



## ENGINEERING SERVICES

**To:** Mayor and Town Council

**From:** Hulon T. Webb, Jr., P.E., Director of Engineering Services

**Through:** Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager

**Re:** First Amendment: Roadway Construction Reimbursement Agreement  
MSW Prosper 380 II, LP (TIRZ No. 2)

Town Council Meeting – April 16, 2024

**Strategic Visioning Priority: 1. Acceleration of Infrastructure**

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**Agenda Item:**

Consider and act upon authorizing the Town Manager to execute the First Amendment to the Roadway Construction Reimbursement Agreement between MSW Prosper 380 II, LP, and the Town of Prosper, Texas, related to the construction of roadways within the Town's Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2).

**Description of Agenda Item:**

At the April 12, 2022, Town Council meeting, the Town Council approved a Roadway Construction Agreement with MSW Prosper 380 II, LP, for the construction of the following roadways (including underground utilities, median landscaping, and street lighting) within the boundaries of the Town's Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2):

- 4 lanes concrete pavement: Mahard Parkway from Toyota and Texas Health Resources, extending north to the intersection of Prairie Drive.
- 4 lanes concrete pavement: Prairie Drive from the intersection of Mahard Parkway, extending east to the intersection of Shawnee Trail.
- 4 lanes concrete pavement: Shawnee Trail from the intersection of Prairie Drive, extending north to the future intersection of Lovers Lane.
- 4 lanes concrete pavement: Prairie Drive East from the intersection of Shawnee Trail, extending east to the Dallas North Tollway.

Paragraph 1 of the original agreement states the following:

“1. **Construction of the Roadways by Developer.** Developer agrees to construct the Roadways, and the location and anticipated construction costs of the Roadways are described in Exhibit A, attached hereto and incorporated by reference. All roadway construction by Developer shall be subject to applicable state bidding laws and Town engineering, design, and construction standards. In the event the Roadways have not been accepted by the Town within two (2) years of the date of execution of this Agreement, then this Agreement shall be null and void and of no further force or effect.”

With April 12, 2024, being the expiration of the agreement due to the roadways not yet being accepted, the purpose of the First Amendment to the Roadway Construction Reimbursement Agreement is to extend the expiration deadline for the completion and acceptance of the roadways. MSW Prosper 380 II, LP, has actively pursued completion of the roadways and the reason for not receiving acceptance before April 1, 2024, is due to a lengthy delay in receiving approval from Atmos Energy for the proposed landscaping in their easement along Mahard Parkway.

The First Amendment will replace the last sentence of Paragraph 1. of the original agreement with the following:

"In the event the Roadways have not been accepted by the Town on or before March 31, 2025, then this Agreement shall be null and void and of no further force or effect."

**Budget Impact:**

The estimated cost for the design and construction of the proposed roadways within TIRZ No. 2 is approximately \$14,399,970.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality.

**Attachments:**

1. First Amendment to Roadway Construction Reimbursement Agreement
2. Email Request

**Town Staff Recommendation:**

Town staff recommends that the Town Council authorize the Town Manager to execute the First Amendment to the Roadway Construction Reimbursement Agreement between MSW Prosper 380 II, LP, and the Town of Prosper, Texas, related to the construction of roadways within the Town's Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2).

**Proposed Motion:**

I move to authorize the Town Manager to execute the First Amendment to the Roadway Construction Reimbursement Agreement between MSW Prosper 380 II, LP, and the Town of Prosper, Texas, related to the construction of roadways within the Town's Tax Increment Reinvestment Zone No. 2 (TIRZ No. 2).