



Manager's Memorandum

From: Whitney Rehm, Budget Officer & Grants Administrator *WR*

Through: Chris Landrum, Finance Director *CL*

Date: 04/30/2024

Re: Aclara Technologies, LLC Master Agreement

Routing

	Initial & Date
Budget	<i>WIA</i>
Purchasing	<i>gr 5/1/24</i>
Grants	<i>WIA</i>
HR	<i>WIA</i>
TMO	<i>[X] Approved</i>
	<i>[] Denied me 5/3/24</i>
TSO	<i>KS 5/3/24</i>

Description of Item: ☒ **Contract/Agreement** ☐ **Other**

This Master agreement will bring all contracts and purchases with Aclara Technologies, LLC under one Master Agreement in regard to Terms & Conditions. This will allow Aclara to add a line on any quotes that we are bound by the Terms & Conditions of the Master Agreement for the life of our contracts, as opposed to the T&C's on their website. Previously, all quotes that were for purchases that did not fall under any of the current software agreements had to go to the Town attorney for approval and Aclara had to make adjustments every time. This agreement has been reviewed and approved by the Town attorney and will allow all quotes to be processed in a timely manner.

Budget Impact:

There is no budget impact for this request.

Legal Review:

The Town Attorney has reviewed this document as to form and legality.

Attachments:

1. Master Agreement
- 2.
- 3.
- 4.
- 5.

MASTER AGREEMENT

This Master Agreement ("Agreement") is made and entered into as of the date last signed (the "Effective Date") by and between Aclara Technologies LLC, 77 West Port Plaza, St. Louis, MO 63146-3126, an Ohio limited liability company ("Aclara") and Town of Prosper, a Texas corporation, 250 W. First Street, Prosper, TX 75078 ("Customer"). Collectively, Aclara® and Customer may be referred to as "Parties or individually as "Party".

This Agreement, consisting of this document and the following Attachments and Exhibits attached hereto, as each or collectively may be amended, sets forth the terms and conditions under which the Parties agree to the purchase and sale of certain of Aclara's equipment, software and certain third party software. By signing this Agreement Customer hereby represents and affirms that it has reviewed and agrees to the terms and conditions as set forth in the following Attachments and Exhibits. Additional terms contained on any purchase order are hereby rejected unless specifically agreed to in writing by the Customer and Aclara.

- 1) Attachment 1, Aclara Standard Terms and Conditions for Sale of Equipment and Certain Services
- 2) Exhibit A, Statement of Work, if applicable
- 3) Exhibit B, Aclara AML Pricing Sheet, if applicable
- 4) Exhibit C, Software License Agreement with its associated Attachment A dated March 16, 2020 as amended
- 5) Exhibit D, Maintenance Agreement dated April 3, 2019 as amended
- 6) Exhibit E, Network Freedom Agreement dated January 9, 2024
- 7) Exhibit F, Aclara Equipment Warranties

1. Term

- A. The term of this Agreement shall become effective on the Effective Date and shall continue in full force and effect, unless earlier terminated in accordance with this Agreement, until the last of the Exhibits shall have expired. Notwithstanding such termination, certain rights and obligations arising under this Agreement, including, but not limited to those concerning indemnity, Dispute Resolution, and Limitation of Liability and the Software License Agreement, Non-disclosure Agreement and Maintenance Agreement shall survive the termination of this Agreement. The term of this Agreement may be extended by mutual agreement of the Parties.
- B. In the event that the Customer desires to purchase additional equipment, any such purchases shall be at such prices and delivery shall occur on such dates as the Parties may then agree. All other terms and conditions contained in this Agreement shall apply to such purchases.

2. Purchase, Sale and License.

- A. Customer will purchase and Aclara will sell the Hardware and Services and license the Aclara Licensed Software and the Third Party Licensed Software at the prices and in the quantities set forth on the Exhibit B or as mutually agreed to by the parties, and upon the terms and conditions set forth in this Agreement, the Aclara Standard Terms and Conditions of Sale for Equipment and Certain Services, attached hereto as Attachment 1, the Professional Services set forth in the Statement of Work, attached hereto as Exhibit A, the Software License Agreement attached hereto as Exhibit C, the Maintenance Agreement attached hereto as Exhibit D and the Network Freedom Agreement attached hereto as Exhibit E.
- B. Aclara shall use commercially reasonable efforts to deliver the Equipment and Software and provide the Services within a reasonable period of time. Neither Party shall be liable


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to the other for failure or delay in performance of a required obligation if such failure or delay is caused by an act or omission of the other Party or such Party's Personnel.

3. Notices. Any notices required or permitted hereunder shall be in writing and shall be deemed to be given sent by Electronic Mail or United States registered or certified mail, postage prepaid, to the respective Parties at the addresses shown in the first paragraph. Notices so given shall be deemed received upon receipt of Electronic Mail or three business days from the date of deposit in the U. S. Mails, to the addresses set forth in the first paragraph, and, in the case of Aclara, with a copy to Aclara Legal Department.
4. Compliance with Laws. Aclara shall comply with all applicable federal, state and local laws, and ordinances ("Laws") in the performance of its duties under this Agreement.
5. Waiver. No waiver of any term of this Agreement by either party shall be deemed to be a further or continuing waiver of any other term of this Agreement.
6. Entire Agreement. This Agreement including Attachment 1, Exhibits A, B, C, D, E and F constitute the entire agreement between the Parties with respect to the subject matter hereof. There are no oral agreements or representations or additional written materials that revise or supplement the terms of the Master Agreement. No modification, amendment, revisions or supplements to this Master Agreement shall be enforceable unless in writing, signed by both Customer and Aclara.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date last signed below.

Aclara Technologies LLC**Town of Prosper**

DocuSigned by:

By: EDE89DBCCBE4DE
Name: Kumi Premathilake
Title: DVP AMI and Services
Date: 4/25/2024

By: 
Name: Mario Canizares
Title: Town Manager
Date: 5/3/2024