

**INTERLOCAL AGREEMENT
BETWEEN
COLLIN COUNTY AND THE TOWN OF PROSPER
CONCERNING THE CONSTRUCTION OF THE FIRST STREET (DNT
INTERSECTION IMPROVEMENTS) PROJECT**

WHEREAS, the County of Collin, Texas (the “County”), and the Town of Prosper, Texas (“Prosper”), desire to enter into this agreement concerning the construction of the First Street (DNT Intersection Improvements) project (the “Project”) in the Town of Prosper, Texas; and

WHEREAS, the Interlocal Cooperation Act (Texas Government Code Chapter 791) authorizes any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, the County and Prosper have determined that the improvements related to the Project may be most economically by implementing this Interlocal Agreement (ILA); and

WHEREAS, this ILA shall provide the terms and conditions of the administration and funding participation of the parties relative to the Project; and

WHEREAS, the parties hereto have investigated and determined that is in the best interest of each of their respective jurisdictions to enter into this ILA.

NOW, THEREFORE, this ILA is made and entered into by and between the County and Prosper upon and for the mutual consideration stated herein, the receipt and sufficiency of which is hereby acknowledged:

WITNESSETH:

ARTICLE I.

The County has approved a construction agreement with Mario Sinacola and Sons, Inc. (“Sinacola”), for the construction of the Southbound DNT Frontage Road project from U.S. Highway 380 to FM 428. Prosper wishes to partner with the County on a change order to obtain pricing for the construction of the First Street (DNT Intersection Improvements) project and it is the purpose of this ILA to address each party’s respective obligations hereunder.

ARTICLE II.

Prosper hereby requests that the County obtain from Sinacola the pricing of a change order to the County's existing construction agreement with Sinacola, which change order will address the costs for the construction of the Project. In conjunction therewith, Prosper hereby agrees as follows:

- Prosper shall provide to the County and to Sinacola the design plans for the Project, as submitted to Prosper by Halff & Associates, Inc., which design plans provide detailed information relative to the Project. Prosper shall pay for any design plans prepared for Prosper by Halff & Associates, Inc.
- The County and Sinacola shall review the design plans submitted by Prosper and timely provide Prosper with a cost estimate for the construction of the Project.
- If the cost estimates are acceptable to Prosper, Prosper shall so notify the County and the County agrees to add the Project costs as a change order to the County's existing construction agreement with Sinacola.
- Prosper thereafter shall promptly submit to the County the funds necessary for the construction of the Project.
- The County shall administer the Project and Prosper shall provide any assistance requested by the County relative to the Project.

ARTICLE III.

Prosper hereby requests that the County obtain from Alliance a separate cost for the additional services related to the material testing to be performed as part of the construction of the Project. In conjunction therewith, Prosper hereby agrees as follows:

- The County will provide to Prosper the cost estimate for the additional services related to the material testing being performed as part of the Project.
- If the cost estimates are acceptable to Prosper, Prosper shall so notify the County and the County agrees to set up a separate PO for the additional services with Alliance.
- Prosper thereafter shall promptly submit to the County the funds necessary for the additional services related to the construction of the Project.
- The County shall administer the Project and Prosper shall provide any assistance requested by the County relative to the Project.

ARTICLE IV.

INDEMNIFICATION. TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM ITS PERFORMANCE UNDER THIS ILA, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS ILA.

ARTICLE V.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this ILA. The parties agree that this ILA is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

ARTICLE VI.

SEVERABILITY. The provisions of this ILA are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this ILA is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the ILA shall be enforced as if the invalid provision had never been included.

ARTICLE VII.

ENTIRE AGREEMENT. This ILA embodies the entire agreement between the parties and may only be modified in a writing executed by all parties.

ARTICLE VIII.

SUCCESSORS AND ASSIGNS. This ILA shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. No party shall assign or transfer an interest in this ILA without the written consent of the other party.

ARTICLE IX.

IMMUNITY. It is expressly understood and agreed that, in the execution of this ILA, none of the parties waive, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this ILA, the parties do not create any obligations, express or implied, other than those set forth herein, and this ILA shall not create any rights in parties not signatories hereto.

ARTICLE X.

TERM. This ILA shall be effective upon execution by all parties and shall continue in effect annually until final written acceptance of the Project by the parties. This ILA shall automatically renew annually during this period.

APPROVED AS TO FORM:

COUNTY OF COLLIN, TEXAS

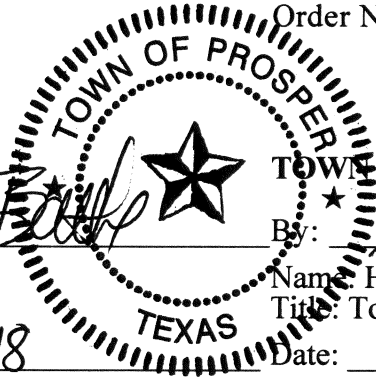
By: Hilari Monk
Name: Hilari Monk
Title: Admin Secretary
Date: 10/17/18

By: Keith Self
Name: Keith Self
Title: County Judge
Date: 10/17/18

Executed on this the 17 day of October, 2018, by the County of Collin, pursuant to Commissioners' Court Order No. 2018-821-10-01

ATTEST:

By: Robyn Battle
Name: Robyn Battle
Title: Town Secretary
Date: 10/4/2018



By: Harlan Jefferson
Name: Harlan Jefferson
Title: Town Manager
Date: 10/4/2018

Executed on behalf of the Town of Prosper pursuant to Town Council Resolution No. ____

APPROVED AS TO FORM:

By: Terrence S Welch
Name: Terrence S Welch
Title: Town Attorney
Date: 10-4-2018