

ORDINANCE 2023-XX

THE STATE OF TEXAS §
COLLIN AND DENTON COUNTIES §
TOWN OF PROSPER §

WHEREAS, it is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this

Ordinance, was given, all as required by the applicable provisions of Texas Government Code, Chapter 551;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS:

Section 1. RECITALS, AMOUNT, PURPOSE AND DESIGNATION OF THE CERTIFICATES. (a) The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

(b) The Certificates are hereby authorized to be issued and delivered in the maximum aggregate principal amount hereinafter set forth for the Projects (defined below) and to pay legal, fiscal and engineering fees in connection with the Projects.

(c) Each Certificate issued pursuant to this Ordinance shall be designated (unless otherwise provided in the Pricing Certificate): "TOWN OF PROSPER, TEXAS, COMBINATION TAX AND SURPLUS REVENUE CERTIFICATE OF OBLIGATION, SERIES 2023," and initially there shall be issued, sold and delivered hereunder fully registered Certificates, without interest coupons, payable to the respective registered owners thereof (with the initial Certificate being made payable to the Underwriter as described herein), or to the registered assignee or assignees of said Certificates or any portion or portions thereof (in each case, the "Registered Owner"). The Certificates shall be in the respective denominations and principal amounts, shall be numbered, shall mature and be payable on the date or dates in each of the years and in the principal amounts or amounts due at maturity, as applicable, and shall bear interest to their respective dates of maturity or redemption, if applicable, prior to maturity at the rates per annum, as set forth in the Pricing Certificate.

Section 2. DEFINITIONS. Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

"Attorney General" shall mean the Attorney General of the State.

"Certificates" means and includes the Certificates initially issued and delivered pursuant to this Ordinance and all substitute Certificates exchanged therefor, as well as all other substitute Certificates and replacement Certificates issued pursuant hereto, and the term "Certificate" shall mean any of the Certificates.

"Code" means the Internal Revenue Code of 1986, as amended.

"Comptroller" shall mean the Comptroller of Public Accounts of the State.

"Delivery Date" shall mean the date or dates of delivery of the Certificates to the Underwriter against payment therefor, as determined by the Pricing Officer in the Pricing Certificate.

"Projects" shall mean acquiring, constructing, installing and equipping additions, improvements, extensions and equipment for the Town's waterworks and sewer system and the acquisition of land and rights-of-way therefor.

"State" shall mean the State of Texas.

"Underwriter" shall mean the initial purchaser(s) of the Certificates designated by the Pricing Officer in the Pricing Certificate.

Section 3. DELEGATION TO PRICING OFFICER. (a) As authorized by Section 1371.053, Texas Government Code, as amended, the Deputy Town Manager and the Town Manager of the Town are each individually authorized to act on behalf of the Town in selling and delivering the Certificates (of which officers, the officer executing the Pricing Certificate shall be hereinafter referred to as, and shall for all purposes be, the "Pricing Officer"), carrying out the procedures specified in this Ordinance, including determining the principal amount of Certificates to be issued, the amount to be applied against each proposition, the date or dates of the Certificates, any additional or different designation or title by which the Certificates shall be known, the price at which the Certificates will be sold, the years in which the Certificates will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment and record dates, the price and terms, if any, upon and at which the Certificates shall be subject to redemption prior to maturity at the option of the Town, as well as any mandatory sinking fund redemption provisions, whether the Certificates shall be designated as "qualified tax-exempt obligations" as defined in section 265(b)(3) of the Code, approving modifications or additions to the Rule 15c2-12 continuing disclosure undertaking, and all other matters relating to the issuance, sale and delivery of the Certificates, including, without limitation, procuring municipal bond insurance and approving modifications to this Ordinance and executing such instruments, documents and agreements as may be necessary with respect thereto, if it is determined that such insurance would be financially desirable and advantageous, all of which shall be specified in the Pricing Certificate, provided that:

(i) the aggregate original principal amount of the Certificates shall not exceed \$8,700,000;

(ii) no Certificate shall mature after August 15, 2043; and

(iii) the true interest cost of the Certificates shall not exceed 4.75%.

(b) In establishing the aggregate principal amount of the Certificates, the Pricing Officer shall establish an amount not exceeding the amount authorized in subsection (a) above, which shall be sufficient in amount to provide for the purposes for which the Certificates are authorized and to pay costs of issuing the Certificates. The delegations made hereby shall expire if not exercised by the Pricing Officer on or prior to the ninetieth (90th) day following the adoption of this Ordinance. The Certificates shall be sold at such price, with and subject to such terms as set forth in the Pricing Certificate.

(c) The Certificates may be sold by public offering (either through a negotiated or competitive offering) or by private placement. If the Certificates are sold by private placement, the Pricing Certificate shall so state, and the Pricing Certificate may make changes to this

Ordinance to effect such private placement, including the provisions hereof that pertain to the book-entry-only procedures (including eliminating the book-entry-only system of registrations, payment and transfers) and to the provisions herein relating to the Rule 15c2-12 undertaking (including eliminating or replacing such undertaking with an agreement to provide alternative disclosure information).

(d) In satisfaction of Section 1201.022(a)(3)(B), Texas Government Code, the Council hereby determines that the delegation of the authority to the Pricing Officer to approve the final terms of the Certificates set forth in this Ordinance is, and the decisions made by the Pricing Officer pursuant to such delegated authority and incorporated into the Pricing Certificate will be, in the Town's best interests, and the Pricing Officer is hereby authorized to make and include in the Pricing Certificate a finding to that effect.

Section 4. CHARACTERISTICS OF THE CERTIFICATES. (a) Registration, Transfer, Conversion and Exchange. The Town shall keep or cause to be kept at the designated office of the bank named in the Pricing Certificate as the paying agent/registrar for the Certificates (the "Paying Agent/Registrar"), books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the Town hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Town and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Town shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Town shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth as **Exhibit A** of this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

(b) Authentication. Except as provided in subsection (e) of this Section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders or resolutions need be passed or adopted by the governing body of the Town or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Certificates in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the

execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General and registered by the Comptroller.

(c) Payment of Certificates and Interest. The Town hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Town and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each registered owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(d) Substitute Paying Agent/Registrar. The Town covenants with the registered owners of the Certificates that at all times while the Certificates are outstanding the Town will provide a competent and legally qualified bank, trust company, financial institution or other agency to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be one entity. The Town reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 50 days written notice to the Paying Agent/Registrar, to be effective not later than 45 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Town covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the Town. Upon any change in the Paying Agent/Registrar, the Town promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) General Characteristics of the Certificates. The Certificates (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the Town at least 35 days prior to any such redemption date), (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Certificates, (v) shall have the characteristics,

(vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Town shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth as **Exhibit A** of this Ordinance. The Certificates initially issued and delivered pursuant to this Ordinance are not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar shall execute the Paying Agent/registrar's Authentication Certificate, in the FORM OF CERTIFICATE set forth as **Exhibit A** of this Ordinance.

(f) Book-Entry-Only System. Unless the Certificates are sold by private placement, the Certificates issued in exchange for the Certificates initially issued to the Underwriter shall be initially issued in the form of a separate single fully registered Certificate for each of the maturities thereof. Upon initial issuance, the ownership of each such Certificate shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC"), and except as provided in subsection (g) of this Section, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the Town and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("DTC Participant") to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the Town and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of Certificates, as shown on the Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Certificates, as shown in the Registration Books of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the Town and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal and interest with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Town's obligations with respect to payment of principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a physical Certificate evidencing the obligation of the Town to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner

at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(g) Successor Securities Depository; Transfers Outside Book-Entry-Only System. If the Certificates are subject to the DTC book-entry system, and in the event that the Town determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Town to DTC or that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the Town shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

(h) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the representation letter of the Town to DTC.

(i) Cancellation of Initial Certificate. On the Delivery Date, one initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the order of the Underwriter or its designee, executed by manual or facsimile signature of the Mayor and the Town Secretary, approved by the Attorney General and registered and manually signed by the Comptroller, will be delivered to the Underwriter or its designee. If the Certificates are sold subject to the book-entry system of DTC, then upon payment for the initial Certificate, the Paying Agent/Registrar shall insert the Delivery Date on Certificate No. T-1, cancel the initial Certificate and deliver to DTC on behalf of the Underwriter one registered definitive Certificate for each year of maturity of the Certificates, in the aggregate principal amount of all of the Certificates for such maturity, registered in the name of Cede & Co., as nominee of DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, pursuant to an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Certificates in safekeeping for DTC.

(j) Conditional Notice of Redemption. With respect to any optional redemption of the Certificates, unless certain prerequisites to such redemption required by this Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption may, at the option of the Town, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall

be of no force and effect, the Town shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

Section 5. FORM OF CERTIFICATES. The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State to be attached only to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially in the form provided in **Exhibit A**, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance. The Form of Certificate as it appears in **Exhibit A** shall be completed, amended and modified by Bond Counsel to incorporate the information set forth in the Pricing Certificate, but it is not required for the Form of Certificate to be reproduced as an exhibit to the Pricing Certificate.

Section 6. INTEREST AND SINKING FUND; SURPLUS REVENUES.

(a) A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the Town at an official depository bank of said Town. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said Town, and shall be used only for paying the interest on and principal of said Certificates. All amounts received from the sale of the Certificates as accrued interest shall be deposited upon receipt to the Interest and Sinking Fund, and all ad valorem taxes levied and collected for and on account of said Certificates shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Certificates are outstanding and unpaid, the governing body of said Town shall compute and ascertain a rate and amount of ad valorem tax that will be sufficient to raise and produce the money required to pay the interest on said Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Certificates as such principal matures (but never less than 2% of the original amount of said Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said Town, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said Town, for each year while any of said Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limits prescribed by law.

(b) The Certificates are additionally secured by and payable from a pledge of the revenues of the Town's combined Waterworks and Sewer Systems remaining after payment of all operation and maintenance expenses thereof (the "Net Revenues"), and all debt service, reserve and other requirements in connection with all of the Town's revenue obligations (now or hereafter outstanding) that are payable from all or part of the Net Revenues of the Town's Waterworks and Sewer Systems, constituting "Surplus Revenues." The Town shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to Section 6, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 6, if Surplus Revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes that otherwise would have been required to be levied pursuant to Section 6 may be reduced to the extent

and by the amount of the Surplus Revenues then on deposit in the Interest and Sinking Fund. The Town reserves the right, without condition or limitation, to issue other obligations secured in whole or in part by a parity lien on and pledge of the Surplus Revenues, for any purpose permitted by law.

(c) Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes and Surplus Revenues granted by the Town hereunder, and is therefore valid, effective and perfected. Should State law be amended at any time while the Certificates are outstanding and unpaid, the result of such amendment being that the pledge of the taxes and Surplus Revenues granted by the Town hereunder is to be subject to the filing requirements of Chapter 9, Business and Commerce Code, in order to preserve to the registered owners of the Certificates a security interest in said pledge, the Town agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, Business and Commerce Code and enable a filing of a security interest in said pledge to occur.

Section 7. DEFEASANCE OF CERTIFICATES.

(a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "Future Escrow Agreement") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Town with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates shall have become due and payable. At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged or the pledge of Surplus Revenues as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates that is made in conjunction with the payment arrangements specified in subsection 6(a)(i) or (ii) shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Town expressly reserves the right to call the Defeased Certificates for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the Town be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates and interest thereon, with

respect to which such money has been so deposited, shall be turned over to the Town, or deposited as directed in writing by the Town. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection 6(a)(i) or (ii). All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificates, with respect to which such money has been so deposited, shall be remitted to the Town or deposited as directed in writing by the Town.

(c) Subject to any statement to the contrary that may be included in the Pricing Certificate, the term "Defeasance Securities" means any securities and obligations now or hereafter authorized by State law that are eligible to refund, retire or otherwise discharge obligations such as the Certificates.

(d) Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates the same as if they had not been defeased, and the Town shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(e) In the event that the Town elects to defease less than all of the principal amount of Certificates of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Certificates by such random method as it deems fair and appropriate.

Section 8. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES.

(a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the registered owner applying for a replacement certificate shall furnish to the Town and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the registered owner shall furnish to the Town and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Ordinance, in the event any such Certificate shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the

Certificate, the Town may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the registered owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the Town whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Section 1206.022, Government Code, this Section shall constitute authority for the issuance of any such replacement certificate without necessity of further action by the governing body of the Town or any other body or person, and the duty of the replacement of such certificates is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates in the form and manner and with the effect, as provided in Section 3(a) of this Ordinance for Certificates issued in conversion and exchange for other Certificates.

Section 9. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATES; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED; ENGAGEMENT OF BOND COUNSEL.

(a) The Mayor of the Town is hereby authorized to have control of the Certificates initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates pending their delivery and their investigation, examination and approval by the Attorney General and their registration by the Comptroller. Upon registration of the Certificates, the Comptroller (or a deputy designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificates, and the seal of the Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the Town's Bond Counsel and the assigned CUSIP numbers may, at the option of the Town, be printed on the Certificates issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Certificates. In addition, if bond insurance is obtained, the payment of the insurance premium is hereby approved and the Certificates may bear an appropriate legend as provided by the insurer.

(b) The obligation of the Underwriter to accept delivery of the Certificates is subject to the Underwriter being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Town, which opinion shall be dated as of and delivered on the date of initial delivery of the Certificates to the Underwriter. The engagement of such firm as bond counsel to the Town in connection with issuance, sale and delivery of the Certificates is hereby approved and confirmed.

Section 10. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES.

(a) Covenants. The Town covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Town covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Town, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Certificates, other than investment property acquired with B

(A) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148 1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(7) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Certificates or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Certificates in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the Town for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Use of Proceeds. The Town understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Certificates. It is the understanding of the Town that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the Town will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the Town agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the Town hereby authorizes and directs the Mayor, the Mayor Pro Tem, the Finance Director, the Town Secretary and each Pricing Officer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Town, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates.

(d) Allocation of, and Limitation on, Expenditures for the Projects. The Town covenants to account for the expenditure of sale proceeds and investment earnings to be used for the Projects on its books and records in accordance with the requirements of the Code. The Town recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Projects are completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Town recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired. The Town agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates. For purposes hereof, the Town shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of the Projects. The Town covenants that the property constituting the Projects will not be sold or otherwise disposed in a transaction resulting in the receipt by the Town of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Certificates. For purpose of the foregoing, the Town may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Town shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

Section 11. SALE OF CERTIFICATES; OFFICIAL STATEMENT. (a) The Certificates shall be sold and delivered subject to the provisions hereof and pursuant to the terms and provisions of a bond purchase agreement, notice of sale and bidding instructions or private placement agreement (collectively and individually, the "Purchase Agreement"), each of which the Pricing Officer is hereby authorized to execute and deliver and in which the Underwriter shall be designated. The Certificates shall initially be registered in the name of the Underwriter, unless otherwise set forth in the Pricing Certificate.

(b) The Pricing Officer is hereby authorized, in the name and on behalf of the Town, to approve the distribution and delivery of a preliminary official statement and a final official statement relating to the Certificates to be used by the Underwriter in the marketing of the Certificates, if applicable.

Section 12. FURTHER PROCEDURES; ENGAGEMENT OF BOND COUNSEL; ATTORNEY GENERAL FILING FEE; APPROPRIATION. (a) The Mayor, the Mayor Pro Tem, the Finance Director, the Town Secretary and each Pricing Officer, individually or jointly, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Town such documents, certificates and

instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Letter of Representations, the Certificates and the sale of the Certificates. In addition, prior to the delivery of the Certificates, the Mayor, the Mayor Pro Tem, the Finance Director, the Town Secretary and each Pricing Officer are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in this Ordinance or such other document, or (ii) as requested by the Attorney General or his representative to obtain the approval of the Certificates by the Attorney General. In case any officer whose signature shall appear on any Certificate shall cease to be such officer before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

(b) The obligation of the Underwriter to accept delivery of the Certificates is subject to the Underwriter being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Town, which opinion shall be dated as of and delivered on the Delivery Date. The engagement of such firm as bond counsel to the Town in connection with issuance, sale and delivery of the Certificates is hereby approved and confirmed.

(c) To pay the debt service coming due on the Certificates, if any (as determined by the Pricing Certificate) prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

(d) In accordance with the provisions of Section 1202.004, Texas Government Code, in connection with the submission of the Certificates to the Attorney General for review and approval, a statutory fee (an amount equal to 0.1% principal amount of the Certificates, subject to a minimum of \$750 and a maximum of \$9,500) is required to be paid to the Attorney General upon the submission of the transcript of proceedings for the Certificates. The Town hereby authorizes and directs that a check in the amount of the Attorney General filing fee for the Certificates, made payable to the "Texas Attorney General," be promptly furnished to the Town's Bond Counsel, for payment to the Attorney General in connection with his review of the Certificates.

Section 13. COMPLIANCE WITH RULE 15c2-12. (a) If the Certificates are sold by public offering, and are subject to the Rule (as defined below), the following provisions shall apply, unless modified by the Pricing Officer in the Pricing Certificate:

(i) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"Financial Obligation" means a: (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) a guarantee of the foregoing (a) and (b). The term Financial Obligation does not include any municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

"MSRB" means the Municipal Securities Rulemaking Board or any successor to its functions under the Rule.

"Rule" means SEC Rule 15c2 12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(ii) Annual Reports. (A) The Town shall provide annually to the MSRB, within the timeframe set forth in the Pricing Certificate, in the electronic format prescribed by the MSRB, certain updated financial information and operating data pertaining to the Town, being the information described in the Pricing Certificate.

(B) Any financial information described in the Pricing Certificate to be provided shall be (i) prepared in accordance with the accounting principles described in the financial statements of the Town appended to the Official Statement, or such other accounting principles as the Town may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the Town commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not completed within the period set forth in the Pricing Certificate, then the Town shall provide unaudited financial information of the type described in the Pricing Certificate within such period, and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements becomes available.

(C) If the Town changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Town otherwise would be required to provide financial information and operating data pursuant to this Section.

(D) All financial information, operating data, financial statements and notices required by this Section to be provided to the MSRB shall be provided in an electronic format and be accompanied by identifying information prescribed by the MSRB. Financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public on the MSRB's Internet Web site or filed with the SEC.

(iii) Event Notices. The Town shall notify the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Certificates:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with

- respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (7) Modifications to rights of holders of the Certificates, if material;
 - (8) Certificate calls, if material, and tender offers;
 - (9) Defeasances;
 - (10) Release, substitution, or sale of property securing repayment of the Certificates, if material;
 - (11) Rating changes;
 - (12) Bankruptcy, insolvency, receivership, or similar event of the Town;
 - (13) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
 - (14) Appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;
 - (15) Incurrence of a Financial Obligation of the Town, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Town, any of which affect security holders, if material; and
 - (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Town, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Town in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the Town in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Town, and (b) the Town intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The Town shall notify the MSRB, in a timely manner, of any failure by the Town to provide financial information or operating data in accordance with subsection (a)(ii) of this Section by the time required by subsection (a)(ii).

(iv) Limitations, Disclaimers and Amendments. (A) The Town shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Town remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the Town in any event will give notice of any deposit made in accordance with this Ordinance or applicable law that causes the Certificates no longer to be outstanding.

(B) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Town undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Town's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Town does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

(C) UNDER NO CIRCUMSTANCES SHALL THE TOWN BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE TOWN, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(D) No default by the Town in observing or performing its obligations under this Section shall comprise a breach of or default under the Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Town under federal and state securities laws.

(E) The provisions of this Section may be amended by the Town from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Town, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the Town (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Certificates. If the Town so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Town may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such

provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

(b) If the Certificates are sold by private placement, the Pricing Officer may agree to provide for an undertaking in accordance with the Rule or may agree to provide other public information to the Underwriter as may be necessary for the sale of the Certificates on the most favorable terms to the Town.

Section 14. METHOD OF AMENDMENT. The Town hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The Town may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, or (v) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and that shall not in the opinion of the Town's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Certificates aggregating a majority of the aggregate principal amount of then outstanding Certificates that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the Town; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Certificates, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Certificates so as to:

- (1) Make any change in the maturity of any of the outstanding Certificates;
- (2) Reduce the rate of interest borne by any of the outstanding Certificates;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Certificates;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Certificates or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Certificates necessary for consent to such amendment.

(c) If at any time the Town shall desire to amend this Ordinance under subsection (b) of this Section, the Town shall send by U.S. mail to each registered owner of the affected Certificates a copy of the proposed amendment.

(d) Whenever at any time within one year from the date of mailing of such notice the Town shall receive an instrument or instruments executed by the holders of at least a majority in aggregate principal amount of all of the Certificates then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the Town may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the Town and all holders of such affected Certificates shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) Any consent given by the holder of a Certificate pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the mailing of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Certificate during such period. Such consent may be revoked at any time after six months from the date of the mailing of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the Town, but such revocation shall not be effective if the holders of a majority in aggregate principal amount of the affected Certificates then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

(g) For the purposes of establishing ownership of the Certificates, the Town shall rely solely upon the registration of the ownership of such Certificates on the registration books kept by the Paying Agent/Registrar.

Section 15. DEFAULT AND REMEDIES

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Town, the failure to perform which materially, adversely affects the rights of the registered owners of the Certificates, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the Town.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Town for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Certificates then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Town or the Council.

Section 16. INTEREST EARNINGS ON CERTIFICATE PROCEEDS; USE OF PREMIUM RECEIVED FROM SALE OF CERTIFICATES. (a) Interest Earnings. Interest earnings derived from the proceeds that are deposited to the Capital Projects Fund (defined below) shall be retained therein and used for the purposes for which the Certificates were issued, provided that after the completion of such purposes, any amounts remaining therein shall be deposited to the Interest and Sinking Fund for the Certificates. It is further provided, however, that any interest earnings on Certificate proceeds that are required to be rebated to the United States of America pursuant to this Ordinance in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for purposes of this Section.

(b) Use of Certificate Premium. The net premium received from the sale of the Certificates shall be applied as determined by the Pricing Officer in the Pricing Certificate.

(c) Establishment of Construction Fund.

(i) The Town has heretofore created and established, and hereby covenants to continue to maintain on the books of the Town, a separate fund entitled the "Capital Projects Fund" (the "Capital Projects Fund") for use by the Town for payment of all lawful costs associated with the Projects. Proceeds of the Certificates in the amount determined by the Pricing Officer in the Pricing Certificate shall be deposited into the Capital Projects Fund. Upon payment of all Project costs, any Certificate proceeds remaining on deposit in the Capital Projects Fund shall be transferred to the Interest and Sinking Fund. Amounts so deposited to the Interest and Sinking Fund shall be used in the manner described in this Ordinance.

(ii) The Town may place proceeds of the Certificates (including investment earnings thereon) and amounts deposited into the Interest and Sinking Fund in investments authorized by the Public Funds Investment Act, Chapter 2256, Texas Government Code,

as amended; provided, however, that the Town hereby covenants that the proceeds of the sale of the Certificates will be used as soon as practicable for the Projects.

(iii) All deposits authorized or required by this Ordinance shall be secured to the fullest extent required by law for the security of public funds.

Section 17. EFFECTIVE DATE. In accordance with the provisions of Texas Government Code, Section 1201.028, this Ordinance shall be effective immediately upon its adoption by the Council.

Section 18. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, despite such invalidity, which remaining portions shall remain in full force and effect.

Section 19. APPROPRIATION. To pay the debt service coming due on the Certificates, if any (as determined by the Pricing Certificate) prior to receipt of the taxes levied to pay such debt service, there is hereby appropriated from current funds on hand, which are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

[Execution page follows]

**DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE
TOWN OF PROSPER, TEXAS, ON THIS 22ND DAY OF AUGUST, 2023.**

David F. Bristol, Mayor

ATTEST:

Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

Exhibit A

FORM OF CERTIFICATES

(a) The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached only to the Certificates initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance and with the Certificates to be completed with information set forth in the Pricing Certificate. The Form of Certificate as it appears in this **Exhibit A** shall be completed, amended and modified by Bond Counsel to incorporate the information set forth in the Pricing Certificate, but it is not required for the Form of Certificate to be reproduced as an exhibit to the Pricing Certificate.

NO. R-__	UNITED STATES OF AMERICA STATE OF TEXAS TOWN OF PROSPER, TEXAS, COMBINATION TAX AND SURPLUS REVENUE CERTIFICATE OF OBLIGATION, SERIES 2023	PRINCIPAL AMOUNT \$_____
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<u>Interest Rate</u>	<u>Delivery Date</u>	<u>Maturity Date</u>	<u>CUSIP No.</u>
_____%	[September 26], 2023	August 15, 20__	

REGISTERED OWNER:

PRINCIPAL AMOUNT:

ON THE MATURITY DATE specified above, the Town of Prosper, located in Collin and Denton Counties, Texas (the "Town"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the Principal Amount specified above. The Town promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date above at the Interest Rate per annum specified above. Interest is payable on [February 15, 2024 and semiannually on each August 15 and February 15] thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but

has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the registered owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at the principal corporate trust office of [U.S. Bank Trust Company, National Association, Dallas], Texas, which is the "Paying Agent/Registrar" for this Certificate. The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the registered owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Town required by the ordinance authorizing the issuance of this Certificate (the "Certificate Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the registered owner hereof, at its address as it appeared on the [last business day] of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the registered owner upon presentation and surrender of this Certificate for redemption and payment at the principal corporate trust office of the Paying Agent/Registrar. The Town covenants with the registered owner of this Certificate that on or before each principal payment date, interest payment date, and accrued interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Certificate Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE is dated [August 15], 2023, and is authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____ for paying all or a portion of the Town's contractual obligations incurred in connection with (i) acquiring, constructing, installing and equipping additions, improvements, extensions and equipment for the Town's waterworks and sewer system and the acquisition of land and rights-of-way therefor and (ii) paying legal, fiscal and engineering fees in connection with such projects.

ON [AUGUST 15, 2033], or any date thereafter, the Certificates of this series may be redeemed prior to their scheduled maturities, at the option of the Town, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Certificates, or portions thereof, to be redeemed shall be selected and designated by the Town (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

AT LEAST THIRTY days prior to the date fixed for any redemption of Certificates or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid to the registered owner of each Certificate to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure of the registered owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Certificate. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Certificates or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the registered owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificate shall be redeemed, a substitute Certificate or Certificates having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the registered owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the registered owner upon the surrender thereof for cancellation, at the expense of the Town, all as provided in the Certificate Ordinance.

WITH RESPECT TO ANY OPTIONAL REDEMPTION OF THE CERTIFICATES, unless certain prerequisites to such redemption required by the Certificate Ordinance have been met and money sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed will have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption may, at the option of the Town, be conditional upon the satisfaction of such prerequisites and receipt of such money by the Paying Agent/Registrar on or prior to the date fixed for such redemption or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not fulfilled, such notice will be of no force and effect, the Town will not redeem such Certificates, and the Paying Agent/Registrar will give notice in the manner in which the notice of redemption was given, to the effect that such Certificates have not been redeemed.

ALL CERTIFICATES OF THIS SERIES are issuable solely as fully registered certificates, without interest coupons, in the principal denomination of any integral multiple of \$5,000. As provided in the Certificate Ordinance, this Certificate may, at the request of the registered owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificates, without interest coupons, payable to the appropriate registered owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate registered owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Certificate Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the registered owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the registered owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the Town. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion or exchange of any Certificates during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date or, with respect to any Certificate or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date; provided, however, such limitation on transfer shall not be applicable to an exchange by the registered owner of the uncalled balance of a Certificate called for redemption in part.

IN THE EVENT any Paying Agent/Registrar for the Certificates is changed by the Town, resigns, or otherwise ceases to act as such, the Town has covenanted in the Certificate Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Certificates.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said Town, and have been pledged for such payment, within the limits prescribed by law, and that this Certificate is additionally secured by and payable from a pledge of the Surplus Revenues of the System remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve, and other requirements in connection with all of the Town's revenue bonds or other obligations (now or hereafter outstanding) which are

payable from all or any part of the net revenues of the System, all as provided in the Certificate Ordinance.

THE TOWN HAS RESERVED THE RIGHT to amend the Certificate Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the registered owners of a majority in aggregate principal amount of the outstanding Certificates.

BY BECOMING the registered owner of this Certificate, the registered owner thereby acknowledges all of the terms and provisions of the Certificate Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Certificate Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Town, and agrees that the terms and provisions of this Certificate and the Certificate Ordinance constitute a contract between each registered owner hereof and the Town.

IN WITNESS WHEREOF, the Town has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the Town and countersigned with the manual or facsimile signature of the Town Secretary of said Town, and has caused the official seal of the Town to be duly impressed, or placed in facsimile, on this Certificate.

Town Secretary
Town of Prosper, Texas

Mayor
Town of Prosper, Texas

(Town Seal)

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE
(To be executed if this Certificate is not accompanied by an executed Registration
Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the Certificate Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____.

[U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, Dallas, Texas]
Paying Agent/Registrar

By: _____
Authorized Representative

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto:

Please insert Social Security or Taxpayer Identification Number of Transferee

Please print or type name and address, including zip code of Transferee

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints: _____, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

NOTICE: The signature above must correspond with the name of the registered owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this _____.

Comptroller of Public Accounts
of the State of Texas

(COMPTROLLER'S SEAL)

(b) Initial Certificate Insertions.

(i) The initial Certificate shall be in the form set forth in paragraph (a) of this Section, except that:

- A. immediately under the name of the Certificate, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. ____" shall be deleted.
- B. the first paragraph shall be deleted and the following will be inserted:

"THE TOWN OF PROSPER, TEXAS, in Collin and Denton Counties, Texas (the "Town"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on [August 15] in each of the years, in the principal amounts and bearing interest at the per annum rates set forth in the following schedule

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		
2043		

The Town promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Delivery Date above, at the respective Interest Rate per annum specified above. Interest is payable on [February 15, 2024 and semiannually on each August 15 and February 15] thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such

principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

C. The initial Certificate shall be numbered "T-1."