

**INTERLOCAL AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND THE CITY OF CELINA, TEXAS, FOR IMPROVEMENTS TO PARVIN ROAD AND FRONTIER PARKWAY**

**THIS INTERLOCAL AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND THE CITY OF CELINA, TEXAS, FOR IMPROVEMENTS TO PARVIN ROAD AND FRONTIER PARKWAY** (“Agreement”) is made and entered into by and among the **TOWN OF PROSPER, TEXAS**, a home-rule municipal corporation, hereinafter referred to as "Prosper," and the **CITY OF CELINA, TEXAS**, a home-rule municipal corporation, hereinafter referred to as "Celina." Prosper and Celina may from time to time herein be referred to collectively as "Parties" and individually as a "Party." The effective date of this Agreement is the date that the last of the Parties has executed the Agreement, after approval from their respective governing bodies (the “Effective Date”).

WHEREAS, the Interlocal Cooperation Act ("Act"), codified at Chapter 791 of the Texas Government Code, authorizes units of local government to contract with one or more units of local government to perform governmental functions and services; and

WHEREAS, pursuant to Section 791.032 of the Act, with the approval of the governing body of a municipality, a local government may enter into an interlocal agreement with another municipality to finance the improvement of streets in the municipality; and

WHEREAS, Prosper and Celina are political subdivisions of the State of Texas and are engaged in the provision of governmental services for the benefit of their citizens and users; and

WHEREAS, this Agreement is entered into pursuant to the authority, under the provisions of, and in accordance with, the Act for the performance of governmental functions and services; specifically, the service of construction of asphalt improvements to Parvin Road from east of FM 1385 to west of Legacy Drive (the “Parvin Project”), depicted in **Exhibit A**, attached hereto and incorporated herein for all purposes, and the design of Frontier Parkway from Legacy Drive to Dallas Parkway (the “Frontier Project”), depicted in **Exhibit C**, attached hereto and incorporated herein for all purposes, and together hereinafter referred to as "Projects"; and

WHEREAS, Prosper and Celina have determined that the Projects may be completed most economically by implementing this Agreement; and

WHEREAS, each of the Parties has current funds available to satisfy any fees and costs required pursuant to this Agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, the Parties agree as follows:

**I.  
TERM; TERMINATION**

This Agreement is effective from the Effective Date for a period of one (1) year; however, the initial term of this Agreement will automatically be extended until such time as the Projects are complete, unless any Party gives written notice to the other Parties to the contrary not less than ninety (90) days prior to the expiration of the then-current term. Notwithstanding the foregoing, however, this Agreement may be terminated by any Party, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Agreement, by giving the other Parties at

least ninety (90) days' prior written notice of the termination date, in which event this Agreement shall terminate as to all Parties as of such termination date.

## **II. ROLES AND RESPONSIBILITIES OF THE PARTIES**

2.1. Celina. Celina will:

- A. Assume primary responsibilities for the construction of the asphalt improvements for the Parvin Project. Such Project will be provided for under a separate contract managed by Celina, for which bids were requested in accordance with state law. Celina agrees to cause the Parvin Project to begin no later than ninety (90) days from the Effective Date; however, Celina shall notify Prosper of any reasonable commercial delays of this start date for either Project necessitating an extension. After construction of the Parvin Project, Celina agrees to maintain the portion of Parvin Road improved by the Parvin Project, until such time as the road is improved with concrete.
- B. Assume primary responsibilities for the design of Frontier Parkway from Legacy Drive to Dallas Parkway as a four-lane (ultimate six-lane) divided concrete curb and gutter roadway. Such Project will be provided for under a separate contract managed by Celina. The design will be incorporated into the overall design plans of the Parvin Road from FM 1385 to the Dallas Parkway project. Celina will provide funding for the design of the Frontier Project and any shortfall in design costs, minus Prosper's contribution, as described in Sec. 2.2.B herein.

2.2 Prosper. Prosper will contribute:

- A. FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) toward the total cost of the Parvin Project, estimated costs of which are represented by bids provided in **Exhibit B**, attached hereto and incorporated herein for all purposes. Prosper agrees to deliver such funds to Celina for the Parvin Project within ninety (90) days of Celina's award of a bid to a contractor for such Parvin Project, or within thirty (30) days of the Effective Date of this Agreement if a bid award has been made prior to the Effective Date.
- B. THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) toward the total design costs of the Frontier Project which is depicted in **Exhibit C**, attached hereto and incorporated herein for all purposes. Prosper agrees to deliver such funds to Celina for the Frontier Project within thirty (30) days of Celina's execution of a design contract for the Frontier Project.

2.3 Both Parties. Prosper and Celina mutually agree to approach regional partners for funding opportunities to construct the Frontier Parkway from Legacy Drive to Dallas Parkway.

## **III. CONSIDERATION**

The Parties acknowledge and agree that the continuation of this Agreement after the close of any given fiscal year of a Party shall be subject to approval by each Party's governing body. In the event that a Party's governing body does not approve the appropriation of funds required to be paid under this Agreement, this Agreement shall terminate at the end of the fiscal year for which funds were

appropriated, and the Parties shall have no further obligations hereunder, but the Party responsible for payment shall be obligated to pay all charges incurred by the Party to whom payment must be made through the end of that fiscal year provided that the Party to whom payment must be made is not in breach of this Agreement.

**IV.  
RELEASE AND HOLD HARMLESS**

**TO THE EXTENT ALLOWED BY LAW, AND WITHOUT WAIVING GOVERNMENTAL OR SOVEREIGN IMMUNITY, 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 AGREEMENT, 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 AGREEMENT.**

**THIS INDEMNIFICATION CLAUSE IS VALID ONLY TO THE EXTENT PERMITTED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS, PARTICULARLY SECTION 7 OF ARTICLE XI OF THE TEXAS CONSTITUTION, AND WITH THE MUTUAL UNDERSTANDING THAT THE PARTIES ARE POLITICAL SUBDIVISIONS OF THE STATE OF TEXAS AND THAT THIS EXECUTORY INDEMNITY OBLIGATION CANNOT BE PAID FROM CURRENT REVENUES AND THAT NO TAX NOR INTEREST AND SINKING FUND HAS BEEN SET, ADOPTED OR ESTABLISHED FOR THE PAYMENT OF THIS EXECUTORY INDEMNITY OBLIGATION.**

**V.  
INDEPENDENT CONTRACTOR**

Each Party covenants and agrees that each Party is an independent contractor of the other Parties and not an officer, agent, servant or employee of any other Party and that nothing herein shall be construed as creating a partnership or joint enterprise between or among any Party.

**VI.  
NOTICE**

Any notice provided under this Agreement shall be delivered by mail or personal service to the Parties named below:

**Celina Representative:**

City of Celina  
Attn: Jason Laumer  
City Manager  
142 N Ohio  
Celina, TX 75009

**Prosper Representative:**

Town of Prosper  
Attn: Mario Canizares  
Town Manager  
250 W. First Street  
Prosper, TX 75078

**VII.  
AUTHORITY TO SIGN/CITY COUNCIL AUTHORIZATION**

The undersigned officers and/or agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the Parties hereto.

- Prosper has executed this Agreement pursuant to duly authorized action of the Prosper Town Council on April 11, 2023.
- Celina has executed this Agreement pursuant to duly authorized action of the Celina City Council on April 11, 2023.

Each of the Parties shall provide written documentation evidencing the grant of approval by its respective governing body.

**VIII.  
SEVERABILITY**

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, any Party may terminate this agreement by giving the other Parties thirty (30) days written notice.

**IX.  
VENUE**

This Agreement and any of its terms or provisions, as well as the rights and duties of the Parties hereto, shall be governed by the laws of the State of Texas. The Parties agree that this Agreement shall be enforceable in Collin County, Texas, and Denton County, Texas, and if legal action is necessary, venue shall lie in either Collin County, Texas, or Denton County, Texas.

**X.  
INTERPRETATION OF AGREEMENT**

Although this Agreement is drafted by Celina, this is a negotiated document. Should any part of this Agreement be in dispute, the Parties agree that the Agreement shall not be construed more favorably for or against any Party.

**XI.  
REMEDIES**

No right or remedy granted herein or reserved to the Parties is exclusive of any other right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the Parties. It is further agreed that one (1) or more instances of forbearance by any Party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

**XII.  
SUCCESSORS AND ASSIGNS**

The Parties each bind themselves, their respective successors, executors, administrators, and assigns to the other Parties to this Agreement. No Party will assign, sublet, subcontract, or transfer any interest in this Agreement without the prior written consent of the other Parties. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of all Parties.

**XIII.  
IMMUNITY**

It is expressly understood and agreed that, in the execution and performance of this Agreement, no Party waives, 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 Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in Parties not signatories hereto.

**XIV.  
MULTIPLE COUNTERPARTS**

This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other Party.

**XV.  
ENTIRE AGREEMENT**

This Agreement embodies the entire agreement between the Parties with respect to the subject matter hereof and may only be modified in a writing executed by all Parties.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement by signing below:

**CITY OF CELINA, TEXAS**

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

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

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

ATTEST:

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

City Secretary

**TOWN OF PROSPER, TEXAS**

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

Printed Name: Mario Canizares

Title: Town Manager

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

**ATTEST:**

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

Name: Michelle Lewis Sirianni

Title: Town Secretary

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

**APPROVED AS TO FORM AND LEGALITY:**

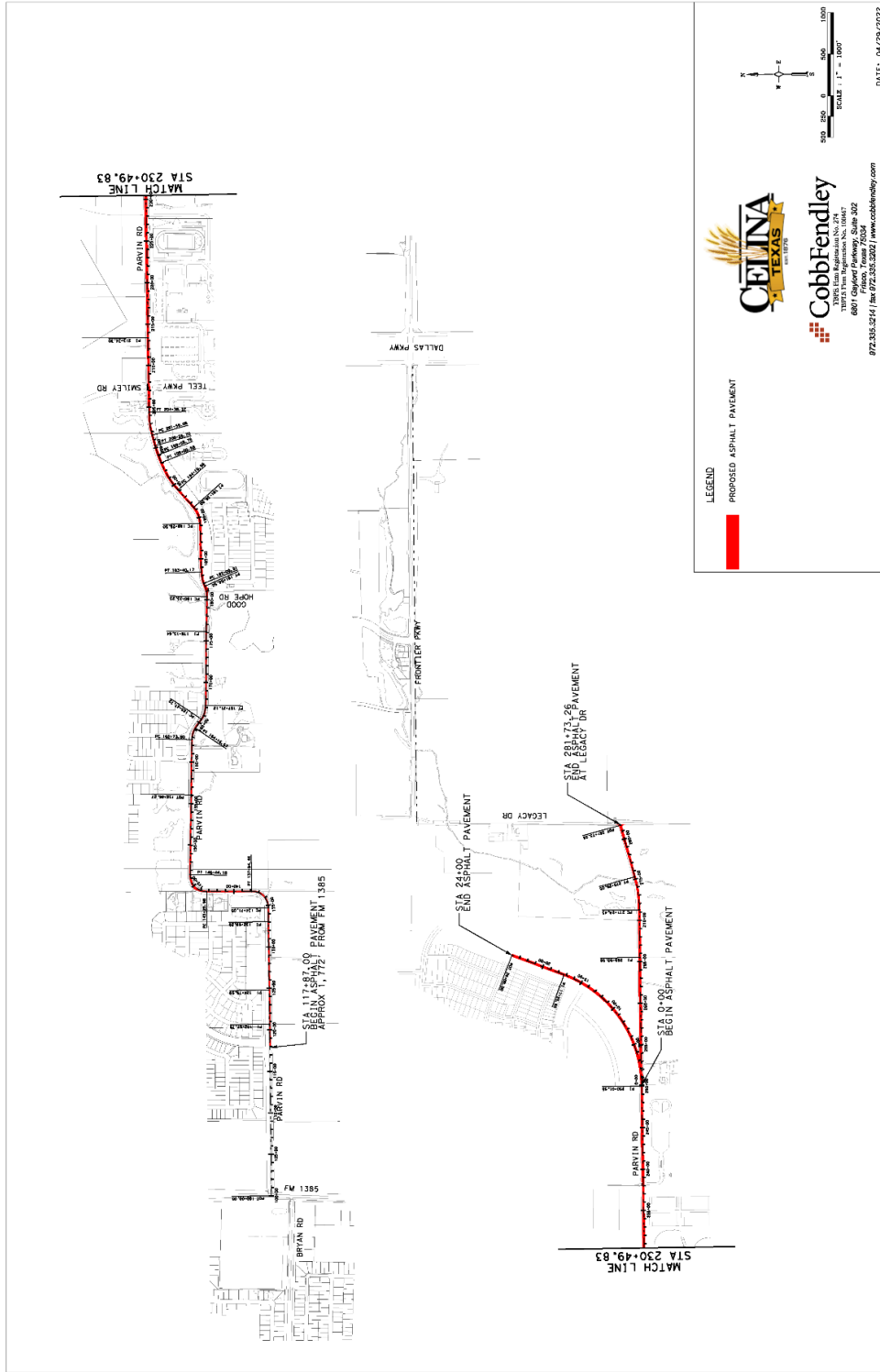
By: \_\_\_\_\_

Name: Terrence S. Welch

Title: Town Attorney

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

# Exhibit A Parvin Project





## Exhibit B Parvin Project Bids

Line #	Description	Mfgr	Mfgno	QTY	UOM	Estimated	Total Price Unit	Extended	Total Price Unit	Extended	Total Price Unit	Extended	Total Price Unit	Extended
1	Base Bid													
1.1	Project Signs			1	EA		\$720.69	\$720.69	\$1,500.00	\$1,500.00	\$600.00	\$600.00	\$600.00	\$600.00
1.2	Traffic Control			4	EA		\$75,340.33	\$75,340.33	\$165,000.00	\$165,000.00	\$60,000.00	\$60,000.00	\$60,000.00	\$60,000.00
1.3	SWPPP			1	LS		\$34,186.82	\$34,186.82	\$45,000.00	\$45,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
1.4	Remove Existing Pavement			1961	SY		\$10.97	\$10.97	\$20.00	\$20.00	\$6.00	\$6.00	\$6.00	\$6.00
1.5	Remove Existing Sign, Including Post			20	EA		\$110.88	\$110.88	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00	\$250.00
1.6	Pulverize, Mix with Cement & Compact Exis			37910	SY		\$21.70	\$21.70	\$20.00	\$20.00	\$25.00	\$25.00	\$25.00	\$25.00
1.7	Compacted Fill			1712	CY		\$110.90	\$110.90	\$50.00	\$50.00	\$80.00	\$80.00	\$80.00	\$80.00
1.8	Scarify & Rework Subgrade (12 Inch Depth)			6708	SY		\$7.56	\$7.56	\$8.00	\$8.00	\$3.00	\$3.00	\$3.00	\$3.00
1.9	8 Inch Flexible Base (TXDOT Item 247 Grade)			6708	SY		\$28.13	\$28.13	\$35.00	\$35.00	\$45.00	\$45.00	\$45.00	\$45.00
1.10	2 Inch HMA Type D, Including Tack Coat &			44640	SY		\$16.35	\$16.35	\$17.50	\$17.50	\$17.00	\$17.00	\$17.00	\$17.00
1.11	4 Inch HMA Type B, Including Tack Coat &			44640	SY		\$23.93	\$23.93	\$32.00	\$32.00	\$30.00	\$30.00	\$30.00	\$30.00
1.12	8 Inch Reinforced Concrete Pavement			1360	SY		\$112.76	\$112.76	\$90.00	\$90.00	\$150.00	\$150.00	\$150.00	\$150.00
1.13	Cross Street / Driveway Tie In			937	SY		\$69.86	\$69.86	\$95.00	\$95.00	\$140.00	\$140.00	\$140.00	\$140.00
1.14	Seed and Curlex			30000	SY		\$2.16	\$2.16	\$2.00	\$2.00	\$6.00	\$6.00	\$6.00	\$6.00
1.15	Flexamat			737	SY		\$149.68	\$149.68	\$125.00	\$125.00	\$95.00	\$95.00	\$95.00	\$95.00
1.16	RC PIPE (CL III)(18 IN)			58	LF		\$183.46	\$183.46	\$85.00	\$85.00	\$130.00	\$130.00	\$130.00	\$130.00
1.17	RC PIPE (CL III)(21 IN)			115	LF		\$211.80	\$211.80	\$105.00	\$105.00	\$135.00	\$135.00	\$135.00	\$135.00
1.18	RC PIPE (CL III)(24 IN)			79	LF		\$166.67	\$166.67	\$125.00	\$125.00	\$150.00	\$150.00	\$150.00	\$150.00
1.19	SET (TY II) (18 IN) (RCP) (6:1) (C)			2	EA		\$1,919.31	\$1,919.31	\$2,500.00	\$2,500.00	\$1,800.00	\$1,800.00	\$1,800.00	\$1,800.00
1.20	SET (TY II) (21 IN) (RCP) (6:1) (C)			2	EA		\$2,084.52	\$2,084.52	\$3,000.00	\$3,000.00	\$2,200.00	\$2,200.00	\$2,200.00	\$2,200.00
1.21	SET (TY II) (24 IN) (RCP) (6:1) (C)			2	EA		\$2,249.73	\$2,249.73	\$3,500.00	\$3,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
1.22	Reflective Pavement Marking Ty I (Y) 4 Inch			1750	LF		\$1.28	\$1.28	\$1.00	\$1.00	\$0.75	\$0.75	\$0.75	\$0.75
1.23	Reflective Pavement Marking Ty I (Y) 4 Inch			9705	LF		\$2.33	\$2.33	\$1.00	\$1.00	\$1.40	\$1.40	\$1.40	\$1.40
1.24	Reflective Pavement Markers (RPM)			530	EA		\$4.82	\$4.82	\$15.00	\$15.00	\$5.50	\$5.50	\$5.50	\$5.50
1.25	Reflective Pavement Marking Ty I (W) 24 In			70	LF		\$15.80	\$15.80	\$20.00	\$20.00	\$12.00	\$12.00	\$12.00	\$12.00
1.26	Reflective Pavement Marking Ty I (W) 4 Inc			32255	LF		\$0.75	\$0.75	\$1.00	\$1.00	\$0.70	\$0.70	\$0.70	\$0.70
1.27	Aluminum Signs (Ty A)			124	SF		\$21.23	\$21.23	\$35.00	\$35.00	\$80.00	\$80.00	\$80.00	\$80.00
1.28	Sm Rd Sgn Assm Ty 10BWG (1) SA (P-BM)			19	EA		\$604.27	\$604.27	\$1,150.00	\$1,150.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
1.29	Solar Powered LED Roadside Sign			2	EA		\$3,963.81	\$3,963.81	\$15,000.00	\$15,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00

# Exhibit C Frontier Project

