

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND GARVER, LLC
FOR THE FIRST STREET (COLEMAN - CRAIG) PROJECT (PRJ# 2305-ST)**

This Agreement for Professional Engineering Services, hereinafter called "Agreement," is entered into by the **Town of Prosper, Texas**, a municipal corporation, duly authorized to act by the Town Council of said Town, hereinafter called "Town," and **GARVER, LLC**, a company authorized to do business in Texas, acting through a duly authorized officer, hereinafter called "Consultant," relative to Consultant providing professional engineering services to Town. Town and Consultant when mentioned collectively shall be referred to as the "Parties."

W I T N E S S E T H:

WHEREAS, Town desires to obtain professional engineering services in connection with the **FIRST STREET (COLEMAN - CRAIG) PROJECT (PRJ# 2305-ST)**, hereinafter called "Project";

For the mutual promises and benefits herein described, Town and Consultant agree as follows:

1. **Term of Agreement.** This Agreement shall become effective on the date of its execution by both Parties, and shall continue in effect thereafter until terminated as provided herein.
2. **Services to be Performed by Consultant.** The Parties agree that Consultant shall perform such services as are set forth and described in **Exhibit A - Scope of Services** and incorporated herein as if written word for word. All services provided by Consultant hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of their profession. In case of conflict in the language of Exhibit A and this Agreement, this Agreement shall govern and control. Deviations from the Scope of Services or other provisions of this Agreement may only be made by written agreement signed by all Parties to this Agreement.
3. **Prompt Performance by Consultant.** Consultant shall perform all duties and services and make all decisions called for hereunder promptly and without unreasonable delay as is necessary to cause Consultant's services hereunder to be timely and properly performed. Notwithstanding the foregoing, Consultant agrees to use diligent efforts to perform the services described herein and further defined in any specific task orders, in a manner consistent with these task orders; however, the Town understands and agrees that Consultant is retained to perform a professional service and such services must be bound, first and foremost, by the principles of sound professional judgment and reasonable diligence.
4. **Compensation of Consultant.** Town agrees to pay to Consultant for satisfactory completion of all services included in this Agreement a total fee of Four Hundred Ninety Six Thousand Five Hundred Forty Nine Dollars and Zero Cents (\$496,549.00) for the Project as set forth and described in **Exhibit B - Compensation Schedule** and incorporated herein as if written word for word. Lump sum fees shall be billed monthly based on the percentage of completion. Hourly not to exceed fees shall be billed monthly based on hours of work that have been completed. Direct Costs for expenses such as mileage, copies, scans, sub-consultants, and similar costs are included in fees and shall be billed as completed.

Consultant agrees to submit statements to Town for professional services no more than once per month. These statements will be based upon Consultant's actual services performed and reimbursable expenses incurred, if any, and Town shall endeavor to make prompt payments. Each statement submitted by Consultant to Town shall be reasonably itemized to show the amount of work performed during that period. If Town fails to pay Consultant

within sixty (60) calendar days of the receipt of Consultant's invoice, Consultant may, after giving ten (10) days written notice to Town, suspend professional services until paid.

Nothing contained in this Agreement shall require Town to pay for any work that is unsatisfactory as reasonably determined by Town or which is not submitted in compliance with the terms of this Agreement.

The Scope of Services shall be strictly limited. Town shall not be required to pay any amount in excess of the original proposed amount unless Town shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

5. **Town's Obligations.** Town agrees that it will (i) designate a specific person as Town's representative, (ii) provide Consultant with any previous studies, reports, data, budget constraints, special Town requirements, or other pertinent information known to Town, when necessitated by a project, (iii) when needed, assist Consultant in obtaining access to properties necessary for performance of Consultant's work for Town, (iv) make prompt payments in response to Consultant's statements and (v) respond in a timely fashion to requests from Consultant. Consultant is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Town or Town's representatives.

6. **Ownership and Reuse of Documents.** Upon completion of Consultant's services and receipt of payment in full therefore, Consultant agrees to provide Town with copies of all materials and documents prepared or assembled by Consultant as deliverables under this Agreement and that Town may use them without Consultant's permission for any purpose relating to the Project; provided however, any and all underlying intellectual property, if any (unless provided by Town), shall remain the property of Consultant such that Consultant may continue to perform its business in the normal course. Upon payment in full, Consultant hereby grants Town an irrevocable, non-exclusive, royalty free license to use the same for the purposes contemplated under this Agreement. Any reuse of the documents not relating to the Project shall be at Town's risk. Consultant may retain in its files copies of all reports, drawings, specifications and all other pertinent information for the work it performs for Town.

7. **Town Objection to Personnel.** If at any time after entering into this Agreement, Town has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Town has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

8. **Insurance.** Consultant shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement applicable insurance policies as described in **Exhibit C - Insurance Requirements** and incorporated herein as if written word for word. Consultant shall submit to Town proof of such insurance prior to commencing any work for Town.

9. **Indemnification.** **CONSULTANT DOES HEREBY COVENANT AND AGREE TO RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS OFFICIALS, OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES AND INVITEES FROM AND AGAINST THIRD PARTY LIABILITY, CLAIMS, SUITS, DEMANDS AND/OR CAUSES OF ACTION, (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES AND COSTS OF LITIGATION), WHICH MAY ARISE BY REASON OF DEATH OR INJURY TO TANGIBLE PROPERTY OWNED BY THIRD PERSONS OR BODILY INJURY OF PERSONS BUT ONLY TO THE EXTENT OCCASIONED BY THE NEGLIGENT ACT, ERROR OR OMISSION OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, INVITEES OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS AGREEMENT.**

IN THE EVENT THAT TOWN AND CONSULTANT ARE CONCURRENTLY NEGLIGENT, THE PARTIES AGREE THAT EACH PARTY'S LIABILITY SHALL BE APPORTIONED ACCORDING TO THE RESPECTIVE PARTY'S FAULT AND RESPONSIBILITY AND THAT NEITHER PARTY SHALL BE REQUIRED TO DEFEND OR INDEMNIFY THE OTHER PARTY FOR THAT PARTY'S NEGLIGENT OR INTENTIONAL ACTS, ERRORS OR OMISSIONS.

10. **Notices.** Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail to the following addresses:

Garver, LLC
Jake Bennett, PE, CFM
Project Manager
3000 Internet Blvd, Ste 400
Frisco, TX 75034
RJBennett@GarverUSA.com

Town of Prosper
Mario Canizares, Town Manager
PO Box 307
Prosper, TX 75078
Mcanizares@prospertx.gov

11. **Termination.** The obligation to provide further services under this Agreement may be terminated by either Party in writing upon thirty (30) calendar days notice. In the event of termination by Town, Consultant shall be entitled to payment for services rendered through receipt of the termination notice.

12. **Sole Parties and Entire Agreement.** This Agreement shall not create any rights or benefits to anyone except Town and Consultant, and contains the entire agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

13. **Assignment and Delegation.** Neither Town nor Consultant may assign its rights or delegate its duties without the written consent of the other Party. This Agreement is binding on Town and Consultant to the extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Town officer, employee or agent.

14. **Texas Law to Apply; Successors; Construction.** This Agreement shall be construed under and in accordance with the laws of the State of Texas. It shall be binding upon, and inure to the benefit of, the Parties hereto and their representatives, successors and assigns. Should any provisions in this Agreement later be held invalid, illegal or unenforceable, they shall be deemed void, and this Agreement shall be construed as if such provision had never been contained herein.

15. **Conflict of Interest.** Consultant agrees that it is aware of the prohibited interest requirement of the Town Charter, which is repeated in **Exhibit D - Conflict of Interest Affidavit** and incorporated herein as if written word for word, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit included in the exhibit. Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as **Exhibit E - Conflict of Interest Questionnaire** and incorporated herein as if written word for word.

16. **Venue.** The Parties herein agree that this Agreement shall be enforceable in Prosper, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Collin County, Texas.

17. **Mediation.** In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

18. **Prevailing Party.** In the event a Party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

19. **"Anti-Israel Boycott" Provision.** In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Agreement that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

20. **Signatories.** Town warrants and represents that the individual executing this Agreement on behalf of Town has full authority to execute this Agreement and bind Town to the same. Consultant warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Consultant to same.

21. Waiver of Consequential Damages.

NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, NEITHER PARTY (INCLUDING ITS SUBCONSULTANTS, AGENTS, ASSIGNEES, AFFILIATES AND VENDORS) SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND REGARDLESS OF THE CAUSE OR ACTION (INCLUDING NEGLIGENCE OF ANY KIND OR CHARACTER INCLUDING GROSS NEGLIGENCE).

[Signatures follow]

IN WITNESS WHEREOF, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the _____ day of _____, 20____.

GARVER,LLC

TOWN OF PROSPER, TEXAS

By: Scott Forbes
Signature

Scott Forbes
Printed Name

Senior Project Manager
Title

5/15/2023
Date

By: _____
Signature

Mario Canizares
Printed Name

Town Manager
Title

Date

EXHIBIT A SCOPE OF SERVICES

PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND GARVER, LLC FOR THE FIRST STREET (COLEMAN - CRAIG) PROJECT (PRJ# 2305-ST)

I. PROJECT DESCRIPTION – PRJ # 2305-ST

The project involves improvements for reconstructing and widening approximately 2,200 linear feet of existing two-lane concrete roadway. The western limit of the project is approximately 150 LF east of the center of the existing intersection between First Street and Coleman Street and will connect to the future roundabout eastern leg currently being designed by Garver (90% complete). The eastern limit of the project is approximately 150 LF west of the center of the existing intersection between First Street and Craig Road and will connect to the future improvements of the Craig Road project (2104-ST) currently being designed by Kimley-Horn (60% complete). The new pavement section will be a four-lane concrete undivided roadway, 4L Minor Thoroughfare. Refer to Attachment A attached for the proposed typical section. The project includes roadway and drainage design, waterline design (12-inch diameter based on Water Master Plan), sanitary sewer design (size to be provided by Town's Master Plan), pavement markings and signage, erosion control, and traffic control / phasing.

Proposed Sidewalk locations:

- a. No proposed sidewalk on the north side of the proposed project.
- b. Five (5) foot wide sidewalk proposed on the south side of the project located on the back of proposed curb in the proposed seven (7) foot wide parkway.

Drainage Notes:

- The runoff in this project area drains to 2 separate outfalls: the drainage on the north side of the road drains west, then north along Coleman, then west into downtown and ultimately to First Street @ DNT; the drainage on the south side of the road drains west to the BNSF RR, then south to the regional detention pond.
- Due to the narrow proposed ROW with proposed Water, Sewer, Storm, and existing UG Gas, the runoff will be captured in a single storm drain system, but the stormwater runoff will be designed to split flow near the Coleman intersection to reflect the existing drainage patterns.
- Flow split hydraulics will be designed to approximate the existing conditions flow patterns. Existing conditions drainage basin flows will be calculated using the methodology outlined in the Town's engineering design criteria. A rating curve will be developed for an outlet structure splitting runoff flow out of a junction box near the Coleman intersection. The junction structure outlet configuration will be designed to match the rating curve developed for the flow split hydraulics.

II. TASK SUMMARY

Task 1 – Roadway and Drainage Design.

A. PRELIMINARY DESIGN (60% & 90% Submittals) (LUMP SUM)

1. Plot existing topographic features including pavement & utilities on (11" x 17") plan and profile sheets (1"=40' horizontal and 1"=10' vertical).
2. Provide general notes sheet.
3. Provide Quantity Summary sheets for **90% submittal**.
4. Provide typical roadway sections.
5. Provide horizontal and vertical control per the Town's guidelines.
6. Provide removal plan.
7. Prepare plan and profile drawings.
8. Drainage Area Maps (Overall & Sub-areas for storm drainage)

9. Drainage Calculations
10. Storm sewer plan and profile sheets (11" x 17") (1"=40' horizontal and 1"=10' vertical).
11. Provide water line plan sheets (11" x 17") (1"=40' horizontal and 1"=10' vertical). (Profiles will be provided for waterlines greater than or equal to 12" diameter)
12. Provide sanitary sewer line plan and profile sheets (11" x 17") (1"=40' horizontal and 1"=10' vertical).
13. Paving details
14. Storm sewer details – includes NCTCOG or TXDOT details as required.
15. Water Details – incorporate Town details into plans.
16. Sanitary Sewer details – incorporate Town details into plans.
17. Roadway cross sections on 50-foot intervals, center of all streets.
18. Driveway Profiles in the cross sections.
19. Prepare Erosion Control Plan (The Stormwater Pollution Prevention Plan, NOI & NOT will be prepared by the CONTRACTOR.) for **90% submittal**.
20. Prepare signing and pavement marking plans per the TMUTCD for **90% submittal**.
21. Prepare Conceptual Construction Phasing Roll plots for TCP coordination for **60% submittal**.
22. Develop construction phasing, sequence of work, and traffic control plan for **90% submittal**.
23. Conduct QA/QC reviews for 60% and 90% submittals.
24. Submit **PDF** plans (11" x 17") at **60% and 90%** for Town staff review and comments.
25. Prepare opinion of probable cost based on **60% and 90% preliminary design**.
26. Prepare and submit invoices with reports indicating work progress and any design issues that may arise.
27. Maintain contact with the Town personnel during the project design.

B. FINAL DESIGN (100%) (LUMP SUM)

1. Incorporate Town's 90% review comments into pre-final design.
2. Develop any necessary additional design details.
3. Develop final quantities and prepare summary sheets. Determine opinion of probable construction cost based upon final design.
4. Conduct QA/QC review.
5. Submit **PDF** plans (11" x 17"), specifications, quantities, and opinion of probable construction costs to Town staff for final review.
6. Conduct QA/QC review.
7. Incorporate Town review comments of final design.
8. Provide signed and sealed plans and items for the bid book. Items include excel files of bid items quantities along with any project specific details and/or specifications that are not included in the NCTCOG specifications or TxDOT specifications. The Town will generate the Bid Book.
9. Submit **PDF** plans (11" x 17") and OPCC.

Task 2 – Topographic & Boundary Survey.

- A. General scope of services and assumptions for survey of First Street from Coleman Street to Craig Road:
 1. First Street from Coleman Street east to the west side of the intersection with Craig Road.
 2. At Craig Road join to the existing Kimley-Horn provided topographic survey data and control monuments.
 3. North and south along Church Street 50' beyond the proposed right-of-way.
 4. North along Parvin Street 50' beyond the proposed right-of-way.
 5. North along Field Street 50' beyond the proposed right-of-way.
 6. North along Lane Street 50' beyond the proposed right-of-way.
- B. A standard topographic survey will be performed within the areas shown on the project sketch attached hereto.

- C. Survey limits include a proposed right-of-way width of 56' plus 25' for building setbacks beyond the proposed right-of-way or to the face of any structure within 30' of the proposed ROW line.
- D. A reasonable effort to request Texas811 to completely mark underground utilities within the new topographic survey limits. The Garver Team is not responsible for unresponsiveness by Texas811 or locating utilities not marked by Texas811.
- E. Reasonable attempts to open manhole covers that are functioning properly shall be made. Assistance may be required from the Town. The Garver Team shall contact the Town for this assistance.
- F. Survey control will be set at each end of the project and at 500 foot intervals and outside the proposed construction area where possible.
 - 1. Resetting disturbed control points for construction shall be an additional service.
- G. Top of water valve nuts and sanitary sewer flowlines are included.
- H. Property boundaries, right-of-way lines and ownership information will be provided for parcels within the project limits.
- I. Existing easements within the project area will be taken from plats and those listed in deeds of the properties surveyed. Documentation of additional existing easements shall be provided by the Town of Prosper. The Garver Team does not accept responsibility for full abstracts of title of the properties within the project limits.
- J. Materials and installation of survey control or ROW monuments other than iron rods, 'X' cuts in existing concrete, or MAG nails with washers will be provided as an additional service.
- K. A high precision orthophoto of the project limits will be produced by aerial surveying techniques.
- L. All vertical topographic work will be done in reference to the North American Vertical Datum of 1988 (NAVD88) and tied to the Town of Prosper Geodetic Control Monument Network. Note that this will be on a different datum than the topographic work on the current West First Street project at the tie in to Coleman Street.
- M. All horizontal work will be done in reference to the Texas Coordinate System of 1983, North Central Zone, NAD83(2011), and tied to the Town of Prosper Geodetic Control Monument Network.

Task 2 – Subsurface Utility Engineering Services.

- A. Provide Level B SUE in areas deemed appropriate and agreed upon by the Town. This item will only be used if the Town of Prosper agrees that the Texas811 locates didn't appear to get enough locates for construction.
- B. Provide Level A SUE (location and number of potholes to be determined during design and agreed upon by the Town) (assumes 8'-12' deep).

Task 3 - Geotechnical Services.

- A. Provide three (3) geotechnical boring samples (assumes 20 feet deep) between Coleman Street and Craig Road (approximately spaced 500 LF apart).
- B. The borings will be drilled and tested according to TxDOT requirements.
- C. Representative soil samples will be obtained by means of the split-barrel samplers in accordance with ASTM specifications D-1587 and D-1586, respectively.
- D. Groundwater levels will be measured during drilling and at the completion of each boring.
- E. Drilling equipment will be by truck-mounted drill rig with continuous flight augers.
- F. Geotechnical consultant will contact Texas811, the local "one call" service and Town of Prosper to confirm that the boring locations are not likely to be in conflict with underground public utilities. Garver will not be responsible for utility repairs where utilities were not correctly marked by public or private agencies.
- G. Geotechnical consultant will execute a ROW permit for the Town of Prosper to provide locate services on Town utility facilities within the project corridor.

- H. Upon completion of subsurface exploration drilling, each excavation will be backfilled with the excavated soil and the pavement patched (if within existing paving limits). Some disturbance to off-pavement/gravel covered surface areas may occur. Attempts to minimize such disturbance will be made.
- I. Laboratory testing of representative soil samples will be performed to determine physical and engineering properties of the soil. The laboratory testing may include moisture content, Atterberg limits, gradation, unconfined compression tests, soluble sulfate and CUPP Triaxial tests.
- J. The results of the field and laboratory data will be evaluated to develop geotechnical recommendations and prepare an engineering report. The report will include the following items:
 - 1. Observations from site reconnaissance including current site conditions, surface drainage features, and surface topographic conditions.
 - 2. A review of the published soil and geologic conditions and their relevance to this planned roadway construction.
 - 3. A subsurface characterization and a description of the field exploration and laboratory tests performed. Groundwater concerns relative to the planned construction, if any, will be summarized.
 - 4. Final logs of the soil borings and records of the field exploration in accordance with the standard practice of geotechnical engineers, and the results of the laboratory tests will be noted on the final boring logs or included on a separate test report sheet.
 - 5. Soil parameters for use in the underground drainage design based on the soil borings.
 - 6. Determination of adequacy for the Town of Prosper's paving recommendation for the Eagle Ford Formation.

Task 4 – Bid Phase Services

- A. Provide Plans & Specifications to Town for Bidding (PDF & 2 Paper Copies 11x17)
- B. Attend Pre-Bid Meeting
- C. Addendums and Inquiries
- D. Prepare conformed Construction Plans (Front End Documents and Contract [i.e. Bid Book] to be provided by the Town)
- E. Provide CAD files to the Town's GIS department.
- F. Bid Tabulation to be completed by the Town

Task 5 – Construction Administration

- A. Attend Pre-Con Meeting
- B. Coordination with the Town during construction for design changes for unforeseen field conditions and RFI's

Task 6 – Record Drawings

- A. Incorporate Contractor's as-built markups
- B. Provide one PDF copy of each sheet of the record drawings, 1 complete PDF copy, and AutoCAD files.

ADDITIONAL SERVICES NOT INCLUDED IN TASK 1 THROUGH TASK 6 LISTED ABOVE:

- A. Any additional topographic survey information outside of the project limits strictly described above.
- B. Right-of-way or Easement acquisition documents or maps
- C. Setting any property corners for right-of-way or easements
- D. Street Illumination
- E. Traffic signal plans; Signal design or pull box/ wiring relocation at intersections
- F. Paving recommendations beyond determining the adequacy of the Town's general requirements for the Eagle Ford Formation guidance.
- G. Special Specifications or Bid Item Descriptions for the Bid Book.

- H. Bid Tabulation
- I. Coordination or any design on Railroad ROW
- J. CLOMR, LOMR, and any other FEMA coordination
- K. TDLR review, filing, and permitting/filing fees
- L. Franchise Utility coordination or conflicts; drawing in proposed new locations into CADD design plans.
- M. Detention Design (other than what is described above regarding the storm drain outfall control structure).
- N. Any wetland and stream permitting including any mitigation planning.
- O. Additional survey due to development that occurs after initial topographic survey has been completed.
- P. Design plan changes due to development that occurs after 60% plans have been completed.
- Q. Design or standard drawing changes that occurs after 60% plans have been completed.
- R. Title surveys for each parcel shall be provided by the client if existing easements on unplatted properties must be located.
- S. Opening Town manholes that are bolted shut
- T. Trench excavation safety plan.
- U. Gabion Design
- V. Material testing and sampling of existing structural elements
- W. Preparing retaining or sound wall details.
- X. Agency and utility coordination (e.g. BNSF, TxDOT, USACE, etc.).
- Y. On-site meetings or other meetings other than those listed above.
- Z. Review of contractor submittals for construction.
- AA. Site visits by geotechnical consultant other than initial site visit to confirm utility and proposed boring locations.
- BB. Public Meetings
- CC. Deed Research
- DD. Environmental investigation
- EE. Title searches, boundary surveys, or property surveys
- FF. Services in connection with condemnation hearings
- GG. Custom Pedestrian or Custom Traffic Rail Details.
- HH. Letter of Recommendation for Construction Contract

III. DELIVERABLES

Task 1 – Roadway and Drainage Design	Prepare PDF plans for all milestone submittals Provide an OPCC with all milestone submittals
Task 2 – Topographic survey	Provide survey CADD files
Task 2 – Subsurface Utility Engineering Services	Provide Level B and/or Level A SUE services as agreed upon by the Town.
Task 3 – Geotechnical Services	PDF final geotechnical report
Task 4 – Bid Phase Services	Prepare 11x17 PDF set of Plans for Bidding and any other items such as excel files of bid items & quantities along with any project specific detail/specifications. The Town will generate the Bid Book PDF Conformed Construction Plans
Task 5 – Construction Administration	Attend meeting, review submittals, modify plans for unforeseen field conditions
Task 6 - Record Drawings	One (1) PDF copy of each sheet of the record drawings & CAD files

**EXHIBIT B
COMPENSATION SCHEDULE**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND GARVER, LLC
FOR THE FIRST STREET (COLEMAN - CRAIG) PROJECT (PRJ# 2305-ST)**

I. COMPENSATION SCHEDULE – Completion Schedule assumes by end of listed month

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed (Assumes June 1, 2023)	6/2023	
Task 1 - Roadway & Drainage Preliminary Design 60%	11/2023	\$222,768.00
Assumes 6 weeks for Town Review	1/2024	
Task 1 - Roadway & Drainage Preliminary Design 90%	3/2024	\$103,679.00
Assumes 6 weeks for Town Review	5/2024	
Task 1 – Roadway & Drainage Final Design	7/2024	\$54,231.00
Assumes 3 weeks for Town Review	8/2024	
Task 2 – Topographic & Boundary Survey	8/2023	\$67,870.00
Task 2 – SUE Services (Level A and/or B plus Survey)	TBD	\$10,000.00
Task 3 – Geotechnical Services	8/2023	\$19,292.00
Task 4 – Bid Phase Services	10/2024	\$7,538.00
Task 5 – Construction Administration	10/2025	\$7,439.00
Task 6 – Record Drawings	2 weeks after contractor redlines	\$3,732.00
Total Compensation		\$496,549.00

II. COMPENSATION SUMMARY

Basic Services (Lump Sum)	Amount
Task 1 - Roadway & Drainage Preliminary Design	\$326,447.00
Task 1 - Roadway & Drainage Final Design	\$54,231.00
Task 2 – Topographic & Boundary Survey	\$67,870.00
Task 2 – SUE Services (Level A and/or B plus Survey)	\$10,000.00
Task 3 - Geotechnical Services	\$19,292.00
Task 4 – Bidding Phase Services	\$7,538.00
Task 5 – Construction Administration	\$7,439.00
Task 6 - Record Drawings	\$3,732.00
Total Basic Services:	\$496,549.00

Special Services	Amount
None	\$0
Total Special Services:	\$0

Direct Expenses	Amount
None	\$0
Total Direct Expenses:	\$0

EXHIBIT C INSURANCE REQUIREMENTS

Service provider shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the service provider. A certificate of insurance meeting all requirements and provisions outlined herein shall be provided to the Town prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable, except for professional liability.
2. Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.
4. Professional Liability, also known as Errors and Omissions coverage.

B. MINIMUM LIMITS OF INSURANCE

Service Provider shall maintain throughout contract limits not less than:

1. Commercial General Liability: \$500,000 per occurrence /\$1,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:
 - a. Premises / Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Personal Injury
 - e. Broad Form Property Damage
2. Workers Compensation and Employer's Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 each accident, \$300,000 Disease- Policy Limit, and \$100,000 Disease- Each Employee.
3. Automobile Liability: \$500,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired, and non-owned autos.
4. Professional Liability aka Errors and Omissions: \$500,000 per occurrence and in the aggregate.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductible or self-insured retentions in excess of \$10,000 must be declared to and approved by the Town.

D. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the provider, products and completed operations of the provider, premises owned, occupied or used by the provider. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.
- b. The provider's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the provider's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.
- d. The provider's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the insured's limits of liability.

2. Workers Compensation and Employer's Liability Coverage:

The insurer shall agree to waive all rights of subrogation against the Town, its officers, officials, employees and volunteers for losses arising from work performed by the provider for the Town.

3. All Coverages:

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

4. Professional Liability and / or Errors and Omissions:

"Claims made" policy is acceptable coverage, which must be maintained during the course of the project, and up to two (2) years after completion and acceptance of the project by the Town.

E. ACCEPTABILITY OF INSURERS

The Town prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than **A- VI**, or better.

F. VERIFICATION OF COVERAGE

Service Provider shall provide the Town with certificates of insurance indicating the coverages required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

Certificate holder to be listed as follows:

Town of Prosper
P.O. Box 307
Prosper, TX 75078

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND GARVER, LLC
FOR THE FIRST STREET (COLEMAN - CRAIG) PROJECT (PRJ# 2305-ST)**

PAGE 15 OF 16

EXHIBIT E CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 23, 64th Leg., Regular Session.</p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<div style="border: 1px solid black; padding: 2px; text-align: center; font-weight: bold;">OFFICE USE ONLY</div> <div style="border: 1px solid black; height: 100px; margin-top: 5px;"></div>	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p>		
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p>3 Name of local government officer about whom the information is being disclosed.</p> <p style="text-align: center;">N/A</p> <p style="text-align: center; font-size: small;">Name of Officer</p>		
<p>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</p> <p style="margin-top: 20px;">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="text-align: center; margin-left: 100px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p style="margin-top: 10px;">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p style="text-align: center; margin-left: 100px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>		
<p>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</p>		
<p>6 <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p>7</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> Signature of vendor doing business with the governmental entity </div> <div style="text-align: center;"> 5/15/2023 Date </div> </div>		

Form provided by Texas Ethics Commission

www.ethics.state.tx.us

Revised 11/30/2015

