

COUNTY OF COLLIN      §  
                                         §

**AGREEMENT FOR THE PROVISION OF FIREFIGHTING AND FIRE PROTECTION SERVICES**

Pursuant to the authority granted by Texas Local Government Code, Chapter 352, Collin County, Texas, a political subdivision of the State of Texas (hereinafter referred to as "COUNTY") and Prosper Fire Department (hereinafter referred to as "AGENCY"), (and jointly referred to as "Parties") in consideration of the premises and mutual promises contained herein, agree as follows:

**RECITALS**

**WHEREAS**, the COUNTY is a duly organized political subdivision of the State of Texas engaged in the administration of county government and related services for the benefit of the residents of Collin County, Texas; and

**WHEREAS**, AGENCY is a municipal corporation or nonprofit corporation, duly organized and operating under the laws of the State of Texas and engaged in the provision of fire protection and firefighting services and related services; and

**WHEREAS**, AGENCY is the owner and operator of certain fire protection vehicles, fire suppression equipment and other equipment designed for the extinguishing of fire and prevention of damage to property and injury to persons from fire and works with or employs trained personnel whose duties are related to the use of such vehicles and equipment; and

**WHEREAS**, COUNTY desires to obtain firefighting and fire protection services from AGENCY for the benefit of an area of the county that is located outside the municipalities in the County; and

**WHEREAS**, COUNTY and AGENCY mutually desire that AGENCY should continue to provide firefighting and fire protection services to the citizens of AGENCY'S assigned fire district that is located outside the municipalities in the County; and

**NOW, THEREFORE**, in consideration of the above recitals, the mutual promises that follow and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

**I. Incorporation of Recitals.** The above recitals, having been found by the Parties to be true and correct in all respects are incorporated into this Agreement by reference.

**II. Obligations and Responsibilities of AGENCY**

2.1 AGENCY shall provide firefighting services, fire protection services, and related services within its fire district as assigned by Collin County. A map of the fire district assigned to AGENCY by Collin County is appended hereto as "Exhibit A" and is incorporated with this Agreement for all purposes.

2.2 AGENCY shall maintain records of response to emergency calls, including but not limited to date, time, location of emergency, type of emergency, time to respond, and results. AGENCY shall provide up-to-date response data to COUNTY within 30 days of request by COUNTY.

2.3 AGENCY agrees to respond to the Collin County Fire Marshall requests for information and will use best efforts to work with the Collin County Fire Marshall to cooperate and coordinate firefighting and fire protection activities.

2.4 If AGENCY is a nonprofit corporation, AGENCY agrees to maintain its corporate status in good standing with all federal, state, and local rules and regulations applicable to a non-profit corporation. AGENCY shall notify COUNTY if its corporate authority is canceled, terminated, or otherwise lapses.

2.5 AGENCY warrants and promises that it will respond to emergency calls with appropriate equipment and sufficient trained personnel as needed to appropriately address the emergency situation. AGENCY further warrants and promises that it will mandate appropriate training of all personnel and ensure proper certification of all firefighter staff.

2.6 AGENCY warrants and promises that it shall maintain general liability insurance in amounts as are reasonable and customary for firefighting agencies similar to AGENCY. AGENCY shall add Collin County as an additional insured to AGENCY's liability insurance. AGENCY shall provide proof of liability insurance to COUNTY at the beginning of each term of this Agreement and upon request by Collin County.

### **III. Obligations and Responsibilities of COUNTY.**

3.1 COUNTY shall pay a yearly fee to AGENCY according to the following formulas: (1) \$750,000 divided by the total number of persons living in COUNTY's unincorporated areas, as computed by the COUNTY's GIS Department, multiplied by the specific population of the unincorporated area of the AGENCY's fire district as assigned by Collin County; and (2) \$200,000 divided by the total square miles of COUNTY's unincorporated area multiplied by the total square miles of the unincorporated area of the AGENCY's fire district as assigned by Collin County.

3.2 COUNTY shall pay the yearly fee calculated under the formula stated in paragraph 3.1 in semi-annual installments to AGENCY. The first payment to be paid within a reasonable time after COUNTY has approved said fees in COUNTY's yearly budget adopted in September of each year, and the second installment to be paid six months after the first payment to AGENCY. In accordance with Texas Local

Government Code chapter 352, such payments will be made from COUNTY's general fund.

3.3 COUNTY will recalculate the payment formula stated in paragraph 3.1 each year during the term of this Agreement, including each renewal term. The formula stated in paragraph 3.1 is not a guarantee of any specific payment and AGENCY acknowledges that any payments are subject to budgeted appropriations approved by COUNTY's governing board.

#### **IV. Effective Date, Term and Termination.**

4.1 The effective date of this Agreement shall be the 1st day of October, 2013, ("Effective Date"), regardless of when this Agreement is executed by the Parties' authorized representatives.

4.2 The term of this Agreement shall begin on the Effective Date, and shall continue for an initial term of one year. This Agreement shall automatically renew for successive one year terms unless the Agreement is terminated or cancelled by either Party as provided by this Agreement.

4.3 Either Party may terminate this Agreement, with or without cause, before the end of the then current term by providing the other Party with thirty (30) days written notice of termination. In the event of termination under this section, COUNTY and AGENCY agree to pay for or reimburse the other Party for overpayment or under payment to the termination date.

4.4 **Nonappropriation.** Notwithstanding paragraph 4.3, if sufficient funds are not appropriated by COUNTY to fund this Agreement in any fiscal year an event of nonappropriation shall be deemed to have occurred and the Agreement shall automatically terminate upon the last date of the term of the Agreement for which funds budgeted for this Agreement have been appropriated. In no event shall COUNTY be obligated to make any payments under this Agreement beyond the then current fiscal year of COUNTY for which funds have been appropriated to satisfy its payment obligations under this Agreement.

#### **V. Miscellaneous**

5.1 **Notices.** Any notice required under this Agreement shall be sent to the following:

To COUNTY:  
Collin County, Texas  
Attn: County Judge, Keith Self  
2300 Bloomdale Rd.  
McKinney, TX 75071

To AGENCY:  
Prosper Fire Department  
Attn: Fire Chief, Ronnie Tucker  
1500 E. First Street  
Prosper, TX 75078

**5.2 Authority and Enforceability.** The Parties represent and warrant that this Agreement has been approved and or adopted by the Parties' authorized representatives and that the individual executing this Agreement on behalf of each Party has been duly authorized to do so. Each Party acknowledges and agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

**5.3 Entire Agreement; Severability.** This Agreement contains the entire agreement between the Parties and this Agreement supersedes any prior oral or written understandings and agreements. This Agreement shall not be modified or amended except in writing signed by the Parties. The invalidity, in whole or in part, of any paragraph of this Agreement shall not affect the validity of the remainder of the Agreement or paragraph.

**5.4 Governing Law.** This Agreement shall be governed by the laws of Texas. Any litigation in any way relating to this Agreement shall be brought in State court in Collin County, Texas.

**5.5 Non Waiver.** Any failure by a Party to insist upon strict performance by another Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

**5.6 No Third Party Beneficiaries.** This Agreement only inures to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

**5.7 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

**5.8 Further Documents.** Each Party shall, upon request of the other Party, execute and deliver such further documents and perform such further acts as may reasonably be requested to effectuate the terms of this Agreement and achieve the intent of the Parties.

**5.9 Dispute Resolution.** The Parties agree to use alternative dispute resolution, including mediation to resolve any conflicts which may arise under this Agreement.

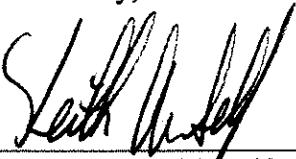
**5.10 Authority.** The undersigned officers of the Parties by executing said document, acknowledge that they and/or their respective governing bodies have reviewed and approved this Agreement in full compliance with their respective bylaws, policies and the

laws of the State of Texas. The persons executing this Agreement represent and warrant they possess the requisite authority to do so on behalf of the persons and entities set forth below.

In WITNESS WHEREOF; the parties hereto have executed this Agreement in multiple counterparts, each of which shall be deemed an original on the dates reflected below.

COUNTY

Collin County, Texas



County Judge, Keith Self  
Acting on behalf and by Authority  
Of the Collin County Commissioners

11/5/13  
Date

ATTEST:

  
Stacey Kemp, County Clerk

AGENCY

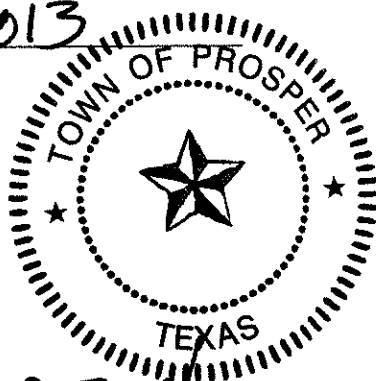
Town of Prosper

Ray Smith  
Name

Mayor  
Title

8-13-2013  
Date

ATTEST:



Robyn D. Baskin  
Town Secretary

**EXHIBIT A**

**MAP OF AGENCY FIRE DISTRICT**

Prosper Fire Department

