

**WATER IMPACT FEES REIMBURSEMENT AGREEMENT**  
**(LEGACY GARDENS – PHASES 3 AND 4)**

**THIS WATER IMPACT FEES REIMBURSEMENT AGREEMENT (LEGACY GARDENS – PHASES 3 AND 4)** (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2026 (the “Effective Date”), by and between the **TOWN OF PROSPER, TEXAS** (“Prosper” or the “Town”), and **TOLL SOUTHWEST LLC**, a Delaware limited liability company (“Developer”), collectively referred to as the “Parties” and each individually as a “Party”.

**WITNESSETH:**

**WHEREAS**, Developer is developing Phase 3 and Phase 4 of a residential development on certain Property (defined herein) in the Town, known as “Legacy Gardens, Phases 3 and 4” (“Project”) which development previously has been approved by the Town; and

**WHEREAS**, the legal description of the real property subject to this Agreement is attached hereto as **Exhibit A-1**, incorporated herein by reference for all purposes, and depicted on **Exhibit A-2**, incorporated herein by reference for all purposes (the “Property”); and

**WHEREAS**, pursuant to the Water and Wastewater Improvement Plan (the “Master Water Plan”), Developer desires, subject to the terms and conditions set forth herein, to construct certain Water Improvements (as defined in Subparagraph 1(b), below) to serve the Property; and

**WHEREAS**, Developer desires to fulfill a portion of its obligation to pay Water Impact Fees (as defined in Subparagraph 1(a), below) as prescribed in Article 10.02 of Chapter 10 of the Town’s Code of Ordinances, as now existing or as may hereafter be amended (the “Impact Fee Ordinance”); and

**WHEREAS**, in an effort to facilitate the construction of certain water improvements serving the Project, the Parties have agreed to the terms and provisions of this Agreement; and

**WHEREAS**, this Agreement clearly is in the best interests of the Town and Developer and it is deemed mutually beneficial to each that the construction of water improvements for the Project proceed as is further described herein; and

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Town and Developer covenant and agree as follows:

1. **Impact Fees and Water Improvements.**

(a) Subject to the provisions of this Paragraph 1 and this Agreement, the Property will be assessed water impact fees at the rates then in effect pursuant to the Impact Fee Ordinance as it presently exists or may be subsequently amended (the “Water Impact Fees”).

(b) As a condition to receipt of the Water Costs Reimbursement (hereinafter defined) and subject to Force Majeure, Developer shall, at its sole cost and expense, except as provided in Paragraph 3 below, construct and install or cause the construction and installation of: (i) approximately 2,804 linear feet of 12-inch waterline extension in Frontier Parkway; and (ii) one (1) 12-inch waterline stub (approximately 20 linear feet) to service residential street, Florencia Way, each in the locations generally depicted on **Exhibit B**, attached hereto and incorporated herein for all purposes (collectively referred to herein as the “Water Improvements”). The description of the Water Improvements in this Subparagraph 1(b) and/or location of such improvements shown on **Exhibit B** may be modified by the engineering plans for the Water Improvements as the design is further refined, and minor modifications to such description herein and/or location shown on **Exhibit B** may be approved by the Town’s Engineer without requiring an amendment of this Agreement. Notwithstanding the foregoing, Developer shall not be required to construct or fund any additional water improvements or facilities within or related to Frontier Parkway in excess of the scope of the Water Improvements as specifically described herein. The Water Improvements are a portion of Project No. 22 in the Master Water Plan.

(c) Developer shall use commercially reasonable efforts to bid the construction of the Water Improvements as shown in the related construction plans set with three (3) Qualified Contractors (as defined herein) and shall provide copies of the bids received for such items to Town within thirty (30) days of Developer’s receipt of same. For the avoidance of doubt, Developer may bid the construction of the Water Improvements along with or separate from construction of other infrastructure improvements for the Project (e.g., road, drainage and/or trail improvements), in its discretion. Developer shall execute one or more contract(s) for the construction of the Water Improvements (which may also include construction of other infrastructure improvements for the Project, in Developer’s discretion) with the lowest responsible and qualified bidder, as mutually and reasonably determined by Town and Developer. With respect to the Water Improvements, Developer shall: (i) commence, or cause to be commenced, construction of the Water Improvements following: (A) the execution of this Agreement; and (B) approval of the Water Improvements’ engineering plans, specifications and designs by Town’s Engineer, which approval shall not be unreasonably withheld, conditioned or delayed; (ii) construct each portion of the Water Improvements in accordance with this Agreement and otherwise in accordance with Town-approved engineering plans, specifications and designs; and (iii) complete each portion of the Water Improvements and obtain Town’s acceptance of same prior to Town’s final acceptance of the Water Improvements. Notwithstanding anything to the contrary set forth herein or in applicable Town ordinances, rules or regulations, the Town agrees that if, in connection with construction of the Water Improvements, any trees are required to be removed pursuant to the Town approved plans and specifications for

construction of the Water Improvements, Developer may not be required to comply with any applicable tree mitigation requirements. Developer must inform the Town of any tree removal that does not comply with any applicable tree mitigation requirements. For purposes of this Agreement a "Qualified Contractor" means a person, firm, corporation or business entity that is the holder of a valid registration with the Town under Ch. 3, Building Regulations, Article 3.15 Registration of Contractors of the Code of Ordinances, Town of Prosper, Texas ("Town's Code of Ordinances").

(d) For clarification, the construction and completion of the Water Improvements may occur after the approval and/or recordation of the final plat(s) for the Property, and the Town agrees the construction and/or completion of the Water Improvements will not be a condition to approval or recording of the final plat(s) for the Property.

(e) After completion of the Water Improvements, Developer shall secure or shall cause its contractor to secure one or more maintenance bond(s) that guarantee(s) payment of the costs of any repairs that may become necessary to any part of the construction work performed in connection with the Water Improvements, arising from defective workmanship or materials used therein, for a period of two (2) years from the date of the Town's acceptance of the Water Improvements. The bond may include other improvements Developer completes (e.g., thoroughfare improvements) related to the Water Improvements. From and after completion of the Water Improvements, or any portion thereof, the Town agrees to and will be responsible for all maintenance and operation of the Water Improvements, including costs related thereto (except any costs covered by the maintenance bond while such bond is in effect).

(f) The estimated Water Improvements construction costs are approximately Four Hundred Forty-Seven Thousand Five Hundred Ninety-Eight and 20/100 Dollars (\$447,598.20), as more particularly described in **Exhibit C**, attached hereto and incorporated herein for all purposes (the "Estimated Water Construction Costs"). Developer acknowledges and agrees that Town is relying on Developer's engineer's representation and warranty that the Estimated Water Construction Costs are as described in **Exhibit C**. Prior to receiving any reimbursement described in Paragraph 3 below, Developer shall tender to Town evidence, in a form(s) reasonably acceptable to Town, that all of the actual Water Improvements construction costs (the "Water Improvement Costs") have been paid by or on behalf of Developer, including but not limited to, Affidavits of Payment/Affidavits as to Debts and Liens and any other evidence reasonably required by Town evidencing payment of construction costs ("Evidence of Payment(s)").

(g) The Parties acknowledge that Developer shall construct the Water Improvements, as generally depicted in **Exhibit B** and as described herein and in **Exhibit C**, the cost of which do not exceed the municipal participation limit referenced in Section 212.072(b) of the Texas Local Government Code, as amended.

## 2. **Easements.**

(a) Prior to or substantially concurrent with the Town's acceptance of the Water Improvements, Developer agrees to convey to the Town easements or rights-of-way for the portion of the Water Improvements within the bounds of the Property by plat or separate instrument in accordance with applicable Town subdivision ordinances.

(b) Third-Party Rights-of-Way and/or Easements. The Town agrees that no rights-of-way or easements from third-parties will be needed or required for construction or completion of the Water Improvements; therefore, the Town agrees that it will not require Developer to obtain any rights-of-way or easements from third parties for the construction of the Water Improvements and will not require the scope of the Water Improvements to increase beyond the scope of such improvements as specifically defined and described in this Agreement (which such improvements are located within the bounds of the Property).

### 3. Reimbursement of Project Costs from Water Impact Fees.

(a) Provided Developer completes or causes the completion of the Water Improvements in accordance with this Agreement, Developer shall receive reimbursement of its Water Improvement Costs from the Water Impact Fees collected by Town related to service from the Water Improvements, which shall include all Water Impact Fees collected from development within the Property and within the Water Service Areas (defined herein) subject to the terms of this Agreement.

(b) A depiction of the service area(s) for the Water Improvements is attached hereto as **Exhibit D** and made part hereof (the "Water Service Areas"). The Water Service Areas may be expanded from time to time and, upon such expansion, **Exhibit D** shall be amended accordingly.

(c) Water Impact Fees collected by Town related to service from the Water Improvements, including fees collected with respect both to service to the Property and service to property other than the Property within the Water Service Areas, if any, shall be utilized to reimburse Developer until the entire amount due to Developer for the Water Costs Reimbursement is paid in full. **Exhibit D** provides an estimate of remaining Water Impact Fees anticipated to be paid from properties in the Water Service Areas within the Property; however, the estimate is provided for informational purposes and the Water Costs Reimbursement herein shall not be limited by such estimate.

(d) The reimbursement amount shall be an amount equal to the *actual* construction costs associated with the Water Improvements (the "Water Costs Reimbursement"). For the avoidance of doubt, the Water Costs Reimbursement is not limited by the Estimated Water Construction Costs, which is being provided for informational purposes. The phrase "construction costs" as used throughout this Agreement shall include design costs, construction costs (including but not limited to all costs for labor, supplies and materials), engineering costs, surveying costs, costs for any easements, inspection fees, maintenance bonds, staking costs, geotechnical materials testing associated with the Water Improvements or any portion thereof; and any other costs not listed herein but shown on **Exhibit C**.

(e) All Water Impact Fees collected by Town as set forth in Subparagraph 3(c) shall be paid by Town to Developer on a quarterly basis after Developer has provided the Town with the Evidence of Payment(s) evidencing the Water Improvement Costs in accordance with Subparagraph 1(f) herein, within thirty (30) days following each March 31, June 30, September 30, and December 31 until Developer has received the full amount of the Water Costs Reimbursement.

(f) **NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, TOWN SHALL NOT BE OBLIGATED TO PROVIDE THE PROPERTY WITH THE WATER COSTS REIMBURSEMENT FOR ANY CONSTRUCTION COSTS ASSOCIATED WITH THE WATER IMPROVEMENTS UNLESS AND UNTIL DEVELOPER PROVIDES THE EVIDENCE OF PAYMENT(S) EVIDENCING THE WATER IMPROVEMENT COSTS IN ACCORDANCE WITH SUBPARAGRAPH 1(F) HEREIN.**

(g) Developer and Town acknowledge and agree that: (i) the Water Impact Fees collected may be less than the Water Costs Reimbursement to which Developer is entitled and Town does not guarantee the amount of Water Impact Fees that will be collected; (ii) after a period of ten (10) years, any shortfall between the Water Impact Fees collected pursuant to Subparagraph 3(c) and the Water Costs Reimbursement due to Developer shall be paid to Developer from Town; and (iii) Water Impact Fees owed on the Property shall be paid in accordance with the Impact Fee Ordinance.

4. **Assignment.** Developer shall have the right to assign this Agreement, in whole or in part (from time to time without the consent of the Town, but upon written notice to the Town) including any obligation, right, title, or interest of Developer under this Agreement, to (i) any person or entity that is or will become an owner of all or any portion of the Property; (ii) any homeowners' association, property owners' association or similar entity applicable to the Property or any portion thereof (each an "HOA"); or (iii) any entity that is controlled by, controlling or under common control with Developer (each such person or entity, an "Assignee"). Each assignment shall be in writing executed by Developer and the Assignee and shall obligate the Assignee to be bound by this Agreement to the extent of any rights so assigned. A copy of each assignment shall be provided to the Town. Provided that an Assignee assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property (or portion thereof) that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment. Except for an assignment permitted by Subparagraphs 4(i), 4(ii) or 4(iii) above, Developer may not assign this Agreement without the Town's prior consent, which shall not be unreasonably withheld, conditioned or delayed. As to the sale of land by Developer to any party to whom this Agreement has not been assigned, in whole or in part, the purchaser thereof shall have no rights or obligations under this Agreement and this Agreement shall not apply with respect to such land.

5. **Default.**



(a) If Developer fails to comply with any provision of this Agreement after receiving forty-five (45) days' written notice to comply from the Town or such longer period as may be reasonably necessary provided that Developer commences to cure the default or breach within the 45-day period and proceeds with reasonable diligence thereafter to complete such cure (the "Cure Period"), then so long as such default continues after the expiration of the Cure Period and is not cured, the Town shall have the following remedy in addition to the Town's other rights and remedies:

(i) right to refuse, without notice and/or any other action, to issue and/or apply the reimbursements set forth in Paragraph 3.

(b) For the avoidance of doubt, Developer shall not be in default under this Agreement if, within the Cure Period, Developer begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured.

(c) In the event Town fails to comply with the terms and conditions of this Agreement, Developer may seek specific enforcement of this Agreement, terminate this Agreement or pursue any other remedies available at law or in equity.

6. **Other Applicable Development Ordinances.** Unless otherwise expressly stipulated in this Agreement, nothing herein shall relieve any developer from responsibilities for the construction of other public improvements under applicable development ordinances of the Town.

7. **Limitations of Agreement.** The Parties hereto acknowledge that this Agreement is limited to the Water Impact Fees, as described in the Impact Fee Ordinance (with respect to the impact fees) and this Agreement. Town ordinances covering property taxes, utility rates, permit fees, inspection fees, development fees, sewer impact fees, park fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Developer to Town under any other ordinance, whether now existing or in the future arising except as provided herein.

8. **Covenant Running with Land; Binding Agreement.** This Agreement shall be a covenant running with the land and the Property and shall be binding upon the Parties and each Party's respective officers, directors, partners, employees, representatives, agents, successors, assignees, vendors, grantees and/or trustees. In addition, the Parties shall cause this Agreement to be filed in the Real Property Records of Collin County, Texas.

9. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Collin County, Texas.

10. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing same in the United States mail, addressed to the Party to be notified, postage pre-paid and registered or certified with

return receipt requested, (ii) by electronic mail; or (iii) by delivering the same in person to such Party via a hand-delivery service that provides a return receipt showing the actual date of delivery of the same to the addressee; or (iv) any overnight courier service such as Federal Express that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance with (i), (iii) or (iv) herewith shall be effective upon receipt at the address of the addressee. Notice given in accordance with (ii) herewith shall be effective upon receipt at the address of the addressee if given by 5:00 pm CT on a business day; otherwise, notice will be effective on the next business day. For purposes of this Agreement a "business day" is a day that is not a Saturday, Sunday, federal holiday or holiday in the State of Texas. For purposes of notice, the addresses of the Parties shall be as follows:

If to Town, addressed to it at:

Town of Prosper  
ATTN: Mario Canizares, Town Manager  
P. O. Box 307  
250 W. First Street  
Prosper, Texas 75078  
Telephone: (972) 346-2640  
E-mail: mcanizares@prospertx.gov

With a copy to:

Brown & Hofmeister, L.L.P.  
ATTN: Terrence S. Welch, Esq.  
740 E. Campbell Road, Suite 800  
Richardson, TX 75081  
Telephone: (214) 747-6104  
E-mail: twelch@bhlaw.net

If to Developer, addressed to it at:

Toll Southwest LLC  
c/o Toll Brothers  
ATTN: Mike Boswell, Vice President, Land Development  
2555 SW Grapevine Parkway, Suite 100  
Grapevine, TX 76051  
E-mail: mboswell@tollbrothers.com

With a copy to:

Winstead PC  
ATTN: Laura Hoffmann  
2728 N. Harwood Street  
Suite 500  
Dallas, Texas 75201  
E-mail: lhoffmann@winstead.com

11. **Prevailing Party.** In the event any person 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).

12. **Sovereign Immunity.** The Parties agree that Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement; however, for purposes of enforcement of this Agreement, Town agrees that it has waived its sovereign immunity, and to that extent only.

13. **Effect of Recitals.** The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

14. **Consideration.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

15. **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 or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other Party.

16. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

17. **Savings/Severability.** Invalidation of any one of the provisions of this document by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

18. **Force Majeure.** It is expressly understood and agreed by the Parties to this Agreement that, except for monetary obligations (e.g., payment of a reimbursement), if the performance of any obligations hereunder is delayed by reason of war; civil commotion; acts of God; strike; inclement weather; shortages or unavailability of labor,



supplies, or materials; incidence of disease or other illness that reaches outbreak, epidemic, or pandemic proportions or other causes affecting the area in which the Property is located; utility failures or delays; or other circumstances that are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or performance requirement and any applicable completion deadline shall be extended for a period of time equal to the period such Party was delayed ("Force Majeure").

19. **Conflicts.** In the event of any conflict between this Agreement and any other ordinance, rule, regulation, standard, policy, order, guideline or other Town-adopted or Town-enforced requirement, this Agreement shall control.

20. **Authority to Execute.** The Agreement shall become a binding obligation on the Parties upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Developer warrants and represents that the individual executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. This Agreement is and shall be binding upon the Parties and their respective successors, heirs, assigns, grantees, vendors, trustees and representatives.

21. **Mediation.** The Parties shall attempt in good faith to resolve any disagreement or conflict concerning this Agreement, including but not limited to any disagreement or conflict concerning the interpretation of this Agreement. Either Party may initiate negotiations to resolve such a disagreement or conflict by providing written Notice to the other Party (the "Initial Notice"), setting forth the subject of the conflict and the proposed solution. In the event such disagreement cannot be resolved by the Parties hereto within sixty (60) days of the receiving Party's receipt of the Initial Notice, the Parties agree to submit such disagreement to nonbinding mediation before a single mediator mutually agreed upon by the Parties who has had at least ten (10) years' relevant experience in the commercial real estate industry. If within fifteen (15) days after the date of mediation, the Parties have not reached agreement on resolution of the conflict or disagreement, then either Party may (but shall not be obligated to) commence an action in accordance with the requirements of Paragraph 9 herein.

22. **Indemnification.** FROM THE EFFECTIVE DATE OF THIS AGREEMENT TO THE DATE ON WHICH ALL WORK WITH RESPECT TO THE WATER IMPROVEMENTS IS COMPLETED AND ALL WATER IMPROVEMENTS, HAVE BEEN ACCEPTED BY THE TOWN (WHICH ACCEPTANCE WILL NOT BE UNREASONABLY WITHHELD, CONDITIONED OR DELAYED), DEVELOPER, INDIVIDUALLY AND ON BEHALF OF ITS RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES AND/OR TRUSTEES, DOES HEREBY AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN AND ITS ELECTED AND

APPOINTED OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE) LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE APPLICABLE DEVELOPER, ITS OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, REPRESENTATIVES, AGENTS, OR ANY OTHER THIRD PARTIES FOR WHOM SUCH DEVELOPER IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, THE CONSTRUCTION OF THE WATER IMPROVEMENTS CONTEMPLATED HEREIN (HEREINAFTER "CLAIMS"). DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND THE TOWN AGAINST ALL SUCH CLAIMS ARISING UNDER THIS AGREEMENT, AND THE TOWN IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE. NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY, AND IN THE EVENT OF CONCURRENT FAULT OR NEGLIGENCE OF THE PARTIES, LIABILITY, IF ANY, WILL BE ALLOCATED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

23. **Approval of Counsel.** In its reasonable discretion, the Town shall have the right to approve counsel to be retained by Developer in fulfilling its obligation under Paragraph 22 hereunder to defend and indemnify the Town. The Town reserves the right to provide a portion or all of its' own defense, at its sole cost; however, the Town is under no obligation to do so. Any such action by the Town is not to be construed as a waiver of Developer's obligation to defend the Town or as a waiver of Developer's obligation to indemnify the Town pursuant to Paragraph 22 of this Agreement. Developer shall retain Town-approved defense counsel within fifteen (15) business days' of the Town's written notice that the Town is invoking its right to indemnification under this Agreement.

24. **Survival.** Paragraph 22, "Indemnification," shall survive the termination of this Agreement.

25. **Additional Representations.** Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had the opportunity to confer with its counsel.

26. **Miscellaneous Drafting Provisions.** This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply.

27. **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.

28. **Rough Proportionality.** Developer hereby agrees that any land or property donated and/or dedicated pursuant to this Agreement, whether in fee simple or otherwise, to the Town relative to any development on the Property is (after receiving all contractual offsets, credits and reimbursements) roughly proportional to the need for such land and (after receiving all contractual offsets, credits and reimbursements) Developer hereby waives any claim therefor that it may have. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Developer (after receiving all contractual offsets, credits and reimbursements) and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of water service to the Property.

29. **Estoppel.** Any Party shall, at any time upon reasonable request by any other Party, provide an estoppel certificate or similar document evidencing that this Agreement is in full force and effect, that no event of default exists hereunder (or, if appropriate, specifying the nature and duration of any existing default and the steps required to cure the same), and/or any other improvements or obligations set forth in this Agreement.

30. **Attorney's Fees.** Developer agrees to pay, or cause to be paid, to Prosper any attorney's fees charged to Prosper by Prosper's legal counsel for, among other things, legal review and revision of this Agreement and any resolutions needed for approval of this Agreement, negotiations and discussions with Developer's attorney and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$2,000.00 within thirty (30) days upon receipt of an invoice of same from Prosper.

31. **Captions and Headings.** The captions and headings of the paragraphs of this Agreement are for convenience and reference only and shall not affect, modify or amplify the provision of this Agreement nor shall they be employed to interpret or aid in the construction of this Agreement.

32. **Waiver.** Waiver by either Party of any breach of this Agreement, or the failure of either Party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such Party's right thereafter to enforce and compel strict compliance.

**IN WITNESS WHEREOF**, the Parties hereto have caused this document to be executed as of the date first above written.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]**

**THE TOWN OF PROSPER, TEXAS**

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

Name: Mario Canizares

Title: Town Manager

**STATE OF TEXAS            )**

**)**

**COUNTY OF COLLIN        )**

          This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2026, by Mario Canizares, Town Manager for the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

**Toll Southwest LLC,**  
a Delaware limited liability company

By: [Signature]  
Name: David M. "Mike" Boswell  
Title: Vice President of Land Development

STATE OF TEXAS       §  
                                  §  
COUNTY OF Tarrant §

Before me, the undersigned authority, a notary public in and for the State of Texas, on this day personally appeared David M. "Mike" Boswell, Vice President of Land Development, of Toll Southwest LLC, a Delaware limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed, and in the capacity therein stated, on behalf of such entity.

Given under my hand and seal of office this 5<sup>th</sup> day of January, 2026.



[Signature]  
Notary public in and for the State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_



## **EXHIBIT A-1**

### **Tract 1 Property Legal Description**

**SITUATED** in the Town of Prosper, County of Collin, State of Texas, being a part of the Collin County School Land Survey, Abstract No. 147, being a part of the 221.617 acre tract conveyed by Special Warranty Deed from Legacy Estates At Prosper Trail, Inc. to BGY Prosper 221, LLC on November 17, 2017, as recorded in Instrument No. 20171121001544530, Official Public Records, Collin County, Texas, being more particularly described by metes and bounds as follows, to-wit:

**BEGINNING** at a 5/8 inch rebar found in the South right-of-way line of Frontier Parkway, a public street, at the most Northern Northeast corner of the 120.5159 acre tract of land conveyed to Legacy Frontier, LLC, recorded in Instrument No. 20150203000121210, said Official Public Records, and the most Northern Northwest corner of both said BGY Prosper 221, LLC 221.617 ac. and the herein described tract;

**THENCE** North 89 deg. 27 min. 08 sec. East, with the South right-of-way line of said Frontier Parkway and the a North line of said BGY Prosper 221, LLC 221.617 ac., a distance of 2,857.13 ft. to a 1/2 inch capped rebar found, stamped "Peiser & Mankin" at the Northwest corner of the 34.557 acre tract of land conveyed to Urban Heights at Frontier, LLC, recorded in Instrument No. 2022000131196, said Official Public Records and the most Northern Northeast corner of both said BGY Prosper 221, LLC 221.617 ac. and the herein described tract;

**THENCE** South 00 deg. 45 min. 19 sec. East, with the West line of said Urban Heights 34.557 ac. and BGY Prosper 221, LLC 221.617 ac., a distance of 1,325.77 ft. to a 1/2 inch capped rebar found, stamped "RPLS 6585" at the Northwest corner of the 34.709 acre tract of land conveyed to AABVC-DNT-WEST-FRT, LP, recorded in Instrument No. 20210820001693210, said Official Public Records, the Southwest corner of said Urban Heights at Frontier, LLC 34.557 ac. and an angle point of the herein described tract;

**THENCE** South 00 deg. 45 min. 51 sec. East, with the West line of said AABVC-DNT-WEST-FRT 34.709 ac. and BGY Prosper 221, LLC 221.617 ac., a distance of 1,053.43 ft. to a 1/2 inch capped rebar set, stamped "RPLS 6578" at the most Eastern Southeast corner of the herein described tract, **SAID** rebar bears North 00 deg. 45 min. 48 sec. West, 271.18 ft. from a 5/8 inch capped rebar found, stamped "Manhard" at the Southwest corner of said AABVC-DNT-WEST-FRT 34.709 ac.;

**THENCE** Westerly, Northerly and Southerly, over and across said BGY Prosper 221, LLC 221.617 ac., the following calls and distances:

1. South 89 deg. 14 min. 22 sec. West, a distance of 54.50 ft. to a point at a Southwest corner of the herein described tract;

2. North 00 deg. 45 min. 38 sec. West, a distance of 110.00 ft. to an Ell corner of the herein described tract;
3. South 89 deg. 14 min. 22 sec. West, a distance of 25.00 ft. to an Ell corner of the herein described tract;
4. South 00 deg. 45 min. 38 sec. East, a distance of 125.89 ft. to a point at a Southeast corner of the herein described tract;
5. South 89 deg. 15 min. 02 sec. West, a distance of 130.00 ft. to a point at a Southwest corner of the herein described tract ;
6. North 00 deg. 45 min. 38 sec. West, a distance of 7.75 ft. to an Ell corner of the herein described tract;
7. South 89 deg. 14 min. 22 sec. West, a distance of 50.00 ft. to an Ell corner of the herein described tract;
8. South 00 deg. 45 min. 38 sec. East, a distance of 9.18 ft. to a point;
9. South 46 deg. 02 min. 41 sec. West, a distance of 12.22 ft. to a point at the beginning of said curve;
10. Northwesterly, with a curve to the right, having a central angle of 1 deg. 17 min. 01 sec., a radius of 769.99 ft. (chord bears North 86 deg. 09 min. 46 sec. West, 17.25 ft.), an arc distance of 17.25 ft. to a point at the end of said curve;
11. North 85 deg. 31 min. 16 sec. West, a distance of 103.54 ft. to a 1/2 inch capped rebar set, stamped "RPLS 6578" at the most Southern Southeast corner of the 13.038 acre tract of land conveyed to Prosper Independent School District, recorded in Instrument No. 20200817001343650, Official Public Records, *(formerly a part of the BGY Prosper 221, LLC 221.617 ac.)* and the most Southerly Southwest corner of the herein described tract;

**THENCE** Northerly, Easterly, Westerly and Southerly with the East, North and West lines of said Prosper ISD 13.038 ac., the following calls and distances:

1. North 00 deg. 51 min. 37 sec. West, a distance of 135.99 ft. to a 5/8 inch rebar found at the beginning of curve;
2. Northeasterly, with a curve to the right, having a central angle of 7 deg. 59 min. 26 sec., a radius of 861.00 ft. (chord bears North 03 deg. 13 min. 58 sec. East, 119.98 ft.), an arc distance of 120.08 ft. to a 5/8 inch capped rebar found, stamped "TNP" at the beginning of a reverse curve;

3. Northeasterly, with a curve to the left, having a central angle of 7 deg. 59 min. 26 sec., a radius of 169.00 ft. (chord bears North 03 deg. 13 min. 58 sec. East, 23.55 ft.), an arc distance of 23.57 ft. to a 5/8 inch capped rebar found, stamped "TNP";
4. North 00 deg. 45 min. 45 sec. West, a distance of 271.36 ft. to a 1/2 inch rebar found at an Ell corner of said Prosper ISD 13.038 ac. and a Northwest corner of the herein described tract;
5. North 89 deg. 14 min. 15 sec. East, a distance of 130.00 ft. to a 5/8 inch rebar found at the most Eastern Southeast corner of said Prosper ISD 13.038 ac. and an Ell corner of the herein described tract;
6. North 00 deg. 45 min. 45 sec. West, a distance of 48.74 ft. to a 5/8 inch rebar found;
7. North 08 deg. 40 min. 57 sec. West, a distance of 59.23 ft. to a 5/8 inch rebar found at the beginning of curve;
8. Northwesterly, with a curve to the right, having a central angle of 6 deg. 05 min. 52 sec., a radius of 325.00 ft. (chord bears North 03 deg. 48 min. 41 sec. West, 34.57 ft.), an arc distance of 34.59 ft. to a 5/8 inch capped rebar found, stamped "TNP";
9. North 00 deg. 45 min. 45 sec. West, a distance of 32.21 ft. to a 5/8 inch rebar found at the Northwest corner of said Prosper ISD 13.038 ac. and an Ell corner of the herein described tract;
10. South 89 deg. 14 min. 15 sec. West, a distance of 935.00 ft. to a 5/8 inch capped rebar found, stamped "TNP" at the Northwest corner of said Prosper ISD 13.038 ac. and an Ell corner of the herein described tract;
11. South 00 deg. 45 min. 45 sec. East, a distance of 404.64 ft. to a 1/2 inch capped rebar set, stamped "RPLS 6578" at the beginning of said curve;
12. Southeasterly, with a curve to the left, having a central angle of 20 deg. 38 min. 16 sec., a radius of 270.00 ft. (chord bears South 11 deg. 07 min. 55 sec. East, 96.73 ft.), an arc distance of 97.25 ft. to a 1/2 inch capped rebar set, stamped "RPLS 6578" at a Southeast corner of the herein described tract;

**THENCE** Westerly and Southerly, over and across said BGY Prosper 221, LLC 221.617 ac., the following calls and distances:

1. South 67 deg. 41 min. 17 sec. West, a distance of 60.01 ft. to a point at the beginning of curve;

2. Southeasterly, with a curve to the right, having a central angle of 27 deg. 01 min. 05 sec., a radius of 330.00 ft. (chord bears South 27 deg. 01 min. 05 sec. East, 63.245 ft.), an arc distance of 63.34 ft. to a point at the end of said curve;

3. South 89 deg. 12 min. 50 sec. West, a distance of 124.41 ft. to a in an Easterly line of said Legacy Frontier, LLC 120.5159 ac., the Ell corner of said BGY Prosper 221, LLC 221.617 ac. and a Southwest corner of the herein described tract;

**THENCE** North 01 deg. 14 min. 52 sec. West, with an East line of said Legacy Frontier, LLC 120.5159 ac. and a West line of said BGY Prosper 221, LLC 221.617 ac., a distance of 1,105.02 ft. to a 1/2 inch capped rebar found, stamped “Peiser & Mankin” at the most Eastern Northeast corner of said Legacy Frontier, LLC 120.5159 ac. and an Ell corner of both said BGY Prosper 221, LLC 221.617 ac. and the herein described tract;

**THENCE** South 89 deg. 11 min. 54 sec. West, with a North line of said Legacy Frontier, LLC 120.5159 ac. and a South line of said BGY Prosper 221, LLC 221.617 ac., a distance of 1,532.96 ft. to a 1/2 inch capped rebar set, stamped “RPLS 6578” at an Ell corner of said Legacy Frontier, LLC 120.5159 ac. and the most Western Southwest corner of both said BGY Prosper 221, LLC 221.617 ac. and the herein described tract;

**THENCE** North 00 deg. 00 min. 34 sec. West, with an East line of said Legacy Frontier, LLC 120.5159 ac. and a West line of said BGY Prosper 221, LLC 221.617 ac., a distance of 1,155.80 ft. to the **PLACE OF BEGINNING** and containing **99.343 ACRES** of land.

[Property description continues on the following pages.]

**Tract 2**  
**Property Legal Description**

***Helvey-Wagner Surveying, Inc.***

222 West Main Street · Denison, Texas 75020  
Ph: (903) 463-6191 · Email: kate@helveywagnersurveying.net  
Texas Board of Engineers and Land Surveyors Firm Registration No. 10088100  
*Billy F. Helvey, RPLS No. 4488 – Kate A. Wagner, RPLS No. 6578*

**FIELD NOTES**  
**37.554 Acres**

**SITUATED** in the Town of Prosper, County of Collin, State of Texas, being a part of the Collin County School Land Survey, Abstract No. 147, being a part of the 76.131 acre tract conveyed by Special Warranty Deed from West Prosper 76, Ltd. to BGY Prosper 221, LLC on December 15, 2017, as recorded in Instrument No. 20171222001687580, Official Public Records, Collin County, Texas, being more particularly described by metes and bounds as follows, to-wit:

**BEGINNING** at a 5/8 inch rebar found in the South line of the 120.5159 acre tract of land conveyed to Legacy Frontier, LLC, recorded in Instrument No. 20150203000121210, said Official Public Records, at the Northeast corner of the 38.572 acre tract of land conveyed to Prosper Independent School District, recorded in Instrument No. 20200817001344070, said Official Public Records, *(formerly a part of said BGY Prosper 221, LLC 76.131 ac.)* and the most Northern Northwest corner of the herein described tract;

**THENCE** North 89 deg. 12 min. 45 sec. East, with the South line of said Legacy Frontier, LLC 120.5159 ac. and the North line of said BGY Prosper 221, LLC 76.131 ac., a distance of 645.55 ft. to a 1/2 inch capped rebar set, stamped "RPLS 6578" at the Northeast corner of said BGY Prosper 221, LLC 76.131 ac. the herein described tract and a Northwest corner of the remainder of the 221.617 acre tract of land conveyed to BGY Prosper 221, LLC in Inst. No. 20171121001544530, said Official Public Records, **FROM** which a 60D nail found at the East base of a 5 inch bois d'arc corner post at an Ell corner of said BGY Prosper 221, LLC 221.617 ac. bears North 89 deg. 12 min. 45 sec. East, 1,063.53 ft.;

**THENCE** South 01 deg. 49 min. 26 sec. West, with the East line of said BGY Prosper 221, LLC 76.131 ac., passing the Northwest corner of Lot 3, Block H of Legacy Gardens, Phase 1, to the Town of Prosper, Collin County, Texas as recorded in Volume 2019, Page 619, Map Records, Collin County, Texas, continuing now with the West line of said Block H, Legacy Gardens, passing a 5/8 inch rebar found, stamped "Jones Cater" at a distance of 1,051.26 ft., continuing on and passing a "X" found in concrete wall a distance of 1,151.26 ft. at the Southwest corner of Lot 1, said Block H and continuing on said course for a **TOTAL** distance of 1,657.83 ft. to a point in the North line of the 18.15 acre tract of land conveyed to Hope Fellowship Ministries in Inst. No. 20200227000279210, said Official Public Records, at the Southwest corner of Lot 5, Block D, said Legacy Gardens, Phase 1 and the Southeast corner of both said BGY Prosper 221, LLC 76.131 ac. and the herein described tract;

**THENCE** Westerly, along the South line of said BGY Prosper 221, LLC 76.131 ac., the following calls and distances:

1. South 89 deg. 24 min. 46 sec. West, a distance of 77.37 ft. to a ¾ inch rebar found at the Northwest corner of said Hope Fellowship Ministries 18.15 ac. and the Northeast corner of the 8.769 acre tract of land (Tract 2) conveyed to Avicenna Management, LLC in Inst. No. 20220208000214910, said Official Public Records;
2. South 88 deg. 14 min. 28 sec. West, a distance of 42.05 ft. to a ½ inch rebar found;
3. North 89 deg. 23 min. 41 sec. West, a distance of 625.70 ft. to a ½ inch capped rebar set, stamped "RPLS 6578";
4. South 86 deg. 03 min. 36 sec. West, a distance of 347.43 ft. to a ½ inch rebar found;
5. South 89 deg. 20 min. 49 sec. West, a distance of 55.52 ft.;
6. South 88 deg. 42 min. 58 sec. West, a distance of 185.12 ft. to a 4 inch pipe corner post at the Northwest corner of the 3.043 acre tract of land conveyed to Daystar Landscapes, Inc. in Inst. No. 20211019002128100, said Official Public Records and the Northeast corner of the 5.85 acre tract of land conveyed to Mage Partners, LLC in Inst. No. 20201207002190190, said Official Public Records;



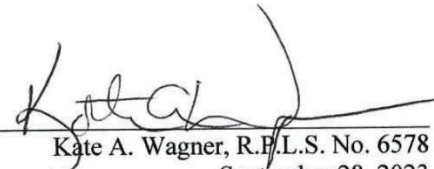
7. South 89 deg. 35 min. 38 sec. West, with the North line of said Mage Partners, LLC 5.85 ac., a distance of 653.23 ft. to a spike nail found in the pavement of Legacy Drive, a public road, in the West line of said Collin County School Land Survey and the East line of John H. Durrett Survey, Abstract No. 350, Denton County, Texas, at the Southwest corner of both said BGY Prosper 221, LLC 76.131 ac. and the herein described tract;

**THENCE** North 00 deg. 33 min. 59 sec. East, with or near the center of said Legacy Drive, along the West line of both said Collin County School Land Survey and BGY Prosper 221, LLC 76.131 ac. and the East line of said John H. Durrett Survey, Denton County, a distance of 472.79 ft. to a spike nail found at the Southwest corner of said Prosper ISD 38.572 ac. and the most Western Northwest corner of the herein described tract;

**THENCE** Easterly and Northerly, with the South and East lines of said Prosper ISD 38.572 ac., the following calls and distances:

1. South 89 deg. 26 min. 16 sec. East, a distance of 424.83 ft. to a ½ inch capped rebar set, stamped “RPLS 6578” at the beginning of a curve;
2. With a curve to the right, having a radius of 270.00 ft., a central angle of 30 deg. 16 min. 47 sec, Chord bears: South 74 deg. 17 min. 53 sec. East, 141.04 ft. and an arc length of 142.69 ft. to a 5/8 inch capped rebar found, stamped “TNP” at the end of said curve;
3. South 59 deg. 09 min. 29 sec. East, a distance of 268.01 ft. to a ½ inch capped rebar set, stamped “RPLS 6578” at the beginning of a curve;
4. With a curve to the left, having a radius of 330.00 ft., a central angle of 29 deg. 35 min. 36 sec., Chord bears: South 73 deg. 54 min. 17 sec. East, 168.56 ft., and an arc length of 170.45 ft. to a 5/8 inch rebar found, at the most Southerly Southeast corner of said Prosper Independent School District 38.572 ac. and an Ell corner of the herein described tract;
5. North 01 deg. 22 min. 03 sec. East, a distance of 190.16 ft. to a 5/8 inch capped rebar found, stamped “TNP” at an Ell corner of said Prosper ISD 38.572 ac. and a Northwest corner of the herein described tract;
6. South 88 deg. 43 min. 25 sec. East, a distance of 102.12 ft. to a 5/8 inch rebar found at the beginning of curve;
7. Northeasterly, with a curve to the left, having a central angle of 55 deg. 04 min. 26 sec., a radius of 140.02 ft. (chord bears North 63 deg. 47 min. 32 sec. East, 129.47 ft.), an arc distance of 134.59 ft. to a 5/8 inch capped rebar found, stamped “TNP” at the beginning of a reverse curve;
8. Northeasterly, with a curve to the right, having a central angle of 29 deg. 15 min. 05 sec., a radius of 460.00 ft. (chord bears North 50 deg. 52 min. 51 sec. East, 232.30 ft.), an arc distance of 234.85 ft. to a 5/8 inch capped rebar found, stamped “TNP” at the most Eastern Southeast corner of said Prosper ISD 38.572 ac. and an angle point of the herein described tract;
9. North 01 deg. 47 min. 13 sec. East, a distance of 1,039.51 ft. to the **PLACE OF BEGINNING** and containing **37.554 ACRES** of land.

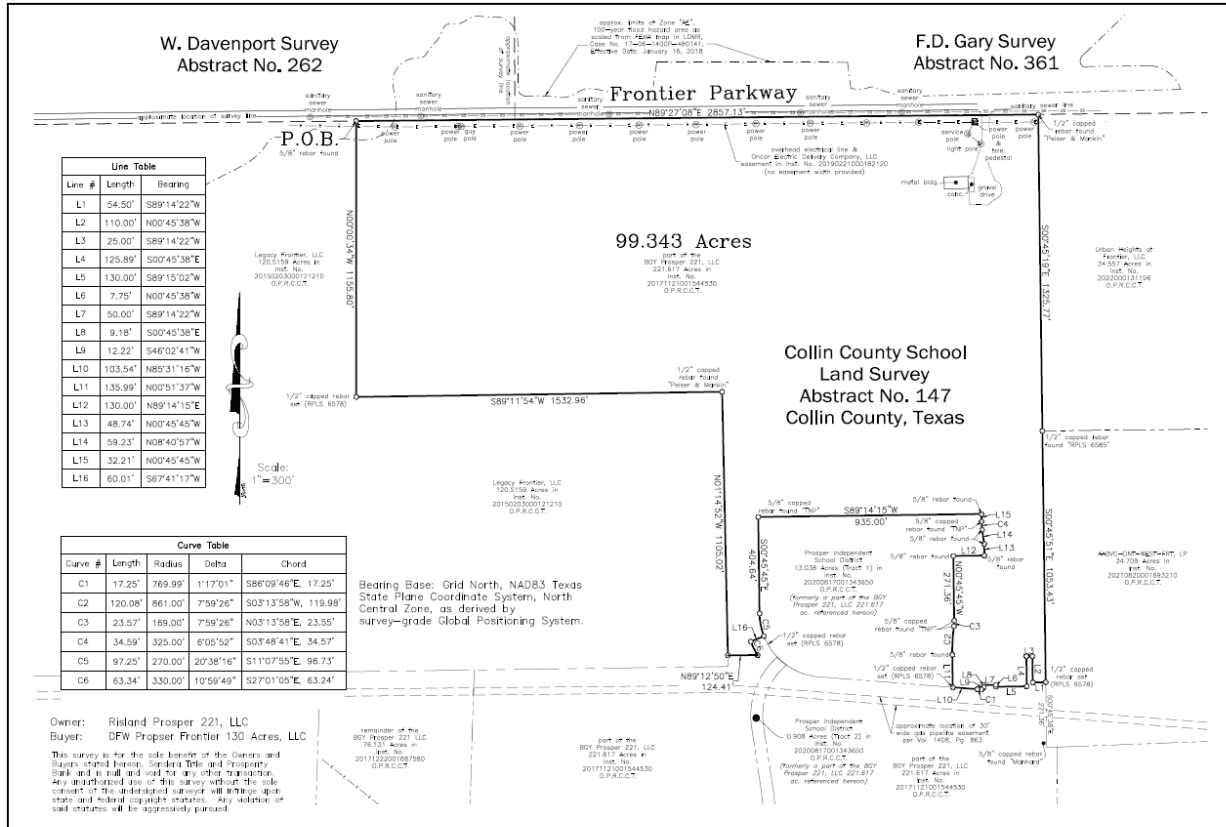


  
Kate A. Wagner, R.P.L.S. No. 6578  
September 28, 2023



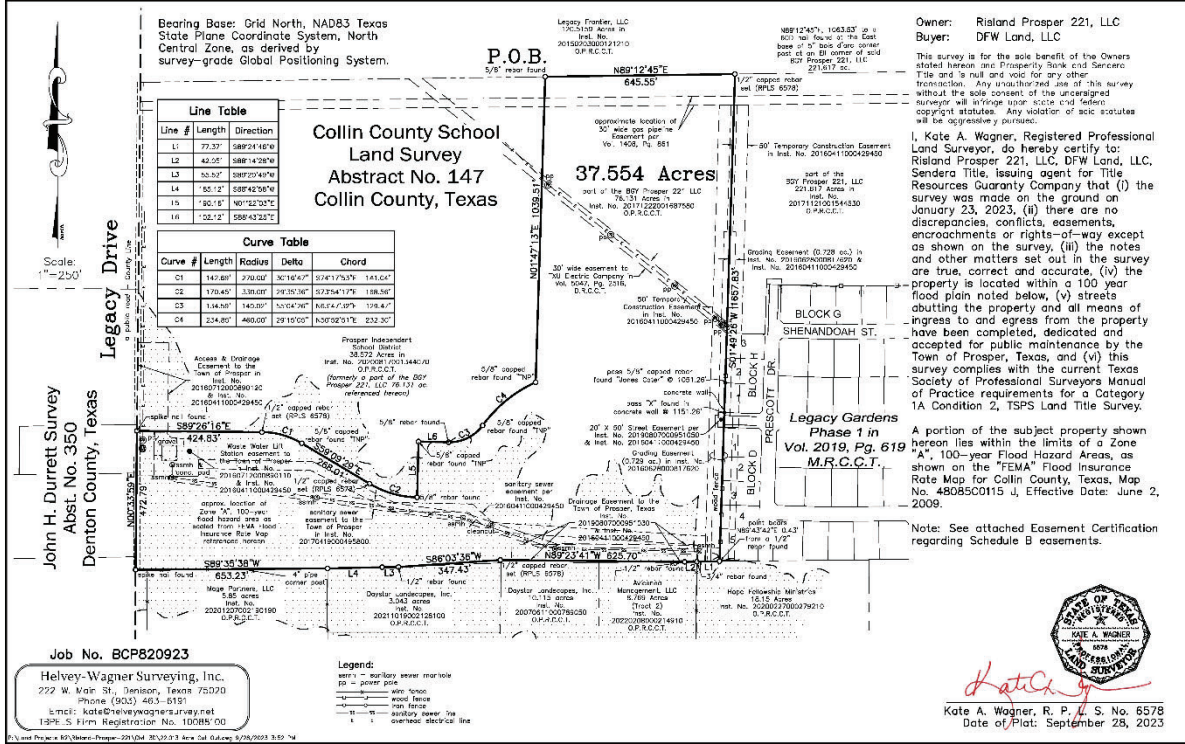
# EXHIBIT A-2

## TRACT 1 Property Depiction



## TRACT 2

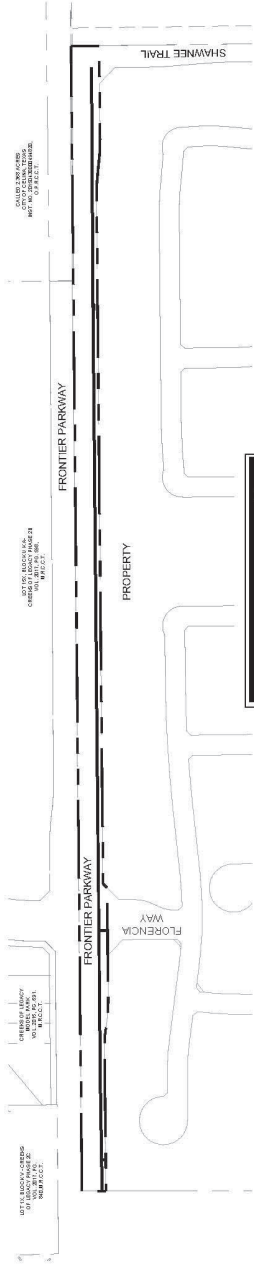
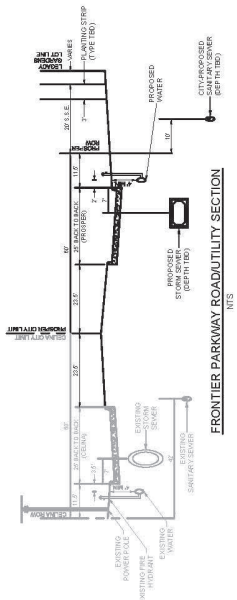
### Property Depiction



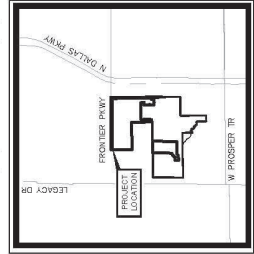
**EXHIBIT B**

**Water Improvements**

*[See attached.]*



LEGEND



VICINITY MAP

Water Improvements: Exhibit B

Prosper, Texas  
December 2025

Kimley»Horn

10000 West Loop South, Suite 200  
Houston, Texas 77057  
Phone: 281.460.0000  
Fax: 281.460.0001  
www.kimleyhorn.com

## EXHIBIT C

### Estimated Construction Costs for the Water Improvements

Item No.	Description	Unit	Quantity	Unit Price	Amount
<b>Frontier Water Distribution System</b>					
F-W1	6" PVC WATERLINE	LF	110	\$ 36.15	\$ 3,976.50
F-W2	12" PVC WATERLINE	LF	2,824	\$ 81.53	\$ 230,240.72
F-W3	FIRE HYDRANT ASSEMBLY	EA	5	\$ 7,284.61	\$ 36,423.05
F-W4	FIRE HYDRANT ASSEMBLY W/ EXTENDED LEAD	EA	1	\$ 7,522.01	\$ 7,522.01
F-W5	12" GATE VALVE AND BOX	EA	10	\$ 4,488.15	\$ 44,881.50
F-W6	12" PLUG	EA	2	\$ 800.00	\$ 1,600.00
F-W7	12"X12" TEE	EA	1	\$ 500.00	\$ 500.00
F-W8	AIR RELEASE VALVE	EA	2	\$ 10,750.19	\$ 21,500.38
F-W9	AUTOMATIC FLUSHING VALVE	EA	1	\$ 12,488.17	\$ 12,488.17
F-W10	TESTING (EXCLUDING GEOTECH)	LF	2,934	\$ 2.00	\$ 5,868.00
F-W11	TRENCH SAFETY	LF	2,934	\$ 0.25	\$ 733.50
F-W12	MAINTENANCE BOND	LS	1	\$ 23,482.00	\$ 23,482.00
<b>Subtotal: Frontier Water Distribution System</b>					<b>\$ 389,215.83</b>
<b>Subtotal: Frontier Water Distribution System</b>					
<b>Contingency (15%)</b>					<b>\$ 58,382.37</b>
<b>Total</b>					<b>\$ 447,598.20</b>

**NOTES:**

1. UNIT PRICES FOR UTILITIES ARE BASED ON BIDS RECEIVED FROM C.W. YOUNG CONSTRUCTION ON 7/17/2025

**EXHIBIT D**

**Water Service Areas**

[*See attached.*]



