seconded that motion, and the motion was unanimously approved.

Deputy Mayor Pro-Tem Andres made a motion to appoint Kim Shamsy to the Parks and Recreation Board. Councilmember Cotten seconded that motion, and the motion was unanimously approved.

Deputy Mayor Pro-Tem Andres made a motion to appoint John Hamilton to the Community Engagement Committee. Councilmember Bartley seconded that motion, and the motion was unanimously approved.

**Adjourn.**

The meeting was adjourned at 8:31 p.m.

These minutes approved on the 14<sup>th</sup> day of March 2023.

**APPROVED:**

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**David F. Bristol, Mayor**

ATTEST:

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Michelle Lewis Sirianni, Town Secretary

DRAFT



## ENGINEERING SERVICES

**To: Mayor and Town Council**

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

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Executive Director of Development and Infrastructure Services**

**Re: U.S. Highway 380 Resolution**

**Town Council Meeting - March 14, 2023**

### **Agenda Item:**

Consider and act upon approving a Resolution supporting U.S. Highway 380 as a Controlled Access Highway within the corporate limits of the Town of Prosper, in accordance with recommendations by the Texas Department of Transportation in its December 2022 Draft Environmental Impact Statement for U.S. Highway 380 from Coit Road to FM 1827, and January 2023 Draft Environmental Assessment for U.S. Highway 380 from Teel Parkway to Lakewood Drive; acknowledging the preferred alignment of the future expansion of U.S. Highway 380 within the corporate limits of the Town is consistent with the Town's Thoroughfare Plan; requesting that the Texas Department of Transportation's final Environmental Impact Statement and Environmental Assessment reflect the alignment of U.S. Highway 380 within the corporate limits of the Town of Prosper as recommended; and authorize the Mayor to submit comments to the Texas Department of Transportation on the Draft Environmental Impact Statement and/or Draft Environmental Assessment.

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

As Council is aware, the Texas Department of Transportation (TxDOT) conducted a feasibility study regarding the identification of an alignment for the future Controlled Access Highway of U.S. Highway 380 that began in 2017 and culminated in a formal report in March 2020. The Town of Prosper was heavily involved throughout the three (3) year feasibility study process by clearly identifying and supporting an alignment within the limits of the Town.

For the past six (6) years, the Town has remained involved and steadfast in its support of the U.S. Highway 380 project. In an effort to show support and cooperation, the Town passed seven (7) Resolutions between April 2017 and March 2022 clearly identifying the preferred alignment of keeping 380 on 380 within the Town's jurisdictional limits. Town Staff has continued to be involved and met monthly with TxDOT to collaborate on the schematic design for the Segment A alignment within the limits of Prosper (widening of U.S. Highway 380 on the current alignment). During the monthly meetings, Town Staff has taken the opportunity to reiterate its support for the Segment A alignment.

As part of TxDOT's Environmental Impact Statement (EIS) process, TxDOT held in-person public meetings on February 16 and 21, 2023, to share the Draft Environmental Impact Statement and design schematic showing the preferred alignment of U.S. Highway 380 from Coit Road to FM

1827. In addition to the section of U.S. Highway 380 from Coit Road to FM 1827, TxDOT held a public hearing on February 23, 2023, to share the Draft Environmental Assessment (EA) and design schematic showing the preferred alignment of U.S. Highway 380 from Teel Parkway to Lakewood Drive. Both projects show the preferred alignment of the future expansion of U.S. Highway 380 within the corporate limits of the Town consistent with the Town's Thoroughfare Plan.

**Budget Impact:**

No funding required at this time. In the future some local funds may be required for right-of-way and/or construction.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the Resolution as to form and legality.

**Attached Documents:**

1. Resolution

**Town Staff Recommendation:**

Town Staff recommends that the Town Council approve a Resolution supporting U.S. Highway 380 as a Controlled Access Highway within the corporate limits of the Town of Prosper, in accordance with recommendations by the Texas Department of Transportation in its December 2022 Draft Environmental Impact Statement for U.S. Highway 380 from Coit Road to FM 1827, and January 2023 Draft Environmental Assessment for U.S. Highway 380 from Teel Parkway to Lakewood Drive; acknowledging the preferred alignment of the future expansion of U.S. Highway 380 within the corporate limits of the Town is consistent with the Town's Thoroughfare Plan; requesting that the Texas Department of Transportation's final Environmental Impact Statement and Environmental Assessment reflect the alignment of U.S. Highway 380 within the corporate limits of the Town of Prosper as recommended; and authorize the Mayor to submit comments to the Texas Department of Transportation on the Draft Environmental Impact Statement and/or Draft Environmental Assessment.

**Proposed Motion:**

I move to approve a Resolution supporting U.S. Highway 380 as a Controlled Access Highway within the corporate limits of the Town of Prosper, in accordance with recommendations by the Texas Department of Transportation in its December 2022 Draft Environmental Impact Statement for U.S. Highway 380 from Coit Road to FM 1827, and January 2023 Draft Environmental Assessment for U.S. Highway 380 from Teel Parkway to Lakewood Drive; acknowledging the preferred alignment of the future expansion of U.S. Highway 380 within the corporate limits of the Town is consistent with the Town's Thoroughfare Plan; requesting that the Texas Department of Transportation's final Environmental Impact Statement and Environmental Assessment reflect the alignment of U.S. Highway 380 within the corporate limits of the Town of Prosper as recommended; and authorize the Mayor to submit comments to the Texas Department of Transportation on the Draft Environmental Impact Statement and/or Draft Environmental Assessment.

## TOWN OF PROSPER, TEXAS

## RESOLUTION NO. 2023-\_\_

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, SUPPORTING U.S. HIGHWAY 380 BEING A CONTROLLED ACCESS HIGHWAY WITHIN THE CORPORATE LIMITS OF THE TOWN OF PROSPER, IN ACCORDANCE WITH RECOMMENDATIONS BY THE TEXAS DEPARTMENT OF TRANSPORTATION IN ITS DECEMBER 2022 DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR U.S. HIGHWAY 380 FROM COIT ROAD TO FM 1827, AND JANUARY 2023 DRAFT ENVIRONMENTAL ASSESSMENT FOR U.S. HIGHWAY 380 FROM TEEL PARKWAY TO LAKEWOOD DRIVE, AS MORE FULLY DESCRIBED HEREIN; ACKNOWLEDGING THE PREFERRED ALIGNMENT OF THE FUTURE EXPANSION OF U.S. HIGHWAY 380 WITHIN THE CORPORATE LIMITS OF THE TOWN IS CONSISTENT WITH THE TOWN'S THOROUGHFARE PLAN; REQUESTING THAT THE TEXAS DEPARTMENT OF TRANSPORTATION'S FINAL ENVIRONMENTAL IMPACT STATEMENT AND ENVIRONMENTAL ASSESSMENT REFLECT THE ALIGNMENT OF U.S. HIGHWAY 380 WITHIN THE CORPORATE LIMITS OF THE TOWN OF PROSPER AS RECOMMENDED; MAKING FINDINGS; AUTHORIZING THE MAYOR TO SUBMIT COMMENTS TO THE TEXAS DEPARTMENT OF TRANSPORTATION ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT AND/OR DRAFT ENVIRONMENTAL ASSESSMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Prosper has consistently supported improving the U.S. Highway 380 corridor to improve mobility for the region; and

**WHEREAS**, the Town Council of the Town of Prosper also has consistently supported U.S. Highway 380 being a controlled access highway within the corporate limits of the Town; and

**WHEREAS**, the Texas Department of Transportation ("TxDOT") has determined its preferred alignment of U.S. Highway 380 from Coit Road to FM 1827 - the Blue Preferred Alignment, as reflected in the Draft Environmental Impact Statement dated December 2022, with such location described and depicted in Exhibit A, attached hereto; and

**WHEREAS**, TxDOT also has determined its preferred alignment of U.S. Highway 380 from Teel Parkway to Lakewood Drive, as reflected in the Draft Environmental Assessment dated January 2023, with such location described and depicted in Exhibit B, attached hereto; and

**WHEREAS**, the Town Council agrees that TxDOT's preferred alignments of U.S. Highway 380 in the Town - the Blue Preferred Alignment for the Coit Road to FM 1827 project, and the preferred alignment for the Teel Parkway to Lakewood Drive project, as reflected in the December 2022 Draft Environmental Impact Statement and January 2023 Draft Environmental Assessment, respectively, are beneficial to the Town as well as its residents and businesses; and

**WHEREAS**, the Town Council hereby desires to express its strong support of the preferred alignments of U.S. Highway 380 in the Town, as described and depicted in attached Exhibit A and Exhibit B; and

**WHEREAS**, the Town Council further requests that TxDOT's Final Environmental Impact Statement and Final Environmental Assessment reflect the alignment of U.S. Highway 380 within the corporate limits of the Town of Prosper as recommended and referenced herein.

**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, Texas, hereby strongly supports U.S. Highway 380 being a controlled access highway within the corporate limits of the Town in accordance with TxDOT's preferred alignment of U.S. Highway 380 - the Blue Preferred Alignment for the Coit Road to FM 1827 project, and the preferred alignment for the Teel Parkway to Lakewood Drive project, as reflected in the Draft Environmental Impact Statement and Draft Environmental Assessment referenced in the Preamble to this Resolution.

**SECTION 3**

The Mayor of the Town of Prosper is hereby authorized to submit comments to TxDOT regarding on the Draft Environmental Impact Statement and/or Draft Environmental Assessment referenced in the Preamble to this Resolution.

**SECTION 4**

The Town Council hereby directs Town staff to promptly forward a copy of this Resolution to the Texas Department of Transportation.

**SECTION 5**

Any and all resolutions, rules, regulations, policies, or provisions in conflict with the provisions of this Resolution are hereby repealed and rescinded to the extent of any conflict herewith.

**SECTION 6**

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 14TH DAY OF MARCH, 2023.**

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**David F. Bristol, Mayor**

**ATTEST:**

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**Michelle Lewis Sirianni, Town Secretary**

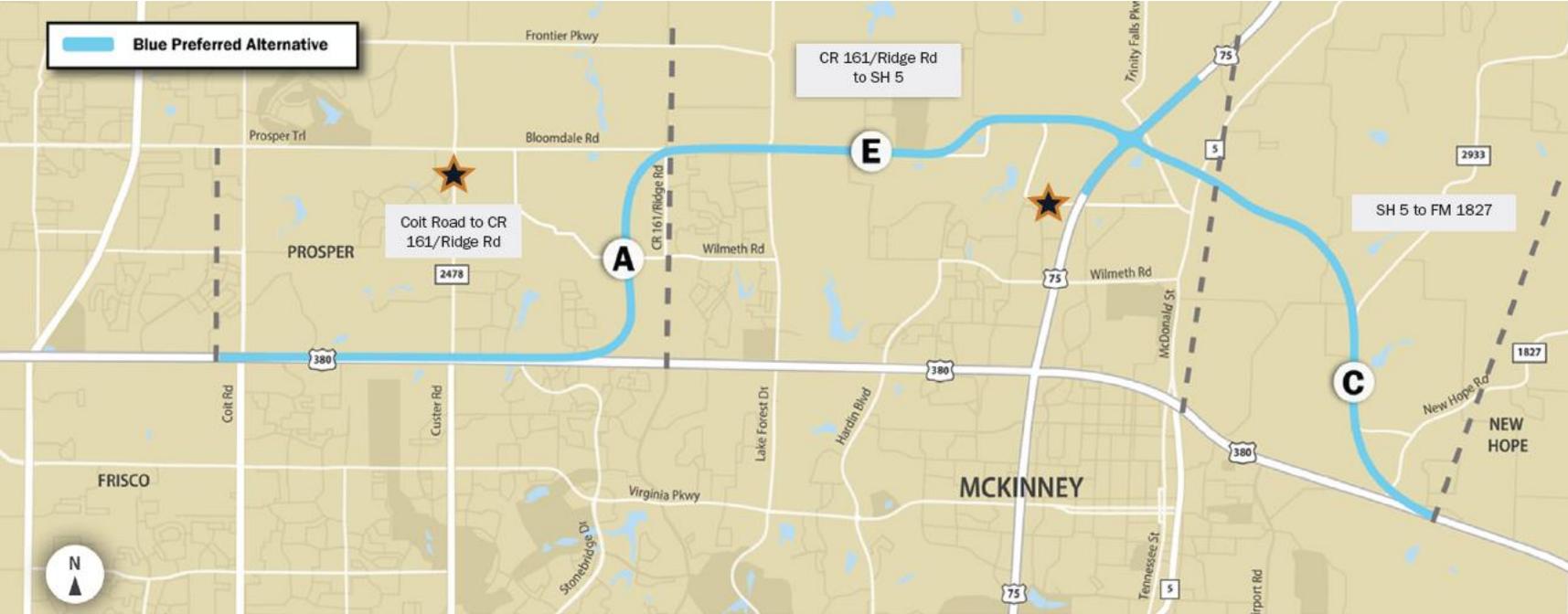
**APPROVED AS TO FORM AND LEGALITY:**

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**Terrence S. Welch, Town Attorney**

**EXHIBIT A**

**DECEMBER 2022 DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR U.S. HIGHWAY 380 FROM COIT ROAD TO FM 1827**



**EXHIBIT B**

**JANUARY 2023 DRAFT ENVIRONMENTAL ASSESSMENT FOR U.S. HIGHWAY 380 FROM TEEL PARKWAY TO LAKEWOOD**





# INFORMATION TECHNOLOGY

**To:** Mayor and Town Council

**From:** Leigh Johnson, Director of Information Technology

**Through:** Mario Canizares, Town Manager  
Bob Scott, Executive Director of Administrative Services

**Re:** Annual Software Maintenance Purchase

Town Council Meeting – March 14, 2023

**Agenda Item:**

Consider and act upon approval of annual software maintenance and operational open purchase orders with MCCi, for the Information Technology Department during FY 2023. (LJ)

**Description of Agenda Item:**

In order to conform with State purchasing law and best practices, the Purchasing Division has asked the Information Technology Department to annually request Council approval of various open or blanket purchase orders for routine maintenance, repair, and operational items.

These items are considered routine in nature and occur each year. This includes renewal of annual contracts bid out by the Town, cooperative/interlocal agreements, and sole source items.

Each purchase order requested meets all aspects of State purchasing laws as well as Town purchasing procedures. At this time, the Information Technology Department is requesting approval of the following item:

Cooperative	Description	Vendor	Amount
BuyBoard 544-17	Laserfiche Software	MCCi	\$68,618.75

**Budget Impact:**

Funding is available through the FY 2023 operating budget.

**Legal Obligations and Review:**

This item does not require legal review.

**Attached Documents:**

- BuyBoard Information

**Town Staff Recommendation:**

Town staff recommends approval of annual software maintenance and operational open purchase orders with MCCi for the Information Technology Department during FY 2023.

**Proposed Motion:**

I move to approve annual software maintenance and operational open purchase orders with MCCi for the Information Technology Department during FY 2023.



# Vendor Contract Information Summary

Item 6.

Vendor MCCI, LLC (Self-reporting Vendor)  
Contact Stephanie Wood  
Phone 8507010725  
Phone Extension 1768  
Email swood@mccinnovations.com  
Vendor Website www.mccinnovations.com  
TIN 33-1069550  
Address Line 1 1958A Commonwealth Lane  
Vendor City Tallahassee  
Vendor Zip 32303  
Vendor State FL  
Vendor Country USA  
Delivery Days 10  
Freight Terms FOB Destination  
Payment Terms Net 30 days  
Shipping Terms Prepaid and added to invoice  
Ship Via Common Carrier  
Designated Dealer No  
EDGAR Received Yes  
Service-disabled Veteran Owned No  
Minority Owned No  
Women Owned No  
National Yes  
No Foreign Terrorist Orgs Yes  
No Israel Boycott Yes  
MWBE No  
ESCs All Texas Regions  
States All States  
Contract Name Copy-Print and Document Management Services  
Contract No. 625-20  
Effective 12/01/2020  
Expiration 11/30/2023  
Accepts RFQs Yes  
Quote Reference Number 625-20



## Vendor Contract Information Summary

**Return Policy** For software orders, within 30 days of order, if software has not been activated, a full refund will be granted; if software has been activated, a 15% processing fee will apply. No refunds will be granted after 30 days. For scanning orders, MCCi will correct only those valid discrepancies outlined in our agreement above the acceptable error rate reported within 90 days after delivery of electronic data to client. All product warranties are limited to manufacturer's standard warranty provisions.



## ENGINEERING SERVICES

**To: Mayor and Town Council**

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

**Through: Mario Canizares, Town Manager**  
**Chuck Ewings, Executive Director of Development and Infrastructure Services**

**Re: Professional Engineering Services Agreement – LAN**  
**Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium)**

**Town Council Meeting - March 14, 2023**

### **Agenda Item:**

Consider and act upon authorizing the Town Manager to execute a Professional Engineering Services Agreement between Lockwood, Andrews & Newnam, Inc., and the Town of Prosper, Texas, related to the design of the Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium) project.

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

On December 16, 2022, the Professional Engineering Services Agreement approved at the March 29, 2022, Town Council meeting for the design of this project was terminated. With continued significant development interests at both the SEC and SWC of Frontier Parkway and the Dallas North Tollway, staff has completed negotiations with another engineering firm, Lockwood, Andrews & Newnam, Inc., (LAN) to complete the design of this project.

The services associated with this agreement are for the design of approximately four miles of a wastewater line extending from the current terminus of the wastewater line in the Windsong Parkway development, near the intersection of Teel Parkway and Prosper Trail, easterly to the Prosper ISD Stadium lift station. Based on the Town's Wastewater Master Plan, the sanitary sewer line is anticipated to be as large as twenty-four inches (24") in diameter. The design also includes the decommissioning of three lift stations, one along the east side of Legacy Drive between Prosper Trail and Frontier Parkway, one within Frontier Park, and the third at the Prosper ISD Stadium.

The Town Council previously approved a list of qualified engineering firms, which included services for wastewater design. Lockwood, Andrews & Newnam, Inc., is included on the approved list.

### **Budget Impact:**

The cost for the design is \$499,105. The 2021-2022 Capital Improvement Program included \$375,000 for the design, of which, \$95,600 has been expended under the original agreement. To fund the additional \$219,705 needed to complete the design of this project, since the Upper Trinity Regional Water District (UTRWD) is not scheduled to commence construction on the Doe Branch Parallel Interceptor project until early 2024, \$500,000 in Wastewater Impact Fees currently allocated towards that project in Account No. 640-5410-50-00-2103-WW, will be reallocated to the Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium) project in Account No. 640-5410-50-00-

2152-WW. Staff is working with the UTRWD to obtain updated cost estimates for the project in order to ensure adequate funding is requested in the upcoming budget for the Doe Branch Parallel Interceptor project.

Item 7.

**Attached Documents:**

1. Professional Engineering Service Agreement
2. Location Map

**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.

**Town Staff Recommendation:**

Town Staff recommends that the Town Council authorize the Town Manager to execute a Professional Engineering Services Agreement between Lockwood, Andrews & Newnam, Inc., and the Town of Prosper, Texas, related to the design of the Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium) project.

**Proposed Motion:**

I move to authorize the Town Manager to execute a Professional Engineering Services Agreement between Lockwood, Andrews & Newnam, Inc., and the Town of Prosper, Texas, related to the design of the Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium) project.

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND LOCKWOOD, ANDREWS & NEWNAM, INC.  
FOR THE UPPER DOE BRANCH WASTEWATER LINE (TEEL PARKWAY TO PISD STADIUM) (2152-WW)**

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 **Lockwood, Andrews & Newnam, 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 **Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium) (2152-WW)**, 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 (a) Basic Service, on a lump sum basis in an amount not to exceed Three Hundred Seven Thousand Two Hundred Five Dollars (\$307,205) (b) for Special Services, on cost-plus basis in an amount not to exceed One Hundred Ninety-one Thousand Nine Hundred Dollars (\$191,900) 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. Consultant shall retain Ownership of all materials.

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, REPRESENTATIVES, EMPLOYEES AND INVITEES FROM AND AGAINST LIABILITY, CLAIMS, SUITS, 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:

Lockwood, Andrews & Newnam, Inc.  
Justin C. Reeves, Vice President  
1300 Summit Avenue, Ste. 300  
Fort Worth, Texas 76102  
JReeves@LAN-inc.com

Town of Prosper  
Mario Canizares, Town Manager  
PO Box 307  
Prosper, Texas 75078  
MCanizares@prospertx.gov

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

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

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

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

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

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

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

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

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. **Force Majeure.** The Town agrees that the Consultant is not responsible for damages arising from any circumstances beyond the Consultant's reasonable control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, natural disasters, fire or other acts of God; riots, war or other emergencies; failure of any governmental agency to act in timely manner; failure of performance by Town or the Town's other consultants, its Contractor or any of their subcontractors; or discovery of any hazardous substances or differing and unforeseeable site conditions.

21. **Mutual Waiver of Consequential Damages.** In no event shall either Party be liable, whether in contract or tort or otherwise, to the other Party for loss of profits, delay damages, or for any special incidental or consequential loss or damage of any nature arising at any time or from any cause whatsoever.

22.. **Opinion of Probable Costs.** Notwithstanding anything to the contrary, Consultant's opinions of probable total project costs, construction costs, and/or estimates of quantities, if any, provided as part of the services under the Agreement are made on the basis of Consultant's knowledge, experience and qualifications and represent Consultant's judgment as an experienced professional. Consultant does not guarantee that proposals, bids, actual total project costs, total construction costs or quantity estimates will not vary from the opinions provided by Consultant.

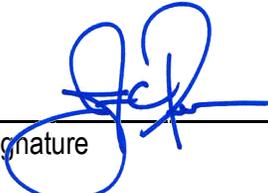
23.. **Construction Means, Methods and Safety.** Consultant is not responsible for supervising, directing, controlling, or otherwise being in charge of the construction activities, means, methods or health or safety programs at the project site or in connection with the work; or supervising, directing, controlling, or otherwise being in charge of the actual work of the Construction Contractor, its sub-contractors, or other materialmen or service providers not engaged by Consultant.

24. **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\_\_\_\_.

Lockwood, Andrews & Newnam, Inc.

TOWN OF PROSPER, TEXAS

By:  \_\_\_\_\_  
Signature  
Justin C. Reeves  
Printed Name  
Vice President  
Title  
03/02/2023  
Date

By: \_\_\_\_\_  
Signature  
Mario Canizares  
Printed Name  
Town Manager  
Title  
\_\_\_\_\_  
Date

**EXHIBIT A  
SCOPE OF SERVICES**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND LOCKWOOD, ANDREWS & NEWNAM, INC.  
FOR THE UPPER DOE BRANCH WASTEWATER LINE (TEEL PARKWAY TO PISD STADIUM) (2152-WW)**

**I. PROJECT DESCRIPTION**

In preparation for development at the intersection of Frontier Parkway (FM 1461) and Dallas North Tollway (DNT), the Town proposes to construct the Upper Doe Branch Wastewater Line as shown on the Town's Wastewater Master Plan. The line connects to the existing Doe Branch interceptor near Teel Parkway and W Prosper Trail, following Doe Branch Creek, Legacy Road, and Frontier Parkway to Prosper ISD Stadium. This interceptor will also allow for the decommissioning of three lift stations, providing for improved operations and reduced maintenance for the Town. The project corridor is shown in Exhibit A.1.

This project includes preparation of construction documents, geotechnical investigation, subsurface utility investigation, environmental services, surveying services, utility coordination and crossing permits, and limited bid and construction phase services. Construction document submittals for review will be made at 30%, 60%, and 90% milestones.

**II. TASK SUMMARY**

**Task 1. PROJECT MANAGEMENT AND COORDINATION**

Consultant shall provide project management services for the project. The following services shall be provided:

- a) Manage and coordinate all parties involved in the project, including subconsultants, Town Staff, franchise utility owners, and NTTA.
- b) Obtain, review, and distribute design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project area.
- c) Prepare written progress reports to be submitted with monthly pay requests. The Consultant's written progress report shall describe activities during the reporting period; activities planned for the following period; problems encountered and actions taken to remedy them; and overall status, including a percent complete by task.
- d) Develop and maintain a detailed project schedule to track project conformance to Exhibit B, Compensation Schedule. The schedule submittal shall be electronic format. Schedule submittals are required at the start of the project and any time the schedule is revised for design or review purposes.

**Task 2. SURVEYING SERVICES**

Consultant shall retain (as a subconsultant) and monitor the services of a surveying firm to perform surveying services for the project. Additional survey information provided by the Town will be incorporated into the survey.

- a) Topographic Survey
  - i) Vertical benchmarks shall be established such that all points of construction shall be within 500 feet of a benchmark. Benchmarks should not be subject to loss during construction and shall be tied to the Town's benchmarks. Fire hydrants and similar appurtenances are not to be used for benchmarks. The surveyor shall establish temporary benchmarks throughout the length of the project.

- ii) Topographic features will be surveyed along with any and all other features needed for design, review, permitting, construction, and inspection of the project. Coverage will extend beyond the proposed rights-of-way far enough to integrate the design with the adjacent properties.
- iii) Quality Level "C" and "D" Subsurface Utility Engineering:
  - (1) Investigate utility systems shown on the record drawings that are included within the project site. Visible surface features and appurtenances of the subsurface utilities found within the project site shall be evaluated.
  - (2) Prepare documentation of the utilities encountered and marked, including their general location, orientation, type & size.
  - (3) Existing property corners, iron pins, etc. shall be tied in order to establish existing rights-of-way. Access private property is not anticipated due to utilization of LIDAR scanners. If access is required, then the surveyor shall secure written permission from the property owners and/or tenant and shall provide the Town a copy of said written permission. Should only oral permission be granted, the surveyor shall document the permission granted by letter to the property owner/tenant, with a copy to the Town. If permission cannot be obtained, the Town will assist, or other arrangements will be worked out.
- b) Right-of-way and Easement Instruments
  - i) Surveyor will prepare metes and bounds descriptions with accompanying map exhibit for permanent and temporary instruments, which include:
    - (1) Existing appraisal district tax card, parent deed and/or plat, map check for each exhibit and all other supporting documentation;
    - (2) All documents will include NAD83 GRID coordinates for the point of beginning, horizontal scaling factors, and basis of bearings information;
    - (3) Signed and sealed PDF of the complete instrument for each parcel. No paper copies are included.

Construction control survey and staking is **excluded**.

### Task 3. PRELIMINARY DESIGN PHASE

- a) Review alignment by others and/or other applicable improvement(s) in Project areas and pertinent information regarding land boundaries and ownership in the potentially affected areas;
- b) Evaluate erosion potential to protect Town's infrastructure within the limits of the Project;
  - i) Using FEMA Zone 'A' floodplain limits and establish minimum setback for pipeline alignment.
- c) Determine average and maximum flow conditions based on future land use and proposed development information provided by the Town. Size the capacity of the proposed system based on determined flow conditions. Prepare technical memorandum outlining methodology and results;
- d) The Consultant will develop preliminary construction drawings for review by the Town. In general, construction plans shall be consistent with standard of care for projects of this nature. The construction plans will be developed on 22"x34" sheets that are formatted to be reproduced at half-scale (11"x17"). The construction plans will consist of numbered sheets ordered as follows:
  - i) Cover Sheet and Sheet Index: The cover sheet shall include a location map. Additionally, the cover sheet shall show the project name, project number, date, Town logo, Consultant's name, address, and telephone number and other items as may be specified. Following the title sheet shall be a sheet index with drawings numbered consecutively.
  - ii) Town Standard General Notes: The Town Standard General Notes will be reviewed and incorporated.

- iii) Project Layout Sheet: The project layout sheet(s) will be drawn to scale and laid out with the north arrow up or to the right. The purpose of the project layout is to depict the project in a simplified view. Major items of work will be shown with minimal detail. Survey control points, property information, and centerline alignment data shall be shown.
- iv) Quantity Summary Sheet: The Quantity Summary Sheet will provide a list of all the pay items and estimated quantities in the contract.
- v) Sanitary Sewer Hydraulics Calculations: proposed sewer-shed service areas will be shown, including identification number, land use assumptions, land areas, average and peak flows, proposed pipe sizes, slopes, and capacities.
- vi) Sanitary Sewer Plan and Profile Sheets: Plan sheets will be arranged from south to north and from west to east, with the north arrow up or to the right on the sheet. Plan sheets will be drawn to a scale of 1" = 20' horizontal at 22" x 34" (1" = 40" at 11"x 17"). Stationing will be from south to north and/or west to east or consistent with stationing established in record drawings, where appropriate. Each plan sheet will include no more than 500 feet of alignment; thus, leaving ample margins both left and right. The proposed centerline will be drawn generally parallel to sheet border. Plan sheets shall depict existing and proposed items pertinent to the project.
- vii) Lift Station Decommissioning and Connection Plans: Details plans will show necessary equipment removals, abandonments, and/or other special requirements necessary for the decommissioning of three (3) lift stations.
- viii) Detail Sheets: Town standard construction details will be included as necessary for the construction of the project.
- ix) Generic Sheet List:
  - (1) Cover Sheet
  - (2) Sheet Index and Legend
  - (3) Town Standard General Notes
  - (4) Project Layout Sheets
  - (5) Quantity Summary Sheet
  - (6) Sanitary Sewer Hydraulics Calculations
  - (7) Sanitary Sewer Plan and Profile Sheets
  - (8) Lift Station Decommissioning and Connection Plans
  - (9) Detail Sheets
- x) Engineer will coordinate with site development engineer of adjacent development to ensure designs are compatible.
- e) Engineer's Opinion of Probable Construction Cost (OPCC): Consultant will prepare an opinion of probable construction cost. Consultant will prepare bid items based on NCTCOG Standard Specifications for Public Works Construction, 5<sup>th</sup> edition.
- f) Attend one (1) meeting with the Town of Prosper project manager to conduct an on-site review and walkthrough.
- g) Submittals:
  - i) Submit one electronic copy of sanitary sewer flow technical memorandum;
  - ii) Submit one electronic copy of preliminary construction plans, and OPCC;
  - iii) Refer to **III. DELIVERABLES**.
- h) Exclusions:
  - i) Public Meetings;
  - ii) Town Council Coordination and Meetings;
  - iii) Landowner Coordination and Meetings.

#### Task 4. ENVIRONMENTAL SERVICES

Consultant shall retain (as a subconsultant) and monitor the services of an environmental firm to perform environmental services for the project.

Archeological Backhoe Trenching, Additional Archeological Site Evaluation, and Deed Title Research are **specifically excluded from this scope of work**. These items could be required as a condition of the Antiquities Permit from the Texas Historical Commission.

a) Phase I Cultural Resources Pedestrian Survey

Through cursory review of the project, IES has determined that there are no previously recorded sites or other cultural resources within proposed project area. Furthermore, historic aerial photography and topographic maps reveal that the project area is absent of any potentially historic structures. Due to the proximity of the project to unnamed tributary to Doe Branch, the project area has an elevated probability of prehistoric archeological resources. As a portion of the project is located within frequently flooded soils, it is anticipated that the THC may require deep testing to evaluate if the project will impact any deeply buried archeological sites within the floodplain.

Once notice-to-proceed (NTP) has been acquired, IES will immediately begin preparations to coordinate with the THC. Coordination with the THC will occur through the submittal of an Antiquities Permit Application that describes the project area and details the proposed scope of work. Once the permit application has been approved by the THC, IES will be provided a permit number and receive authorization to conduct the archeological survey. The THC has a maximum of 30 days to review a submitted permit application. Concurrent to Antiquities Permit Application review, IES will begin coordinating with project management to streamline fieldwork once the permit has been received.

Since the project will be located on state land and will require a Section 404 permit, an archeological survey must be conducted for the project to comply with state and federal law. As such, IES will provide the following professional services to obtain THC/USACE approval for the project:

- complete the Antiquities Permit Application necessary to conduct the intensive pedestrian archeological survey;
- complete a full intensive pedestrian archeological survey to document archeological sites 50 years or older within the project corridor;
- make preliminary determinations of eligibility for inclusion in the NRHP or as a State Antiquities Landmark (SAL) for any documented archeological sites encountered;
- analyze any artifacts recorded and/or collected (if applicable);
- complete and submitting State of Texas Archeological Site Data Forms to the Texas Archeological Research Laboratory (TARL) for any newly recorded archeological sites encountered within the project area and obtain site trinomial identification numbers;
- draft a technical report that documents the archeological background review, survey methods, survey results, any necessary NRHP eligibility assessment, and recommendations; and
- conduct coordination with the THC to agency comment.

Due to the presence of soils indicating both alluvial deposition within the unnamed tributary to Doe Branch floodplain and in situ development within upland settings, this intensive archeological survey will be conducted using systematically-placed shovel tests within the project area. In areas with potential for containing archeological materials in shallow contexts (i.e., depths less than 3 feet [ft]), shovel tests will be excavated to the top of culturally sterile deposits, typically the calcic (Bk) subsoil horizon or bedrock in this area. Each shovel test will be at least 30 centimeters (cm) in diameter and will be excavated in levels not exceeding 20 cm in thickness. Excavated soil will be screened using 0.25-inch (in; 0.64-cm) hardware mesh

to facilitate the recovery of artifacts. If clay content is high and cannot be efficiently screened, the excavated soil will be manually troweled and inspected for cultural deposits. Additionally, the physical properties of each natural stratigraphic level will be recorded. All shovel test locations will be plotted using hand-held Global Positioning System (GPS) units. Investigators will document the results of each shovel test on standardized forms.

For linear portions of the project (e.g., proposed force and gravity mains), the THC Archeological Survey Standards for Texas require that 16 shovel tests be conducted per mile (mi) along each survey transect. Thus, it is anticipated that a maximum of approximately 46 shovel tests will be required by the current CTA archeological survey standards and will be excavated during the intensive survey. However, the number of shovel and auger tests could vary based on the extent of previous disturbances, exposed bedrock or culturally sterile subsoil, and steep slopes present within the project area, or if archeological site(s) are encountered.

b) Delineation of Waters of the United States

IES will provide professional services to delineate all waters of the United States, including wetlands, at the specified project site. IES wetland ecologist will delineate the jurisdictional limits of the streams and any on-channel ponds based on 33 CFR 328.3[e], delineate the jurisdictional limits of any potential wetlands based on the 1987 USACE Wetland Delineation Manual, the Great Plains Regional Supplement, and current Regulatory Guidance Letters. IES will record the boundaries of any potential jurisdictional waters with a sub-meter accurate Global Positioning System and on field maps that will be digitized for illustrations and calculations. This delineation map will be provided to the client.

The deliverable for this task is a letter report that summarizes the delineation of the site. The letter report will include:

- Delineation map of the jurisdictional waters of the United States;
- Routine Wetland Determination Data Forms completed for all potential wetlands (including any questionable wetlands);
- Representative photographs of upland and jurisdictional sites;
- Descriptions of the site and each jurisdictional area (i.e., soils, plant communities, historic land use, stream characteristics, and ultimately the quality);
- Determinations as to significant nexus for all wetlands and non-relatively permanent waters within the study limits; and
- Definitions of a water of the United States and whether each water/wetland feature meet a definition (i.e., IES' opinion as to whether they are jurisdictional). Antiquities Code of Texas Permit Application

c) Protected Species Habitat Assessment

This effort will include coordinating with USFWS to determine the species listed in Collin County, habitat surveys for listed protected species and a report presenting the findings of the surveys. Research of available data will determine the listed species and their preferred habitat. Species-specific surveys will not be covered in this scope of services, since they require substantial time throughout particular seasons using specific protocols. Habitat surveys are designed to determine whether the site contains preferred protected species habitat and the likelihood of the presence of that species. A brief letter report will be prepared summarizing the results of the survey. Specifically, the report will describe the habitats present on the site, the protected species that are listed in Collin County and their preferred habitats, and an evaluation of whether or not this preferred habitat is present on the site.

d) Section 404/Nationwide Permit Assessment

After the delineation and cultural resources survey is completed, IES will utilize this

information to evaluate the proposed alignment to determine compliance with Section 404 of the CWA, specifically the NWP program. IES will evaluate the proposed project and what impacts the project has in waters of the United States to determine the USACE's scope and type of permit necessary for the impacts. Next IES will document the NWP terms and conditions, General Conditions, and Fort Worth District Regional Conditions for the applicable permit. Finally, IES will document how the proposed project complies with each of these conditions. IES will summarize the delineation, impact assessment, permit conditions, and compliance in a brief letter report.

#### Task 5. FINAL DESIGN PHASE

- a) The Consultant will develop construction drawings for review by the Town.
- b) Engineer's Opinion of Probable Construction Cost (OPCC) will be updated for each submittal.
- c) The following permits are anticipated to be required for this project. Permit applications will be prepared and coordinated by the Town:
  - i) NTTA;
  - ii) ONEOK;
  - iii) Atmos.

No special exhibits will be prepared. Engineer will provide necessary information to Town for application(s) and update plans to incorporate utility feedback.

- d) Submittals:
  - i) Plans will be submitted for review at 60% and 90% milestones.
  - ii) Town review comments will be logged and incorporated as necessary.
  - iii) Final plans will be submitted for bid after 90% review and updates are complete.
  - iv) Refer to III. DELIVERABLES.
- e) Exclusions:
  - i) Traffic Control plans;
  - ii) Public Meetings;
  - iii) Town Council Coordination and Meetings.

#### Task 6. GEOTECHNICAL INVESTIGATION

Consultant shall retain (as a subconsultant) and monitor the services of a geotechnical engineering firm to perform geotechnical services for the project. Approximately 10 borings will be performed, at a depth similar to anticipated trench depth.

The Town will provide sealed geotechnical report(s) from recent projects along Frontier Parkway. Data shown on the plans will be supplemented with information provided by the Town, but this information will not be included in the geotechnical report for this project.

- a) Field Exploration
  - i) Field locate borings by handheld GPS unit with a horizontal accuracy of about 15 feet. Elevations will be interpolated from civil drawings or referenced from published topographical maps.
  - ii) Perform seven borings with a truck-mounted drilling rig to depths of about 25 to 30 feet below the existing site grades for the sewer line and three borings to a depth of 50 feet at the bore/tunnel locations. The total footage is 360 feet.
  - iii) Obtain representative soil samples by means of the split-barrel and Shelby tube sampling procedures in general accordance with ASTM Specifications D-1586 and D-1587, respectively.
  - iv) Texas Cone Penetrometer tests will be performed to evaluate the load-carrying capacity of the bedrock encountered in the borings. These tests will be performed in general

accordance with test method TEX-132-E in the Texas Department of Transportation (TxDOT) Manual of Testing Procedures.

- v) Measure the depth of groundwater at each boring at the time of drilling and prior to backfilling.
- b) Laboratory Testing
  - i) Laboratory testing of representative soil samples will be performed to determine physical and engineering properties of the soil. The laboratory testing may include the following:
    - (1) Moisture content
    - (2) Atterberg limits
    - (3) Passing No. 200 sieve
    - (4) Unconfined compressive strength
    - (5) Corrosion suite - pH, resistivity, redox, sulfides, chlorides, and sulfates at three locations
- c) Engineering Report
  - i) Upon completion of the field exploration, laboratory testing, and engineering analyses, we will prepare a written engineering report that will include:
    - (1) A review of published soils mapping and/or geologic information.
    - (2) Observations from our site reconnaissance and personnel on the drill rig, including current site conditions, surface drainage features, and surface topographic conditions, and/or available satellite imagery.
    - (3) A description of the field exploration and laboratory tests performed.
    - (4) Final logs of the soil borings in accordance with industry standard practices for geotechnical engineering. A Boring Location Plan will be included.
    - (5) The results of the laboratory tests will be plotted on the final exploration logs and/or included on separate test report pages.
    - (6) Discussion of the subsurface materials encountered along with groundwater conditions observed.
    - (7) Subsurface cross sections/profiles will be included that graphically represent the subsurface conditions.
    - (8) Geotechnical design parameters and recommendations for sewer line, per Town of Prosper standards. This will also include allowable bearing pressures, estimates of predicted foundation movement, excavation, pipe bedding, modulus of soil reaction, coefficient of skin friction between the bedding material and the pipe, and backfill material, and lateral earth pressure for the proposed pipeline.
    - (9) General recommendations for boring and tunneling for the proposed pipeline.
    - (10) Discussion of earthwork construction considerations for compaction, reuse of soils, groundwater, expansive soils, shallow rock, drainage, or other considerations.
    - (11) General discussion of corrosivity of soils at the site with respect to deleterious effects on concrete structures.

#### Task 7. SUBSURFACE UTILITY ENGINEERING

Consultant shall retain (as a subconsultant) and monitor the services of a subsurface utility engineering (SUE) firm to perform SUE services for the project. SUE work required for this project in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data).

- a) Quality Level B (QLB) - Two-dimensional (x, y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as "designating" this quality level provides the horizontal position of subsurface utilities within approximately one foot.

For this project, limited QLB will be provided along Frontier Parkway and Dallas North Tollway.

- b) Quality Level A (QLA) – Also known as “locating”, this quality level provides precise three-dimensional (x, y, z) information at critical locations by exposing specific utilities. Non-destructive vacuum excavation equipment is used to expose the utilities at specific points which are then tied down by survey. For this project, QLA will be provided at up to six (6) test holes at an assumed depth 8–12 feet located outside of pavement, along the proposed alignment.

Consultant and Sub-consultant will attempt to place the test holes outside the paved areas wherever possible. However, some test holes may need to be placed in paved areas that may require traffic control measures to be implemented. Sub-consultant will establish routine/ordinary traffic control (cones and free-standing signage, etc.) whenever required as part of this scope. If non-routine traffic control measures are required (barricades, flag person, changeable message board, etc.) these services will be additional to the contract.

#### Task 8. BID AND CONSTRUCTION PHASE SERVICES

During the bidding phase, the Town will prepare bid documents, advertise the project for bid, issue addenda, and tabulate bids. No construction phase services are included in this proposal after completion of the preconstruction meeting.

- a) Provide responses to questions submitted during bidding process (up to 10).
- b) Attend pre-bid meeting, if required.
- c) Prepare and provide the Town with two (2) addenda to bid documents.
- d) Prepare conformed documents as necessary.
- e) Attend a pre-construction meeting.
- f) Review contractor submittals (up to 4).
- g) Refer to **III. DELIVERABLES**.

Exclusions:

- a) Public Meetings.
- b) Town Council Coordination and Meetings.
- c) Assisting the Town in advertising for bids.
- d) Assisting the Town in interpreting bid documents.
- e) Evaluation of bidders and preparation of letter of recommendation.
- f) Construction observation site visits.
- g) Attendance at final walk through and preparation of punch lists.

#### Task 9. RECORD DRAWINGS

- a) Prepare construction “Record Drawings” updating the project plans to reflect any field changes or plan revisions. Record drawings shall be delivered in a digital format. The drawings shall be 22” x 34” in size and shall bear “Record Drawing” stamp and the seal and signature of the Engineer along with the date. The drawings shall be produced 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (i.e., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order. Digital design files of the “Record Drawings” shall be submitted either Autodesk Civil 3D (.dwg) or Bentley (.dgn) format. Digital design files shall be complete and not stripped or purged of any design data or styles.
- b) Refer to **III. DELIVERABLES**.

### **III. DELIVERABLES**

Task 1 - Project Management and Coordination	Monthly status reports
Task 2 - Survey Services	Digital Topographic Drawings Easement Instruments (18)
Task 3 – Preliminary Design Phase	PDF-format of Sanitary Sewer Flows Technical Memorandum PDF-format of Preliminary Design Opinion of Probable Construction Cost
Task 4 – Environmental Permitting	Ordinary High-water Mark State Historic Preservation Office Consultation Form Texas Antiquities Permit Application Regulatory Summary Letter Report
Task 5 – Final Design Phase	PDF-format of Final Design Submittals Opinion of Probable Construction Cost DWG-format files of final files
Task 6 – Geotechnical Investigation	Engineering Report
Task 7 – Subsurface Utility Engineering	Digital Utility Drawings Test Hole Data Forms
Task 8 – Bid & Construction Phase Services	Addenda Conformed plan sets
Task 11 - Record Drawings	One (1) PDF copy of each sheet of the record drawings One (1) Digital of the record drawings base map in accordance with the Town of Prosper Requirements for Electronic File Submission

**EXHIBIT B  
COMPENSATION SCHEDULE**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND LOCKWOOD, ANDREWS & NEWNAM, INC.  
FOR THE UPPER DOE BRANCH WASTEWATER LINE (TEEL PARKWAY TO PISD STADIUM) (2152-WW)**

**I. COMPENSATION SCHEDULE**

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	February 2023	
Task 1 - Project Management and Coordination	Continuous	\$19,200
Task 2 - Survey Services	April 2023	\$78,778
Task 3 - Preliminary Design Phase	June 2023	\$134,435
Task 4 - Environmental Services	June 2023	\$24,653
Task 5 - Final Design Phase	December 2023	\$153,570
Task 6 - Geotechnical Engineering Services	July 2023	\$35,325
Task 7 - Subsurface Utility Engineering	July 2023	\$38,040
Task 8 - Bid Phase & Construction Phase Services	February 2025	\$9,085
Task 9 - Record Drawings	April 2025	\$6,020
<b>Total Compensation</b>		<b>\$499,105</b>

**II. COMPENSATION SUMMARY**

Basic Services (Lump Sum)	Amount
Task 1 - Project Management and Coordination	\$19,200
Task 3 - Preliminary Design Phase	\$134,435
Task 5 - Final Design Phase	\$153,570
<b>Total Basic Services:</b>	<b>\$307,205</b>

Special Services (Hourly Not-to-Exceed)	Amount
Task 2 - Survey Services	\$78,778
Task 4 - Environmental Services	\$24,653
Task 6 - Geotechnical Engineering Services	\$35,325
Task 7 - Subsurface Utility Engineering	\$38,040
Task 8 - Bid Phase & Construction Phase Services	\$9,085
Task 9 - Record Drawings	\$6,020
<b>Total Special Services:</b>	<b>\$191,900</b>

Direct Expenses	Amount
None	\$0
<b>Total Direct Expenses:</b>	<b>\$0</b>

## 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. Policy Applicable Contractual Liability
  - c. Products and Completed Operations
  - d. Personal Injury
  - e. 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 claim 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 canceled or non-renewed by either party, except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

4. Professional Liability and / or Errors and Omissions:

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

**E. ACCEPTABILITY OF INSURERS**

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

**F. VERIFICATION OF COVERAGE**

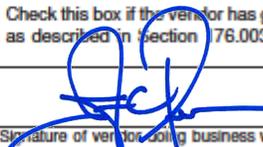
Service Provider shall provide the Town with certificates of insurance indicating the coverages required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums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

Certificate holder to be listed as follows:

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



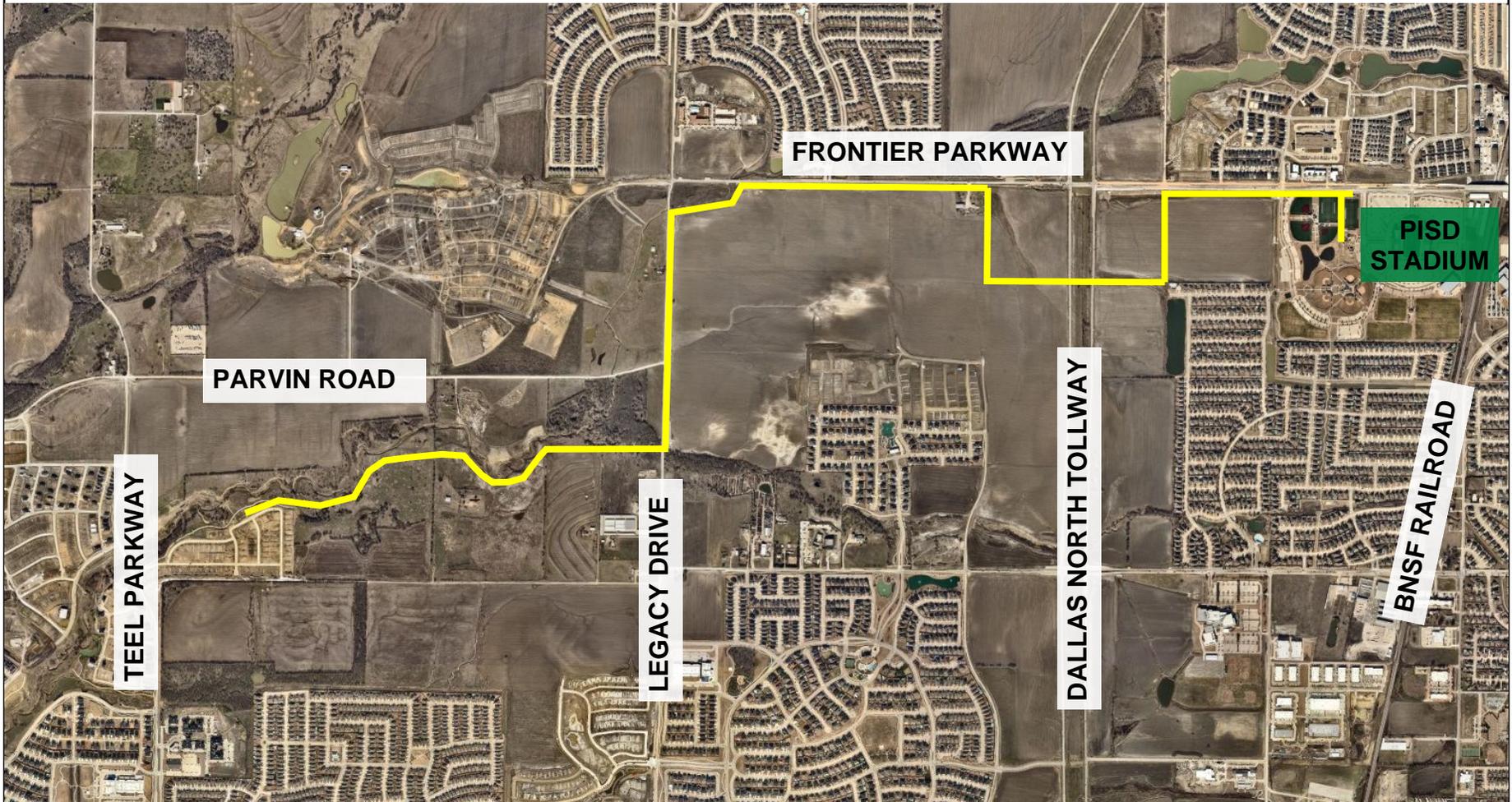
### EXHIBIT E CONFLICT OF INTEREST QUESTIONNAIRE

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor doing business with local governmental entity</b>		
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></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>	<b>OFFICE USE ONLY</b>	
<p><b>1</b> Name of vendor who has a business relationship with local governmental entity.</p> <p style="text-align: center; color: blue;">Lockwood, Andrews &amp; Newnam, Inc.</p>	<p>Date Received</p>	
<p><b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3</b> Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center; color: blue;">N/A</p> <p style="text-align: center; font-size: small;">Name of Officer</p>		
<p><b>4</b> Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-left: 40px;">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="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No      N/A</p> <p style="margin-left: 40px;">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="margin-left: 80px;"><input type="checkbox"/> Yes      <input type="checkbox"/> No      N/A</p>		
<p><b>5</b> Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p> <p style="text-align: center; color: blue;">N/A</p>		
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p><b>7</b></p> <p style="text-align: center; color: blue;">         Signature of vendor doing business with the governmental entity     </p>		<p style="text-align: center; color: blue;">03/02/2023 Date</p>

# LOCATION MAP



UPPER DOE BRANCH WASTEWATER LINE (2152-WW)





## HUMAN RESOURCES

**To: Mayor and Town Council**

**From: James Edwards, Director of Human Resources**

**Through: Mario Canizares, Town Manager  
Bob Scott Executive Director of Administrative Services**

**Re: Benefits and Risk Management Consultant**

**Town Council Meeting – March 14, 2023**

**Agenda Item:**

Consider and act upon awarding RFP No. 2023-09-A for Benefits and Risk Management Consultant services for the Town of Prosper, effective March 14, 2023, and authorizing the Town Manager to execute all documents for the same. (JE)

**Description of Agenda Item:**

The Town of Prosper Human Resources department contracts with a benefits consultant to assist with the town's self-insurance fund, ensuring we provide competitive benefits to our employees while containing costs. RFP No. 2023-09-A for consulting services was issued as the Town's current agreement with McGriff, Seibels and Williams expires March 31<sup>st</sup>, 2023. This RFP includes Risk Management services for the first time. Historically, the Town was so small that Texas Municipal League – Intergovernmental Risk Pool (TML-IRP) with a small deductible was the best option. As the Town has grown, it can afford to self-insure more of its risk and needs a consultant to provide analysis and recommendations.

Attached is the RFP scoring matrix. Holmes Murphy was competitively priced with three other vendors. Although not the lowest bid, Holmes Murphy offers the best scope of services and expertise to the Town of Prosper at an annual cost of \$50,000.

**Budget Impact:**

HR benefits and risk consulting services are budgeted out of account #730-5410-10-00, for an annual cost of \$50,000.

**Legal Obligations and Review:**

Terrance Welch of Brown & Hofmeister, L.L.P., has approved the Holmes Murphy and Associates service agreement paperwork as to their form and legality.

**Attached Documents:**

1. Homes Murphy Service Agreement
2. RFP No. 2023-09-A Analysis

**Town Staff Recommendation:**

Item 8.

Town staff recommends awarding RFP No. 2023-09-A to Holmes Murphy and Associates and authorizing the Town Manager to execute all documents for the same.

**Proposed Motion:**

I move to award RFP No. 2023-09-A for benefits and risk consulting services to Holmes Murphy and Associates and authorize the Town Manager to execute all documents for the same.

# SERVICES AGREEMENT

This Agreement for Services ("Agreement") is made the 21st day of February 2023 ("Effective Date") between Town of Prosper ("Client"), and Holmes Murphy & Associates, LLC ("Holmes Murphy"), either or both of which entities may be referred to individually or collectively as "Party" or "Parties", respectively.

WHEREAS Holmes Murphy provides consulting and brokerage services to clients in the field of health and welfare benefits; therefore, Client hereby engages in the services of Holmes Murphy, and in consideration of the promises herein contained.

NOW, THEREFORE, the Parties hereby agree as follows:

## I. SCOPE OF SERVICES

Holmes Murphy will provide professional services in the area of health and welfare benefits as outlined in the Exhibit A attached hereto and hereby incorporated into this Agreement. Holmes Murphy is not responsible for services offered by a third party regardless of whether the third party was recommended by Holmes Murphy in their capacity as Broker of Record.

## II. SERVICES FEES

Compensation for medical and dental consulting is outlined in Exhibit A. Compensation for non-medical/dental benefit coverages are paid by the vendor to Holmes Murphy. National Carrier bonus payments may be paid to Holmes Murphy based on national volume not specific to Client and those funds are directed to corporate initiatives.

In addition to the consulting fee, Holmes Murphy is eligible to receive commissions from insurance companies and vendors whose products are utilized by Client. Client will authorize the fees Client pays for these products. Holmes Murphy must disclose in writing the amount of any such commissions received.

Client will not incur any additional monthly fees after the Agreement is terminated as provided in Section III, however Holmes Murphy may still receive commissions from insurance companies following termination of this Agreement. Notwithstanding the foregoing, regardless of termination, in addition to payment of commissions, fees and other amounts due under this Agreement, Client is responsible for payment of any sales and use tax due on or with respect to commissions, fees and other amounts payable this Agreement. Client will pay applicable sales or use tax to Holmes Murphy or the proper tax authority as required by law.

## III. TERM

This Agreement will begin on April 1, 2023 and will continue for a period of one (1) year thereafter (Initial Term). This Agreement will automatically renew for additional one year terms (each, a Renewal Term). The Initial Term and Renewal Term are collectively referred to herein as the Term. This Agreement may be terminated at any time and for any reason by either Party by providing ninety (90) days prior written notice to the other Party. In the event Client is transitioning health and welfare benefit services to another provider upon termination, Holmes Murphy shall use all reasonable efforts to share information and coordinate such transition with the new provider in a professional and workmanlike manner.

#### **IV. INDEMNIFICATION**

To the extent authorized by Texas law, each Party ("Indemnitor") hereby agrees to indemnify, defend and hold harmless the other Party ("Indemnitee"), including the Indemnitee's subsidiaries and affiliates and their respective officers, directors, employees, agents, successors and assigns, from and against any and all losses, claims, demands, actions, costs, liabilities, damages, and expenses (including but not limited to reasonable attorney fees) arising out of or related to (i) the Indemnitor's performance or failure to perform any of its obligations under this Agreement, or (ii) any other negligent act or failure to act on the part of Indemnitor. In no event will either Party be liable for any special, incidental, punitive, indirect or consequential damages whatsoever arising out of the services, even if the party has been advised of that possibility. Notwithstanding the foregoing, Holmes Murphy's total liability under this section shall not exceed the sum of fees paid by Client or commissions received (excluding any insurance premiums) over the previous twelve (12) months.

#### **V. REPRESENTATIONS AND WARRANTIES**

Each Party represents and warrants to the other Party that: (i) it is duly authorized and licensed to do business and carry out its obligations under this Agreement; (ii) the making of this Agreement does not violate any law, regulation or agreement to which it is a party; (iii) in fulfilling its obligations pursuant to this Agreement, it will comply with all applicable federal, state and local laws or regulations; (iv) it has full power and authority to enter into this Agreement and the execution, delivery and performance of this Agreement has been authorized by all necessary corporate action; (v) it has obtained all third party consents required to enter into this Agreement and neither the execution, delivery or performance of this Agreement will conflict with or constitute a breach of its certificate of incorporation, charter or by-laws; (vi) it has had the opportunity to read this Agreement, has voluntarily entered into this Agreement, and is fully aware of its terms and conditions. The representations and warranties of this Section shall survive the termination of this Agreement.

#### **VI. CONFIDENTIALITY**

Holmes Murphy acknowledges that during the term of this Agreement, it will have access to or may come in to possession of various confidential materials of Client, including without limitation: employee information including name, address, social security number or any other personally identifiable information; contact information; account information; financial information; and security and operational procedures and information. Holmes Murphy agrees that it will not divulge any confidential material to any third party without Client's prior written consent, provided, however, Holmes Murphy shall be permitted to divulge confidential material to third parties that are utilized to provide the services to Client. Holmes Murphy further agrees that all confidential material shall be and remain the property of Client. All such information in tangible form, including all tools and equipment, shall be returned to Client promptly upon written request or the termination of the Agreement, and shall not thereafter be retained or used in any form or manner by Holmes Murphy. Notwithstanding the foregoing, subject to its obligations of confidentiality, Holmes Murphy may retain one copy of documents containing confidential information necessary for archival purposes and to defend its work product. This undertaking shall survive any termination of this Agreement.

## VII. ASSIGNMENT

This Agreement shall be binding upon, and shall inure to the benefit of the Parties, their administrators, executors, personal representatives, and successors.

## VIII. NOTICES

Notices will be effective under this Agreement when in writing and delivered by next-day delivery service (with proof of delivery) or mailed by certified or registered mail, return receipt requested, to the appropriate Party below, with a copy to each Party's respective General Counsel,

Attn: General Counsel

Holmes Murphy & Associates, LLC  
2727 Grand Prairie Parkway  
Waukee, IA 50263

Jay Carter, Purchasing Manager

Town of Prosper  
Town Hall, 3<sup>rd</sup> Floor  
250 W. First Street, PO Box 307  
Prosper, TX 75078

or to the person and at the address designated in the future. Notices shall be deemed given on the date delivered or date of attempted delivery, if service is refused.

## IX. SEVERABILITY

In the event any one or more of the provisions of this Agreement is held to be unenforceable or invalid under applicable law: (i) such unenforceability or invalidity shall not affect any other provision of this Agreement; (ii) this Agreement shall be construed as if said unenforceable or invalid provision had not been contained herein; and (iii) the Parties shall negotiate in good faith to replace the unenforceable or invalid provision by such as has the effect nearest to that of the provision being replaced.

## X. CAPTIONS

The captions used in this Agreement are for convenience of reference only and are not to be used in interpreting the obligations of the Parties under this Agreement.

## XI. INDEPENDENT CONTRACTORS

Nothing contained in this Agreement shall create any association, partnership, joint venture or principal/agent relationship between Client and Holmes Murphy, it being understood that the Parties are, with respect to each other, independent contractors, and neither Party shall have an authority to bind the other in any way.

## XII. GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the substantive laws of the State of Iowa, without regard to its conflict of law rules.

## XIII. WAIVER

The failure to exercise any right under this Agreement shall not be deemed to be a waiver of such right, and shall not affect the right to enforce each and every right hereof. The waiver of any breach of any term, provision, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent, actionable breach.

#### **XIV. ENTIRE AGREEMENT**

This Agreement and the Exhibits attached hereto constitute the entire understanding between the Parties concerning the subject matter hereof and supersede all prior discussions, agreements and representations, whether oral or written. This Agreement or any part or provision hereof shall not be deemed waived, amended, or modified by either Party unless such waiver, amendment or modification is in writing and executed by authorized representatives of both Parties.

#### **XV. COUNTERPART EXECUTION**

This Agreement may be executed in multiple counterparts, including emailed or telecopied facsimile, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument.

In Witness Whereof, the Parties have caused their duly authorized representatives to execute this Agreement as of the day and year first above written.

AGREED:

Client: Town of Prosper

Holmes Murphy & Associates, LLC

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

By: <sup>DocuSigned by:</sup>  
*Charisse Vaughn*  
89530A83636F4DD... \_\_\_\_\_

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

Name: Charisse Vaughn

Date: \_\_\_\_\_

Date: 2/21/2023

Title: \_\_\_\_\_

Title: Senior Vice President

## **Exhibit A – Scope of Services**

### **1. Client management and Consulting Services**

- Facilitate initial client onboarding: Core Beliefs Exercise
- Develop an annual set of milestones/project plans and deliverables based on scope of service offered.
- Provide all guidance on all aspects of the employee benefit portfolio including plan design and contribution strategies.
- Conduct semi-annual strategic meetings.
- Facilitate pre-renewal strategic meetings to discuss objectives, expected financial impacts, and desired outcomes.
- Manage and oversee day-to-day interactions with client vendor partners.
- Provide HR team support for management of benefit plans and programs.
- Provide nationally and regionally validated sources for benchmarking related to health and welfare programs.
- Provide general education and consulting.

### **2. Marketing Services (New Clients/Renewals)**

- Facilitate the Request for Proposal (RFP) process requesting proposals, pricing, and specific benefit detail for insurance products to which we are appointed. In scope services encompass general insurance products and administration of insurance products only.
- Evaluate provider networks which include provider discounts, access, service level, and potential disruption to the Town.
- Conduct vendor negotiations and oversee finalist presentations.

### **3. Employee Communication Services**

- Develop enrollment communication calendar and timeline.
- Create enrollment communications using our proprietary templates to educate and engage employees. These items can include postcards, posters, announcement emails, newsletters, benefits enrollment guides, and required notices. To meet deadlines, a maximum of two edits is requested. If multiple iterations are required, an additional fee may apply.
- Prepare, strategize, and facilitate virtual Open Enrollment meetings.
- Evaluate and provide feedback on communication tools and materials included in carrier contracts, such as plan selection tools, wellness newsletters, etc.
- Provide templates for monthly employee benefits and wellness newsletters/emails.
- Create and administer benefit satisfaction surveys.

#### **4. Compliance Services**

- Generate a proprietary Compliance Scorecard, which provides insight into areas that may need further attention.
- Develop a plan of action to address any Compliance Scorecard items of concern.
- Provide access to in-house compliance resources for routine questions and inquiries.
- Provide on-going webinar and in-person education opportunities.
- Provide access to online benefits and human resources portal containing compliance tools and resources.
- Provide timely updates on compliance-related alerts via email.
- Prepare compliance required notices in electronic format.
- Recommend and assist with the implementation of vendor partners that facilitate compliance-related administration such as Leave of Absence administration, and ACA (Affordable Care Act) requirements. The costs of these services are not included in our scope of services.

#### **5. Financial/Reporting/Data Analysis**

- Collect carrier and vendor claims, utilization, and cost data to provide financial reporting and analysis. Self-funded clients will receive this financial reporting monthly.
- Prepare routine evaluations of the financial performance of benefit programs for which Holmes Murphy has been appointed.
- Develop budgets using Holmes Murphy proprietary and actuarially validated budget and modeling tools, including and analysis of contribution strategies and plan design strategies.
- Assist in risk levels and provide stop loss modeling when appropriate.
- Proprietary Clinical Learning and Understanding Engine (CLUE) reporting when minimum employee lives, and revenue are met.

#### **6. Pharmacy Strategy Consulting**

- Consult on evaluation and marketing of carve-out pharmacy solutions.
- Facilitate formulary & prescription disruption analysis.
- Represent client through negotiation of discounts off AWP, Rebates, Administrative fees, performance guarantees, and overall contract improvements.
- Assist with new PBM installation/implementation support.
- Review PBM contracts, policies, Summary Plan Descriptions (SPDs), and Summary of Benefit Coverage (SBC's) for accuracy and consistency with the terms of the coverage sold.

## 7. Clinical/Wellbeing Services

- Consult on evaluation, implementation, and management of clinical and wellbeing solutions to meet client benefit portfolio goals.
- Develop, with client team, a Disease-Specific Battle Plan to address current and future member health risks based on utilization and disease states.
- Manage and oversee day-to-day interactions with client's clinical and wellbeing vendor partners.

## 8. Additional Services not in scope

- Language translation, printing, postage, and document delivery expenses.
- Custom employee communication materials, including stock video libraries, custom videos, microsites, benefit apps, enrollment decision support tools, etc.
- Plan document and SPD creation.
- Compliance-related deliverables such as: Non-discrimination testing, ACA Section 6055 and 6056 reporting.
- Partner/vendor file feed charges.
- Employee compensation/total rewards statements.
- Consult on evaluation, implementation, and management of clinical and wellbeing solutions to meet client benefit portfolio goals.

## 9. Value-Added Services

- Clinical Plan review and Data Warehouse services through **Holmes Murphy's Clinical Learning and Understanding Engine (C.L.U.E.)**. We will compare the clinical and disease states of the Town's population in comparison to normative and best practice plans so that the Town can better understand where gaps currently exist, along with the recommended programs and strategies to close those gaps.
- **Texas Municipal Medical Plan Benchmark**. This benchmark includes 130 plans from 60 Texas Municipalities so that the Town can understand where your plans rank to other similar Employers that you are competing against for your talent. This will be provided to the Town at no additional cost.

## 10. Cost Control Services

- Holmes Murphy will review the existing programs and will provide detailed costs estimates associated with changes to the current benefit programs based on affordability and best-fit for your employees for the following programs: Tax-advantage programs, Innovative RX plan designs, Clinical Wellness Programs, Employee Nurse Programs, Value-based Plan Designs, Contractual Discount Analysis, and Funding Alternatives.

## 11. Quality Assurance

- Holmes Murphy will establish an agreed upon scope of services on an annual basis after discussion with the Town, its leaders, and our team. At the end of the plan year, we will produce a Stewardship Report that reviews the agreed upon scope of service and provide insights into the services delivered including financial savings and overall performance.
- The Holmes Murphy team assigned will internally utilize our Client Retention Tool to evaluate our ongoing service to the Town. This tool will allow the team to monitor project timelines, key deliverables, upcoming meetings, and deadlines.

## 12. Price Quote

We propose to provide the full scope of services as outlined in this proposal for a fee of:

**Fee Description:** Employee Benefit Consulting based on current size and headcount; a compensation amount of **\$50,000** plus standard commissions already built into select coverages.

*Fees that fall outside of the scope of services proposed include the following:*

Printing costs associated with employee communication materials and fulfillment. (Note: Our communications team designs the materials customized to the Town and then furnishes the digital file for you to print in-house or through your own print provider if necessary)

Clinical data warehouse and analytics file feeds charges. (These charges are often one-time or as a pass-through charge to the Town's medical/pharmacy carriers.) These charges enable a carrier's EDI file feed to interface with our data warehouse and analytics platform.

Wrap Plan & Summary Plan Document creation, if needed and not funded by the Town's vendors.

Use of Benefit Technology Resources (BTR) for special projects and RFPs, if needed.

You have our commitment that in the event there are services needed that fall outside of our agreement, Holmes Murphy will never invoice you without first obtaining consent based upon an agreed upon fee. In this way, we avoid having any surprises that are not pre-approved.

RFP NO. 2023-09-A  
 BENEFITS AND RISK CONSULTANT

<b>EVALUATION MATRIX</b>		<b>Digital Insurance LLC</b>		<b>Gallagher Benefit Services</b>		<b>Holmes Murphy &amp; Associates</b>		<b>HUB International</b>		<b>IMA Financial Group</b>		<b>Marsh &amp; McLennan Agency (Marsh USA)</b>		<b>McGriff, Seibels and Williams</b>	
<b>EVALUATION CRITERIA</b>	<b>WEIGHTING</b>	<b>POINTS</b>	<b>WEIGHTED SCORE</b>	<b>POINTS</b>	<b>WEIGHTED SCORE</b>	<b>POINTS</b>	<b>WEIGHTED SCORE</b>	<b>POINTS</b>	<b>WEIGHTED SCORE</b>	<b>POINTS</b>	<b>WEIGHTED SCORE</b>	<b>POINTS</b>	<b>WEIGHTED SCORE</b>	<b>POINTS</b>	<b>WEIGHTED SCORE</b>
Presentation of Firm and Scope of Services Offered	40%	4.25	1.70	7.00	2.80	10.00	4.00	8.50	3.40	4.25	1.70	4.50	1.80	8.00	3.20
Qualifications of Project Personnel	25%	4.25	1.06	7.25	1.81	10.00	2.50	9.00	2.25	5.25	1.31	5.50	1.38	9.00	2.25
References	10%	5.00	0.50	6.00	0.60	9.00	0.90	9.00	0.90	6.00	0.60	4.00	0.40	9.00	0.90
Cost Proposal	25%	5.00	1.25	10.00	2.50	9.00	2.25	6.98	1.74	4.09	1.02	2.68	0.67	9.68	2.42
<b>TOTAL</b>	<b>100%</b>		<b>4.51</b>		<b>7.71</b>		<b>9.65</b>		<b>8.29</b>		<b>4.64</b>		<b>4.24</b>		<b>8.77</b>



## ENGINEERING SERVICES

**To: Mayor and Town Council**

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

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Executive Director of Development and Infrastructure Services**

**Re: Eminent Domain Authorization Resolution - LPP Water Line, Phase 2A**

**Town Council Meeting – March 14, 2023**

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**Agenda Item:**

Consider and act upon a Resolution of the Town Council of the Town of Prosper, Texas, declaring the public necessity to acquire certain water line easements and temporary construction easements for the construction of the Town's Lower Pressure Plane Water Line Phase 2A project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property rights if purchase negotiations are not successful.

**Description of Agenda Item:**

The Town is in the process of developing engineering plans for the construction of the Lower Pressure Plane Water Line Phase 2A project. To facilitate the construction of the project, it is necessary for the Town to acquire certain water line easements and temporary construction easements. The location of which is generally set forth in the attached Resolution. The Location Map included with the Resolution depict the eleven (11) properties currently known to be affected. As with other similar water line construction projects, it is not anticipated that all easements will require the use of eminent domain to complete the acquisition process, however, staff is requesting advance authorization to pursue acquisition by eminent domain if standard negotiations are unsuccessful.

Under the Property Code, water, wastewater, flood control and drainage projects are treated differently than other public uses in two ways:

- First, the Town is not required to identify the specific parcels or tracts of properties that the Town will condemn. The Town is allowed to adopt a condemnation ordinance, resolution or order that will "identify the general area to be covered by the project or the general route that will be used by the governmental entity for the project in a way that provides property owners in and around the area or along the route reasonable notice that the owners' properties may be subject to condemnation proceedings during the planning or construction of the project." Tex. Gov't Code Ann. §§ 2206.053(g).

What this means is that for these covered projects, the Town may use a route map or other general diagram that gives fair notice that an owner's property may be condemned for a water line, sewer line, flowage easement or drainage easement, even if the precise location of the planned public improvement has not been determined.

- Second, the law allows the Town, for those projects which require multiple tracts of land for water lines, sewer lines, flowage easements and drainage easements, to adopt one ordinance or resolution for the project that "delegates the authority to initiate condemnation proceedings to the chief administrative official of the governmental entity." Tex. Gov't Code Ann. §§ 2206.053(f).

Utilization of this provision of the law allows the Town Manager, and presumably his/her designee, to authorize condemnation once the precise metes and bounds of the parcels needed for the project are determined by the engineers without having to go back to the Town Council again for additional authorization.

**Attached Documents:**

1. Resolution
2. Location Map

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the Resolution as to form and legality.

**Town Staff Recommendation:**

Town Staff recommends that the Town Council of the Town of Prosper, Texas, approve the attached Resolution declaring the necessity to acquire certain water line easements and temporary construction easements for the construction of the Town's Lower Pressure Plane Water Line Phase 2A project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property rights if purchase negotiations are not successful.

**Proposed Motion:**

I move that the Town Council of the Town of Prosper, Texas, approve the attached Resolution declaring the necessity to acquire certain water line easements and temporary construction easements for the construction of the Town's Lower Pressure Plane Water Line Phase 2A project; determining the public use and necessity for such acquisition; authorizing the acquisition of property rights necessary for said Project; appointing an appraiser and negotiator as necessary; authorizing the Town Manager to establish just compensation for the property rights to be acquired; authorizing the Town Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and resolutions; and authorizing the Town Attorney to institute condemnation proceedings to acquire the property rights if purchase negotiations are not successful.

**Please note: Pursuant to Section 2206.053(c) of the Texas Government Code, if two (2) or more councilmembers object to adopting this single Resolution for all the properties referenced therein, a separate record vote must be taken for each unit of property.**

**This item requires a roll call vote.**

TOWN OF PROSPER, TEXAS

RESOLUTION NO. 2023-\_\_

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, DECLARING THE PUBLIC NECESSITY TO ACQUIRE CERTAIN WATER LINE EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS FOR THE CONSTRUCTION OF THE TOWN'S LOWER PRESSURE PLANE WATER LINE PHASE 2A PROJECT; DETERMINING THE PUBLIC USE AND NECESSITY FOR SUCH ACQUISITION; AUTHORIZING THE ACQUISITION OF PROPERTY RIGHTS NECESSARY FOR SAID PROJECT; APPOINTING AN APPRAISER AND NEGOTIATOR AS NECESSARY; AUTHORIZING THE TOWN MANAGER OF THE TOWN OF PROSPER, TEXAS, TO ESTABLISH JUST COMPENSATION FOR THE PROPERTY RIGHTS TO BE ACQUIRED; AUTHORIZING THE TOWN MANAGER TO TAKE ALL STEPS NECESSARY TO ACQUIRE THE NEEDED PROPERTY RIGHTS IN COMPLIANCE WITH ALL APPLICABLE LAWS AND RESOLUTIONS; AND AUTHORIZING THE TOWN ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS TO ACQUIRE THE PROPERTY RIGHTS IF PURCHASE NEGOTIATIONS ARE NOT SUCCESSFUL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Prosper, Texas (the "Town Council"), has determined that there exists a public necessity to acquire permanent water line easements and temporary construction easements from properties located from approximately Coit Road and heading easterly to an existing water line located west of the Town's Custer Road Pump Station for the construction of the Town's Lower Pressure Plane Water Line Phase 2A project ("Project"), the location of which water line and temporary construction easements is generally set forth in the location map exhibit attached to this resolution; and

**WHEREAS**, the Town Council desires to acquire the permanent water line easements and temporary construction easements (hereinafter referred to as "Required Easements"), as more particularly reflected in the location map exhibit attached to this Resolution, for this governmental public use and public necessity in conjunction with the Project; and

**WHEREAS**, the Town Council desires that the Town Manager, or his designee, take all necessary steps to acquire the Required Easements for the Project including, but not limited to, the retention of appraisers, engineers, and other consultants and experts, and that the Town Attorney, or his designee, negotiate the purchase of the Required Easements for the Project, and if unsuccessful in purchasing the Required Easements for the Project, to institute condemnation proceedings to acquire the Required Easements.

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

### **SECTION 1**

All of the above premises are hereby found to be true and correct legislative and factual findings of the Town of Prosper, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

## SECTION 2

The Town Council hereby finds and determines that a public use and necessity exists for the Town of Prosper, Texas, to acquire the Required Easements for the Project, in the locations generally shown in the location map exhibit attached hereto,

## SECTION 3

The Town Manager, or his designee, is authorized and directed to negotiate for and to acquire the Required Easements for the Project, for the Town of Prosper, Texas, and to acquire said rights in compliance with State and Federal law. The Town Manager is specifically authorized and directed to do each and every act necessary to acquire the Required Easements for the Project including, but not limited to, the authority to negotiate, give notices, make written offers to purchase, prepare contracts, to retain and designate a qualified appraiser of the property interests to be acquired, as well as any other experts or consultants that he deems necessary for the acquisition process and, if necessary, to institute proceedings in eminent domain.

## SECTION 4

The Town Manager, or any individual he may so designate, is appointed as negotiator for the acquisition of the Required Easements for the Project, and, as such, the Town Manager is authorized and directed to do each and every act and deed hereinabove specified or authorized by reference, subject to the availability of funds appropriated by the Town Council for such purpose. The Town Manager is specifically authorized to establish the just compensation for the acquisition of the Required Easements. If the Town Manager or his designee determines that an agreement as to damages or compensation cannot be reached, then the Town Attorney or his designee is hereby authorized and directed to file, or cause to be filed, against the owners and interested parties of the Required Easements, proceedings in eminent domain to acquire the Required Easements for the Project.

## SECTION 5

This Resolution is effective immediately upon its passage.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, BY A VOTE OF \_\_\_ TO \_\_\_ ON THIS THE 14TH DAY OF MARCH, 2023.**

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

**ATTEST:**

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

**APPROVED AS TO FORM AND LEGALITY:**

---

**Terrence S. Welch, Town Attorney**

**EXHIBIT 1**

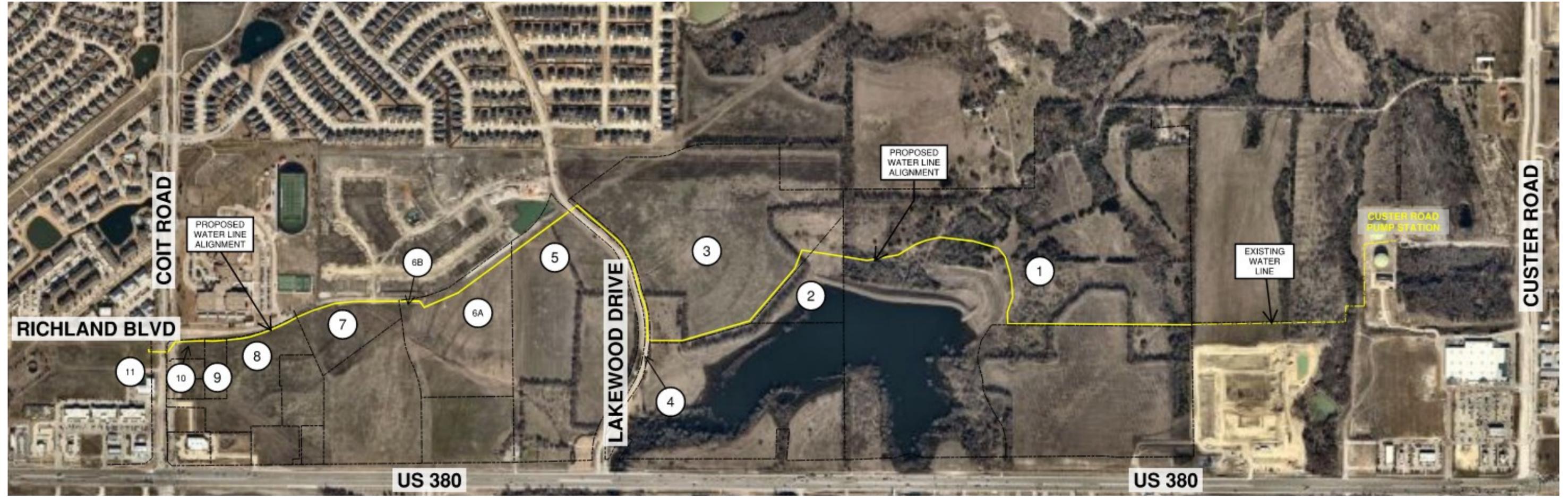
**Lower Pressure Plane Water Line Easement Acquisition  
Overall Location Map**



#	Parcel Number	OWNER	OWNER
1	1	310 PROSPER, LP	
2	2	PROSPER ISD	
3	3	PROSPER ISD	
4	4	PROSPER ISD	
5	5	55 PROSPER, LP	
	6A & 6B	PROSPER FOUR FRIENDS GROUP, LLC	
	7		SANSKRITI UNO, LLC
	8		UNITED SUPERMARKETS, LLC C/O ALBERTSON'S , LLC
	9		NADG/SHOP PROSPER, LP
	10		NADG/SHOP PROSPER, LP
	11		380 PROFESSIONALPARK, LP



## Lower Pressure Plane Water Line Easement Acquisition Overall Location Map



# Parcel Number

PARCEL #	OWNER	PARCEL #	OWNER
1	310 PROSPER, LP	7	SANSKRITI UNO, LLC
2	PROSPER ISD	8	UNITED SUPERMARKETS, LLC C/O ALBERTSON'S , LLC
3	PROSPER ISD	9	NADG/SHOP PROSPER, LP
4	PROSPER ISD	10	NADG/SHOP PROSPER, LP
5	55 PROSPER, LP	11	380 PROFESSIONALPARK, LP
6A & 6B	PROSPER FOUR FRIENDS GROUP, LLC		