

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2023, between Town of Prosper (Town) and Nancy Lieberman Charities (NLC).

WITNESSETH

WHEREAS, NLC desires to promote the sport of basketball, community, and police and community relations; and,

WHEREAS, NLC desires the right and privilege to place a Dream Court at Tanner's Mill Park location which is owned by the Town; and,

WHEREAS, NLC is willing to provide the equipment necessary for a Dream Court basketball court, and is willing to install such equipment and paint the basketball court; and,

WHEREAS, the Town desires to make the sport of basketball available to the public and is honored to be a recipient of a Dream Court, and finds that it is in the public interest for NLC to do so.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

1. LICENSE GRANTED

In consideration of the mutual covenants and terms of this License, and of other good and valuable consideration, the Town hereby grants, upon the terms and conditions set forth in this License, a license to NLC for the sole purpose of installing new basketball court equipment and basketball court, at Tanner's Mill Park as depicted in Exhibit A, attached to this agreement and in accordance with the terms and provisions set forth herein. The Park is located at 1641 Prince William Ln. Prosper, TX 75078.

2. LICENSE TERM

The term of this license shall be for 90 days beginning on the date of the execution of this License by the Town and ending on the ninetieth day, unless renewed or terminated sooner as provided in this License (the "Primary Term").

3. OWNERSHIP OF IMPROVEMENTS

Any and all improvements constructed, placed, and located on any part of the basketball court during the term of this License shall be considered part of the real property of the Town and must remain at the Town. Further, subject to the terms of this License, said real property becomes property of the Town, from and after the termination of this License.

4. MAINTENANCE

The Town shall be responsible for any maintenance after the Dream Court has been installed and painted.

5. ADVERTISING

NLC shall have the right to procure and display advertising upon the surface of the Dream Court in accordance with the rendering provided. NLC shall not, in procuring, installing, or displaying advertisement, violate any person's right to privacy or infringe upon trademarks, trade names, copyrights, or proprietary rights of any person. It is understood and agreed that any approval by the Town of advertising material shall not constitute a waiver of NLC obligations concerning such violation or infringement.

6. ACCESS

During the term of this License, and any renewals thereof, the Town grants NLC access to the Tanner's Mill Park basketball court for the purpose of installing and painting the Dream Court during normal business hours, except when the area of the park containing the equipment is reserved to a group for exclusive use, when the Town is performing a maintenance function requiring closure of the area, or during an unforeseen emergency.

7. LOCATION OF EQUIPMENT

NLC agrees that the location of any improvements must be approved by the Town.

8. COMPLIANCE WITH APPLICABLE LAWS

NLC shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this License, and any amendments thereto during the course of installing and painting the Dream Court.

9. INSURANCE

NLC shall provide proof of insurance through vendor, SportCourt, at its sole cost and expense through the life of this License in form and substance satisfactory to the Town, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this License, including without limitation, the indemnity obligations set forth herein. NLC shall obtain and maintain in full force and effect during the term of this License public liability insurance with insurance carriers admitted to do business in the state of Texas. The policy will be written on an occurrence basis, subject to the following minimum limits of liability:

Public Liability:

Per Occurrence Single Limit: \$1,000,000

The Town shall be listed as a primary and noncontributory additional insured with respect to the Public Liability and shall be granted a waiver of subrogation under the policy. NLC shall provide a Certificate of Insurance to the Town as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation for each Dream Court. If at any time during the life of the License or any extension hereof, NLC fails to maintain the required insurance in full force and effect, NLC shall be in breach hereof and all work under the License shall be discontinued immediately.

11. DEFAULT

In the event NLC shall fail to perform any of the obligations called for herein on its part to be performed, and upon receiving written notice of such deficiency by the Town, and upon NLC failure to cure such deficiency within fifteen (15) days after receipt of such notice, then the Town may, by written notice to NLC, terminate this License.

12. NO WAIVER

No failure to exercise, and no delay in the exercise on the part of the Town, of any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. The rights of the Town hereunder shall be in addition to all other rights provided by law.

13. NOTICE

Any notice required or permitted to be given herein must be given in writing and must be personally delivered, delivered by telephone facsimile, or mailed by prepaid certified or registered mail to the party to whom such notice or communication is directed at the address of such party as follows:

Town of Prosper

Attn: Dan Baker

Address: 407 E First St. Prosper, TX 75078

Telephone: 972-569-1060

Nancy Lieberman Charities:

Attn: Nancy Lieberman

Nancy Lieberman Charities

P.O. Box 261233

Plano, TX 75026

Telephone: 972-473-2121

Any such notice or other communication shall deem to have been given on the date it is personally delivered or delivered by telephonic facsimile, or, if mailed, on the third day, after it is mailed. Any party may change its address for purposes of this License by giving notice of such change to all other parties pursuant to this section.

14. RENEWAL

This License may be renewed for one additional 90-day term, by written agreement between the Town and NLC in order to complete any work not completed in the Primary Term.

15. ASSIGNABILITY

This license is personal to NLC. NLC shall not assign or sublet this license, without the consent of Town. Any attempt to assign or sublet this license, without the consent of Town, shall terminate the license granted herein.

16. CONTROL OF

The Town shall retain all powers placed in it, which are non-delegable. No provision of this License shall be construed as delegating any non-delegable right, power or duty of the Town, and in the event of a conflict between this section and any other term or provision of this License, this section shall control and such conflicting term or provision shall be void and of no force and effect.

17. RELATIONSHIP OF THE PARTIES

The relationship between the Town and NLC is at all times solely that of licensor and licensee, and may not be deemed, in any event, a partnership or a joint venture. As consideration, the Town agrees to make a monetary contribution of \$75,000 to NLC for the completion of the project at Tanner Mill's Park, payable upon the execution of this Agreement by both parties.

18. CONSTRUCTION AND VENUE

THIS LICENSE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE TEXAS AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS LICENSE OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

19. SEVERABILITY

If any provision of this License is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this License, and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective, shall not be affected thereby.

20. LICENSES SUPERSEDED

This License constitutes the parties' sole License and supersedes any prior understandings or written or oral Licenses between the parties with respect to the subject matter hereof.

21. AMENDMENT

No amendment, modification, or alteration of this License is binding, unless in writing, dated subsequent to the date of this License, and duly executed by the parties.

22. ENTIRE AGREEMENT

This Contract contains the entire agreement between the Town and NLC, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

23. BINDING EFFECT

This License shall inure to the benefit of and be binding upon the parties hereto, their respective successors, heirs, devisees, and assigns.

24. TIME OF ESSENCE

Time is of the essence in this License and all obligations shall be performed in a timely manner.

25. LICENSE

The intent of this License is to grant a license to NLC to utilize the Town's basketball court solely for the purposes described herein. This License shall not be construed, in any way, manner or form, as a lease of the Town's basketball court or as conveying to NLC any interest in the real property comprising the Town basketball court.

IN WITNESS WHERE OF, the parties hereto have executed this License the day and year first above written.

EXECUTED and effective as of the date of the execution by:

Town of Prosper

BY: _____ DATE: _____

Mario Canizares, Town Manager

Town of Prosper

Nancy Lieberman Charities

BY: *Nancy Lieberman* DATE: 9-19-2023

Nancy Lieberman, President & Founder

Nancy Lieberman Charities



**NANCY LIEBERMAN
CHARITIES**

P.O. Box 261233 • Plano, TX 75026
Phone: (972) 473-2121

NLC DREAM COURT
TOWN OF PROSPER
50' X 84' HS BASKETBALL

Athletic & Recreational Architecture



www.spoiledsportdesign.com



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