

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND LOCKWOOD, ANDREWS & NEWNAM, INC.
FOR THE UPPER DOE BRANCH WASTEWATER LINE (TEEL PARKWAY TO PISD STADIUM) (2152-WW)**

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 **Lockwood, Andrews & Newnam, Inc.**, 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."

WITNESSETH:

WHEREAS, Town desires to obtain professional engineering services in connection with the **Upper Doe Branch Wastewater Line (Teel Parkway to PISD Stadium) (2152-WW)**, 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 (a) Basic Service, on a lump sum basis in an amount not to exceed Three Hundred Seven Thousand Two Hundred Five Dollars (\$307,205) (b) for Special Services, on cost-plus basis in an amount not to exceed One Hundred Ninety-one Thousand Nine Hundred Dollars (\$191,900) 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 under this Agreement and that Town may use them without Consultant's permission for any purpose relating to the Project. 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. Consultant shall retain Ownership of all materials.

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, REPRESENTATIVES, EMPLOYEES AND INVITEES FROM AND AGAINST LIABILITY, CLAIMS, SUITS, 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 PROPERTY OR 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 ALL LIABILITY SHALL BE CALCULATED ON A COMPARATIVE BASIS OF 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:

Lockwood, Andrews & Newnam, Inc.
Justin C. Reeves, Vice President
1300 Summit Avenue, Ste. 300
Fort Worth, Texas 76102
JReeves@LAN-inc.com

Town of Prosper
Mario Canizares, Town Manager
PO Box 307
Prosper, Texas 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. Each Party shall bear its own costs.

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. **Force Majeure.** The Town agrees that the Consultant is not responsible for damages arising from any circumstances beyond the Consultant's reasonable control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions, natural disasters, fire or other acts of God; riots, war or other emergencies; failure of any governmental agency to act in timely manner; failure of performance by Town or the Town's other consultants, its Contractor or any of their subcontractors; or discovery of any hazardous substances or differing and unforeseeable site conditions.

21. **Mutual Waiver of Consequential Damages.** In no event shall either Party be liable, whether in contract or tort or otherwise, to the other Party for loss of profits, delay damages, or for any special incidental or consequential loss or damage of any nature arising at any time or from any cause whatsoever.

22.. **Opinion of Probable Costs.** Notwithstanding anything to the contrary, Consultant's opinions of probable total project costs, construction costs, and/or estimates of quantities, if any, provided as part of the services under the Agreement are made on the basis of Consultant's knowledge, experience and qualifications and represent Consultant's judgment as an experienced professional. Consultant does not guarantee that proposals, bids, actual total project costs, total construction costs or quantity estimates will not vary from the opinions provided by Consultant.

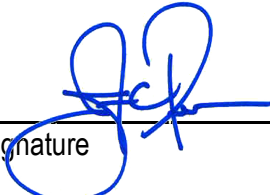
23.. **Construction Means, Methods and Safety.** Consultant is not responsible for supervising, directing, controlling, or otherwise being in charge of the construction activities, means, methods or health or safety programs at the project site or in connection with the work; or supervising, directing, controlling, or otherwise being in charge of the actual work of the Construction Contractor, its sub-contractors, or other materialmen or service providers not engaged by Consultant.

24. **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.

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____.

Lockwood, Andrews & Newnam, Inc.

TOWN OF PROSPER, TEXAS

By:  _____
Signature
Justin C. Reeves
Printed Name
Vice President
Title
03/02/2023
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 LOCKWOOD, ANDREWS & NEWNAM, INC.
FOR THE UPPER DOE BRANCH WASTEWATER LINE (TEEL PARKWAY TO PISD STADIUM) (2152-WW)**

I. PROJECT DESCRIPTION

In preparation for development at the intersection of Frontier Parkway (FM 1461) and Dallas North Tollway (DNT), the Town proposes to construct the Upper Doe Branch Wastewater Line as shown on the Town's Wastewater Master Plan. The line connects to the existing Doe Branch interceptor near Teel Parkway and W Prosper Trail, following Doe Branch Creek, Legacy Road, and Frontier Parkway to Prosper ISD Stadium. This interceptor will also allow for the decommissioning of three lift stations, providing for improved operations and reduced maintenance for the Town. The project corridor is shown in Exhibit A.1.

This project includes preparation of construction documents, geotechnical investigation, subsurface utility investigation, environmental services, surveying services, utility coordination and crossing permits, and limited bid and construction phase services. Construction document submittals for review will be made at 30%, 60%, and 90% milestones.

II. TASK SUMMARY

Task 1. PROJECT MANAGEMENT AND COORDINATION

Consultant shall provide project management services for the project. The following services shall be provided:

- a) Manage and coordinate all parties involved in the project, including subconsultants, Town Staff, franchise utility owners, and NTTA.
- b) Obtain, review, and distribute design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project area.
- c) Prepare written progress reports to be submitted with monthly pay requests. The Consultant's written progress report shall describe activities during the reporting period; activities planned for the following period; problems encountered and actions taken to remedy them; and overall status, including a percent complete by task.
- d) Develop and maintain a detailed project schedule to track project conformance to Exhibit B, Compensation Schedule. The schedule submittal shall be electronic format. Schedule submittals are required at the start of the project and any time the schedule is revised for design or review purposes.

Task 2. SURVEYING SERVICES

Consultant shall retain (as a subconsultant) and monitor the services of a surveying firm to perform surveying services for the project. Additional survey information provided by the Town will be incorporated into the survey.

- a) Topographic Survey
 - i) Vertical benchmarks shall be established such that all points of construction shall be within 500 feet of a benchmark. Benchmarks should not be subject to loss during construction and shall be tied to the Town's benchmarks. Fire hydrants and similar appurtenances are not to be used for benchmarks. The surveyor shall establish temporary benchmarks throughout the length of the project.

- ii) Topographic features will be surveyed along with any and all other features needed for design, review, permitting, construction, and inspection of the project. Coverage will extend beyond the proposed rights-of-way far enough to integrate the design with the adjacent properties.
- iii) Quality Level “C” and “D” Subsurface Utility Engineering:
 - (1) Investigate utility systems shown on the record drawings that are included within the project site. Visible surface features and appurtenances of the subsurface utilities found within the project site shall be evaluated.
 - (2) Prepare documentation of the utilities encountered and marked, including their general location, orientation, type & size.
 - (3) Existing property corners, iron pins, etc. shall be tied in order to establish existing rights-of-way. Access private property is not anticipated due to utilization of LiDAR scanners. If access is required, then the surveyor shall secure written permission from the property owners and/or tenant and shall provide the Town a copy of said written permission. Should only oral permission be granted, the surveyor shall document the permission granted by letter to the property owner/tenant, with a copy to the Town. If permission cannot be obtained, the Town will assist, or other arrangements will be worked out.
- b) Right-of-way and Easement Instruments
 - i) Surveyor will prepare metes and bounds descriptions with accompanying map exhibit for permanent and temporary instruments, which include:
 - (1) Existing appraisal district tax card, parent deed and/or plat, map check for each exhibit and all other supporting documentation;
 - (2) All documents will include NAD83 GRID coordinates for the point of beginning, horizontal scaling factors, and basis of bearings information;
 - (3) Signed and sealed PDF of the complete instrument for each parcel. No paper copies are included.

Construction control survey and staking is **excluded**.

Task 3. PRELIMINARY DESIGN PHASE

- a) Review alignment by others and/or other applicable improvement(s) in Project areas and pertinent information regarding land boundaries and ownership in the potentially affected areas;
- b) Evaluate erosion potential to protect Town’s infrastructure within the limits of the Project;
 - i) Using FEMA Zone ‘A’ floodplain limits and establish minimum setback for pipeline alignment.
- c) Determine average and maximum flow conditions based on future land use and proposed development information provided by the Town. Size the capacity of the proposed system based on determined flow conditions. Prepare technical memorandum outlining methodology and results;
- d) The Consultant will develop preliminary construction drawings for review by the Town. In general, construction plans shall be consistent with standard of care for projects of this nature. The construction plans will be developed on 22”x34” sheets that are formatted to be reproduced at half-scale (11”x17”). The construction plans will consist of numbered sheets ordered as follows:
 - i) Cover Sheet and Sheet Index: The cover sheet shall include a location map. Additionally, the cover sheet shall show the project name, project number, date, Town logo, Consultant’s name, address, and telephone number and other items as may be specified. Following the title sheet shall be a sheet index with drawings numbered consecutively.
 - ii) Town Standard General Notes: The Town Standard General Notes will be reviewed and incorporated.

- iii) Project Layout Sheet: The project layout sheet(s) will be drawn to scale and laid out with the north arrow up or to the right. The purpose of the project layout is to depict the project in a simplified view. Major items of work will be shown with minimal detail. Survey control points, property information, and centerline alignment data shall be shown.
- iv) Quantity Summary Sheet: The Quantity Summary Sheet will provide a list of all the pay items and estimated quantities in the contract.
- v) Sanitary Sewer Hydraulics Calculations: proposed sewer-shed service areas will be shown, including identification number, land use assumptions, land areas, average and peak flows, proposed pipe sizes, slopes, and capacities.
- vi) Sanitary Sewer Plan and Profile Sheets: Plan sheets will be arranged from south to north and from west to east, with the north arrow up or to the right on the sheet. Plan sheets will be drawn to a scale of 1" = 20' horizontal at 22" x 34" (1" = 40" at 11"x 17"). Stationing will be from south to north and/or west to east or consistent with stationing established in record drawings, where appropriate. Each plan sheet will include no more than 500 feet of alignment; thus, leaving ample margins both left and right. The proposed centerline will be drawn generally parallel to sheet border. Plan sheets shall depict existing and proposed items pertinent to the project.
- vii) Lift Station Decommissioning and Connection Plans: Details plans will show necessary equipment removals, abandonments, and/or other special requirements necessary for the decommissioning of three (3) lift stations.
- viii) Detail Sheets: Town standard construction details will be included as necessary for the construction of the project.
- ix) Generic Sheet List:
 - (1) Cover Sheet
 - (2) Sheet Index and Legend
 - (3) Town Standard General Notes
 - (4) Project Layout Sheets
 - (5) Quantity Summary Sheet
 - (6) Sanitary Sewer Hydraulics Calculations
 - (7) Sanitary Sewer Plan and Profile Sheets
 - (8) Lift Station Decommissioning and Connection Plans
 - (9) Detail Sheets
- x) Engineer will coordinate with site development engineer of adjacent development to ensure designs are compatible.
- e) Engineer's Opinion of Probable Construction Cost (OPCC): Consultant will prepare an opinion of probable construction cost. Consultant will prepare bid items based on NCTCOG Standard Specifications for Public Works Construction, 5th edition.
- f) Attend one (1) meeting with the Town of Prosper project manager to conduct an on-site review and walkthrough.
- g) Submittals:
 - i) Submit one electronic copy of sanitary sewer flow technical memorandum;
 - ii) Submit one electronic copy of preliminary construction plans, and OPCC;
 - iii) Refer to **III. DELIVERABLES**.
- h) Exclusions:
 - i) Public Meetings;
 - ii) Town Council Coordination and Meetings;
 - iii) Landowner Coordination and Meetings.

Task 4. ENVIRONMENTAL SERVICES

Consultant shall retain (as a subconsultant) and monitor the services of an environmental firm to perform environmental services for the project.

Archeological Backhoe Trenching, Additional Archeological Site Evaluation, and Deed Title Research are **specifically excluded from this scope of work**. These items could be required as a condition of the Antiquities Permit from the Texas Historical Commission.

a) Phase I Cultural Resources Pedestrian Survey

Through cursory review of the project, IES has determined that there are no previously recorded sites or other cultural resources within proposed project area. Furthermore, historic aerial photography and topographic maps reveal that the project area is absent of any potentially historic structures. Due to the proximity of the project to unnamed tributary to Doe Branch, the project area has an elevated probability of prehistoric archeological resources. As a portion of the project is located within frequently flooded soils, it is anticipated that the THC may require deep testing to evaluate if the project will impact any deeply buried archeological sites within the floodplain.

Once notice-to-proceed (NTP) has been acquired, IES will immediately begin preparations to coordinate with the THC. Coordination with the THC will occur through the submittal of an Antiquities Permit Application that describes the project area and details the proposed scope of work. Once the permit application has been approved by the THC, IES will be provided a permit number and receive authorization to conduct the archeological survey. The THC has a maximum of 30 days to review a submitted permit application. Concurrent to Antiquities Permit Application review, IES will begin coordinating with project management to streamline fieldwork once the permit has been received.

Since the project will be located on state land and will require a Section 404 permit, an archeological survey must be conducted for the project to comply with state and federal law. As such, IES will provide the following professional services to obtain THC/USACE approval for the project:

- complete the Antiquities Permit Application necessary to conduct the intensive pedestrian archeological survey;
- complete a full intensive pedestrian archeological survey to document archeological sites 50 years or older within the project corridor;
- make preliminary determinations of eligibility for inclusion in the NRHP or as a State Antiquities Landmark (SAL) for any documented archeological sites encountered;
- analyze any artifacts recorded and/or collected (if applicable);
- complete and submitting State of Texas Archeological Site Data Forms to the Texas Archeological Research Laboratory (TARL) for any newly recorded archeological sites encountered within the project area and obtain site trinomial identification numbers;
- draft a technical report that documents the archeological background review, survey methods, survey results, any necessary NRHP eligibility assessment, and recommendations; and
- conduct coordination with the THC to agency comment.

Due to the presence of soils indicating both alluvial deposition within the unnamed tributary to Doe Branch floodplain and in situ development within upland settings, this intensive archeological survey will be conducted using systematically-placed shovel tests within the project area. In areas with potential for containing archeological materials in shallow contexts (i.e., depths less than 3 feet [ft]), shovel tests will be excavated to the top of culturally sterile deposits, typically the calcic (Bk) subsoil horizon or bedrock in this area. Each shovel test will be at least 30 centimeters (cm) in diameter and will be excavated in levels not exceeding 20 cm in thickness. Excavated soil will be screened using 0.25-inch (in; 0.64-cm) hardware mesh

to facilitate the recovery of artifacts. If clay content is high and cannot be efficiently screened, the excavated soil will be manually troweled and inspected for cultural deposits. Additionally, the physical properties of each natural stratigraphic level will be recorded. All shovel test locations will be plotted using hand-held Global Positioning System (GPS) units. Investigators will document the results of each shovel test on standardized forms.

For linear portions of the project (e.g., proposed force and gravity mains), the THC Archeological Survey Standards for Texas require that 16 shovel tests be conducted per mile (mi) along each survey transect. Thus, it is anticipated that a maximum of approximately 46 shovel tests will be required by the current CTA archeological survey standards and will be excavated during the intensive survey. However, the number of shovel and auger tests could vary based on the extent of previous disturbances, exposed bedrock or culturally sterile subsoil, and steep slopes present within the project area, or if archeological site(s) are encountered.

b) Delineation of Waters of the United States

IES will provide professional services to delineate all waters of the United States, including wetlands, at the specified project site. IES wetland ecologist will delineate the jurisdictional limits of the streams and any on-channel ponds based on 33 CFR 328.3[e], delineate the jurisdictional limits of any potential wetlands based on the 1987 USACE Wetland Delineation Manual, the Great Plains Regional Supplement, and current Regulatory Guidance Letters. IES will record the boundaries of any potential jurisdictional waters with a sub-meter accurate Global Positioning System and on field maps that will be digitized for illustrations and calculations. This delineation map will be provided to the client.

The deliverable for this task is a letter report that summarizes the delineation of the site. The letter report will include:

- Delineation map of the jurisdictional waters of the United States;
- Routine Wetland Determination Data Forms completed for all potential wetlands (including any questionable wetlands);
- Representative photographs of upland and jurisdictional sites;
- Descriptions of the site and each jurisdictional area (i.e., soils, plant communities, historic land use, stream characteristics, and ultimately the quality);
- Determinations as to significant nexus for all wetlands and non-relatively permanent waters within the study limits; and
- Definitions of a water of the United States and whether each water/wetland feature meet a definition (i.e., IES' opinion as to whether they are jurisdictional). Antiquities Code of Texas Permit Application

c) Protected Species Habitat Assessment

This effort will include coordinating with USFWS to determine the species listed in Collin County, habitat surveys for listed protected species and a report presenting the findings of the surveys. Research of available data will determine the listed species and their preferred habitat. Species-specific surveys will not be covered in this scope of services, since they require substantial time throughout particular seasons using specific protocols. Habitat surveys are designed to determine whether the site contains preferred protected species habitat and the likelihood of the presence of that species. A brief letter report will be prepared summarizing the results of the survey. Specifically, the report will describe the habitats present on the site, the protected species that are listed in Collin County and their preferred habitats, and an evaluation of whether or not this preferred habitat is present on the site.

d) Section 404/Nationwide Permit Assessment

After the delineation and cultural resources survey is completed, IES will utilize this

information to evaluate the proposed alignment to determine compliance with Section 404 of the CWA, specifically the NWP program. IES will evaluate the proposed project and what impacts the project has in waters of the United States to determine the USACE's scope and type of permit necessary for the impacts. Next IES will document the NWP terms and conditions, General Conditions, and Fort Worth District Regional Conditions for the applicable permit. Finally, IES will document how the proposed project complies with each of these conditions. IES will summarize the delineation, impact assessment, permit conditions, and compliance in a brief letter report.

Task 5. FINAL DESIGN PHASE

- a) The Consultant will develop construction drawings for review by the Town.
- b) Engineer's Opinion of Probable Construction Cost (OPCC) will be updated for each submittal.
- c) The following permits are anticipated to be required for this project. Permit applications will be prepared and coordinated by the Town:
 - i) NTTA;
 - ii) ONEOK;
 - iii) Atmos.

No special exhibits will be prepared. Engineer will provide necessary information to Town for application(s) and update plans to incorporate utility feedback.

- d) Submittals:
 - i) Plans will be submitted for review at 60% and 90% milestones.
 - ii) Town review comments will be logged and incorporated as necessary.
 - iii) Final plans will be submitted for bid after 90% review and updates are complete.
 - iv) Refer to III. DELIVERABLES.
- e) Exclusions:
 - i) Traffic Control plans;
 - ii) Public Meetings;
 - iii) Town Council Coordination and Meetings.

Task 6. GEOTECHNICAL INVESTIGATION

Consultant shall retain (as a subconsultant) and monitor the services of a geotechnical engineering firm to perform geotechnical services for the project. Approximately 10 borings will be performed, at a depth similar to anticipated trench depth.

The Town will provide sealed geotechnical report(s) from recent projects along Frontier Parkway. Data shown on the plans will be supplemented with information provided by the Town, but this information will not be included in the geotechnical report for this project.

- a) Field Exploration
 - i) Field locate borings by handheld GPS unit with a horizontal accuracy of about 15 feet. Elevations will be interpolated from civil drawings or referenced from published topographical maps.
 - ii) Perform seven borings with a truck-mounted drilling rig to depths of about 25 to 30 feet below the existing site grades for the sewer line and three borings to a depth of 50 feet at the bore/tunnel locations. The total footage is 360 feet.
 - iii) Obtain representative soil samples by means of the split-barrel and Shelby tube sampling procedures in general accordance with ASTM Specifications D-1586 and D-1587, respectively.
 - iv) Texas Cone Penetrometer tests will be performed to evaluate the load-carrying capacity of the bedrock encountered in the borings. These tests will be performed in general

accordance with test method TEX-132-E in the Texas Department of Transportation (TxDOT) Manual of Testing Procedures.

- v) Measure the depth of groundwater at each boring at the time of drilling and prior to backfilling.
- b) Laboratory Testing
 - i) Laboratory testing of representative soil samples will be performed to determine physical and engineering properties of the soil. The laboratory testing may include the following:
 - (1) Moisture content
 - (2) Atterberg limits
 - (3) Passing No. 200 sieve
 - (4) Unconfined compressive strength
 - (5) Corrosion suite - pH, resistivity, redox, sulfides, chlorides, and sulfates at three locations
- c) Engineering Report
 - i) Upon completion of the field exploration, laboratory testing, and engineering analyses, we will prepare a written engineering report that will include:
 - (1) A review of published soils mapping and/or geologic information.
 - (2) Observations from our site reconnaissance and personnel on the drill rig, including current site conditions, surface drainage features, and surface topographic conditions, and/or available satellite imagery.
 - (3) A description of the field exploration and laboratory tests performed.
 - (4) Final logs of the soil borings in accordance with industry standard practices for geotechnical engineering. A Boring Location Plan will be included.
 - (5) The results of the laboratory tests will be plotted on the final exploration logs and/or included on separate test report pages.
 - (6) Discussion of the subsurface materials encountered along with groundwater conditions observed.
 - (7) Subsurface cross sections/profiles will be included that graphically represent the subsurface conditions.
 - (8) Geotechnical design parameters and recommendations for sewer line, per Town of Prosper standards. This will also include allowable bearing pressures, estimates of predicted foundation movement, excavation, pipe bedding, modulus of soil reaction, coefficient of skin friction between the bedding material and the pipe, and backfill material, and lateral earth pressure for the proposed pipeline.
 - (9) General recommendations for boring and tunneling for the proposed pipeline.
 - (10) Discussion of earthwork construction considerations for compaction, reuse of soils, groundwater, expansive soils, shallow rock, drainage, or other considerations.
 - (11) General discussion of corrosivity of soils at the site with respect to deleterious effects on concrete structures.

Task 7. SUBSURFACE UTILITY ENGINEERING

Consultant shall retain (as a subconsultant) and monitor the services of a subsurface utility engineering (SUE) firm to perform SUE services for the project. SUE work required for this project in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data).

- a) Quality Level B (QLB) - Two-dimensional (x, y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as "designating" this quality level provides the horizontal position of subsurface utilities within approximately one foot.

- For this project, limited QLB will be provided along Frontier Parkway and Dallas North Tollway.
- b) Quality Level A (QLA) – Also known as “locating”, this quality level provides precise three-dimensional (x, y, z) information at critical locations by exposing specific utilities. Non-destructive vacuum excavation equipment is used to expose the utilities at specific points which are then tied down by survey. For this project, QLA will be provided at up to six (6) test holes at an assumed depth 8–12 feet located outside of pavement, along the proposed alignment.
- Consultant and Sub-consultant will attempt to place the test holes outside the paved areas wherever possible. However, some test holes may need to be placed in paved areas that may require traffic control measures to be implemented. Sub-consultant will establish routine/ordinary traffic control (cones and free-standing signage, etc.) whenever required as part of this scope. If non-routine traffic control measures are required (barricades, flag person, changeable message board, etc.) these services will be additional to the contract.

Task 8. BID AND CONSTRUCTION PHASE SERVICES

During the bidding phase, the Town will prepare bid documents, advertise the project for bid, issue addenda, and tabulate bids. No construction phase services are included in this proposal after completion of the preconstruction meeting.

- a) Provide responses to questions submitted during bidding process (up to 10).
- b) Attend pre-bid meeting, if required.
- c) Prepare and provide the Town with two (2) addenda to bid documents.
- d) Prepare conformed documents as necessary.
- e) Attend a pre-construction meeting.
- f) Review contractor submittals (up to 4).
- g) Refer to **III. DELIVERABLES**.

Exclusions:

- a) Public Meetings.
- b) Town Council Coordination and Meetings.
- c) Assisting the Town in advertising for bids.
- d) Assisting the Town in interpreting bid documents.
- e) Evaluation of bidders and preparation of letter of recommendation.
- f) Construction observation site visits.
- g) Attendance at final walk through and preparation of punch lists.

Task 9. RECORD DRAWINGS

- a) Prepare construction “Record Drawings” updating the project plans to reflect any field changes or plan revisions. Record drawings shall be delivered in a digital format. The drawings shall be 22” x 34” in size and shall bear “Record Drawing” stamp and the seal and signature of the Engineer along with the date. The drawings shall be produced 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (i.e., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order. Digital design files of the “Record Drawings” shall be submitted either Autodesk Civil 3D (.dwg) or Bentley (.dgn) format. Digital design files shall be complete and not stripped or purged of any design data or styles.
- b) Refer to **III. DELIVERABLES**.

III. DELIVERABLES

Task 1 - Project Management and Coordination	Monthly status reports
Task 2 - Survey Services	Digital Topographic Drawings Easement Instruments (18)
Task 3 – Preliminary Design Phase	PDF-format of Sanitary Sewer Flows Technical Memorandum PDF-format of Preliminary Design Opinion of Probable Construction Cost
Task 4 – Environmental Permitting	Ordinary High-water Mark State Historic Preservation Office Consultation Form Texas Antiquities Permit Application Regulatory Summary Letter Report
Task 5 – Final Design Phase	PDF-format of Final Design Submittals Opinion of Probable Construction Cost DWG-format files of final files
Task 6 – Geotechnical Investigation	Engineering Report
Task 7 – Subsurface Utility Engineering	Digital Utility Drawings Test Hole Data Forms
Task 8 – Bid & Construction Phase Services	Addenda Conformed plan sets
Task 11 - Record Drawings	One (1) PDF copy of each sheet of the record drawings One (1) Digital of the record drawings base map in accordance with the Town of Prosper Requirements for Electronic File Submission

**EXHIBIT B
COMPENSATION SCHEDULE**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND LOCKWOOD, ANDREWS & NEWNAM, INC.
FOR THE UPPER DOE BRANCH WASTEWATER LINE (TEEL PARKWAY TO PISD STADIUM) (2152-WW)**

I. COMPENSATION SCHEDULE

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	February 2023	
Task 1 - Project Management and Coordination	Continuous	\$19,200
Task 2 - Survey Services	April 2023	\$78,778
Task 3 - Preliminary Design Phase	June 2023	\$134,435
Task 4 - Environmental Services	June 2023	\$24,653
Task 5 - Final Design Phase	December 2023	\$153,570
Task 6 - Geotechnical Engineering Services	July 2023	\$35,325
Task 7 - Subsurface Utility Engineering	July 2023	\$38,040
Task 8 - Bid Phase & Construction Phase Services	February 2025	\$9,085
Task 9 - Record Drawings	April 2025	\$6,020
Total Compensation		\$499,105

II. COMPENSATION SUMMARY

Basic Services (Lump Sum)	Amount
Task 1 - Project Management and Coordination	\$19,200
Task 3 - Preliminary Design Phase	\$134,435
Task 5 - Final Design Phase	\$153,570
Total Basic Services:	\$307,205

Special Services (Hourly Not-to-Exceed)	Amount
Task 2 - Survey Services	\$78,778
Task 4 - Environmental Services	\$24,653
Task 6 - Geotechnical Engineering Services	\$35,325
Task 7 - Subsurface Utility Engineering	\$38,040
Task 8 - Bid Phase & Construction Phase Services	\$9,085
Task 9 - Record Drawings	\$6,020
Total Special Services:	\$191,900

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. Policy Applicable Contractual Liability
 - c. Products and Completed Operations
 - d. Personal Injury
 - e. 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 claim 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 canceled or non-renewed by either party, 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

**EXHIBIT D
CONFLICT OF INTEREST AFFIDAVIT**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND LOCKWOOD, ANDREWS & NEWNAM, INC.
FOR THE UPPER DOE BRANCH WASTEWATER LINE (TEEL PARKWAY TO PISD STADIUM) (2152-WW)**

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

I, Justin C. Reeves, a member of the Consultant team, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

- _____ Ownership of 10% or more of the voting shares of the business entity.
- _____ Ownership of \$25,000.00 or more of the fair market value of the business entity.
- _____ Funds received from the business entity exceed 10% of my income for the previous year.
- _____ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least \$25,000.00.
- _____ A relative of mine has substantial interest in the business entity or property that would be affected by my decision of the public body of which I am a member.
- _____ Other: _____.
- None of the Above.

Upon filing this affidavit with the Town of Prosper, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of the public body which took action on the agreement.

Signed this 2nd day of March, 2023.



Signature of Official / Title Vice President

BEFORE ME, the undersigned authority, this day personally appeared Justin C. Reeves and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 2nd day of March, 2023.





Marilyn M. Petro
Notary Public in and for the State of Texas

My Commission expires: 07/05/2024

**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, 84th 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>	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 2px;">OFFICE USE ONLY</th> </tr> </thead> <tbody> <tr> <td style="padding: 2px;">Date Received</td> </tr> </tbody> </table>	OFFICE USE ONLY	Date Received
OFFICE USE ONLY			
Date Received			
<p>1 Name of vendor who has a business relationship with local governmental entity.</p> <p align="center">Lockwood, Andrews & Newnam, Inc.</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 align="center">N/A</p> <hr style="width: 20%; margin: auto;"/> <p align="center">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>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 align="center"> <input type="checkbox"/> Yes <input type="checkbox"/> No N/A </p> <p>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 align="center"> <input type="checkbox"/> Yes <input type="checkbox"/> No N/A </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 align="center">N/A</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> <p align="center"> </p> <p>Signature of vendor doing business with the governmental entity</p>	<p align="center">03/02/2023</p> <p>Date</p>		