Prosper is a place where everyone matters.

Agenda

Prosper Town Council Meeting
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, April 27, 2021
5:45 PM

Notice Regarding Public Participation

Governor Greg Abbott has granted a temporary suspension of certain rules to allow for telephone or videoconference public meetings in an effort to reduce in-person meetings that assemble large groups of people, due to the COVID-19 public health emergency.

Individuals may attend the Prosper Town Council meeting in person, or access the meeting via videoconference, or telephone conference call.

Join the Zoom Meeting by clicking on the following link:
https://us02web.zoom.us/j/87047432329

Enter Meeting ID: 87047432329

To request to speak, click on "Participants" at the bottom of the screen, and click "Raise Hand." The meeting moderator will acknowledge your request and allow you to speak.

To join the meeting by phone, dial (346) 248-7799

Enter Meeting ID: 87047432329

To request to speak, enter *9, and *6 to mute/unmute yourself. The meeting moderator will acknowledge your request and allow you to speak.

If you encounter any problems joining or participating in the meeting, please call our help line at 972-569-1191 for assistance.

Call to Order/ Roll Call.

Invocation, Pledge of Allegiance and Pledge to the Texas Flag.

Announcements of recent and upcoming events.

Presentations.

1. Library Volunteer Recognition. **(LS)**

CONSENT AGENDA:
Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.

2. Consider and act upon the minutes from the April 13, 2021, Town Council Meeting. **(ML)**

3. Consider and act upon a resolution to deny the application of Oncor Electric Delivery Company LLC for approval to amend its distribution cost recovery factor to increase distribution rates within the Town. **(BP)**

4. Consider and act upon an ordinance rezoning 9.5± acres from Planned Development-65-Single Family (PD-65) to Office (O) District, located on the northwest corner of Mahard Parkway and Prairie Drive. (Z21-0002). **(AG)**

5. Consider and act upon authorizing the Town Manager to execute a First Amended Development Agreement between Prosper Villages at Legacy, LLC, and the Town of Prosper, Texas, related to the Prosper Center development. **(AG)**

6. Consider and act upon an ordinance amending Subdistrict 4 of Planned Development-67 (PD-67), on 71.4± acres, generally to modify the single family development standards, and to allow for retail uses in the residential neighborhood subdistrict of the Gates of Prosper, located on the northwest corner of Preston Road and Lovers Lane. (Z21-0001). **(AG)**

7. Consider and act upon authorizing the Town Manager to execute a Development Agreement between 380 & 289, L.P., and the Town of Prosper, Texas, related to the Gates of Prosper. **(AG)**

8. Consider and act upon an ordinance amending Subdistrict 1 of Planned Development-67 (PD-67), on 44.1± acres, located on the northwest corner of US 380 and Preston Road, generally to modify the boundary, developments standards, and concept plan. (Z21-0004). **(AG)**

9. Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plan or Preliminary Site Plan, including Prosper ISD Elementary School, No. 15 and Wild Fork Foods. **(AG)**

CITIZEN COMMENTS:

The public is invited to address the Council on any topic. However, the Council is unable to discuss or take action on any topic not listed on this agenda. Please complete a "Public Meeting Appearance Card" and present it to the Town Secretary prior to the meeting, or request to address the Council via videoconference or telephone.

REGULAR AGENDA:

Pursuant to Section 551.007 of the Texas Government Code, individuals wishing to address the Council for items listed as public hearings will be recognized when the public hearing is opened. For individuals wishing to speak on a non-public hearing item, they may either address the Council during the Citizen Comments portion of the meeting or when the item is considered by the Town Council.

Items for Individual Consideration:

10. Consider and act upon an ordinance amending Ordinance No. 2020-71 (FY 2020-2021 Budget). **(BP)**

11. Conduct a Public Hearing, and consider and act upon a request to amend the Future Land Use Plan from Medium Density Residential to Tollway District, generally located

on the south side of Frontier Parkway, east of Dallas Parkway. This is a companion case to Z20-0026. (CA20-0004). **(AG)**

12. Conduct a Public Hearing, and consider and act upon a request to amend Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses, located on the southeast corner of Dallas Parkway and Frontier Parkway. This is a companion case to CA20-0004. (Z20-0026). **(AG)**

13. Consider and act upon approving a resolution strongly opposing the proposed alignment of FM 1461 from SH 289 (Preston Road) to FM 2478 (Custer Road). **(HW)**

14. Consider and act upon awarding RFP No. 2021-35-B Construction Manager-At-Risk for Public Safety Complex Phase 2 (Central Fire Station and Fire Administration) to Pogue Construction Co., LP; and authorizing the Town Manager to execute documents for the same. **(SB)**

EXECUTIVE SESSION:

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

Section 551.087 – To discuss and consider economic development incentives.

Section 551.072 – To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.

Section 551.074 - To discuss and consider personnel matters and all matters incident and related thereto.

Reconvene in Regular Session and take any action necessary as a result of the Closed Session.

Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.

15. Thoroughfare Plan Amendment (Football Discussion). **(DH)**

16. Legislative Update. **(RB)**

Adjourn.

CERTIFICATION

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted at Prosper Town Hall, located at 250 W. First Street, Prosper, Texas 75078, a place convenient and readily accessible to the general public at all times, and said Notice was posted by 5:00 p.m., on Friday, April 23, 2021, and remained so posted at least 72 hours before said meeting was convened.

_____ _____

Melissa Lee, Town Secretary Date Notice Removed

Pursuant to Section 551.071 of the Texas Government Code, the Town Council reserves the right to consult in closed session with its attorney and to receive legal advice regarding any item listed on this agenda.

NOTICE

Pursuant to Town of Prosper Ordinance No. 13-63, all speakers other than Town of Prosper staff are limited to three (3) minutes per person, per item, which may be extended for an additional two (2) minutes with approval of a majority vote of the Town Council.

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: The Prosper Town Council meetings are wheelchair accessible. For special services or assistance, please contact the Town Secretary's Office at (972) 569-1011 at least 48 hours prior to the meeting time.

Prosper is a place where everyone matters.

Minutes

Prosper Town Council Meeting
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, April 13, 2021

Call to Order/ Roll Call.

The meeting was called to order at 5:45 p.m.

Council Members Present:
Mayor Ray Smith
Mayor Pro-Tem Jason Dixon
Councilmember Marcus E. Ray
Councilmember Amy Bartley
Councilmember Jeff Hodges
Councilmember Meigs Miller

Council Members Absent:
Deputy Mayor Pro-Tem Craig Andres

Staff Members Present:
Harlan Jefferson, Town Manager
Terry Welch, Town Attorney
Melissa Lee, Town Secretary
Robyn Battle, Executive Director of Community Services
Chuck Springer, Executive Director of Administrative Services
Betty Pamplin, Finance Director
January Cook, Purchasing Manager
Rebecca Zook, Executive Director of Development & Infrastructure Services
Khara Dodds, Development Services Director
Hulon Webb, Engineering Services Director
Dan Heischman, Assistant Director of Engineering Services - Development
Alex Glushko, Planning Manager
Frank Jaromin, Director of Public Works
Leigh Johnson, Director of Information Technology
Dudley Raymond, Director of Parks and Recreation
Doug Kowalski, Police Chief
Stuart Blasingame, Fire Chief

Invocation, Pledge of Allegiance and Pledge to the Texas Flag.
Pastor Connor Bales, Prestonwood Baptist Church, led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.
Councilmember Bartley read the announcements.

The 7-Eleven Evolution Store Grand Opening and Ribbon Cutting was held on April 9. The company presented a donation of $20,000 to the PEDC to sponsor the “Kids and Pets” safety

program. The donation will be used to create, construct, install and maintain awareness signs in shopping centers throughout Prosper, reminding people not to leave children or pets in unattended vehicles.

The Mayor's Coffee for Active Adults is scheduled for April 14 at 9:00 a.m. via Zoom. Please visit the Parks and Recreation Facebook page for more information.

A Celebration of Life for Celina Police Detective KC Robinson and his daughter, Brynlee, will be held on Thursday, April 15, at 1:00 pm at Prestonwood Baptist Church in Prosper. The public is welcome to attend.

The BNSF Railroad will be completely closing Prosper Trail at the railroad crossing at daybreak on April 15 through the evening of April 16 to replace the rails and grade crossing. Motorists are encouraged to use an alternate route during this time.

The Mayor's Fitness Challenge continues through April 18. Please remember to turn in your completed tracking sheets by April 23 to receive a free t-shirt and the opportunity to win a Fitbit.

The Library Volunteer Academy is back, and we are now accepting applications for summer volunteers. Applications must be returned in person by 6:00 p.m. on Monday, April 26. Positions are limited, and volunteers must be at least 12 years old. Visit the Library's Facebook page for more information.

Join Prosper Fire Rescue, the Prosper Police Department and the Prosper ISD Police Department for our Drug Take Back event on Saturday, April 24 from 10:00 a.m. – 2:00 p.m. at Prosper Central Fire Station. Residents may drop off unused or expired over the counter and prescription drugs free of charge, no questions asked.

Summer camp registration for Parks & Recreation programs is now open. Visit www.prosperparksandrec.org for a list of camps and classes for all ages.

Discussion Items.

1. **Fire Department Recognition for Child Delivery and CPR Save. (SB)**

   Stuart Blasingame, Fire Chief, recognized EMS and Dispatch staff for a child delivery that took place in November 2020. Former Prosper residents Steve and Stephanie Taylor were present via Zoom and thanked staff for their life saving efforts delivering their son Sawyer Taylor. Chief Blasingame also recognized staff for outstanding performance and lifesaving efforts regarding a CPR save that took place in February 2021.

CONSENT AGENDA:

Items placed on the Consent Agenda are considered routine in nature and non-controversial. The Consent Agenda can be acted upon in one motion. Items may be removed from the Consent Agenda by the request of Council Members or staff.

2. **Consider and act upon in the minutes from the March 16, 2021, Town Council Special Called Meeting. (ML)**

3. **Consider and act upon the minutes from the March 23, 2021, Town Council meeting. (ML)**

4. **Receive the February Financial Report. (BP)**

5. **Consider and act upon approving a contract between the Town of Prosper and OpenGov, Inc., for licensing and supporting application software; and authorizing the Town Manager to execute a contract for the same. (BP)**

6. **Consider and act upon approving an amendment to the Online Services Agreement between the Town of Prosper and Governmentjobs.com, Inc., dba NEOGOV, Inc., for additional software subscriptions; and authorizing the Town Manager to execute documents for the same. (JE)**

7. **Consider and act upon authorizing the Town Manager to execute an Interlocal Agreement between the City of Frisco, Texas, Town of Little Elm, Texas, and the Town of Prosper, Texas, related to roadway illumination maintenance and improvements on US 380 from 1,300 feet west of FM 720 and the Denton/Collin County Line. (HW)**

8. **Consider and act upon authorizing the Town Manager to execute an Agreement for Construction, Maintenance and Operation of Continuous Highway Lighting Systems Within a Municipality between the Texas Department of Transportation and the Town of Prosper, Texas, for the installation of roadway illumination along US 380 between Legacy Drive and FM 1385. (HW)**

9. **Consider and act upon authorizing the Town Manager to execute an Advance Funding Agreement for Voluntary Local Government Contributions to Transportation Improvement Projects with No Required Match for On-System Improvements between the Texas Department of Transportation and the Town of Prosper, Texas, related to the construction of direct left turn lanes along US 380 between Legacy Drive and FM 1385. (HW)**

10. **Conduct a Public Hearing, and consider and act upon a request to amend the Future Land Use Plan from Medium Density Residential to Retail & Neighborhood Services, generally located on the northwest corner of Legacy Drive and Prosper Road. This is a companion case to Z20-0013. (CA20-0003). (AG)**

11. **Conduct a Public Hearing, and consider and act upon a request to rezone 5.5± acres, from Agriculture (A) to Planned Development-Retail (PD-R), for Legacy Storage, located on the west side of Legacy Drive, north of Prosper Road. This is a companion case to CA20-0003. (Z20-0013). (AG)**

12. **Consider and act upon Ordinance 2021-17 abandoning a portion of Good Hope Road prescriptive right-of-way, located north of Windsong Parkway, beginning at a point approximately 850 feet north of Mill Branch Drive and extending northward approximately 600 feet. (AG)**

13. **Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning**

Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plan or Preliminary Site Plan, including Gates of Prosper, Phase 3, Prosper ISD Temporary Administration Building, and Windmill Hill, Phase 2. (AG)

Councilmember Miller made a motion and Councilmember Ray seconded the motion to approve all items on the Consent agenda.

The motion passed by a vote of 6 – 0.

CITIZEN COMMENTS:

There were no citizen comments.

REGULAR AGENDA:

Items for Individual Consideration:

14. **Conduct a Public Hearing, and consider and act upon a request to rezone 9.5± acres from Planned Development-65-Single Family (PD-65) to Office (O) District, located on the northwest corner of Mahard Parkway and Prairie Drive. (Z21-0002). (AG)**

Alex Glushko, Planning Manager, provided the Town Council information on the request to rezone 9.5± acres from Planned Development-65-Single Family (PD-65) to Office (O) District. The applicant has agreed to enter into a Development Agreement with the Town of Prosper regarding architecture and building materials.

Mayor Smith opened the public hearing. Clint Richardson representing the applicant discussed the subject property and the preliminary site plan, which is expected by May 2021.

With no one else speaking Mayor Smith closed the public hearing.

After discussion, Mayor Pro-Tem Dixon made a motion and Councilmember Hodges seconded the motion to approve the request to rezone 9.5± acres from Planned Development-65-Single Family (PD-65) to Office (O) District, located on the northwest corner of Mahard Parkway and Prairie Drive, subject to the approval of a development agreement regarding architecture and building materials.

The motion passed by a vote of 6 – 0.

15. **Conduct a Public Hearing, and consider and act upon a request to amend Subdistrict 4 of Planned Development-67 (PD-67), on 71.4± acres, generally to modify the single family development standards, and to allow for retail uses in the residential neighborhood district of the Gates of Prosper, located on the northwest corner of Preston road and Lovers Lane. (Z21-0001). (AG)**

Alex Glushko, Planning Manager, provided the Town Council information on the request to amend Subdistrict 4 of Planned Development-67 (PD-67), on 71.4± acres. This request has two main components, amendments to the residential development standards, and allowances for retail uses in the residential neighborhood subdistrict.

Scott Shipp, Blue Star Land, discussed the proposed site plan and the use of a specific use permit (SUP) and/or a development agreement regarding certain retail activity at this site.

Mayor Smith opened the public hearing. With no one speaking, Mayor Smith closed the public hearing.

After discussion, Councilmember Ray made a motion and Councilmember Miller seconded the motion to approve the request to amend Subdistrict 4 of Planned Development-67 (PD-67), on 71.4± acres, generally to modify the single-family development standards, and to allow for retail uses in the residential neighborhood district of the Gates of Prosper, located on the northwest corner of Preston road and Lovers Lane, subject to the following:

1. A minimum of 40% of the lots provided are Type B Lots.
2. The uses on the retail tract shall be as discussed individually via SUP and a package store shall be subject to a development agreement.

The motion passed by a vote of 6 – 0.

16. Conduct a Public Hearing, and consider and act upon a request to amend Subdistrict 1 of Planned Development-67 (PD-67), on 44.1± acres, located on the northwest corner of US 380 and Preston Road, generally to modify the boundary, developments standards and concept plan. (Z21-0004). (AG)

Alex Glushko, Planning Manager, provided the Town Council information on the request to amend Subdistrict 1 of Planned Development-67 (PD-67), on 44.1± acres. This request has three main components, including 1) a modification to the boundary of Subdistrict 1; 2) a modification to development standards for a portion of Subdistrict 1, to facilitate the development of a big box retailer; and 3) to generally update the Concept Plan to reflect the proposed amendments, as well as recent approvals and development.

Mayor Smith opened the public hearing. Scott Shipp, Blue Star Land, discussed the proposed site plan including parking lot lighting and the proposed parking canopy materials. With no one else speaking, Mayor Smith closed the public hearing.

After discussion, Councilmember Hodges made a motion and Councilmember Ray seconded the motion to approve the request to amend Subdistrict 1 of Planned Development-67 (PD-67), on 44.1± acres, located on the northwest corner of US 380 and Preston Road, generally to modify the boundary, developments standards and concept plan.

The motion passed by a vote of 6 – 0.

17. Conduct a Public Hearing, and consider and act upon a request for a Sign Waiver for Cook Children's Medical Center, regarding monument signs and internal directional signage, located on the northeast corner of Windsong Parkway and US 380. (MD21-0014). (AG)

Alex Glushko, Planning Manager, provided the Town Council information on the request for a sign waiver for Cook Children's Medical center, regarding monument

signs and internal directional signage. Cook Children's Medical Center is requesting a sign waiver for two types of signage within their development, Monument Signs and Internal Directional Signs.

Mayor Smith opened the public hearing. Kevin Greene, Cook Children's Healthcare System, discussed the proposed internal directional signs and the overall customer experience. Jason Williamson, Dunaway Associates, discussed the request for a second monument sign and the Cook Children's mascot Peaks the Dragon. Heather Chandler, Babendure Design Group, discussed the size and possible material type regarding the proposed internal directional signs.

With no one else speaking Mayor Smith closed the public hearing.

After discussion Mayor Pro-Tem Dixon made a motion and Councilmember Ray seconded the motion to approve the request for a Sign Waiver for Cook Children's Medical Center, regarding monument signs and internal directional signage, located on the northeast corner of Windsong Parkway and US 380.

The motion passed by a vote of 6 – 0.

EXECUTIVE SESSION:

Recess into Closed Session in compliance with Section 551.001 et seq. Texas Government Code, as authorized by the Texas Open Meetings Act, to deliberate regarding:

Section 551.087 - To discuss and consider economic development incentives.

Section 551.072 - To discuss and consider purchase, exchange, lease or value of real property for municipal purposes and all matters incident and related thereto.

Section 551.074 - To discuss and consider personnel matters and all matters incident and related thereto.

The Town Council recessed into Executive Session at 6:53 p.m.

Reconvene in Regular Session and take any action necessary as a result of the Closed Session.

The Town Council reconvened the Regular Session at 8:26 p.m.

Councilmember Miller made a motion and Mayor Pro-Tem Dixon seconded the motion to authorize the Town Manager to execute the Fifth Amended Economic Development Incentive Agreement between Northeast 423/380 Ltd. and Northwest 423/380 LP and take all necessary action incident and related thereto.

The motion was approved by a vote of 6 – 0.

Councilmember Miller made a motion and Mayor Pro-Tem Dixon seconded the motion to approve the Second Amendment to a Real Estate Sales Contract between 701/709 Stadium Drive, LLC, Blue Star Land, L.P., for the purchase of a 2.8738-acre tract of land and authorize the Town Manager to execute the same and take all necessary action incident and related thereto.

The motion was approved by a vote of 6 – 0.

Possibly direct Town staff to schedule topic(s) for discussion at a future meeting.

18. Update on Zoom Meetings (RB)

Robyn Battle, Executive Director of Community Services, provided the Town Council an update on conducting meetings via Zoom. In March 2020, Governor Abbott granted a temporary suspension of the Open Meetings Act due to COVID-19. The Town held virtual-only meetings through May 2020. The Town transitioned to an in-person and virtual option in June 2020. The Texas Legislature is considering S.B. 861 that would make Governor Abbotts amendments to the Open Meetings Act permanent by allowing public access to meetings and public comment via telephone and video conference. Mrs. Battle then reviewed H.B. 768, H.B. 1888/S.B. 1515, and H.B. 2683/S.B. 924 for their impacts to the Open Meetings Act. Town Staff will continue utilizing Zoom meetings indefinitely and will monitor legislative action and impact.

19. Above and Beyond Recognition. (HJ)

Harlan Jefferson, Town Manager, discussed the Above and Beyond Recognition program to recognize outstanding service by Town employees. Currently the Town utilizes the Monthly Employee Newsletter to acknowledge outstanding service leading up to the Annual Awards for employee recognition. The new program will consist of recognition on a quarterly basis at Town Council meetings with the Employee Engagement Committee to review the proposed program and make recommendations.

Adjourn.

The meeting was adjourned at 8:39 p.m. on Tuesday, April 13, 2021.

These minutes approved on the 27th day of April 2021.

APPROVED:

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

DRAFT

FINANCE DEPARTMENT

TOWN OF PROSPER
Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Betty Pamplin, Finance Director**

Through: **Harlan Jefferson, Town Manager**
Chuck Springer, Executive Director of Administrative Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:
Consider and act upon a resolution to deny the application of Oncor Electric Delivery Company LLC for approval to amend its distribution cost recovery factor to increase distribution rates within the Town. **(BP)**

Description of Agenda Item:
The Town is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor" or "Company"). The Oncor Cities Steering Committee ("OCSC") is a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area in matters before the Public Utility Commission ("PUC" or "Commission") and the courts.

On April 8, 2021, Oncor filed an Application to Amend its Distribution Cost Recovery Factor ("DCRF") with each of the cities retaining original jurisdiction and with the Commission in Docket No. 51996. In the filing, the Company sought to increase distribution rates by $97.8 million annually.

The resolution authorizes the Town to join with OCSC to evaluate the filing, determine whether the filing complies with the law, and if lawful, to determine what further strategy, including settlement, to pursue.

Legal Obligations and Review:
Terrance Welch of Brown & Hofmeister, L.L.P., has reviewed the resolution as to form and legality.

Attached Documents:
1. Resolution

Town Staff Recommendation:

Town staff recommends adoption of a resolution to deny the application of Oncor Electric Delivery Company LLC for approval to amend its distribution cost recovery factor to increase distribution rates within the Town.

Proposed Motion:

I move to adopt a resolution to deny the application of Oncor Electric Delivery Company LLC for approval to amend its distribution cost recovery factor to increase distribution rates within the Town.

TOWN OF PROSPER, TEXAS **RESOLUTION NO. 2021-xx**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE TOWN SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH ONCOR CITIES STEERING COMMITTEE; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE TOWN'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Prosper, Texas ("Town") is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor" or "Company"), and a regulatory authority with an interest in the rates and charges of Oncor; and

WHEREAS, the Oncor Cities Steering Committee ("OCSC") is a coalition of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area in matters before the Public Utility Commission ("Commission") and the courts; and

WHEREAS, on or about April 8, 2021, Oncor filed with the Commission an Application to Amend its Distribution Cost Recovery Factor ("DCRF"), Commission Docket No. 51996, seeking to increase its total distribution revenue requirement by approximately $97.8 million annually.

WHEREAS, the Town of Prosper will cooperate with OCSC in coordinating their review of Oncor's DCRF filing with designated attorneys and consultants, prepare a common response, negotiate with the Company, and direct any necessary litigation, to resolve issues in the Company's filing; and

WHEREAS, all electric utility customers residing in the Town will be impacted by this ratemaking proceeding if it is granted; and

WHEREAS, working with the OCSC to review the rates charged by Oncor allows members to accomplish more collectively than each city could do acting alone; and

WHEREAS, OCSC's members and attorneys recommend that members deny Oncor's DCRF.

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

SECTION 1

All of the above premises are found to be true and correct legislative determinations of the Town of Prosper, Texas, and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

SECTION 2

The Town is authorized to participate with OCSC in Commission Docket No. 51996.

SECTION 3

Subject to the right to terminate employment at any time, the Town of Prosper hereby authorizes the hiring of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. and consultants to negotiate with the Company, make recommendations to the Town regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal Oncor's DCRF application.

SECTION 4

The rates proposed by Oncor to be recovered through its DCRF charged to customers located within the Town limits, are hereby found to be unreasonable and shall be denied.

SECTION 5

The Company shall continue to charge its existing rates to customers within the Town.

SECTION 6

The Town's reasonable rate case expenses shall be reimbursed in full by Oncor within 30 days of the adoption of this Resolution, and within 30 days of presenting monthly bills to Oncor thereafter.

SECTION 7

It is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION 8

A copy of this Resolution shall be sent to J. Michael Sherburne, Vice President – Regulatory, Oncor Electric Delivery Company LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202; to Tab R. Urbantke, Hunton Andrews Kurth LLP, 1445 Ross Avenue, Suite 3700, Dallas, Texas 7520; and to Thomas Brocato, General Counsel to OCSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, TX 78767-1725, or tbrocato@lglawfirm.com.

SECTION 9

This Resolution shall be effective from and after its passage by the Town Council.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF APRIL, 2021.

Ray Smith, Mayor

ATTEST:

_____

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

_____

Terrence S. Welch, Town Attorney

PLANNING

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:
Consider and act upon an ordinance rezoning 9.5± acres from Planned Development-65-Single Family (PD-65) to Office (O) District, located on the northwest corner of Mahard Parkway and Prairie Drive. (Z21-0002).

Description of Agenda Item:
On April 13, 2021, the Town Council approved the proposed rezoning request, by a vote of 6-0, subject to approval of a development agreement regarding architecture and building materials. An ordinance has been prepared accordingly, and a Development Agreement is on the April 27, 2021, Town Council agenda for consideration.

Legal Obligations and Review:
Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:
1. Ordinance
2. Ordinance Exhibit

Staff Recommendation:
Staff recommends the Town Council approve an ordinance rezoning 9.5± acres from Planned Development-65-Single Family (PD-65) to Office (O) District, located on the northwest corner of Mahard Parkway and Prairie Drive.

Proposed Motion:
I move to approve an ordinance rezoning 9.5± acres from Planned Development-65-Single Family (PD-65) to Office (O) District, located on the northwest corner of Mahard Parkway and Prairie Drive.

TOWN OF PROSPER, TEXAS **ORDINANCE NO. 2021-___**

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING PROSPER'S ZONING ORDINANCE BY REZONING A TRACT OF LAND CONSISTING OF 9.504 ACRES, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS FROM PLANNED DEVELOPMENT-65 PD-65) TO OFFICE (O); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that the Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Prosper Villages at Legacy, LLC ("Applicant"), to rezone 9.504 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, from Planned Development-65 (PD-65) to Office (O) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

WHEREAS, the Town Council has investigated and determined that the facts contained in the request are true and correct; and

WHEREAS, all legal notices required for rezoning have been given in the manner and form set forth by law, Public Hearings have been held, and all other requirements of notice and completion of such procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

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

SECTION 1

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

Amendment to the Town's Zoning Ordinance. The Town's Zoning Ordinance, adopted by Ordinance No. 05-20 is amended as follows: The zoning designation of the below described property containing 9.504 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads, and alleyways contiguous and/or adjacent thereto is hereby zoned as Office (O) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

All development plans, standards, and uses for the Property shall comply fully with the requirements of all ordinances, rules, and regulations of the Town of Prosper, as they currently exist or may be amended, subject to the following condition of approval by the Town Council:

1. The approval of a Development Agreement development agreement regarding architecture and building materials.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.

b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

SECTION 3

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

SECTION 4

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

SECTION 5

Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars ($2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6

Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 7

Savings/Repealing Clause. Prosper's Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8

Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF APRIL, 2021.

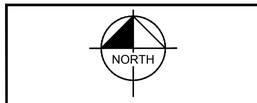
_____
Ray Smith, Mayor

ATTEST:

_____
Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

_____
Terrence S. Welch, Town Attorney



GRAPHIC SCALE IN FEET
60 0 30 60 120
1" = 60' @ 24X36

COLLIN COUNTY SCHOOL LAND SURVEY
ABSTRACT No. 147
COLLIN CO.

CALLED 78.483 ACRES
LEGACY AND FIRST LP
INSTR. NO. 20200618000919920
O.P.R.C.C.T.

EXISTING ZONING: COMMERCIAL
EXISTING LAND USE: UNDEVELOPED
FUTURE LAND USE: TOLLWAY DISTRICT

1/2" IRFC, 1.7' NORTH OF PROP. LINE

S89°40'36"E 629.62'

P.O.B.

1" IPF

S 42°29' W, 3072' TO SEC OF L. NETHERLY SURVEY ABSTRACT NO. 962

GROSS AREA:
9.504 ACRES
413,978 SQ. FT.

NET AREA
8.160 ACRES
355,445 SQ FT.

REMAINDER OF
PROSPER CENTER
BLOCK B, LOT 2
DOC. NO. 2016-241, P.R.D.C.T.

EXISTING ZONING: PD-65
EXISTING LAND USE: UNDEVELOPED
FUTURE LAND USE: TOLLWAY DISTRICT

50' ENERGY TRANSFER FUEL LP EASEMENT INST. NO. 20090218010 O.P.R.C.C.T.

N0°05'16"W 478.36'

S0°26'47"W 655.00'

CALLED 60.914 ACRES
SC TW-380, LLC
INSTR. NO. 20190724000876240
O.P.R.C.C.T.

EXISTING ZONING: PD-71
EXISTING LAND USE: UNDEVELOPED
FUTURE LAND USE: TOLLWAY DISTRICT

PORTION OF
PROSPER CENTER
BLOCK B, LOT 2
DOC. NO. 2016-241, P.R.D.C.T.

EXISTING ZONING: PD-65
EXISTING LAND USE: UNDEVELOPED
FUTURE LAND USE: TOLLWAY DISTRICT

N14°46'04"E
115.83'

FUTURE RIGHT-OF-WAY
1.344 ACRES (58,533 SQ. FT.)

N5°14'31"W
70.00'

40' SANITARY SEWER EASEMENT, INST. NO. 20150903001126910 AND 20150903001126920, O.P.R.C.C.T.

N89°40'36"W 540.21'

C1

5/8" IRFC "KHA"

45.0'

22.5'

PRAIRIE DRIVE

MAHARD PARKWAY

5/8" IRFC "KHA"

5/8" IRFC "KHA"

10' ATMOS ENERGY CORPORATION EASEMENT AND RIGHT-OF-WAY INST. NO. 20171020001402920 O.P.R.C.C.T.

RIGHT-OF-WAY DEDICATION
2.501 ACRES (108,947 SQ. FT.)
DEDICATED TO THE TOWN OF PROSPER IN FEE SIMPLE
DOC. NO. 2019-455
P.R.D.C.T.

125' TEMP. CONSTRUCTION EASEMENT
INST. NO. 20150903001126910 AND 20150903001126920, O.P.R.C.C.T.

LOT 5, BLOCK D
PROSPER CENTER, BLOCK D,
LOTS 2R, 5, 6, 7 AND 8
DOC. NO. 2019-455
P.R.D.C.T.

EXISTING ZONING: PD-98
EXISTING LAND USE: UNDEVELOPED
FUTURE LAND USE: TOLLWAY DISTRICT

LOT 6, BLOCK D
PROSPER CENTER, BLOCK D,
LOTS 2R, 5, 6, 7 AND 8
DOC. NO. 2019-455
P.R.D.C.T.

EXISTING ZONING: OFFICE
EXISTING LAND USE: UNDEVELOPED
FUTURE LAND USE: US 380 DISTRICT

CALLED 20.000 ACRES
MSW PROSPER 380, LP
INSTR. NO. 20131226001678930
O.P.R.C.C.T.

EXISTING ZONING: PD-47
EXISTING LAND USE: UNDEVELOPED
FUTURE LAND USE: TOLLWAY DISTRICT

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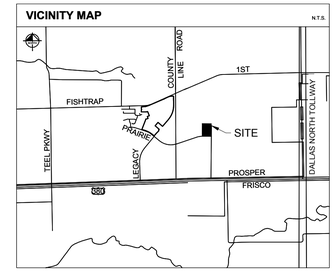
All rights reserved

VICINITY MAP N.T.S.



DESCRIPTION OF PROPERTY

BEING a tract of land situated in the Collin County School Land Survey, Abstract No. 147, Town of Prosper, Collin County, Texas, and being a portion of Lot 2, Block B of Prosper Center, Block B, Lots 1R and 2, according to the Revised Conveyance Plat thereof recorded in Volume 2016, Page 400 of the Plat Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1 inch iron pipe found for the northeast corner of said Lot 2, Block B, being on the westerly line of a called 60.914 acre tract of land described in a deed to SC TW-380, LLC, as recorded in Instrument No. 20190724000876240 of the Official Public Records of Collin County, Texas;

THENCE South 0°26'47" West, along the easterly line of said Lot 2, Block B, the westerly line of said 60.914 acre tract, and the westerly line of a called 20.000 acre tract of land described in a deed to MSW Prosper 380, LP, as recorded in Instrument No. 20131226001678930 of the Official Public Records of Collin County, Texas, a distance of 677.50 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" found for the southeast corner of said Lot 2 being in the centerline of Prairie Drive, a variable width right of way;

THENCE North 89°40'36" West, departing the westerly line of said 20.000 acre tract, and along the southerly line of said Lot 2, Block B and the centerline of said Prairie Drive, a distance of 540.16 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" found at the beginning of a tangent curve to the left having a central angle of 5°33'54", a radius of 1077.5 feet, and a chord bearing and distance of South 87°32'27" West, 104.62 feet;

THENCE in a southwesterly direction, with said curve to the left continuing along the southerly line of said Lot 2, Block B and the centerline of said Prairie Drive, an arc distance of 104.66 feet to a point for corner;

THENCE North 5°14'37" West, departing the southerly line of said Lot 2 Block B and the centerline of said Prairie Drive, and crossing Lot 2, Block B, a distance of 92.50 feet to a point for corner;

THENCE North 14°46'04" East, continuing across said Lot 2, Block B, a distance of 115.83 feet to a point for corner;

THENCE North 0°05'16" West, continuing across said Lot 2, Block B, a distance of 478.36 feet to a point for corner on the northerly line of said Lot 2, Block B and the southerly line of a called 78.483 acre tract of land described in a deed to Legacy and First LP, as recorded in Instrument No. 20200618000919920 of the Official Public Records of Collin County, Texas;

THENCE South 89°40'36" East, along the northerly line of said Lot 2, Block B, the southerly line of said 78.483 acre tract, and the westerly line of said 60.914 acre tract, a distance of 629.62 feet to the **POINT OF BEGINNING** and containing 9.837 acres (428,512 square feet) of land, more or less.

02/16/2021

SYLVIANA GUNAWAN
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6461
6160 WARREN PKWY., SUITE 210
FRISCO, TEXAS 75034
PH. 972-335-3580
sylviana.gunawan@kimley-horn.com

STATE OF TEXAS
REGISTERED
SYLVIANA GUNAWAN
6461
PROFESSIONAL
LAND SURVEYOR

LEGEND

P.O.B. = POINT OF BEGINNING
IRSC = 5/8" IRON ROD W/ "KHA" CAP SET
IPF = IRON PIPE FOUND
INST. = INSTRUMENT
DOC. = DOCUMENT
NO. = NUMBER
VOL. = VOLUME
PG. = PAGE
D.R.D.C.T. = DEED RECORDS, DENTON COUNTY, TEXAS
O.R.D.C.T. = OFFICIAL RECORDS, DENTON COUNTY, TEXAS
P.R.D.C.T. = PLAT RECORD, DENTON COUNTY,TEXAS
P.R.C.C.T. = PLAT RECORD, COLLIN COUNTY,TEXES
O.P.R.C.C.T. = OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS

NOTES:

1. Bearing system based on the south line of Prosper Center Block B, Lot 1R and 2 as recorded in Doc. No. 2016-241 P.R.D.C.T.
2. According to Map No. 48085C0230J, dated June 2, 2009 of the National Flood Insurance Program Map, Flood Insurance Rate Map of Collin County, Texas, Federal Emergency Management Agency, Federal Insurance Administration, this property is located within Zone "X-Unshaded", which is not a special flood hazard area. If this site is not within an identified special flood hazard area, this flood statement does not imply that the property and/or the structures thereon will be free from flooding or flood damage. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.
3. The thoroughfare alignment(s) shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at time of Final Plat.
4. Screening wall maintenance easements shown hereon are for the private use and benefit of the Homeowners Association (H.O.A.) for the purpose of maintaining screen walls
5. Private wall maintenance easements shown hereon are for the private use and benefit of the respective owners of the lots adjacent to said easements for the purpose of maintaining retaining walls.

EXHIBIT A
9.504 ACRES (GROSS)
8.160 ACRES (NET)

PORTION OF LOT 2, BLOCK B OF PROSPER CENTER

COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147
TOWN OF PROSPER, COLLIN COUNTY, TEXAS
CASE NO. Z21-0002

Kimley»Horn
6160 Warren Parkway, Suite 210
Frisco, Texas 75034
Tel. No. (972) 335-3580
FIRM # 10193822
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 60'	DLG	KHA	DEC. 2021	067252045	1 OF 1

OWNER:
Prosper Villages at Legacy LLC
10950 Research Road
Frisco, Texas 75033
Ph: 214.387.3993
Contact: Clint Richardson

ENGINEER:
Kimley-Horn and Associates, Inc.
6160 Warren Parkway, Suite 210
Frisco, Texas 75034
Ph: 972.335.3580
Contact: Marissa Volk, P.E.

FILE NAME: K:\FRI_SURVEY\067045179110-PROSPER CENTER LOT 1 BLOCK B SURVEY\DWG\067045179110 HILLS AT LEGACY OFFICE ZONING EXHIBIT.DWG PLOTTED BY: GUNAWAN, SYLVIANA 2/16/2021 8:15 AM LAST SAVED: 2/12/2021 11:11 AM

PLANNING

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:
Consider and act upon authorizing the Town Manager to execute a First Amended Development Agreement between Prosper Villages at Legacy, LLC, and the Town of Prosper, Texas, related to the Prosper Center development.

Description of Agenda Item:
On April 13, 2021, the Town Council approved a zoning request Z21-0002 related to development within Prosper Center, specifically providing for an office tract. The zoning request was approved by a vote of 6-0, subject to approval of a development agreement regarding architecture and building materials. In September 2019, the property owner entered into a Development Agreement regarding the surrounding properties related to architecture and building materials. The subject property is proposed to be included into the terms of that agreement. As such, a First Amended Development Agreement has been prepared accordingly.

Legal Obligations and Review:
Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality.

Attached Documents:
1. Development Agreement
2. Exhibit A-Property Description

Staff Recommendation:
Staff recommends the Town Council authorizing the Town Manager to execute a First Amended Development Agreement between Prosper Villages at Legacy, LLC, and the Town of Prosper, Texas, related to the Prosper Center development.

Proposed Motion:

I move to authorizing the Town Manager to execute a First Amended Development Agreement between Prosper Villages at Legacy, LLC, and the Town of Prosper, Texas, related to the Prosper Center development.

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment to Development Agreement") is entered into by and between the Town of Prosper, Texas ("Town"), and Prosper Villages at Legacy LLC ("Owner") (individually, a "Party" and collectively, the "Parties") to be effective (the "Effective Date") on the latest date executed by a Party.

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Owner is a Texas limited liability company qualified to do business in the State of Texas; and

WHEREAS, Owner owns a tract of land consisting of approximately 9.504 acres of land in Collin County, more particularly described in Exhibit A, attached hereto and incorporated by reference (the "Property"); and

WHEREAS, on or about April 13, 2021, the Town approved a certain rezoning request, as more fully described in the applicable zoning ordinance, and further, the Parties agreed to certain other matters, including architectural features and building materials to be utilized on the Property; and

WHEREAS, Town and Owner entered into a Development Agreement ("Development Agreement") approved by the Town Council on or about September 24, 2019, and subsequently filed in the Collin County Real Property records on or about September 27, 2019, as Document No. 20190927001207500 pertaining to property described therein; and

WHEREAS, on or about April 13, 2021, the Town Council authorized the execution of this First Amendment to Development Agreement to subject the Property to the Development Agreement; and

WHEREAS, this First Amendment to Development Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained herein, and to recognize Owner's reasonable investment-backed expectations; and

WHEREAS, subject to the terms of this First Amendment to Development Agreement, Owner agrees and acknowledges that it will construct on the Property structures in accordance with the provisions, standards and notes reflected in the Development Agreement executed on or about September 27, 2019, as amended by this First Amendment to Development Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Construction of Structure(s) on the Property. For any structure built on the Property following the Effective Date, it shall comply with the following standards: All exterior facades for a main building or structure, excluding glass windows and doors, shall be constructed using the following: (1) primary materials including clay fired brick, natural precast, and manufactured stone, granite, marble, stucco, architectural concrete block, split face concrete masonry unit, and architecturally finished concrete tilt wall; and (2) secondary materials that

compromise a total of ten percent (10%) or less of an elevation including aluminum or other metal, cedar or similar high quality wood, and high impact exterior insulation and finish systems (EIFs). High impact EIFS is only permitted a minimum of nine feet (9') above grade . The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed on the Property subsequent to the execution of this Agreement. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

2. Effect of Development Agreement. All other terms and conditions contained in the Development Agreement executed on or about September 27, 2019, shall remain in full force and effect and its terms are incorporated by reference as if fully set out herein.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____
Name: Harlan Jefferson
Title: Town Manager, Town of Prosper

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the _____, 20___, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas
My Commission Expires: _____

OWNER:

PROSPER VILLAGES AT LEGACY LLC
a Texas limited liability company

By: _____
Name: Craig Curry, Manager

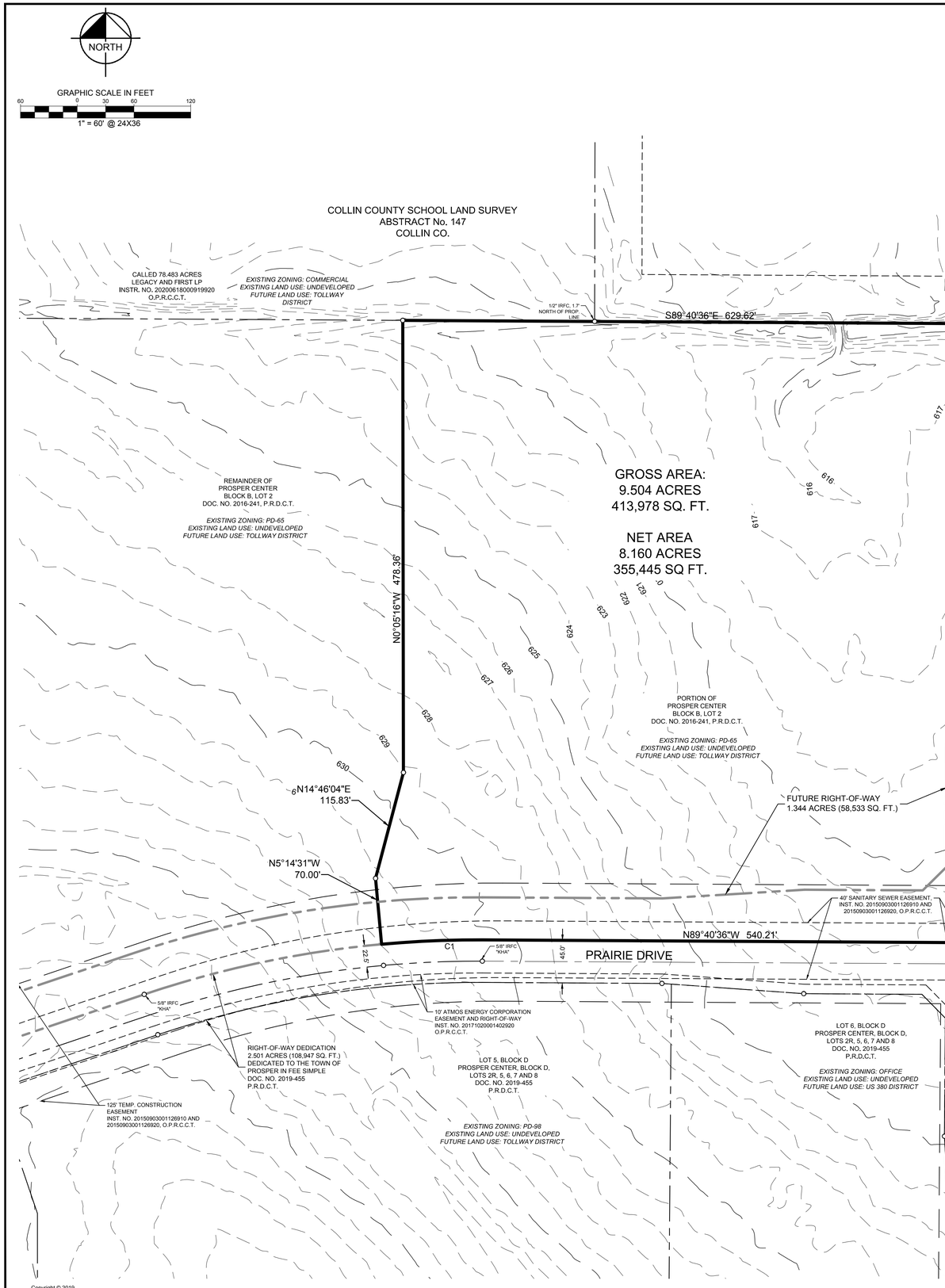
STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ___ day of _____, 20___, by Craig Curry, in his capacity as Manager of Prosper Villages at Legacy LLC, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of such limited liability company.

_____
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT A

PROPERTY DESCRIPTION



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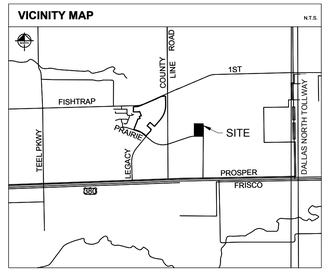

DESCRIPTION OF PROPERTY

BEING a tract of land situated in the Collin County School Land Survey, Abstract No. 147, Town of Prosper, Collin County, Texas, and being a portion of Lot 2, Block B of Prosper Center, Block B, Lots 1R and 2, according to the Revised Conveyance Plat thereof recorded in Volume 2016, Page 400 of the Plat Records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1 inch iron pipe found for the northeast corner of said Lot 2, Block B, being on the westerly line of a called 60.914 acre tract of land described in a deed to SC TW-380, LLC, as recorded in Instrument No. 20190724000876240 of the Official Public Records of Collin County, Texas;

THENCE South 0°26'47" West, along the easterly line of said Lot 2, Block B, the westerly line of said 60.914 acre tract, and the westerly line of a called 20.000 acre tract of land described in a deed to MSW Prosper 380, LP, as recorded in Instrument No. 20131226001678930 of the Official Public Records of Collin County, Texas, a distance of 677.50 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" found for the southeast corner of said Lot 2 being in the centerline of Prairie Drive, a variable width right of way;

THENCE North 89°40'36" West, departing the westerly line of said 20.000 acre tract, and along the southerly line of said Lot 2, Block B and the centerline of said Prairie Drive, a distance of 540.16 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" found at the beginning of a tangent curve to the left having a central angle of 5°33'54", a radius of 1077.5 feet, and a chord bearing and distance of South 87°32'27" West, 104.62 feet;

THENCE in a southwesterly direction, with said curve to the left continuing along the southerly line of said Lot 2, Block B and the centerline of said Prairie Drive, an arc distance of 104.66 feet to a point for corner;

THENCE North 5°14'37" West, departing the southerly line of said Lot 2 Block B and the centerline of said Prairie Drive, and crossing Lot 2, Block B, a distance of 92.50 feet to a point for corner;

THENCE North 14°46'04" East, continuing across said Lot 2, Block B, a distance of 115.83 feet to a point for corner;

THENCE North 0°05'16" West, continuing across said Lot 2, Block B, a distance of 478.36 feet to a point for corner on the northerly line of said Lot 2, Block B and the southerly line of a called 78.483 acre tract of land described in a deed to Legacy and First LP, as recorded in Instrument No. 20200618000919920 of the Official Public Records of Collin County, Texas;

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02/16/2021

SYLVIANA GUNAWAN
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6461
6160 WARREN PKWY., SUITE 210
FRISCO, TEXAS 75034
PH. 972-335-3580
sylviana.gunawan@kimley-horn.com

STATE OF TEXAS
REGISTERED
SYLVIANA GUNAWAN
6461
PROFESSIONAL
LAND SURVEYOR

EXHIBIT A
9.504 ACRES (GROSS)
8.160 ACRES (NET)

PORTION OF LOT 2, BLOCK B OF PROSPER CENTER

COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147
TOWN OF PROSPER, COLLIN COUNTY, TEXAS
CASE NO. Z21-0002

LEGEND

P.O.B. = POINT OF BEGINNING
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NOTES:

1. Bearing system based on the south line of Prosper Center Block B, Lot 1R and 2 as recorded in Doc. No. 2016-241 P.R.D.C.T.
2. According to Map No. 48085C0230J, dated June 2, 2009 of the National Flood Insurance Program Map, Flood Insurance Rate Map of Collin County, Texas, Federal Emergency Management Agency, Federal Insurance Administration, this property is located within Zone "X-Unshaded", which is not a special flood hazard area. If this site is not within an identified special flood hazard area, this flood statement does not imply that the property and/or the structures thereon will be free from flooding or flood damage. On rare occasions, greater floods can and will occur and flood heights may be increased by man-made or natural causes. This flood statement shall not create liability on the part of the surveyor.
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5. Private wall maintenance easements shown hereon are for the private use and benefit of the respective owners of the lots adjacent to said easements for the purpose of maintaining retaining walls.

Kimley»Horn
6160 Warren Parkway, Suite 210
Frisco, Texas 75034
Tel. No. (972) 335-3580
FIRM # 10193822
Fax No. (972) 335-3779

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 60'	DLG	KHA	DEC. 2021	067252045	1 OF 1

OWNER:
Prosper Villages at Legacy LLC
10950 Research Road
Frisco, Texas 75033
Ph: 214.387.3993
Contact: Clint Richardson

ENGINEER:
Kimley-Horn and Associates, Inc.
6160 Warren Parkway, Suite 210
Frisco, Texas 75034
Ph: 972.335.3580
Contact: Marissa Volk, P.E.

FILE NAME: K:\FRI_SURVEY\067252045\179110-PROSPER CENTER LOT 1 BLOCK B SURVEY\DWG\067252045 179110 HILLS AT LEGACY OFFICE ZONING EXHIBIT.DWG PLOTTED BY: GUNAWAN, SYLVIANA 2/16/2021 8:15 AM LAST SAVED: 2/12/2021 11:11 AM

PLANNING

TOWN OF PROSPER

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:

Consider and act upon an ordinance amending Subdistrict 4 of Planned Development-67 (PD-67), on 71.4± acres, generally to modify the single family development standards, and to allow for retail uses in the residential neighborhood subdistrict of the Gates of Prosper, located on the northwest corner of Preston Road and Lovers Lane. (Z21-0001).

Description of Agenda Item:

On April 13, 2021, the Town Council approved the proposed rezoning request, by a vote of 6-0, subject to the following:

1. A minimum of 40% of the single family lots provided in Subdistrict 4 are Type B lots;
2. A Specific Use Permit shall be required for the following uses, Antique/Used Furniture Sales, Building Material & Hardware Sales, Equipment & Machinery Sales and Rental, and Child Day Care Centers; and
3. Approval of a Development Agreement related to package liquor stores on the Commercial Tract, as shown on Exhibit D.

An ordinance has been prepared accordingly, and a Development Agreement is on the April 27, 2021, Town Council agenda for consideration.

Legal Obligations and Review:

Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Ordinance
2. Ordinance Exhibits

Town Staff Recommendation:

Staff recommends the Town Council approve an ordinance amending Subdistrict 4 of Planned Development-67 (PD-67), on 71.4± acres, generally to modify the single family development standards, and to allow for retail uses in the residential neighborhood subdistrict of the Gates of Prosper, located on the northwest corner of Preston Road and Lovers Lane.

Proposed Motion:

I move to approve an ordinance amending Subdistrict 4 of Planned Development-67 (PD-67), on 71.4± acres, generally to modify the single family development standards, and to allow for retail uses in the residential neighborhood subdistrict of the Gates of Prosper, located on the northwest corner of Preston Road and Lovers Lane.

TOWN OF PROSPER, TEXAS **ORDINANCE NO. 2021-__**

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20 AND ORDINANCE NO. 2021-10; REZONING A TRACT OF LAND CONSISTING OF 621.07 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, B. RENISON SURVEY, ABSTRACT NO. 755, AND J. YARNALL SURVEY, ABSTRACT NO. 1038, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED PLANNED DEVELOPMENT-67 (PD-67), IS HEREBY AMENDED IN ITS ENTIRETY AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-67 (PD-67); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that Zoning Ordinance No. 05-20 and Ordinance 2021-10, should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from 183 Land Corporation and 289 (Preston) & 380, L.P. ("Applicant") to rezone 621.07 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, B. Renison Survey, Abstract No. 755, and J. Yarnall Survey, Abstract No. 1038 in the Town of Prosper, Collin County, Texas; and

WHEREAS, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

WHEREAS, all legal notices required for rezoning have been given in the manner and form set forth by law, and public hearings have been held on the proposed rezoning and all other requirements of notice and completion of such zoning procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

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

SECTION 1

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

Amendments to Zoning Ordinance No. 05-20 and Ordinance No. 2021-10. Zoning Ordinance No. 05-20 is hereby amended and Ordinance No. 2021-10 5 is replaced in its entirety as follows: The zoning designation of the property containing 621.07 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, B. Renison Survey, Abstract

No. 755, and J. Yarnall Survey, Abstract No. 1038 in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby amended in its entirety and rezoned as Planned Development-67 (PD-67). The Property as a whole and for this zoning classification is more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes as if set forth verbatim, subject to the following:

1. A minimum of 40% of the single family lots provided in Subdistrict 4 are Type B lots;
2. A Specific Use Permit shall be required for the following uses, Antique/Used Furniture Sales, Building Material & Hardware Sales, Equipment & Machinery Sales and Rental, and Child Day Care Centers; and
3. Approval of a Development Agreement related to package liquor stores on the Commercial Tract, as shown on Exhibit D.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; 3) the concept plan, attached hereto as Exhibit "D"; 4) the development schedule, attached hereto as Exhibit "E"; 5) and the supplemental design guidelines, attached hereto as Exhibit "F", which are incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.

b. One (1) copy shall be filed with the Building Official and shall be maintained up to date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

Written notice of any amendment to this District shall be sent to all owners of properties within the District as well as all properties within two hundred feet (200') of the District to be amended.

SECTION 3

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

SECTION 4

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

SECTION 5

Penalty. Any person, firm, corporation, or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars ($2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 6

Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 7

Savings/Repealing Clause. Prosper's Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8

Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF APRIL 2021.

_____
Ray Smith, Mayor

ATTEST:

_____
Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

_____
Terrence S. Welch, Town Attorney

GATES OF PROSPER

Planned Development Ordinance

BLUE STAR LAND

LINCOLN PROPERTY COMPANY

Adopted by Ordinance No. 14-92
May 27, 2014

Amended in its Entirety by Ordinace No. 2021-
April 27, 2021

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Appendix A—Zoning Exhibit & Legal Description (Exhibit “A”)

Appendix A-1–Zoning Exhibit & Legal Description (Exhibit “A-1”)

Appendix B—Conceptual Development Plan (Exhibit “D”)

RELATIONSHIP TO TOWN OF PROSPER COMPREHENSIVE PLAN

Pursuant to Section 1.2 of the Town of Prosper Zoning Ordinance, zoning regulations and districts are established in accordance with an adopted Comprehensive Plan. The proposed Planned Development being an amendment to the Town of Prosper Zoning Ordinance, is consistent with the Town's Comprehensive Plan.

The proposed PD mirrors the specifications and intent of the Town Center District, as defined in the Comprehensive Plan, providing for mixed uses as well as retail and commercial development. It specifically meets Goal No. 1 of the Comprehensive Plan by providing a variety of land uses which will lead to a more diverse tax base. It will be an environment which encourages a desired lifestyle for residents to live, work, shop, eat and relax. It also provides for the desired transitional uses leading into the Town's Old Town District.

EXHIBIT "A"

ZONING EXHIBIT & LEGAL DESCRIPTION

The Zoning Exhibit and legal description of the area within the proposed Planned Development is included in Appendix 'A' as Exhibit 'A'.

LEGAL DESCRIPTION
621.07 ACRES

BEING of a tract of land out of the ED BRADLEY SURVEY, Abstract No. 86, the COLLIN COUNTY SCHOOL LAND SURVEY, Abstract No. 147, the B. RENISON SURVEY, Abstract No. 755 and the JOHN YARNELL SURVEY, Abstract No. 1038, in the Town of Prosper, Collin County, Texas, being all of the 16.496 acre Tract Five, all of the 125.92 acre Tract Six, being all of the 123.85 acre Tract Seven, all of the 10.068 acre Tract Eight, all of the 27.672 acre Tract Nine, all of the 99.96 acre Tract Ten recorded in Collin County Clerk's File No. 97-0005168 of the Land Records of Collin County, Texas and being part of the 157.13 acre tract of land described in deed to Blue Star Allen Land, L.P., recorded in Volume 6074, Page 2102 of the Deed Records of Collin County, Texas, Being all of the 0.38 acre tract of land described in deed to Blue Star Land, Ltd. Recorded in Document No. 20100809000819450 of the Official Public Records of Collin County, Texas and being more particularly described as follows;

BEGINNING at a point for the intersection of the centerline of U.S. Highway 380 (variable width ROW) and the centerline of the Burlington Northern Railroad (100' ROW at this point);

THENCE with said centerline of the Burlington Northern Railroad, North 11º23'13" East, a distance of 2716.96 feet to a point for corner;

THENCE leaving the centerline of the Burlington Northern Railroad, the following courses and distances two wit:
South 89º15'40" West, a distance of 123.47 feet to a point for corner;
North 00º57'41" West, a distance of 2704.85 feet to a point in the centerline of First Street;

THENCE with the centerline of First Street, the following courses and distances to with:
North 89º37'06" East, a distance of 509.94 feet to a point for corner;
South 86º07'09" East, a distance of 202.29 feet to a point for corner;
North 89º38'54" East, a distance of 454.43 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00º45'07" West, a distance of 313.06 feet to a point for corner;
North 89º29'33" East, a distance of 481.12 feet to a point for corner;
North 00º21'57" West, a distance of 311.69 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89º38'54" East, a distance of 377.25 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00º06'52" East, a distance of 314.43 feet to a point for corner;
North 89º49'10" East, a distance of 189.92 feet to a point for corner;

North 00º09'58" West, a distance of 104.29 feet to a point for corner;
North 89º41'07" East, a distance of 455.63 feet to a point for corner in the centerline of Coleman Street;

THENCE with the centerline of said Coleman Street, South 00º05'32" East, a distance of 177.82 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 89º56'58" East, a distance of 257.38 feet to a point for corner;
North 02º09'39" East, a distance of 71.99 feet to a point for corner;
North 89º18'22" East, a distance of 555.18 feet to a point for corner;
South 00º58'50" East, a distance of 673.52 feet to a point for corner;
South 76º42'56" East, a distance of 185.47 feet to a point for corner;
South 76º51'24" East, a distance of 321.53 feet to a point for corner;
South 89º06'24" East, a distance of 1107.37 feet to a point for corner in the centerline of Craig Road;

THENCE with the centerline of said Craig Road, North 00º04'32" East, a distance of 842.40 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
North 89º30'30" East, a distance of 205.11 feet to a point for corner;
North 00º05'59" West, a distance of 299.98 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89º31'34" East, a distance of 1084.95 feet to a point for corner;

THENCE leaving the centerline of said First Street, the following courses and distances to wit:
South 01º02'13" East, a distance of 1546.12 feet to a point for corner;
South 89º20'50" West, a distance of 899.18 feet to a point for corner;
South 32º50'09" West, a distance of 339.04 feet to a point for corner;
North 54º21'333" West, a distance of 401.98 feet to a point for corner in the east right-of-way line of Preston Road (State Highway 289 – variable width ROW);
THENCE with said east right-of-way line, South 33º37'47" West, a distance of 423.21 feet to a point for corner;

THENCE leaving said east right-of-way lien, the following courses and distances to wit: South 54º19'15" East, a distance of 408.23 feet to a point for corner;
South 00º03'08" East, a distance of 3183.53 feet to a point for corner in the centerline of said U.S. Highway 380;

THENCE with said centerline, the following courses and distances to wit:
South 89º12'47" West, a distance of 2794.95 feet to a point for corner;
South 89º46'43" West. a distance of 2671.91 feet to the POINT OF BEGINNING and containing 621.07 acres of land.

EXHIBIT "A-1"
ZONING EXHIBIT & LEGAL DESCRIPTION

The Zoning Exhibit and legal description of the area within the proposed Planned Development is included in Appendix 'A-1' as Exhibit 'A-1'.

BEING a tract of land situated in the Collin County School Land No. 12 Survey, Abstract No. 147 and the Ben Renison Survey, Abstract No. 755, Town of Prosper, Collin County, Texas, and being a portion of a called "Tract Six", conveyed to 183 Land Corporation, Inc., as evidenced in a Special Warranty Deed, recorded in County Clerk's File No. 97-0005168 of the Deed Records of Collin County, Texas, a portion of a called "Tract Seven", conveyed to 380 & 289, L.P., as evidenced in a Warranty Deed, recorded in Instrument No. 20121219001617180, Official Public Records of Collin County, Texas, and a portion of a called 157.1346-acre tract of land, conveyed to 289 (Preston) & 380, LP, as evidenced in Warranty Deeds, recorded in Instrument No. 20121221001629970 and Instrument No. 20121221001629980, both of the Official Public Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a TXDOT brass disk right of way monument found for the southerly, northeast corner of said "Tract Seven", and being the intersection of the northwesterly right of way line of State Highway 289 (Preston Road), a variable width right of way with the westerly right of way line of South Craig Road, from said corner, a found wooden TXDOT right of way marker bears South 16°19' West, 1.35 feet;

THENCE South 33°38'18" West, along the southeasterly line of said "Tract Seven" and the northwesterly right of way line of said State Highway 289 (Preston Road), a distance of 111.45 feet to a TXDOT brass disk right of way monument found for the northerly corner of a called 0.2813-acre tract of land, as evidenced in a Deed to the State of Texas, recorded in Instrument No. 20110818000872270 of the Official Public Records of Collin County, Texas, from said corner, a found wooden TXDOT right of way marker bears North 76°00' East, 0.54 feet;

THENCE in a southwesterly direction, departing the southeasterly line of said "Tract Seven", and along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.2813-acre tract, the following:

South 40°20'31" West, a distance of 85.55 feet to a corner;
South 33°38'35" West, a distance of 300.00 feet to a corner;
South 37°27'25" West, a distance of 300.67 feet to a corner;
South 33°38'35" West, a distance of 208.89 feet to the POINT OF BEGINNING of the herein described tract;

THENCE South 33°38'35" West, continuing along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.2813-acre tract, a distance of 91.11 feet to a corner;

THENCE South 29°26'34" West, continuing along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.2813-acre tract, a distance of 200.54 feet to the southernmost corner of said 0.2813-acre tract, and being on the southeasterly line of aforesaid "Tract Seven", from said corner, a found wooden TXDOT right of way marker bears North 31°18' East, 16.00 feet;

THENCE South 35°04’16” West, along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 385.16 feet to a corner, from which, a found wooden TXDOT right of way marker bears North 44°12’ East, 1.65 feet;

THENCE South 33°38’20” West, continuing along the southeasterly line of said “Tract Seven” and the northwesterly right of way line of said State Highway 289 (Preston Road), a distance of 300.00 feet to a TXDOT brass disk right of way monument found for a corner, from said corner, a found wooden TXDOT right of way marker bears South 07°00’ East, 2.25 feet;

THENCE South 30°18’02” West, continuing along the southeasterly line of said “Tract Seven” and the northwesterly right of way line of said State Highway 289 (Preston Road), a distance of 392.59 feet to a TXDOT brass disk right of way monument found for the northerly corner of a called 0.0656-acre tract of land, as evidenced in a Deed to the State of Texas, recorded in Instrument No. 20110818000872270 of the Official Public Records of Collin County, Texas;

THENCE in a southwesterly direction, departing the southeasterly line of said “Tract Seven”, and along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.0656-acre tract, the following:

South 33°38’35” West, a distance of 323.03 feet to a corner;

South 30°46’46” West, a distance of 100.13 feet to the southerly corner of said 0.0656-acre tract, and being on the southeasterly line of aforesaid “Tract Seven”;

THENCE South 35°32’53” West, along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 85.20 feet to a corner;

THENCE South 33°56’57” West, continuing along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 199.89 feet to a 5/8-inch iron rod found for a corner;

THENCE South 37°09’28” West, continuing along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 42.31 feet to a corner;

THENCE North 52°50’32” West, departing the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), crossing said “Tract Seven”, a distance of 25.77 feet to a corner;

THENCE North 90°00’00” West, continuing across said “Tract Seven”, passing the westerly line of said “Tract Seven”, the easterly line of aforesaid 157.1346-acre, 289 (Preston) & 380, LP tract, and crossing a public use road known as South Coleman Street, a distance of 972.55 feet to a corner;

THENCE in a northerly direction, continuing across said 157.1346-acre tract, the following:

North 00°00’00” East, a distance of 431.84 feet to the point of curvature of a tangent curve to the left;

Along the arc of said curve to the left, through a central angle of 21°18’24”, having a radius of 338.00 feet, a chord bearing of North 10°39’12” West, a chord distance of 124.97 feet and an arc length of 125.69 feet to the point of compound curvature of a curve to the left;
Along the arc of said curve to the left, through a central angle of 39°59’13”, having a radius of 38.00 feet, a chord bearing of North 41°18’00” West, a chord distance of 25.99 feet and an arc length of 26.52 feet to the point of tangency of said curve;
North 61°17’36” West, a distance of 36.82 feet to the point of curvature of a tangent curve to the left;
Along the arc of said curve to the left, through a central angle of 30°02’25”, having a radius of 83.00 feet, a chord bearing of North 76°18’49” West, a chord distance of 43.02 feet and an arc length of 43.52 feet to the end of said curve;
North 00°00’00” East, a distance of 84.31 feet to the point of curvature of a non-tangent curve to the left;
Along the arc of said curve to the left, through a central angle of 13°19’52”, having a radius of 338.00 feet, a chord bearing of North 75°21’32” East, a chord distance of 78.47 feet and an arc length of 78.64 feet to the point of compound curvature of a curve to the left;
Along the arc of said curve to the left, through a central angle of 39°59’13”, having a radius of 38.00 feet, a chord bearing of North 48°42’00” East, a chord distance of 25.99 feet and an arc length of 26.52 feet to the point of tangency of said curve;
North 28°42’24” East, a distance of 36.82 feet to the point of curvature of a tangent curve to the left;
Along the arc of said curve to the left, through a central angle of 35°41’21”, having a radius of 83.00 feet, a chord bearing of North 10°51’43” East, a chord distance of 50.87 feet and an arc length of 51.70 feet to the point of tangency of said curve;
North 06°58’57” West, a distance of 35.50 feet to the point of curvature of a tangent curve to the right;
Along the arc of said curve to the right, through a central angle of 06°58’57”, having a radius of 546.00 feet, a chord bearing of North 03°29’29” West, a chord distance of 66.50 feet an arc length of 66.54 feet to the point of tangency of said curve;

THENCE North 00°00’00” East, continuing across said 157.1346-acre tract, crossing the northerly line of said 157.1346-acre tract and the southerly line of aforesaid “Tract Six”, continuing across said “Tract Six”, a distance of 785.38 feet to a corner;

THENCE in a northerly and easterly direction, continuing across said 157.1346-acre tract, the following:
North 03°48’51” West, a distance of 150.33 feet to a corner;
North 00°00’00” East, a distance of 125.00 feet to a corner;
North 45°00’00” West, a distance of 35.36 feet to a corner;
North 00°00’00” East, a distance of 110.00 fee to a corner;
North 45°00’00” East, a distance of 35.36 feet to a corner;
North 90°00’00” East, a distance of 110.00 feet to a corner;
South 45°00’00” East, a distance of 35.36 feet to a corner;
North 90°00’00” East, a distance of 150.00 feet to a corner;

THENCE South 86°11’09” East, continuing across said “Tract Six”, passing the easterly line of said “Tract Six”, the westerly line of aforesaid “Tract Seven”, and crossing aforesaid public use road known as South Coleman Street, a distance of 150.33 feet to a corner;

THENCE in an easterly direction, continuing across said “Tract Seven”, the following:

North 90°00’00” East, a distance of 923.53 feet to the point of curvature of a tangent curve to the right;
Along the arc of said curve to the right, through a central angle of 34°09’35”, having a radius of 895.00 feet, a chord bearing of South 72°55’13” East, a chord distance of 525.73 feet and an arc length of 533.60 feet to the point of tangency of said curve;
South 55°50’25” East, a distance of 56.69 feet to a corner;
South 59°39’16” East, a distance of 150.33 feet to a corner;
South 55°50’25” East, a distance of 125.21 feet to a corner;
North 78°55’07” East, a distance of 13.56 feet to the **POINT OF BEGINNING** and containing 78.508 acres (3,419,790 square feet) of land, more or less.

EXHIBIT "B"

PLANNED DEVELOPMENT STATEMENT OF INTENT & PURPOSE

The purpose of the proposed Planned Development District is to accommodate a mix of office, retail, personal service, residential and community activities by providing four individual but integrated Subdistricts. This will be accomplished through the incorporation of the Planned Development Standards and Design Guidelines contained in Exhibits C and F, respectively. Although the Planned Development Standards provide criteria for development within each distinct Subdistrict, the Standards are formulated in such a manner as to allow each Subdistrict to develop as one integral part of the collective Planned Development.

The Conceptual Development Plan includes vehicular and pedestrian linkages that serve both functional and aesthetic roles. The proposed thoroughfare system has been designed to allow for safe and efficient vehicular circulation internal to the site as well as to connect to the existing thoroughfare system external to the development. Furthermore, focal points and terminuses have been provided within the thoroughfare system and pedestrian linkages to enhance the visual aesthetic of the overall design. Pedestrian scale design elements will also be incorporated into the site design in order to foster high quality street and sidewalk environments.

An essential element to the overall site is the incorporation of an open space system to provide for both active and passive recreational opportunities. The open space system will consist of landscape and hardscape elements such as plazas, greens, trails, pathways and parks for the residents and visitors of the development. These elements within the proposed development will be ultimately located so as to provide recreational opportunities within convenient proximity to as many users as possible.

The standards contained within this Planned Development District will help to achieve the vision for the overall development. These standards have been formulated so as to provide specificity where necessary and provide flexibility to allow for creative design.

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EXHIBIT "C"
PLANNED DEVELOPMENT STANDARDS

1.0 PLANNED DEVELOPMENT GENERAL PROVISIONS

1.1 GENERAL

The purpose of the proposed Planned Development District is to accommodate a mix of office, retail, personal service, residential and community activities to serve the needs of the new residents as well as the existing residents in the general area. Terms used in this ordinance shall have the same definition as given in Town of Prosper Zoning Ordinance (Ordinance 05-20), in effect at the time of adoption of this Planned Development Ordinance, unless otherwise defined herein.

1.2 SUBDISTRICTS DEFINED

1.3.1 ***Subdistrict 1—Regional Retail.*** Subdistrict 1, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing for the needs of the community by facilitating the development of regional-serving retail, personal service, and office uses.

1.3.2 ***Subdistrict 2—Lifestyle Center.*** Subdistrict 2, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a compact, neighborhood and pedestrian scale mixture of office, retail, personal service, residential and community activities on single or contiguous building sites.

1.3.3 ***Subdistrict 3—Downtown Center.*** Subdistrict 3, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing an active living and working community benefiting and enhancing the existing downtown area located on the north side of First Street.

1.3.4 ***Subdistrict 4—Residential Neighborhood.*** Subdistrict 4, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a planned residential community to serve the needs of the Town by facilitating a range of housing opportunities (e.g., Single-family detached).

2.0 SUBDISTRICT 1—REGIONAL RETAIL

2.1 GENERAL PURPOSE AND DESCRIPTION

The *Regional Retail* Subdistrict will serve the purpose of providing for the needs of the community by facilitating the development of regional-serving retail, personal service, and office uses. The development standards included in this Subdistrict are generally consistent with the Retail, Commercial and Office zoning districts in the existing Town of Prosper Zoning Ordinance. The Design Guidelines and architectural standards are intended to define the design theme for this Subdistrict as well as to integrate with adjacent Subdistricts. The uses that will be permitted in this Subdistrict will assist in meeting the intent of providing a regional retail district, personal service, hotel and office uses. Residential uses are not anticipated in this Subdistrict.

2.2 SITE CRITERIA

2.2.1 Property Development Regulations. The proposed land uses shall conform to the property development regulations in Tables 2-1 and 2-2.

Table 2-1. Size of Yards

Land Use[1]	Front	Side	Corner	Rear
Retail	30 ft.	(2)	30 ft.	(2)
Commercial	30 ft.	(2)	30 ft.	(2)
Office	30 ft.	(2)	30 ft.	(2)

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Minimum setback of 15 feet adjacent to a nonresidential district. Minimum setback of 40 feet for a one-story building and 60 feet for a two-story building adjacent to a residential district. Setback may be eliminated for attached buildings.

Table 2-2. Size of Lots and Lot Coverage

Land Use[1]	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth[2]	Maximum Lot Coverage	Maximum FAR
Retail	10,000 sq. ft.	100 ft.	100 ft.	40%[3]	0.4:1.0
Commercial	10,000 sq. ft.	100 ft.	100 ft.	50%[3]	0.5:1.0
Office	7,000 sq. ft.	70 ft.	100 ft.	50%[3]	1.5:1.0

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Mutual access agreements may be allowed to satisfy legal frontage requirements for individual lots which do not have legal frontage requirements along a public right of way with Town staff approval (Director of Development Services).
3. Includes main buildings. Parking structures and surface parking facilities shall be excluded from the coverage computations.

2.2.2 Parking. Refer to Section 6.3 of this Ordinance for the general requirements pertaining to parking standards.

2.3 BUILDING CRITERIA

2.3.1 ***Maximum Building Height.*** All structures in Subdistrict 1 shall conform to the building height requirements set forth in Table 2-3 below. Building height shall be measured to the highest point of a roof surface.

Table 2-3. Maximum Building Height

Building Type	Height (1)	# Stories
Non-Residential	40 ft.	2

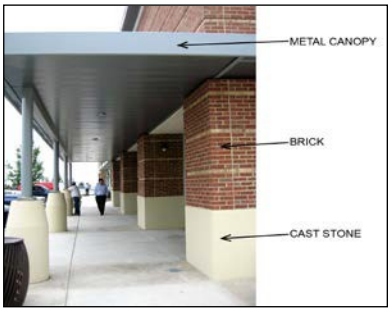
Notes

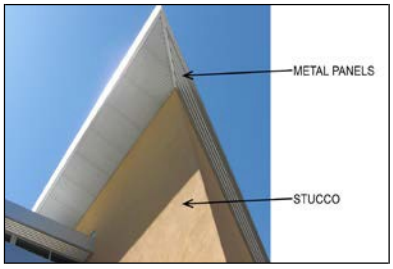
1. Non-habitable elements integral to the design of buildings shall be allowed to exceed the height limit in accordance with Ordinance Chapter 4 Section 9.5.

2.3.2 ***Maximum Building Length.*** There shall be no maximum length for buildings located within Subdistrict 1. However, all buildings shall be required to conform to the Building Articulation standards set forth in the Town's zoning ordinance.

2.3.3 ***Building Materials.*** Exterior materials used in the construction of buildings shall comply with the following standards.

a. All building façades shall be architecturally finished with 100% masonry with an allowance for up to 15% secondary materials. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, granite, marble, architectural concrete block, textured and painted concrete tilt-wall. Textured and painted concrete tilt-wall shall be limited to 50% on the front façade and 75% on the side façades. Windows, doors and accent materials shall be excluded from the façade area for the purposes of calculating percentages.





b. No single material shall exceed more than eighty (80) percent of an elevation area. A minimum of twenty-five (25) percent of the front and side façades shall be natural or manufactured stone. A minimum of twenty (20) percent of the rear façade of any building along U.S. Highway 380 shall be natural or manufactured stone; all other rear facades facing a public right-of-way shall be a minimum of ten (10) percent natural or manufactured stone unless a landscape screen consisting of a double row of evergreen canopy trees is provided along said right-of-way.

c. Secondary building materials include EIFS as a cornice, band, medallion, etc., quality wood such as, cedar, redwood, ipe, etc. (for example), tile, ornamental metal, or stucco. Other secondary materials not specifically noted herein may be allowed only if approved by the Town. EIFS and stucco is not allowed on the first nine (9') feet of a structure.

2.3.4 ***Window Areas.*** Shall not exceed 80% of any façade area for buildings located in Subdistrict 1. Windows shall have a maximum exterior visible reflectivity of 10%.

2.3.5 ***Building Entries.*** Building entries shall be clearly defined by incorporating distinguishing architectural features, awnings, canopies, lighting, signage or building articulation.

2.3.6 ***Awnings, Canopies, Arcades and Overhangs.*** These elements shall be designed and materials shall be used to complement the building design. They should be located to be as functional as possible, and with consideration to landscape areas that may be impacted by their placement.

2.3.7 ***Above-Grade Structured Parking.*** When structured garages are provided, sufficient access from the right-of-way, or fire lane and access easements shall be provided. Entrances and exits shall be clearly marked for vehicles as well as pedestrians.

The exterior façade of the parking structure if visible from the street, shall incorporate similar design elements and finishes as the surrounding buildings in order to minimize the visual impact and shall be designed to minimize visibility from the street.

Parking structures should be oriented in a manner to avoid a general site line from the intersection of Preston/US 380 unless otherwise approved by the Town.

2.3.8 Area A-2. The following specific criteria shall apply to development within Area A-2 as depicted on Exhibit A-1.

1. The support columns for the covered parking structures shall be permitted the use of metal.
2. The required parking ratio for retail businesses shall apply to the net retail area only.
3. Facade Plans shall be approved by the Town Council, subject to a recommendation by the Planning & Zoning Commission.
4. For instances where provisions of this section (Section 2.3) conflict with the conceptual elevations found in Section 2.5.2, the conceptual elevations shall govern.

2.4 PERMITTED USES

2.4.1 General. The following general conditions shall apply to Subdistrict 1.

a. Big Box uses are permitted by right within Subdistrict 1.

2.4.2 Permitted Use Matrix. The permitted uses within Subdistrict 1 shall be in accordance with the Permitted Use Matrix in Section 6.6 of this Ordinance.

2.5 CONCEPTUAL RENDERING

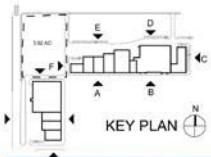
The following conceptual renderings shall be representative of the architectural style, color and material selections depicted therein.

la Manna
The Gates of
PROSPER

SPORT STORE

CASE
PROMO
BOUTIQUE

2.5.1 The following conceptual renderings shall be representative of the architectural style, color and material selections in the location identified in Exhibit A-1.



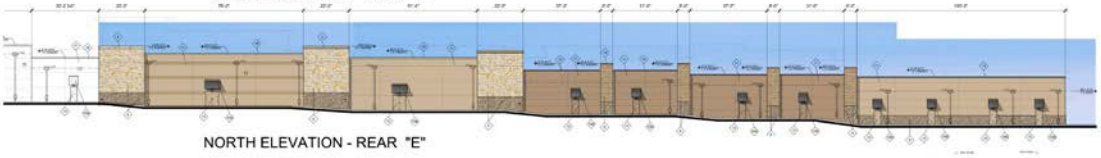
SOUTH ELEVATION - FRONT "A"

SOUTH ELEVATION - FRONT "B"

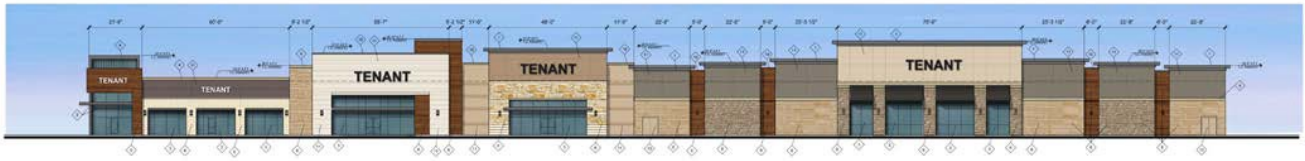
EAST ELEVATION - FRONT "C"

NORTH ELEVATION - REAR "D"

WEST ELEVATION - SIDE "F"

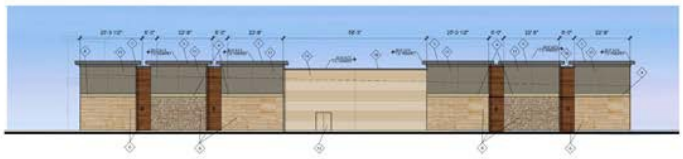


NORTH ELEVATION - REAR "E"

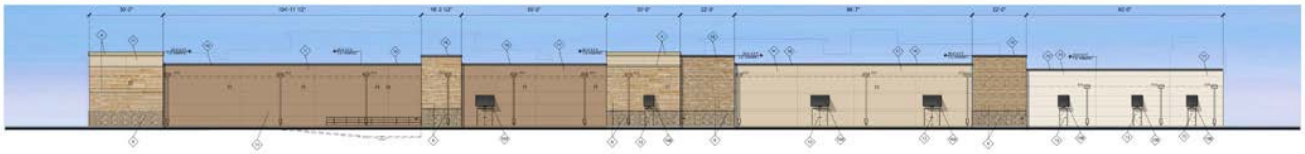


EAST ELEVATION - FRONT "G"

SOUTH ELEVATION - FRONT "J"

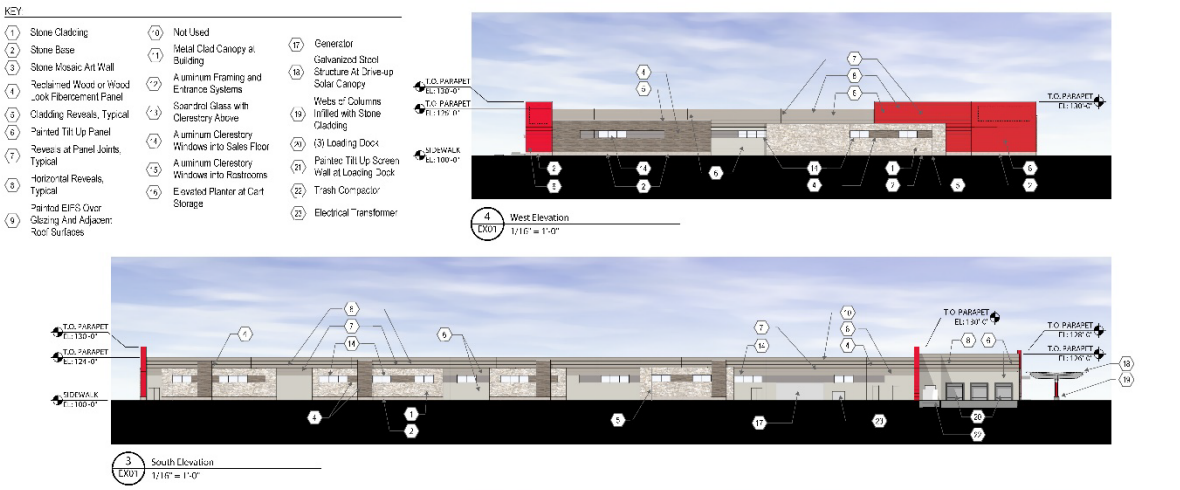


NORTH ELEVATION - SIDE "H"



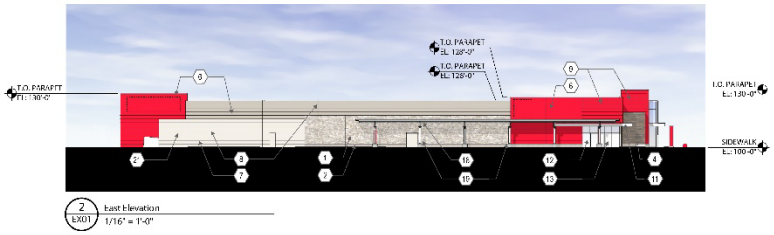
WEST ELEVATION - REAR "I"

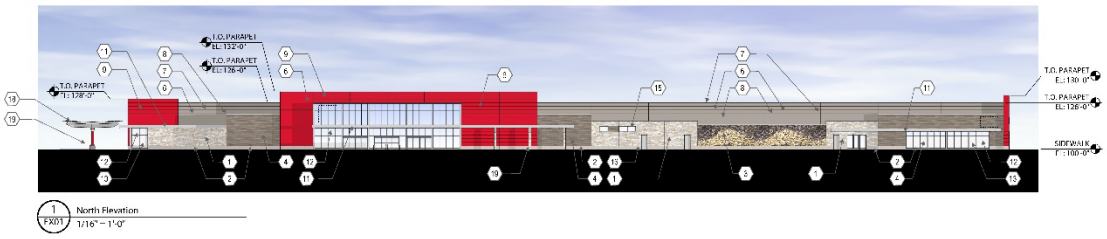
2.5.2 The following conceptual elevations and renderings shall be representative of the architectural style, colors and material selections and placement for the building located within Area A-2, as depicted on Exhibit A-1.



GENERAL NOTES:

1. This Façade Plan is for conceptual purposes only. All building plans require review and approval from the Building Inspections Division.
2. All mechanical equipment shall be screened from public view. Rooftop mounted equipment shall be screened by a parapet wall or screening wall. Screening walls shall be the specifications of the Zoning Ordinance.
3. When permitted, exposed utility boxes and conduits shall be painted to match the building.
4. All signage areas and locations are subject to approval by the Building Inspections Division.
5. Windows shall have a maximum exterior visible reflectivity of ten (10) percent.
6. Any deviation from the approved Façade Plan will require re-approval by the Town of Prosper.





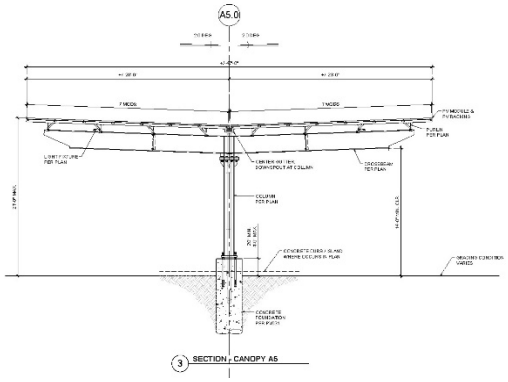
View from the Northwest

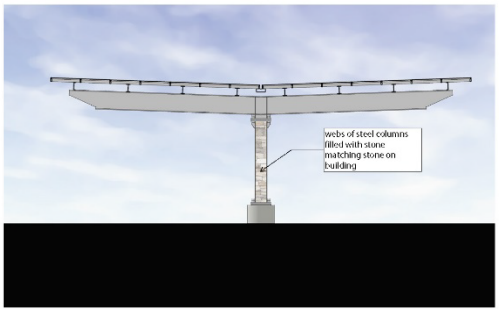
View from the North

Birds Eye View from the Northwest

View from the North East

View from the West


A5.01
SECTION - CANOPY A5


webs of steel columns
filled with stone
matching stone on
building

3.0 SUBDISTRICT 2—LIFESTYLE CENTER

3.1 GENERAL PURPOSE AND DESCRIPTION

The *Life Style* Subdistrict will serve the purpose of providing a compact, neighborhood and pedestrian-scale mixture of office, retail, personal service, residential and community activities on single or contiguous building sites. The development standards for non-residential and mixed-use development included in this Subdistrict are generally consistent with the Retail and Office zoning districts in the existing Town of Prosper Zoning Ordinance, while the development standards for residential development are generally consistent with the Townhome and Multifamily zoning districts in the existing Town of Prosper Zoning Ordinance. The Design Guidelines and architectural standards are intended to define the "Town Center" design theme for this Subdistrict by providing opportunities for mixed-use development that includes both vertical and/or horizontal integration. Urban design elements will be incorporated into the construction of the multifamily developments within this project. Buildings will be designed to provide active street-fronts that encourage pedestrian activity. The buildings will be arranged such that the viewing of any surface, and/or structured parking is minimal from the surrounding public streets. These developments will be amenitized with carefully arranged, high-quality open spaces to provide a maximum number of premium units while also providing a high level of connectivity to the overall development. The provision of centrally located open space elements coupled with the proposed development standards will allow for a pedestrian-friendly community. This lifestyle center is intended to be unique in nature to create an image which will encourage a regional draw from throughout the Metroplex. It may also include entertainment type uses as well as Big Box users which would attract patrons from other Cities in and around the Metroplex.

3.2 SITE CRITERIA

3.2.1 Property Development Regulations. The proposed land uses and housing types shall conform to the property development regulations in this Section. The proposed land uses within Subdistrict 2 may utilize the Urban Standards in Tables 3-3, 3-4 and 3-5. In addition, where Urban Standards are utilized, these standards shall apply to an entire block length so as not to disrupt the continuity of the streetscape.

Table 3-1. Size of Yards

Land Use/Housing Type[1]	Minimum Front[5]	Minimum Side	Minimum Corner[5]	Minimum Rear
Retail	5 ft.	(2)	5 ft.	(2)
Commercial	5 ft.	(2)	5 ft.	(2)
Office	5 ft.	(2)	5 ft.	(2)
Mixed Use	5 ft.	(2)	5 ft.	(2)
Townhome[3]	5 ft.	5 ft.[4]	5 ft.	20 ft.
Multifamily, Urban Living	5 ft.	(2,4)	5 ft.	(2)

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Minimum setback of 10 feet adjacent to a nonresidential district. Minimum setback of 25 feet adjacent to a residential district. Setback may be eliminated for attached buildings.
3. Vehicular access for Townhomes shall be provided at the rear of the unit via alleys
4. A minimum building separation of 15 feet is required between buildings. Zero feet

between individual attached units.

5. Additional area needed for sidewalks, outdoor dining, landscaping, etc. may be provided within public ROW and/or easements of the adjacent roadways upon approval by Town staff.

Table 3-2. Size of Lots and Lot Coverage—Non-Residential & Mixed Use

Land Use[1]	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum FAR
Retail	10,000 sq. ft.	100 ft.	100 ft.	90%[2]	0.6:1.0
Commercial	10,000 sq. ft.	100 ft.	100 ft.	90%[2]	3.0:1.0
Office	7,000 sq. ft.	70 ft.	100 ft.	90%[2]	5.0:1.0
Mixed Use (Vertical)	10,000 sq. ft.	100 ft.	100 ft.	100%[2]	5.0:1.0

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Includes main buildings. Parking structures and surface parking facilities shall be excluded from the coverage computations. Open space requirements can be accounted for as per section 6.2.2.

Table 3-3. Size of Lots and Lot Coverage—Residential

Housing Type	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum Density
Townhome	2,500 sq. ft.	20 ft.	90 ft.	90%	10 du/ac
Multifamily, Urban Living[2]	10,000 sq. ft.	80 ft.	100 ft.	90%[1]	N/A

Notes

1. Includes main building, accessory buildings and structured parking facilities.

3.2.2 Minimum Dwelling Area.

a. Townhome. The minimum dwelling area shall be 1,500 square feet and minimum 2 story.

b. Multifamily. The minimum dwelling area for a one-bedroom unit shall be 700 square feet; a two bedroom unit shall be 850 square feet. Additional bedrooms shall provide an additional 150 square feet per bedroom.

3.2.3 Maximum Residential Dwelling Units. The maximum number of multi-family residential dwelling units allowed within Subdistrict 2 shall be 600 units. However, the maximum allowed number of multifamily units in this subdistrict shall be reduced by the number of multifamily dwelling units constructed in any other subdistrict, such that the maximum allowable number of multifamily units for this Planned Development District does not exceed 600 units. The maximum number of townhome dwelling units allowed within Subdistrict 2 shall be 150 units. However, the maximum allowed number of townhome units in this subdistrict shall be reduced by the number of townhome units constructed in any other subdistrict, such that the maximum allowable number of townhome units for this Planned Development District does not exceed 150 units.

3.2.4 Location Requirements for Multifamily and Townhome Construction. Apartments shall be constructed in (i) that portion of Subdistrict 2 immediately east of the BNSF railroad line, south of Lovers Lane, north of the Lifestyle Center and west of the proposed north-south greenbelt, (ii) the area bordered on the north by Lovers Lane, on the east by Coleman Street, on the south by the Lifestyle Center, and on the west by the proposed north-south greenbelt, and (iii) that portion of Subdistrict 3 immediately east of the BNSF railroad line, north of Lovers Lane and west of the proposed north-south greenbelt. Townhomes may be constructed in (i) the same locations as the apartments referenced herein, (ii) adjacent to First Street in Subdistrict 3 and (iii) that area west of Coleman Street, north of Lovers Lane and east of the proposed north-south greenbelt.

3.2.5 Timing Requirements for Multifamily and Townhome Construction. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 300,000 square feet of retail development the developer may construct up to 300 multifamily units and up to 150 Townhome units. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 600,000 square feet of retail the developer may construct up to a total of 600 multifamily units.

3.2.6 Parking. Refer to Section 6.3 of this Ordinance for the general requirements pertaining to parking standards.

3.3 BUILDING CRITERIA

3.3.1 Maximum Building Height. All structures in Subdistrict 2 shall conform to the building height requirements set forth in Table 3-7 below. Building height shall be measured to the highest point of a roof surface.

Table 3-6. Maximum Building Height

Building Type	Height [1]	# Stories
Non-Residential [2]	80 ft.	5
Hotel	145 ft.	12
Office	145 ft.	12
Mixed Use (Vertical)	80 ft.	5
Townhome	40 ft.	3[6]
Multifamily, Urban Living[3]	80 ft.	5[4]
Parking Structures[5]	80 ft.	4

Notes

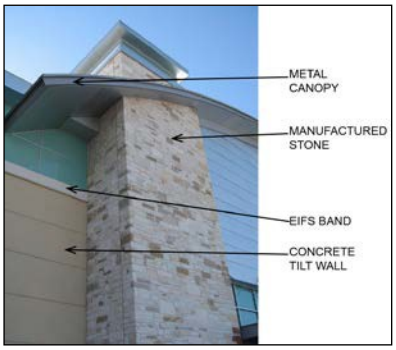
1. Non-habitable elements integral to the design of buildings shall be allowed to exceed the height limit in accordance with the Town's Zoning Ordinance Chapter 4, Section 9.5.
2. Includes all non-residential buildings except hotel, office buildings and mixed use. Hospitals will have an allowed height of 12 stories.
3. Refer to Section 8.0 for definition of building type.
4. No structure shall exceed two stories or 40' when located 150 feet or less from a single-family zoning district.
5. Main parking structure should not exceed the height of adjacent building it is serving. The maximum allowed height is reduced to 40' if predominately visible to public ROW unless otherwise approved by the Town.
6. The minimum height of a townhome is 2 stories.

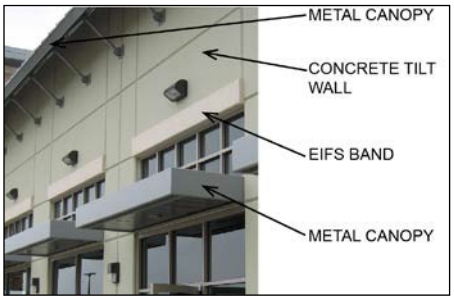
3.3.2 ***Maximum Building Length.*** There shall be no maximum length for buildings located within Subdistrict 2. However, all buildings shall be required to conform to the Building Articulation standards set forth in Section 3.3.7.

3.3.3 ***Building Materials.*** Exterior materials used in the construction of buildings shall comply with the following standards.

a. Non-Residential and Multifamily building types shall comply with the following standards:

1. All building façades shall be architecturally finished with 100% masonry with an allowance for up to 10% secondary materials. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, granite, marble, architectural concrete block, and textured and painted concrete tilt-wall (non-residential building types only). Stucco may be used on areas of facades that are at least nine (9) feet above grade on non-residential buildings and on the third floor and above for multifamily buildings. Textured and painted concrete tiltwall shall be limited to 50% on the front façade and 75% on the side façades. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.





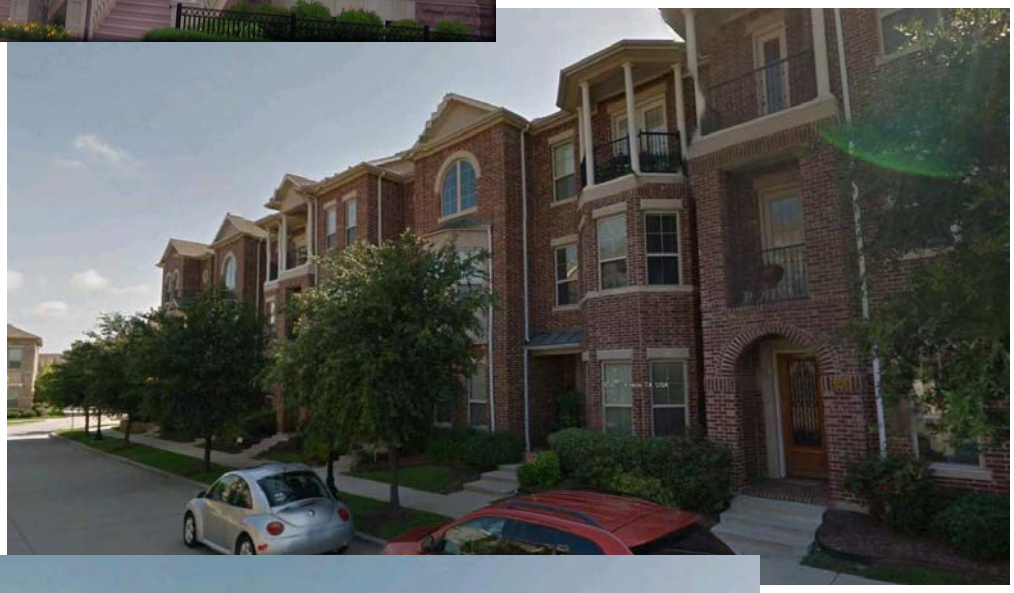
2. The front and side facades of all multifamily buildings shall be finished with a minimum twenty (20) percent natural or manufactured stone or integral color split-faced block.

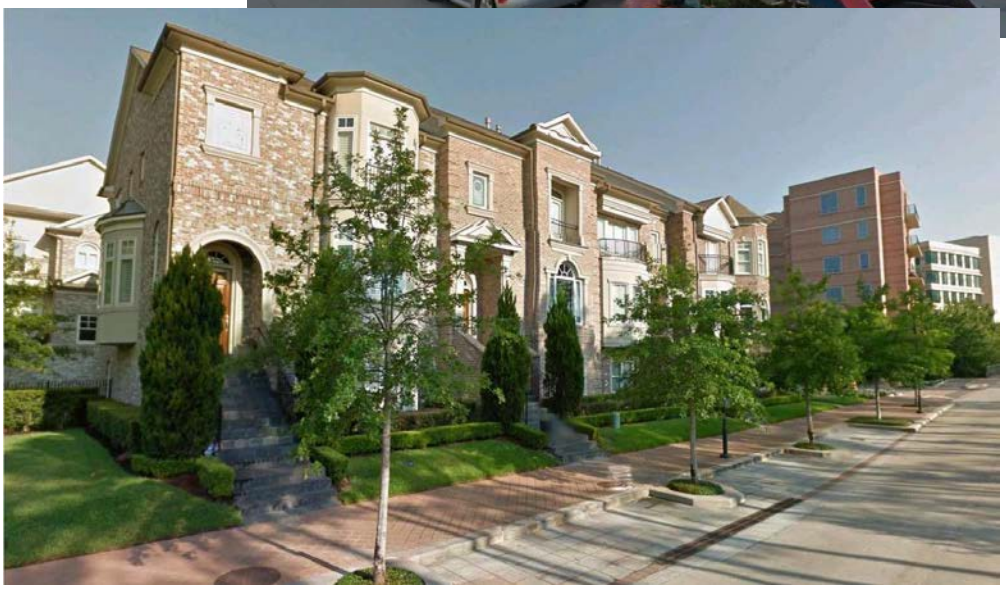
3. The front and side facades of all non-residential buildings shall be finished with a minimum of twenty-five (25) percent natural or manufactured stone.

4. A minimum of twenty (20) percent of the rear façade of any building along U.S. Highway 380 shall be natural or manufactured stone. All other rear facades facing a public right-of-way shall be a minimum of ten (10) percent natural or manufactured stone unless a landscape screen consisting of a double row of evergreen canopy trees is provided along said right-of-way.
5. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.

b. Townhome building types shall comply with the following standards.
   1. The exterior facades shall be constructed at 100% masonry. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, stucco (second floor or above), and cementitious fiber board (not to exceed 50% of 2nd story, in a different vertical plane and above of any façade area). Windows, doors and dormers shall be excluded from the façade area for the purpose of calculating primary building materials.
   2. Townhomes shall be a minimum of two stories.
   3. Each townhome unit shall have an attached garage. Garages shall open to the rear of the townhome and shall not face the public right-of-way.

Conceptual Photos – The following photographs shall be representative of the architectural style, color and material selections depicted therein.





3.3.4 ***Window Areas.*** Shall not exceed 80% of any façade area for buildings located in Subdistrict 2. Windows shall have a maximum exterior visible reflectivity of 10%.

3.3.5 ***Building Entries.*** Building entries shall be clearly defined by incorporating distinguishing architectural features, awnings, canopies, lighting, signage or building articulation.

3.3.6 ***Awnings, Canopies, Arcades and Overhangs.*** These elements shall be designed and materials shall be used to complement the building design. They should be located to be as functional as possible, and with consideration to landscape areas that may be impacted by their placement.

3.3.7 ***Building Articulation.***

a. Town Center. The Town Center is envisioned as a vibrant mixed-use area at the heart of Subdistrict 2, combining retail, restaurant, entertainment, living and working into a pedestrian oriented destination not only for the "Gates" neighborhood but also for the surrounding communities. To create an intimate pedestrian environment, buildings should be designed to incorporate articulation both horizontally and vertically at intervals of not more than 30 feet. Acceptable forms of articulation shall include the following:

1. Canopies, awnings, or porticos
2. Wall recesses / projections
3. Arcades
4. Arches

5. Display windows
6. Architectural details, such as tile work and moldings, integrated into the building façade
7. Articulated ground floor levels or base
8. Articulated cornice line
9. Integrated planters or wing walls that incorporate landscape and sitting areas
10. Offsets, reveals or projecting rib used to express architectural or structural bays
11. Varied roof heights

b. Large Peripheral Buildings. All nonresidential buildings greater than 50,000 sf with facades that face a street, have an entrance, or are highly visible from roads or parking fields shall incorporate changes in wall plane with a depth of at least 6 feet, both horizontally and vertically, at intervals of not more than 100 feet.

   Building façades that do not face a street or are not visible from roads or parking fields shall incorporate one of the following:

   1. Repeating pattern of wall recesses and projections, pilasters, offsets or reveals.
   2. Changes of color, texture or material either horizontally or vertically at intervals of not more than 60 feet.

3.3.8 Above-Grade Structured Parking. When structured garages are provided, sufficient access from the right-of-way or fire lane and access easement shall be provided. Entrances and exits shall be clearly marked for vehicles as well as pedestrians. The exterior façade of the parking structure, if visible from the street, shall incorporate similar design elements and finishes as the surrounding buildings in order to minimize the visual impact and shall be designed to minimize visibility from the street.

Parking structures should be oriented in a manner to avoid a general site line from the intersection of Preston/US 380 unless otherwise approved by the Town.

3.3.9 Projections into Setbacks and/or Rights-of-Way.

a. The following projections shall be permitted into a building setback or right-of-way for non-residential or mixed-use buildings only.

   1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to 12 inches beyond a

building face or architectural projection into the setback, but not the right-of-way.

2. Business signs and roof eaves may project up to 36 inches beyond the building face or architectural projection into the setback, but not the right-of-way.
3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed; may project up to 48 inches beyond the building face into the setback, but not the right-of-way.
4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the right-of-way to be within eight inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than 24 inches from the back of curb.
5. Below-grade footings approved in conjunction with building permits.

Projections as described above shall only be permitted into a building setback or right-of-way provided the following:

1. No projection shall be permitted into a building setback or right-of-way of Preston Road, Lovers Lane, Coleman Street or US Highway 380, or any other major or minor thoroughfare.
2. Such projections do not extend over the traveled portion of a roadway.
3. The property owner has assumed liability related to such projections
4. The property owner shall maintain such projection in a safe and non-injurious manner.

b. Where balconies, awnings, stoops and front porches are provided for Townhome and multifamily uses, they shall be permitted to encroach a maximum of five feet into the front setback line.

3.4 MULTIFAMILY CRITERIA

Multifamily construction within this development shall conform to the following urban-style criteria:

1. A minimum of forty (40) percent of the units will have private garages.
2. On-street parallel parking along public and private streets other than major or minor thoroughfares is required and is allowed to count towards the required parking for the adjacent development.
3. All on-site surface parking will be located towards the interior of the site to minimize viewing from surrounding public streets.
4. Tandem parking (ie. One parking space behind either a garage or carport parking space) shall be allowed and considered in the calculation of the required parking.
5. Front porches and/or stoops are required on facades which front public streets.
6. Sidewalks with a minimum clear width of 6’ shall be constructed along all public streets adjacent to multifamily developments. Clear width shall be increased to 7’ adjacent to vertical mixed-use developments.
7. A buffer region shall be established along all streets having on-street parking. The buffer regions shall have a minimum width of six (6) feet and shall be continuous and located adjacent to the curb. This region shall be planted with street trees located a minimum of four (4) feet from the curb at an average spacing of not more than thirty (30) feet on center. Street

trees shall be a minimum of three (3) inch caliper when planted. Root barriers shall be used in conjunction with all street trees.

8. Street furniture consisting of a minimum of a bench and a waste receptacle shall be located within the buffer area in at least one location along each block.

Conceptual Photographs – The following photographs shall be representative of the architectural style, color and material selections depicted therein.

3.5 PERMITTED USES

3.5.1 ***General.*** The following general conditions shall apply to Subdistrict 2.

a. Big Box uses are permitted by right within Subdistrict 2.

3.5.2 ***Permitted Use Matrix.*** The permitted uses within Subdistrict 2 shall be in accordance with the Permitted Use Matrix in Section 6.6 of this Ordinance.

4.0 SUBDISTRICT 3—DOWNTOWN CENTER

4.1 GENERAL PURPOSE AND DESCRIPTION

The *Downtown Center* Subdistrict will serve the purpose of providing an active living and working community benefiting from its proximity to the existing town core and the planned Lifestyle and/or Regional Retail Centers to the south. The development standards for non-residential and mixed-use development included in this Subdistrict are generally consistent with the Retail, Commercial and Office zoning districts in the existing Town of Prosper Zoning Ordinance, while the development standards for residential development are generally consistent with the Townhome and Multifamily zoning districts in the existing Town of Prosper Zoning Ordinance and/or the Life Style Standards outline herein. The Design Guidelines and architectural standards are intended to define the "Downtown Center" design theme for this Subdistrict by providing opportunities to leverage from the entertainment, office and/or retail venues located within and/or adjacent to this Subdistrict. Open space elements will be located so as to provide a central focal element for this Subdistrict, along with a proposed new Town Hall/Governmental Center. The uses that will be permitted in this Subdistrict will allow for a flexibility of options including medical campus, office, civic activities, and complementary residential housing. This area could also be developed as a more traditional business park/governmental center if proven to better fit the market demands for such a use.

4.2 SITE CRITERIA

4.2.1 ***Property Development Regulations.*** The proposed land uses and housing types shall conform to the property development regulations in this Section. The proposed land uses within Subdistrict 3 may utilize the Traditional Standards in Tables 4-1, and 4-2 or the Urban Standards in Tables 4-3, 4-4 and 4-5. Where Urban Standards are utilized, these standards shall apply to an entire block length so as not to disrupt the continuity of the streetscape.

Table 4-1. Size of Yards

Land Use/Housing Type[1]	Minimum Front[6]	Minimum Side[4]	Minimum Corner[6]	Minimum Rear
Retail	5 ft.	(2)	5 ft.	(2)
Commercial	5 ft.	(2)	5 ft.	(2)
Office	5 ft.	(2)	5 ft.	(2)
Mixed Use (Vertical)	5 ft.	(2)	5 ft.	(2)
Townhome	20 ft.[3]	10 ft.	15 ft.	20 ft.[5]

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed Use Land Uses.
2. Minimum setback of 10 feet adjacent to a nonresidential district; Minimum setback of 15 feet adjacent to a residential district; Setback may be eliminated for attached buildings.
3. The front setback may be reduced to 10 feet where vehicular access is provided via a rear alley.
4. Side setback shall be zero feet for interior units with a minimum building separation of 10 feet between buildings without openings (e.g., windows) and 15 feet between buildings with openings.
5. The rear setback may be reduced to 10 feet where vehicular access is provided at the front of the unit.

6. Additional area needed for sidewalks, outdoor dining, landscaping, etc. may be provided within public ROW and/or easements of the adjacent roadways upon approval of Town Staff.

Table 4-2. Size of Lots and Lot Coverage—Non-Residential & Mixed Use (Vertical)

Land Use[1]	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum FAR
Retail	10,000 sq. ft.	70 ft.	100 ft.	50%[2]	0.6:1.0
Commercial	10,000 sq. ft.	70 ft.	100 ft.	50%[2]	3.0:1.0
Office	7,000 sq. ft.	70 ft.	100 ft.	60%[2]	5.0:1.0
Mixed Use (Vertical)	10,000 sq. ft.	70 ft.	100 ft.	100%[2]	5.0:1.0

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed Use Land Uses.
2. Includes main buildings. Parking structures and surface parking facilities shall be excluded from the coverage computations.
3. Structural parking facilities and surface parking lots shall not be included in lot coverage calculations.

Table 4-3. Size of Yards (Urban Standards)

Land Use/Housing Type	Minimum Front	Minimum Side	Minimum Corner	Minimum Rear
Townhome[2]	5 ft.	5 ft.[3]	5 ft.	20 ft.
Multifamily, Urban Living	5 ft.	(1,3)	5 ft.	(1)

Notes

1. Minimum setback of 10 feet adjacent to a nonresidential district. Minimum setback of 25 feet adjacent to a residential district. Setback may be eliminated for attached buildings.
2. Vehicular access for Townhomes shall be provided at the rear of the unit via alleys.
   - All garage doors are to be cedar/wood clad or equivalent. Metal garage doors are not permitted.
3. A minimum building separation of 15 feet is required.

Table 4-4. Size of Lots and Lot Coverage—Residential

Housing Type	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum Density
Townhome	2,500 sq. ft.	20 ft.	90 ft.	90%	10 du/ac
Multifamily[2]	10,000 sq. ft.	80 ft.	100 ft.	90%[1]	N/A

Notes

1. Includes main building, accessory buildings and structured parking facilities.

4.2.2 Minimum Dwelling Area.

a. Townhome. The minimum dwelling area shall be 1,500 square feet and a minimum 2 story.

b. Multifamily. The minimum dwelling area for a one-bedroom unit shall be 700 square feet; a two bedroom unit shall be 850 square feet. Additional bedrooms shall provide an additional 150 square feet per bedroom.

4.2.3 Maximum Residential Dwelling Units. The maximum number of multi-family residential dwelling units allowed within Subdistrict 3 shall be 300 units. However, the total number of multifamily units for all Subdistricts may not exceed 600 units. The maximum number of Townhome units in Subdistrict 3 shall be 150 units. However, the maximum combined number of Townhome units in all subdistricts may not exceed 150 units. Any residential units not developed within Subdistrict 3 shall be allowed to be developed in Subdistrict 2 provided the density standards for each Housing Type (See Tables 3-3 and 3-5) for Subdistrict 2 are followed.

4.2.4 Location Requirements for Multifamily and Townhome Construction. Apartments shall be constructed in (i) that portion of Subdistrict 2 immediately east of the BNSF railroad line, south of Lovers Lane, north of the Lifestyle Center and west of the proposed north-south greenbelt, (ii) the area bordered on the north by Lovers Lane, on the east by Coleman Street, on the south by the Lifestyle Center, and on the west by the proposed north-south greenbelt, and (iii) that portion of Subdistrict 3 immediately east of the BNSF railroad line, north of Lovers Lane and west of the proposed north-south greenbelt. Townhomes may be constructed in (i) the same locations as the apartments referenced herein, (ii) adjacent to First Street in Subdistrict 3 and (iii) that area west of Coleman Street, north of Lovers Lane and east of the proposed north-south greenbelt.

4.2.5 Timing Requirements for Multifamily and Townhome Construction. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 300,000 square feet of retail development the developer may construct up to 300 multifamily units and up to 150 Townhome units. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 600,000 square feet of retail the developer may construct up to a total of 600 multifamily units.

4.2.6 Parking. Refer to Section 6.3 of this Ordinance for the general requirements pertaining to parking standards.

4.3 BUILDING CRITERIA

4.3.1 Maximum Building Height. All structures in Subdistrict 3 shall conform to the building height requirements set forth in Table 4-5 below. Building height shall be measured to the highest point of a roof surface.

Table 4-5. Maximum Building Height [7]

Building Type	Height [1]	# Stories
Non-Residential [2]	60 ft.	4
Hotel	80 ft.	5
Office	100 ft.	8
Hospital	100 ft.	8
Townhome	40 ft.	3[6]
Multifamily, Urban Living[3]	80 ft.	5[4]
Parking Structures[5]	80 ft.	4

Notes

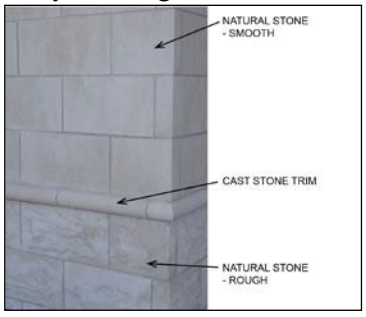
1. Non-habitable elements integral to the design of buildings shall be allowed to exceed the height limit by a maximum of 20 feet.
2. Does not include hospitals, hotels, office, or medical office buildings.
3. Refer to Section 8.0 for definition of building type.
4. No structure shall exceed two stories or 40' when located 150 feet or less from a single-family zoning district.
5. Main parking structure should not exceed the height of adjacent building it is serving. The maximum allowed height is reduced to 40' if generally visible to public ROW.
6. The minimum height of a townhome is two-story.
7. No structure within 750' of First Street can exceed 4-stories in height (60 feet max.).

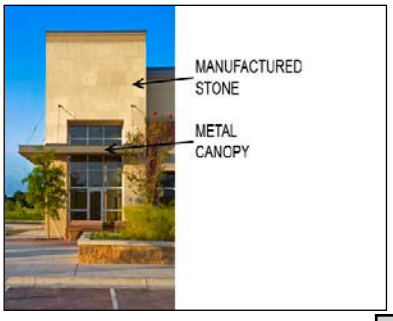
4.3.2 Maximum Building Length. There shall be no maximum length for buildings located within Subdistrict 3. However, all buildings shall be required to conform to the Building Articulation standards set forth in the Town's zoning ordinance.

4.3.3 Building Materials. Exterior materials used in the construction of buildings shall comply with the following standards.

a. Non-Residential and multifamily building types shall comply with the following standards:

1. All building façades shall be architecturally finished with 100% masonry with an allowance for up to 10% secondary materials. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, granite, marble, architectural concrete block, and textured and painted concrete tilt-wall (non-residential building types only). Stucco may be used on areas of facades that are at least nine (9) feet above grade on non-residential buildings and on the third floor and above for multifamily buildings. Textured and painted concrete tiltwall shall be limited to 50% on the front façade and 75% on side façades. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.





2. The front and side facades of all multifamily buildings shall be finished with a minimum twenty (20) percent natural or manufactured stone or integral color split-faced block.

3. The front and side facades of all non-residential buildings shall be finished with a minimum of twenty-five (25) percent natural or manufactured stone. The rear façade of any non-residential building facing a public right-of-way shall be finished with a minimum of ten (10) percent natural or manufactured stone unless a landscape screen consisting of a double row of evergreen canopy trees is provided along said right-of-way.

4. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.

5. All multifamily criteria and conceptual photos in section 3.4 of this ordinance also applies in this subdistrict.

b. Townhome building types shall comply with the following standards.

1. The exterior facades shall be constructed of 100% masonry. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, stucco (second floor and above), and cementicious fiber board (not to exceed 50% of 2nd story and above of any façade area). Windows, doors, porches, columns and dormers shall be excluded from the façade area for the purpose of calculating primary building materials.

2. Townhomes shall be a minimum of two stories.

3. Each townhome unit shall have an attached garage. Garages shall open to the rear of the townhome and shall not face the public right-of-way.

Conceptual Photos – The following photographs shall be representative of the architectural style, color and material selections depicted therein.

4.3.4 ***Window Areas.*** There shall not exceed 80% of any façade area for buildings located in Subdistrict 3. Windows shall have a maximum exterior visible reflectivity of 10%, unless otherwise approved by the Director of Development Services or his/her designee.

4.3.5 ***Building Entries.*** Building entries shall be clearly defined by incorporating distinguishing architectural features, awnings, canopies, lighting, signage or building articulation.

4.3.6 ***Awnings, Canopies, Arcades and Overhangs.*** These elements shall be designed and materials shall be used to complement the building design. They should be located to be as functional as possible, and with consideration to landscape areas that may be impacted by their placement.

4.3.7 ***Above-Grade Structured Parking.*** When structured garages are provided, sufficient access from the right-of-way shall be provided. Entrances and exits shall be clearly marked for vehicles as well as pedestrians. The exterior façade of the parking structure, if visible from the street, shall incorporate similar design elements and finishes as the surrounding buildings in order to minimize the visual impact and shall be designed to minimize visibility from the street.

Parking structures should be oriented in a manner to avoid a general site line from the intersection of Preston/US 380 unless otherwise approved by the Town.

4.3.8 Projections into Setbacks and/or Rights-of-Way.

a. The following projections shall be permitted into a building setback or right-of-way for non-residential or mixed-use buildings only.

1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to 12 inches beyond a building face or architectural projection into the setback, but not the right-of-way.

2. Business signs and roof eaves may project up to 36 inches beyond the building face or architectural projection into the setback, but not the right-of-way.

3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed; may project up to 48 inches beyond the building face into the setback, but not the right-of-way.

4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the right-of-way to be within eight inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than 24 inches from the back of curb.

5. Below-grade footings approved in conjunction with building permits.

Projections as described above shall only be permitted into a building setback or right-of-way provided the following:

1. No projection shall be permitted into a building setback or right-of-way of Lovers Lane, Coleman Street or Frost Street, or any other major or minor thoroughfare.

2. Such projections do not extend over the traveled portion of a roadway.

3. The property owner has assumed liability related to such projections

4. The property owner shall maintain such projection in a safe and non-injurious manner.

b. Where front porches are provided for Townhome uses, they shall be permitted to encroach a maximum of five feet into the front setback line.

4.4 PERMITTED USES

4.4.1 General. The following general conditions shall apply to Subdistrict 3.

Additional commercial uses are allowed for the parcel(s) located on the west side of the railroad as noted in Section 6.6 under Wholesale Uses and Manufacturing/Industrial Uses.

4.4.2 Permitted Use Matrix. The permitted uses within Subdistrict 3 shall be in accordance with the Permitted Use Matrix in Section 6.6 of this Ordinance.

5.0 SUBDISTRICT 4-RESIDENTIAL NEIGHBORHOOD

5.1 GENERAL PURPOSE AND DESCRIPTION

The *Residential Neighborhood* Subdistrict will serve the primary purpose of providing a planned residential community to serve the needs of the Town by facilitating a range of detached single-family housing opportunities. In addition, a small commercial tract will provide additional limited retail and commercial uses along Preston Road. Conformance with the Town's Zoning Ordinance and Subdivision Ordinance: Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance (as it currently exists or may be amended) and Subdivision Ordinance (as it currently exists or may be amended) shall apply.

5.2 SINGLE FAMILY RESIDENTIAL TRACT

5.2.1 **Property Development Regulations**: This property may develop, under the standards for SF-10 as contained in the Town's Zoning Ordinance as it exists or may be amended, as front entry lot product subject to the specific provisions contained herein below. There will be no alley-served lots within the property.

5.2.2 **Density**: The maximum number of single family detached dwelling units for this PD is 200. This equates to an overall gross density of 2.82 units per acre.

5.2.3 **Lot Types**: The single family detached lots developed within the Properties shall be in accordance with the following Lot Types, provided a minimum of 40% are Type B lots:

Type A Lots: Minimum 8,640 square foot lots
Type B Lots: Minimum 9,990 square foot lots

5.2.4 **Area and building regulations**:

1. Type A Lots: The area and building standards for Type A Lots are as follows and as set forth in Table 1:

(a) **Minimum Lot Size**. The minimum lot size for Type A Lots shall be eight thousand six hundred forty (8640) square feet. A typical lot will be 64' x 135' but may vary provided that the requirements in Table 1 are accommodated.

(b) **Minimum Lot Width**. The minimum lot width for Type A Lots shall be sixty four (64) feet, as measured at the front setback, except for lots located at the terminus of a cul-de-sac, curve or eyebrow which may have a minimum width of fifty four (54) feet at the front setback provided all other requirements of this section are met.

(c) **Minimum Yard Setbacks**.

(1) Minimum Front Yard Setback: The minimum front yard setback for Type A Lots shall be twenty-five (25) feet.

(2) Minimum Side Yard Setback: The minimum side yard setback for Type A Lots shall be seven (7) feet. For corner lots adjoining a street, the minimum side yard setback shall be fifteen (15) feet on the side adjacent the street.

(3) Minimum Rear Yard Setback: The minimum rear yard setback shall be twenty-five (25) feet.

(4) Permitted Encroachment. Architectural features and porches may encroach into required front and rear yards up to five (5) feet. Swing-in garages may encroach into required front yards up to ten (10) feet provided that the wall of the garage facing the street contains a glass pane window with a minimum size of three (3) feet by five (5) feet and the height of the garage does not exceed one (1) story. Front facing garages are permitted to extend to the front façade of the main structure but may not encroach into the required front yard.

(d) **Minimum Floor Space**. Each one-story dwelling constructed on a Type A Lot shall contain a minimum of two thousand, three hundred (2300) square feet of floor space; two story dwellings shall be a minimum of two thousand six hundred fifty (2650) square feet. Floor space shall include air-conditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling

(e) **Height**. The maximum height for structures on Type A Lots shall be forty (40) feet.

(f) **Driveways**. Driveways fronting on a street on Type A Lots shall be constructed of any of the following materials: colored concrete, brick pavers, stone, interlocking pavers, stamped concrete, salt finish concrete, concrete with stone or brick border OR any other treatment as approved by the Director of Development Services.

No broom finish concrete driveways will be allowed.

(g) **Exterior Surfaces**. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred (100) percent masonry. Cementitious fiber board is considered masonry but may only constitute thirty (30) percent of the area for stories other than the first story. However, cementitious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Building Official.

No cementitious fiber board or any other siding material will be allowed on any front elevation nor on any side/rear elevation which is visible from an adjacent community street, common area, open space, park or perimeter.

(h) **Windows**. All window framing shall be bronzed, black, cream, sand or white anodized aluminum, vinyl or wood.

(i) **Roofing**. Structures constructed on the Type A Lots shall have a composition, slate, clay tile or cement/concrete tile roof.

The color of any composition roof must appear to be weathered wood shingles, black or slate.

Composition roof shingles must be laminated and have a minimum warranty of 30 years.

The main roof pitch of any structure shall have a minimum slope of 8" in 12" except for clay tile and cement/concrete tile roofs which shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

(j) **Garages**.

(1) Homes shall have a minimum of two (2) car garages but no more than three (3). No carports shall be permitted.

(2) Homes with three (3) garages shall not have more than two (2) garage doors facing the street.

(3) No standard, traditional steel garage doors, painted or stained, will be allowed.

(4) Doors must be constructed of a material that gives the appearance of a real wood door when viewed from any community street. Materials may consist of paint or stain grade wood (Cedar, Ash, Hemlock, etc.) or other material, including fiberglass or steel, that when stained or painted gives the appearance of a real wood door.

(5) Doors may be single or double wide doors.

(6) Additionally, two of the following upgrades must be incorporated:

(a) If single doors, doors must be separated by a masonry column.

(b) Garage doors may be "carriage style door" designs giving the appearance of a classic swing-open design with the flexibility of an overhead door operation.

(c) Doors may incorporate decorative hardware.

(d) Doors may incorporate windows.

(k) **Plate Height**. Each structure on a Type A Lot shall have a minimum principal plate height of 9' on the first floor.

(l) **Fencing**. Fences, walls and/or hedges on Type A Lots shall be constructed to meet the following guidelines.

(1) All Type A Lots backing or siding to land designated by plat as public park or public hike and bike trail shall have a decorative metal fence, minimum 6 foot in height, abutting said public area.

(2) All other Type A lot fencing shall be constructed of masonry, decorative metal or cedar. All cedar fencing will be board on board with a top rail and shall be supported with galvanized steel posts,

8-foot OC minimum. A common fence stain color as well as fence detail shall be established for the community by the developer.

(3) Solid masonry fencing shall only be allowed on lots adjacent to or abutting HOA-owned common area lots.

(4) Type A corner lots adjacent to a street shall be constructed of either decorative metal or cedar board-on-board along the side yard adjoining the street with masonry columns, per developer guidelines, placed at 21 feet OC.

(5) No fencing shall extend beyond a point fifteen feet (15') behind the front wall plane of the structure into the front yard.

(m) **Landscaping**.

(1) Corner lots adjacent to a street require two additional trees be planted in the side yard @ 30 feet OC.

(2) The front, side and rear yard must be fully sodded with grass and irrigated by an automated underground irrigation system.

(n) **Accessory Structures**. Accessory structures used as a garage, a garage apartment, or guest house, will not be allowed.

2. **Type B Lots**: The area and building standards for Type B Lots are as follows and as set forth in Table 1:

(a) **Minimum Lot Size**. The minimum lot size for Type B Lots shall be nine thousand nine hundred ninety (9990) square feet. A typical lot will be 74' x 135' but may vary provided that the requirements in Table 1 are accommodated.

(b) **Minimum Lot Width**. The minimum lot width for Type B Lots shall be seventy-four (74) feet as measured at the front setback, except for lots located at the terminus of a cul-de-sac, curve or eyebrow which may have a minimum width of sixty-four (64) feet at the front setback provided all other requirements of this section are met.

(c) **Minimum Yard Setbacks**.

(1) **Minimum Front Yard Setback**: The minimum front yard setback for Type B Lots shall be twenty-five (25) feet.

(2) **Minimum Side Yard Setback**: The minimum side yard setback for Type B Lots shall be seven (7) feet. For corner lots adjoining a street, the minimum side yard setback shall be fifteen (15) feet on the side adjacent the street.

(3) **Minimum Rear Yard Setback**: The minimum rear yard setback shall be twenty-five (25) feet.

(4) **Permitted Encroachment**. Architectural features and porches may encroach into required front and rear yards up to five (5) feet.

Swing-in garages may encroach into required front yards up to ten (10) feet provided that the wall of the garage facing the street contains a glass pane window with a minimum size of three (3) feet by five (5) feet and the height of the garage does not exceed one (1) story. Front facing garages are permitted to extend to the front façade of the main structure but may not encroach into the required front yard.

(d) **Minimum Floor Space**. Each single-story dwelling constructed on a Type B Lot shall contain a minimum of two thousand five hundred (2500) square feet of floor space; two story dwellings shall contain a minimum of three thousand (3000) square feet of floor space. Floor space shall include air-conditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling.

(e) **Height.** The maximum height for structures on Type B Lots shall be forty (40) feet.

(f) **Driveways**. Driveways fronting on a street on Type B Lots shall be constructed of any of the following materials: colored concrete, brick pavers, stone, interlocking pavers, stamped concrete, salt finish concrete, concrete with stone or brick border OR any other treatment as approved by the Director of Development Services

No broom finish concrete driveways will be allowed.

(g) **Exterior Surfaces**. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred (100) percent masonry. Cementitious fiber board is considered masonry but may only constitute thirty (30) percent of the area for stories other than the first story. However, cementitious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Building Official.

No cementitious fiber board or any other siding material will be allowed on any front elevation nor on any side/rear elevation which is visible from an adjacent community street, common area, open space, park or perimeter.

(h) **Windows**. All window framing shall be bronzed, black, cream, sand or white anodized aluminum, vinyl or wood.

(i) **Roofing**. Structures constructed on the Type B Lots shall have a composition, slate, clay tile or cement/concrete tile roof.

The color of any composition roof must appear to be weathered wood shingles, black or slate.

Composition roof shingles must be laminated and have a minimum warranty of 30 years.

The main roof pitch of any structure shall have a minimum slope of 8" in 12" except for clay tile and cement/concrete tile roofs which shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

(j) **Garages**.

(1) Homes shall have a minimum of two (2) car garages but no more than four (4). No carports shall be permitted.

(2) Homes with three (3) car garages shall not have more than two (2) garage doors facing the street.

(3) No standard, traditional steel garage doors, painted or stained, will be allowed.

(4) Doors must be constructed of a material that gives the appearance of a real wood door when viewed from any community street. Materials may consist of paint or stain grade wood (Cedar, Ash, Hemlock, etc.) or other material, including fiberglass or steel, that when stained or painted gives the appearance of a real wood door.

(5) Doors may be single or double wide doors.

(6) Additionally, two of the following upgrades must be incorporated:

a. If single doors, doors must be separated by a masonry column.

b. Garage doors may be "carriage style door" designs giving the appearance of a classic swing-open design with the flexibility of an overhead door operation.

c. Doors may incorporate decorative hardware.

d. Doors may incorporate windows.

(k) **Plate Height**. Each structure on a Type B Lot shall have a minimum principal plate height of 9' on the first floor.

(l) **Fencing**. Fences, walls and/or hedges on Type B lots shall be constructed to meet the following guidelines.

(1) All Type B Lots backing or siding to land designated by plat as a public park or public hike and bike trail shall have a decorative metal fence, minimum 6 foot in height, abutting said public area.

(2) All other fencing shall be constructed of masonry, decorative metal or cedar. All cedar fencing will be board on board with a top rail, and shall be supported with galvanized steel posts, 8-foot OC minimum. A common fence stain color as well as fence detail shall be established for the community by the developer.

(3) Solid masonry fencing shall only be allowed on lots adjacent to or abutting HOA-owned common area lots.

(4) Type B corner lots adjacent to a street shall be constructed of either decorative metal or cedar board-on-board along the side yard adjoining the street with masonry columns, per Developer guidelines, placed at 21 feet OC.

(5) No fencing shall extend beyond a point fifteen feet (15') behind the front wall plane of the structure into the front yard.

(m) **Landscaping**.

(1) Corner lots adjacent to a street require two additional trees be planted in the side yard @ 30 feet OC.

(2) The front, side and rear yard must be fully sodded with grass and irrigated by an automated underground irrigation system.

(n) **Accessory Structures**. Accessory structures used as a garage, a garage apartment, a storage building or guest house, will not be allowed.

TABLE 1

	Lot Type A	Lot Type B
Min. permitted lot sizes	8,640 sq. ft.	9,990 sq. ft.
Min. Front Yard	25 ft.	25 ft.
Min. Side Yard Corner Lot	7 ft. 15 ft.	7 ft. 15 ft.
Min. Rear Yard	25 ft.	25 ft.
Max. building Height	40 ft.	40 ft.
Max. Lot Coverage	50%	50%
Min. Lot Width	64 ft.	74 ft.
Min. Lot Depth	125 ft.	125 ft.
Min. Dwelling Area	2,300 sq. ft. single story 2,650 sq. ft. two story	2,500 sq. ft. single story 3,000 sq. ft. two story

5.3 COMMERCIAL TRACT

5.3.1 PROPERTY DEVELOPMENT REGULATIONS: The approximately 5.5 acre Commercial Tract of this subdistrict shall develop in conformance to the property development regulations established within this planned development ordinance for Subdistrict 1 except as indicated below.

5.4 PERMITTED USES

5.4.1 General. The following conditions apply to Subdistrict 4.
a. Big Boxes are not permitted within Subdistrict 4.

5.4.2 Permitted Use Matrix. The permitted uses within Subdistrict 4 shall be in accordance with the Permitted Use Matrix in Section 6.7 of this Ordinance.

6.0 GENERAL REQUIREMENTS

6.1 PLAN APPROVAL PROCESSES

6.1.1 ***General.*** Development shall generally take place in accordance with the attached Conceptual Development Plan (Exhibit D), Design Guidelines (Exhibit F) and Conceptual Thoroughfare Plan (Exhibit H).

6.1.2 ***Conceptual Development Plan.*** Plats and/or site plans submitted for the development of the PD District shall conform to the data presented and approved on the Conceptual Development Plan (Exhibit D). Changes of detail on these final development plan(s) that differ from the Conceptual Development Plan (Exhibit D) may be authorized by the Planning & Zoning Commission, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. Alter the basic relationship of the proposed development to adjacent property
2. Alter the uses permitted,
3. Increase the density,
4. Increase the building height,
5. Increase the coverage of the site,
6. Reduce the off-street parking ratio
7. Reduce the building lines provided at the boundary of the site, or
8. Significantly alter any open space plans

If the Planning & Zoning Commission determines that the proposed change(s) violates one (1) or more of the above eight (8) criteria, then a public hearing must be held to adequately amend the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

Any change to the boundaries of an individual Subdistrict that results in a change of less than 15% of the land area for that Subdistrict may be authorized by the Director of Development Services or his/her designee.

6.2 OPEN SPACE

6.2.1 ***General.*** The open space and parkland dedication requirements shall be in accordance with the Town's zoning ordinance unless specified herein and/or other requirements / regulations are established via a developer's agreement with the Town at which time the authorized Developer's Agreement will hold precedence over this Planned Development and/or the Town's zoning Ordinance requirements.

6.2.2 ***Design Criteria.*** Land utilized to satisfy Open Space requirements shall meet the following criteria, as relevant:

a. A maximum of 1/2 of the required on-site Open Space for either Townhome or Multifamily development may be located off the platted lot however, within 1000' of any unit of a development towards which it will be counted with respect to the Townhome or Multifamily development but within the boundary of the overall Planned Development provided the off-site and on-site Open Space is interconnected by a minimum eight-foot trail system.

b. Required Open Space for non-residential areas do not have to be located on the individual platted lots but allocated as part of the overall master plan and/or site plan.

6.3 PARKING REQUIREMENTS

6.3.1 General. The following general standards shall apply.

a. The number of parking spaces provided for uses shall be in accordance with the requirements established in Section 6.3.2 of these standards.

b. Where on-street parking is provided, angled as well as parallel parking shall be permitted. On-street parking shall not be permitted within 30 feet of the curb line of a cross street, drive or common access easement.

c. On-street parking spaces shall be permitted within Subdistricts 2 and 3 within this Planned Development. Parking spaces may be provided in the right-of-way and shall conform to Town standards for vehicle parking areas. No on street parking spaces will be allowed on major or minor thoroughfares.

d. Vehicle maneuvering shall be allowed within the public right-of-way where on-street parking is provided.

e. When structured parking garages are provided, adequate access from public rights-of-way via private drives and/or access easements shall be made readily available.

f. Parking aisles, where practicable, shall be designed to be perpendicular to the front of the primary building in the development.

g. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.

h. Speed bumps/humps are not permitted within a fire lane. However, speed tables may be permitted within a fire lane provided they are approved by the Town of Prosper Fire Department at the time of plat and/or site plan submittal.

i. Dead-end parking aisles are discouraged and shall only be permitted in unique circumstances upon approval by the Director of Development Services or his/her designee. Dead-end parking aisles are permitted in the multifamily development located in Subdistrict 2.

j. In the case of mixed uses, uses may share parking spaces where the practicability of shared parking can be demonstrated. The applicant shall submit a parking analysis to the Director of Development Services demonstrating the feasibility of shared parking. The parking analysis shall address, at a minimum, the size and type of the proposed development, location of required parking, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces. The applicant shall also demonstrate that any parking reduction requested as part of the shared parking study will not result in the spillover of parking onto other properties.

k. Outdoor patio and sidewalk dining, as well as other public seating areas, are permitted; these areas shall be included in parking calculations at a rate of 50% of standard requirements.
l. Surface parking is allowed in urban living multifamily development as long as the parking areas other than on-street parking are located internal to the multifamily development and are screened from public right of way through the use of landscaping and/or walls and structures.
m. For vertical mixed-use developments, no more than one drive with parking on both sides is allowed between the mixed use structure and the public ROW(s) unless otherwise approved by the Town.

6.3.2 ***Parking Requirements Based on Use.*** In all Subdistricts, at the time any building or structure is erected or structurally altered, parking spaces shall be provided in accordance with the following requirements:

- **Assisted Living Facility or Congregate Care Facility:** 1.1 parking spaces per dwelling unit.
- **Automobile Oil Change and Similar Establishments:** One parking space per service bay plus one parking space per maximum number of employees on a shift. The stacking requirements shall be 3 stacking spaces per bay.
- **Dwellings, Townhomes:** Two spaces for each unit. Townhome units with one-car garages shall be permitted to satisfy this requirement through tandem parking spaces by providing one covered space and one space located directly adjacent to the garage, provided the tandem parking spaces have minimum dimensions of nine feet by twenty feet. Townhome units with two-car garages shall provide two covered spaces, located behind the front building line, and two maneuvering spaces for each unit. Permitted on-street parking shall count toward the required off-street parking requirement provided the space(s) are within 300 feet of the property line of the affected lot.
- **Dwellings, Multifamily:** One and one-half spaces for one-bedroom units, plus one-half additional space for each additional bedroom. The required number of spaces shall be no less than 1.8 spaces per dwelling unit overall. Covered or enclosed parking shall not be required for Multifamily Dwellings except as specified in other sections of this ordinance. Where provided, covered or enclosed parking shall be counted to satisfy the minimum off-street parking requirements. Covered or enclosed parking may be a part of the dwelling structures or an accessory building. Tandem parking spaces shall be permitted to satisfy parking requirement provided they are located in front of a garage and have minimum dimensions of nine feet by twenty feet.
- **Gasoline Station:** Minimum of three spaces for employees. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling. A convenient store portion of a gas station shall be parked at a ratio of one parking space per 250 square feet of gross floor area.
- **Mail Kiosks.** Mail Kiosks shall have a minimum of five of the required parking spaces for the development within 50 feet, unless a drive-through facility is provided.

- **Medical or Dental Office:** One space per 250 square feet of floor area. Facilities over 20,000 square feet shall use the parking standards set forth for hospitals.
- **Retail Store or Personal Service Establishment, Except as Otherwise Specified Herein:** One space per 250 square feet of gross floor area.
- **Restaurant, Cafe or Similar Dining Establishment:** One parking space for each 100 square feet of gross floor area.

6.4 DETENTION PONDS

Detention Ponds located adjacent to Preston Road or at other high visibility locations as generally depicted on Exhibit D, shall be treated as open space amenities and landscaped as such. If there are no prohibitive regulatory permitting issues or design constraints, these ponds will be constructed to maintain a constant normal pool elevation. The Town's engineering department shall review and confirm any design constraints that would preclude the pond from maintain a constant pool elevation. Detention ponds located in less visible locations shall be fully vegetated with turfgrass and designed to drain completely and allow ease of maintenance. All visible outfall structures shall be faced with stone.

6.5 LANDSCAPING

6.5.1 ***General.*** All required landscape areas shall comply with the specific standards contained in the Town of Prosper Zoning Ordinance except as noted herein.

6.5.2 ***Landscape Area Requirements.*** The below standards shall be applied consistent with the land uses specified below.

a. Non-Residential and Mixed Use. These standards apply to Non-Residential and Mixed-Use land uses.

1. All retail buildings which back to US 380 shall be screened with the planting of a double row of evergreen trees such as eastern red cedars or other similar tree that will provide a continuous screen. The evergreen trees used for the screen shall be a minimum of 8-foot-tall at the time of planting. There will also be additional berming and planting of smaller shrubs and trees within the water line easements along Highway 380 to the extent allowed by the Town.

2. Where on-street parking is provided, a minimum six-foot wide buffer yard shall be established in the right-of-way. The area shall be located adjacent to the curb and be planted with street trees located a minimum distance of four feet from the back of curb, with an average spacing no greater than 50 feet on center. All trees shall be a minimum of four caliper inches when planted. Due to the location of the street trees, root barriers shall be provided. The area shall also provide space for street furniture such as seating, street lighting, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus stops, bicycle racks, and public utilities. The placement of any items in the public right-of-way is subject to the approval of the Town's staff. If approved by the Town, a sidewalk with tree wells may abut the curb in lieu of said criteria.

b. Multifamily. These standards apply to multifamily land uses.

1. Perimeter Requirements.

(a) Thoroughfares. A landscape area consisting of living trees, turf or other living ground cover and being at least an average of 25 feet in width measured from the property line interior to the property shall be provided adjacent to and outside of the right-of-way on Lovers Lane, Coleman Street, and Richland Boulevard. A maximum deviation of five feet of the minimum width of the landscape area is permitted, provided the minimum average width of 25 feet or 30 feet; respectively, is maintained. One Large Tree, four-inch caliper minimum per 30 lineal feet of roadway frontage shall be planted within the required landscape area. The trees may be planted in groups with appropriate spacing based on species. A minimum of 15 shrubs with a minimum size of five gallons each will be planted in the landscape area for each 30 lineal feet of frontage. Parking abutting the landscape area will be screened from the adjacent roadway. The required screening may be with shrubs or earthen berms.

(b) Collectors or Other Roadway. A landscape area consisting of living trees, turf or other living ground cover and being at least an average of 15 feet in width measured from the property line interior to the property shall be provided adjacent to all other collector streets, where on-street parking is not provided. A maximum deviation of three feet of the minimum width of the landscape area is permitted, provided the minimum average width of ten feet is maintained.

Where on-street parking is provided, a minimum six-foot wide buffer yard shall be established in the right-of-way. The area shall be located adjacent to the curb and be planted with street trees located a minimum distance of four feet from the back of curb, with an average spacing no greater than 50 feet on center. All trees shall be a minimum of three caliper inches when planted. Due to the location of the street trees, root barriers shall be provided. The area shall also provide space for street furniture such as seating, street lighting, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus stops, bicycle racks, and public utilities. If approved by the Town, a sidewalk with tree wells may abut the curb in lieu of said criteria.

2. Interior Parking. Any multifamily surface parking area shall provide interior landscaping as follows:

(a) Twenty square feet of landscaping for each parking space shall be provided within the paved boundaries of the parking lot area.

(b) All landscaped areas shall be protected by a raised 6-inch concrete curb. Pavement shall not be placed closer than four feet from the trunk of a tree unless a Town approved root barrier is utilized.

(c) Landscape islands shall be located at the terminus of all parking rows, and shall contain at least one Large Tree, four-inch caliper minimum, with no more than 12 parking spaces permitted in a continuous row without being interrupted by a landscaped island. The maximum number of continuous parking spaces may be expanded with approval by the Director of Development Services or his/her designee, in the event that required islands are grouped to form larger islands.

(d) Landscape islands shall be a minimum of 160 square feet, not less than nine feet wide and a length equal to the abutting space.

(e) There shall be at least one Large Tree, three-inch caliper minimum, within 150 feet of every parking space. This minimum distance may be expanded with approval by the Director of Development Services or his/her designee, in the event that required islands are grouped to form larger islands.

(f) Subject to approval by the Director of Development Services or his/her designee, landscape islands may be grouped to form one large island. Grouping for large islands is prohibited adjacent to public street frontage.

(g) These standards shall not apply to structured parking facilities.

3. Building Landscaping. Foundation plantings of a single row of shrubs are required along the front façade of all buildings adjacent to a public street.

4. Irrigation Requirements. Permanent irrigation shall be provided for all required landscaping as follows:

   (a) Irrigation lines shall be placed a minimum of two and one-half feet from a Town sidewalk or alley. Reduction of this requirement is subject to review and approval by the Town Engineer.

   (b) Trees and shrubs shall be irrigated by bubbler irrigation lines only. Other landscaping may be irrigated by spray irrigation. Separate valves shall be provided to turn off the spray irrigation line during periods of drought or water conservation.

   (c) Rain, freeze, and wind detectors shall be installed on all irrigation lines.

6.6 SIGNAGE

The developer will follow the Town's standard signage ordinance with the understanding it can create a special purpose sign district per Section 1.12 of the Town's sign ordinance for each development phase to meet the unique needs of the overall development.

6.7 PERMITTED USE MATRIX

RESIDENTIAL USES	SUBDISTRICT 1	2	3	4
Mobile and /or Manufactured Homes				
Model Home		●	●	●
Multifamily Dwelling (including loft, work/live units and studio apartments)		●	●	
Private Street Development (excluding MF)		S	S	S
Retirement Community Residential Development (RCRD Housing)		S	S	S
Single Family Dwelling, Attached (Townhome)		●	●	
Retirement Housing				12
Single Family Dwelling, Detached				●
Two Family Dwelling (Duplex)				

ACCESSORY & INCIDENTAL USES	SUBDISTRICT 1	2	3	4
Accessory Building	●	●	●	●
Caretaker's/Guard's Residence				
Construction Yard and Field Office, Temporary	*TEMPORARY BUILDING PERMIT ISSUED BY BUILDING OFFICIAL*			
Electronic security facilities including gatehouse and control counter		●	●	●
Garage Apartment (not to be rented)				●
Guest House (see conditions in Zoning Ordinance; over .5 acre lot)				●
Homebuilder Marketing Center	1	1	1	1
Home Occupation		2	2	2

ACCESSORY & INCIDENTAL USES (continued)	SUBDISTRICT 1	2	3	4
Mail Kiosk		●	●	●
Mobile Food Vendor				
Retail/Service Incidental Use	●	●	●	●
Storage Facilities and uses (incidental to primary use)	●	●		
Temporary Building – see conditions in Town Zoning Ord. (Section 2.0)	S	S	S	S

EDUCATIONAL, INSTITUTIONAL, PUBLIC AND SPECIAL USES	SUBDISTRICT 1	2	3	4
Airport/Heliport				
Assisted Care or Living Facility, including Memory Care		S	S	
Athletic Stadium or Field, Private		3	3	3
Athletic Stadium or Field, Public		●	●	●
Cemetery or Mausoleum				
Civic/Convention Center	●	●	●	
College, University, Trade, or Private Boarding School	●	●	●	
Community Center	●	●	●	●
Farm, Ranch, Stable, Garden, or Orchard				●
Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority		●	●	
Helistop		S	S	
Rehabilitation Care Institution		14	14	
Hospital		●	●	
Household Care Facility		S	S	●
House of Worship	●	●	●	●
Municipal Uses Operated by the Town of Prosper	●	●	●	●
Museum/Art Gallery	●	●	●	
Open Storage – see conditions in Town Zoning Ord.	●	●		
Park or Playground	●	●	●	●
Private Recreation Center	●	●	●	●
Public Recreation Facilities	●	●	●	●
Rehabilitation Care Facility				
Rehabilitation Care Institution				
School, Public	●	●	●	●
School, Private or Parochial	●	●	●	S

TRANSPORTATION, UTILITY AND COMMUNICATIONS USES	SUBDISTRICT 1	2	3	4
Antenna and/or Antenna Support Structure, Non-Commercial		4	4	4
Antenna and/or Antenna Support Structure, Commercial				
Stealth Antenna, Commercial	5	5	5	
Bus Terminal		S	S	
Carting or Express Hauling				
Electric Power Generating Plant				

TRANSPORTATION, UTILITY AND COMMUNICATIONS USES (continued)	SUBDISTRICT 1	2	3	4
Landfill				
Office and Storage Area for Public/Private Utility				
Private Utility, Other Than Listed	●	●	●	●
Radio and Television Studios and Broadcasting Facilities				
School District Bus Yard	6	6	6	
Sewage Treatment Plant/Pumping Station	S	S	S	S
Telephone Exchange	●	●	●	S
Transit Center		S	S	
Utility Distribution/Transmission Facility	S	S	S	S
Water Treatment Plant	S	S	S	S

OFFICE AND PROFESSIONAL USES	SUBDISTRICT 1	2	3	4
Administrative, Medical, or Professional Office	●	●	●	18
Corporate Campus		●	●	
Governmental Office	●	●	●	18
Insurance Office	●	●	●	18
Multi-Tenant Office Building	●	●	●	18
Research and Development Center –see conditions in Town Zoning Ord.	S	S	S	18, S

RETAIL USES	SUBDISTRICT 1	2	3	4
Antique Shop and Used Furniture	●	●	●	18, S
Alcohol Sales (Must comply with all the conditional standards in the zoning ordinance as it exists, or may be amended.)	●	●	●	18
Building Material and Hardware Sales, Major	●	S		
Building Material and Hardware Sales, Minor	●	●	●	18, S
Convenience Store with Gas Pumps	10	10	10	
Convenience Store without Gas Pumps	●	●	●	
Equipment and Machinery Sales and Rental, Major				
Equipment and Machinery Sales and Rental, Minor	●	●	●	18, S
Farmer's Market	S	S	S	18, S
Feed Store				
Flea Market, Inside				
Flea Market, Outside				
Furniture, Home Furnishings and Appliance Store	●	●	●	18
Gas Pump as Accessory Use	13	13		
Nursery, Major	S	S		
Nursery, Minor	●	●	●	18
Pawn Shop				
Retail Stores and Shops	●	●	●	18

SERVICE USES	SUBDISTRICT 1	2	3	4
Artisan's Workshop		●	●	18
Bank, Savings and Loan, or Credit Union	●	●	●	18
Beauty Salon/Barber Shop	●	●	●	18
Bed and Breakfast Inn				S
Body Art Studio				
Business Service	●	●	●	
Cabinet/Upholstery Shop	●	●	●	18
Campground or Recreational Vehicle Park				
Catering Establishments	●	●	●	
Commercial Amusement, Indoor	●	●	●	
Commercial Amusement, Outdoor	S	S	S	
Computer Sales and Repairs	●	●	●	18
Contractor's Shop and/or Storage Yard				
Dance Hall	S	S		
Day Care Center, Adult		S	S	S
Day Care Center, Child	7	7	7	7
Day Care Center, In-Home		8	8	8
Day Care Center, Incidental	S	S	S	S
Dinner Theater	●	●	●	
Dry Cleaning, Minor	●	●	●	18
Fairgrounds/Exhibition Area		S	S	
Fortune Teller/Psychic				
Furniture Restoration			S	
Golf Course and/or Country Club	S	S	S	
Gunsmith				
Gymnastics/Dance Studio	●	●	●	18
Health/Fitness Center	●	●	●	18
Hotel – see conditions in Town Zoning Ord.,	17	●	●	
Household Appliance Service and Repair	●	●	●	
Indoor Gun Range	9	9	9	
Landscaping Service				
Laundromat	●	●	●	
Locksmith/Security System Company	●	●	●	
Massage Therapy, Licensed	●	●	●	
Massage Therapy, Unlicensed				
Medical and Health Care Facilities/Clinics	●	●	●	
Messenger/Courier and Telegraph Services	●	●	●	
Mortuary/Funeral Parlor	S	S	S	
Motel				
Pest Control/Exterminating Shops	●	●		
Pet Day Care – see conditions in Town Zoning Ord.	●	●	●	
Print Shop, Minor	●	●	●	18

SERVICE USES (continued)	SUBDISTRICT 1	2	3	4
Private Club	S	S	S	
Residence Hotel – See conditions in Town Zoning Ord.	●	●		
Restaurant or Cafeteria	●	●	●	18
Restaurant, Drive Through	16	16	16	
Sexually Oriented Uses				
Small Engine Repair Shop				
Stable, Commercial				
Taxidermist				
Theater, Drive In				
Theater, Neighborhood	●	●	●	18
Theater, Regional	●	●		
Trailer Rental				
Veterinarian Clinic and/or Kennel, Indoor	●	●	●	18
Veterinarian Clinic and/or Kennel, Outdoor				

AUTOMOBILE AND RELATED USES	SUBDISTRICT 1	2	3	4
Auto Parts Sales, Inside	●	●	●	
Auto Parts Sales, Outside				
Automobile Parking Lot/Garage	●	●	●	
Automobile Paid Parking Lot/Garage	●	●	●	
Automobile Repair, Minor	●		●	
Automobile Sales / Leasing, New	11	11	11	
Automobile Sales, Used				
Automobile Storage				
Car Wash	●	S	S	
Car Wash, Self-Serve				
Motorcycle Sales/Service	S	S	S	
Recreational Vehicle/Truck Parking Lot or Garage				
Recreational Vehicle Sales and Service, New/Used	9	9	9	
Salvage Yard				
Truck/Bus Repair				
Truck Sales, Heavy Trucks				
Truck Terminal				

WHOLESALE USES	SUBDISTRICT 1	2	3	4
Apparel Distribution Center			15	
Bottling Works			15	
Clothing, Footwear and Textile Center			15	
Food Product Distribution Center			15	
Mini-Warehouse/Public Storage			S	
Office/Showroom			15	

WHOLESALE USES (continued)	SUBDISTRICT 1	2	3	4
Office/Warehouse/Distribution Center			15	
Storage or Wholesale Warehouse			15	
Winery			S	

MANUFACTURING AND INDUSTRIAL USES	SUBDISTRICT 1	2	3	4
Bakery (Commercial)				
Concrete/Asphalt Batching Plant, Permanent				
Concrete/Asphalt Batching Plant, Temporary	*TEMPORARY BUILDING PERMIT ISSUED BY BUILDING OFFICIAL*			
General Manufacturing/Industrial Use Complying with Performance Standards			15	
Limited Assembly and Manufacturing Use Complying with Performance Standards			15	
Machine Shop				
Mineral Extraction				
Miscellaneous Hazardous Industrial Uses				
Portable Building Sales			S	
Recycling Collection Point			15	
Recycling Center			S	
Recycling Plant				
Trailer/Mobile Home Display and Sales				

LEGEND	
●	Use permitted in district indicated
	Use prohibited in district indicated
S	Use is permitted in district upon approval of a specific use permit
1	Use is permitted in the Subdistrict indicated in accordance with the conditional development standards or limitations in the corresponding numeric end note in Section 6.6.1 of this Ordinance.

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6.7.1 Conditional Development Standards.

1. Homebuilder Marketing Center. Shall be used only to market homes/lots in the development where it is located when located in a residential zoning district. The use must be removed when all homes/lots in the development have been sold.

2. Home Occupation. A home occupation is a business that is customarily carried on in a home by the resident and shall adhere to all of the following conditions and requirements:

   (a) No signage associated with the home occupation and visible from outside of the dwelling shall be allowed on the premises.

   (b) Only two employees other than the occupants of the residence may be employed on-site at any one time. This shall not include the coordination or supervision of employees who do not regularly visit the house for purposes related to the business.

   (c) Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. for outdoor activities.

   (d) Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.

   (e) No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the home occupation.

   (f) The home occupation shall not produce offensive noises, vibrations, smoke, dust, odors, heat or glare beyond the property lines.

   (g) A home occupation shall not serve as an office or storage facility for a vehicle fleet operation in which fleet vehicles visit the site.

   (h) No major alterations to the property or exterior of the dwelling unit shall be allowed that changes the residential character of the home.

   (i) No repair or servicing of vehicles, internal combustion engines, large equipment or large appliances shall be allowed.

   (j) No storage of hazardous materials for business purposes shall be allowed on the premises.

   (k) Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made by telephone or at a sales party may be filled on the premises.

   (l) No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot.

   Homeowners/occupants who establish an occupation in their residence must adhere to all of the above conditions.

3. Athletic Stadium or Field, Private. Only permitted by Specific Use Permit when developed in conjunction with a School, Private or Parochial.

4. Antenna, Non-Commercial.

   (a) Satellite Dishes and Wireless Broadband Antennas

      (1) In Subdistrict 4 (Single Family Detached), satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two feet in diameter. Only three satellite dishes and/or wireless broadband antennas shall be permitted per lot or primary structure. One of the three satellite dishes and/or wireless broadband antennas on a residential structure and/or lot may be up to 12 feet in diameter. The other two satellite dishes and/or wireless broadband antennas shall not exceed two feet in diameter.

      (2) In Subdistricts 2 and 3 (Townhome and Multifamily), satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two feet in diameter. Only three satellite dishes and/or wireless broadband antennas shall be permitted per residential unit. One of the three satellite dishes and/or wireless broadband antennas on a residential unit may be up to 12 feet in diameter. The other two satellite dishes and/or wireless broadband antennas shall not exceed two feet in diameter.

   (b) Non-commercial antennas shall not interfere with radio or television reception of adjoining property owners, and shall comply with all regulations of the Federal Communications Commission (FCC). In no case shall the height of such antennas exceed 45 feet and proper guy wire securement shall be followed. In no manner shall the use of such equipment infringe upon adjoining property owners. Roof mounted satellite dishes in excess of 50 pounds shall be approved by a registered architect or professional engineer by written letter to the building official, prior to installation, stating the antenna's stability and support and shall not extend more than six feet above the first story.

5. Antenna, Stealth. Stealth antennas are permitted by right in the residential land uses within a Subdistrict only as a secondary use when the primary use on the lot is a church, school, athletic stadium or field, or public utility structure. Stealth antennas are permitted by right in the non-residential districts. The Director of Development Services, or his/her designee, may approve a request to install a stealth antenna when the proposed stealth antenna is of a type that is specifically listed in the definition of Antenna, Stealth in Chapter 2, Section 1.2 of the Prosper Zoning Ordinance (Ordinance 05-20). For stealth antenna requests of a type that are not specifically listed in this definition, the Town Council may determine if a proposed commercial

antenna is a stealth antenna or not when considering site plan approval for the proposal.

6. School District Bus Yard. A School District Bus Yard shall be owned and/or operated by a public Independent School District. Unless otherwise approved by the Planning & Zoning Commission, School District Bus Yards shall be screened using one of the following methods:

   (a) Option 1

      (1) A six (6) foot ornamental metal fence,

      (2) Three (3) inch caliper evergreen trees on twenty (20) foot centers, and

      (3) Five (5) gallon evergreen shrubs on three (3) foot centers.

   (b) Option 2

      (1) A six (6) foot clay-fired brick wall, and

      (2) Three (3) inch caliper evergreen trees on twenty (20) foot centers.

7. Day Care Center, Child. Notwithstanding anything to the contrary herein, a public independent school district is not required to obtain a SUP for the operation of a Day Care Center, Child in a public school. A Day Care Center, Child not operated by a public independent school district is permitted by SUP in all Subdistricts.

8. Day Care Center, In-Home. Permitted by right as a home occupation in the designated Subdistricts and is subject to the regulations of Home Occupation.

9. Shall be permitted by right when serving as a complementary use to a primary use. Shall not be subject to the limitations of a maximum of 15% of a main use. Other similar uses not specifically defined may also be permitted. Primary use sales/services may only be allowed by S.U.P.

10. Limited to one at each of the following intersections: Lover's Lane at Preston, First Street at Preston, and Lover's Lane at Coleman Street.

11. Shall be limited to high-end or specialty automobile sales and shall have limited out door model displays. A maximum of two rows of display parking (one drive) is allowed along any street frontage. The use shall only be allowed if permitted by SUP.

12. Only allowed in Subdistrict 4 as detached units.

13. Gas Pumps as Accessory Use – Accessory gas pumps are only allowed as an accessory use to a big box tenant and are subject to the following development standards.

   a. Accessory gas pumps must be located on the same lot as a big box tenant.
   b. A sales kiosk servicing the accessory gas pumps shall be less than five hundred (500) square-feet in floor area.
   c. Accessory gas pumps shall be located at least two hundred and fifty (250) feet from a property line of a residential lot.

1. For the purposes of this section, a residential lot means a lot on which a residential use is located, a lot zoned residential, or a lot designated as residential on the Future Land Use Plan.
2. Accessory gas pumps do not have to meet the spacing requirement if:
    i. A major thoroughfare separates the accessory gas pumps from the residential lot; or
    ii. The Future Land Use Plan designates a lot as residential, but Town Council subsequently rezones the property to a nonresidential zoning district and no residential use is located on the lot.

d. Canopies shall have pitched roofs.

e. Canopy support columns shall be fully encased with masonry materials that are complementary to that used on the main building.

f. The canopy band face shall be of a color consistent with the main structure or an accent color and may not be backlit or used as signage.

14. Requires a S.U.P. if located within 250 feet of single family detached zoning.
15. Uses only allowed west of railroad.
16. Limited to 3 locations on the east side of Preston and 3 locations on the west side of Preston and no more than 2 adjacent to each other. Additional drive-through restaurants are permitted subject to approval of a Specific Use Permit (SUP).
17. Subject to conditions in Town Zoning Ord., except as follows:
    a. Hotels in Subdistrict 1, as shown on Exhibit D, shall have a maximum height of eighty feet (80').
18. Use is permitted only within Commercial tract of this subdivision in addition to any other conditions listed.

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7.0 INFRASTRUCTURE DESIGN STANDARDS

7.1 GENERAL

Due to the unique and dynamic nature of Town Center Developments, there are a number of design elements that deviate from standard suburban design criteria. Therefore, it is understood that that alternate design criteria may be utilized in the layout and design of this Planned Development. The design criteria may include such elements as design speeds for streets, street and parking layouts, alternative street sections, storm drain inlets (e.g., grate inlets, slotted drains, etc.), alternative storm pipe materials (e.g., PVC, HDPE), utility locations, etc. Design criteria may be based on similar criteria utilized in similar development throughout the Dallas-Fort Worth Metroplex as previously referenced herein or as determined to be comparable developments. Such standards must be approved by the Town's Engineering Department.

8.0 DEFINITIONS

Adjacent. The condition of sharing a common dividing line (e.g., property line). For the purposes of this Ordinance, properties that are separated by a thoroughfare shall not be considered adjacent.

Apartment, loft. A dwelling unit consisting of a single room or a series or rooms, which is attached to but secondary to a main non-residential structure and is generally located above the first floor of the structure.

Apartment, studio. A dwelling unit which has, as an integral part of the unit, a work area generally associated with the creative arts and which may consist of a single room or series or rooms.

Big Box. Retail buildings over 80,000 square feet where the primary tenant occupies at least 80 percent of the building.

Catering Establishment. An establishment where food and drink are prepared, for immediate off premises consumption.

Commercial Land Use. Commercial Land Use shall include "Service Uses" and "Automobile and Related Uses" as listed in Section 6.5 of this Ordinance and similar uses.

Dinner Theater. A building or portion of a building used primarily for showing motion pictures or for dramatic, musical or live performance where food and drink are prepared and consumed on the premises during the event.

Dwelling Area. Dwelling Area shall mean the area between the floor and roof above it, as measured from the outside edge of the exterior walls of the main structure. The dwelling area calculation excludes basements, patios, decks, balconies, uncovered porches, and covered porches unenclosed on one or more sides.

EIFS. An acronym for Exterior Insulation and Finish System; a type of exterior cladding for building walls.

Flag Lot. A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than twenty-five (25) feet. There shall be no maximum distance for the required width from the front property line.

Landscape Service. Professional service focused on the design and/or installation of landscaping in either a commercial or residential application. The service may include open storage of the materials and equipment used in the process of landscape installation.

Messenger / Courier Service. Premium service specializing in the personal delivery of messages, packages and mail.

Mixed Use Land Use. An integrated (either horizontal or vertical) mix of land uses within a tract of land or a building. For the purposes of this Planned Development, a Mixed-Use Land Use shall include a minimum of two individual land uses (residential/non-residential; retail/multi-family; office/multi-family; etc.).

Multifamily, Urban Living. Attached dwelling units designed to be occupied by three or more families living independently of one another, exclusive of Hotels, Motels, or Residence Hotels. Urban Living Multifamily dwelling units are consistent with an urban-style dwelling unit and

intended to accommodate multifamily residential uses, including both for-sale and rental units. Parking can be either surface parking and/or structural parking.

Office Land Use. Office Land Use shall include "Office and Professional Uses" as listed in Section 6.6 of this Ordinance and similar uses.

Open Storage. The outside storage or exhibition of goods, materials, merchandise or equipment that is either for sale on the premises or is used in the normal course of doing business or conducting a business service.

Pest Control / Extermination Service. Service specializing in the regulation or management of pests perceived to be detrimental to a person's health, the ecology or the economy. The service may include open storage of the materials and equipment used in the process of performing the service.

Rehabilitation Care Institution. Subject to being licensed to operate by the Texas Department of Again and Disability Services (DADS), a facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

Retirement Housing. Any age restricted development which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semiprivate rooms and designed to provide meals and nursing care.

Retail Land Use. Retail Land Use shall include "Retail Uses" as listed in Section 6.6 of this Ordinance and similar uses.

Security Facilities (including gatehouse and control counter). A freestanding structure which is part of a larger development that's primary function is to aid in monitoring and controlling incoming and outgoing vehicular traffic. The facility may be occupied by security personnel or it may only house electronic surveillance equipment.

Storage Facility. A freestanding or attached structure which is part of a larger commercial or residential development that's primary function is to store material or equipment necessary for the ongoing maintenance or upkeep of the development which it is associated with.

Townhome. A structure containing three to eight dwelling units with each unit designed for occupancy by one family and each unit attached to another by a common wall.

Work/Live Space. a space within a building that is used jointly for residential and/or commercial purposes, where the residential space is accessory to the primary use as a place of work.

EXHIBIT "E"
DEVELOPMENT SCHEDULE

DEVELOPMENT SCHEDULE

It is currently anticipated that the development of Gates of Prosper will begin within two to four years after approval and signing of the zoning ordinance. During this time period, prior to the initial stages of development, it is foreseen that plans and studies will be prepared for development and marketing of the property. The development schedule for the approximate 621 acres will be phased over the next 10 to 15 years and is primarily dependent on the marketability of the highest and best use of the land for the respective land tracts. Progress of development improvements will primarily depend on the time frames established for construction of thoroughfares, utilities, and market trends/demands for the area.

The development of non-residential uses within Subdistrict 1 and Subdistrict 2 will constitute the initial phases of development. The development of Urban Living Multifamily and townhome residential units in Subdistrict 2, and/or Subdistrict 3 shall not begin until a minimum combined total of 300,000 square feet of commercial/retail development has been issued tenant certificates of occupancy by the Town. The required commercial/retail development may include regional retail anchors, a town center mixed-use component, a major multi-purpose medical center with emergency care facilities, a mall, a hotel, or another major development anchor as determined by Town Council.

Incorporation of residential units into a mixed-use town center are not subject to the aforementioned preconditions as long as they are vertically integrated into the retail/commercial structures.

The development schedule is subject to change due to various factors beyond the control of the developer, such as housing market conditions, construction materials and labor availability, acts of nature, and other similar conditions.

EXHIBIT "F"
SUPPLEMENTAL DESIGN GUIDELINES

SUPPLEMENTAL DESIGN PRINCIPLES

The Town of Prosper is on the cusp of transforming itself from a prosperous farming community into a prosperous economic engine and enviable residential neighborhood. The vision for the "Gates of Prosper" is to be the gateway into Prosper's new future.

The architectural design principles for this development are intended to reinforce a uniform spirit and character throughout the development while promoting fresh and visionary diversity.

- Subdistricts have been carefully planned to maximize vehicular access to transportation arteries and pedestrian access to future transit systems.
- Subdistricts are designed and planned to create a special community that offers the opportunity to live, work, shop and recreate in an urban environment located in a suburban area.
- Each Subdistrict can have its own identity yet still create a sense of belonging through use of consistent iconic markers, streetscape designs, landscape forms, signage, lighting and architectural building standards. These elements should allow Subdistricts to transition seamlessly from one to the next.
- Public amenities including parks, trails, plazas, interactive areas and gateways are planned to serve as venues for recreation, entertainment and social interaction.
- Pedestrian ways should be memorable through their use of landscaping and lighting, and by incorporating shade, street furnishings and other sidewalk amenities.

SITE DESIGN

The entire site has been effectively designed for efficient land use, as a strong gateway into Prosper and as a quality environment that resonates a "sense of place". This design contributes to the overall identity which adds value to the project as well as the entire community. To promote these benefits the design has incorporated following features:

- Street design and streetscapes including boulevards connecting and traversing through the different subdistricts.
- Gateway icons that announce entry into and welcome residents and guests to the development. Wayfinding markers that give direction within the development and reinforce the quality of the development.
- Public areas that are accessible and provide for a variety of entertainment and recreational experiences.
- Subdistricts that allow for a crossover of uses while concentrating like uses for the convenience of residents and guests.

SUBDISTRICT DESIGN

- ***Subdistrict 1—Regional Retail.*** Subdistrict 1, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing for the needs of the community by facilitating the development of regional-serving retail, personal service, and office uses.
- ***Subdistrict 2—Lifestyle Center.*** Subdistrict 2, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a compact, neighborhood and pedestrian scale mixture of office, retail, personal service, residential and community activities on single or contiguous building sites.
- ***Subdistrict 3—Downtown Center.*** Subdistrict 3, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing an active living and working community benefiting from its proximity to the existing Town core and the adjacent Subdistricts.
- ***Subdistrict 4—Residential Neighborhood.*** Subdistrict 4, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a planned residential community to serve the needs of the Town and add a complimentary use to the overall development.

BUILDING DESIGN

Building design is only one element that contributes to the fabric of a community. Although building design can be the most effective means of translating the character, it has to work in concert with all other designed elements. It is not the intent of this section inhibit but give the freedom to achieve excellence in building design within the limits of a few design criteria.

BUILDING MASSING AND SCALE. A building's mass or scale is determined by its component parts, including the size of its footprint, its height, its proportions and its relationship to surrounding buildings. Individual characteristics of mass and scale include:

- ***Form:*** A buildings form should have a relationship to the proposed streetscape that contributes to a comfortable environment and pleasing pedestrian experience. Its form should also be in context with surrounding buildings.
- ***Shape:*** A buildings shape should incorporate variations in height, rooflines and wall planes and be expressive without seeming unnatural.
- ***Scale:*** The use may be a determining factor in the size of a building. Incorporating special design techniques can reduce the apparent scale of a structure, such as:
    a. Subdividing the façade of the building into top, bottom and middle components.
    b. Using overhangs and shadow lines to create a sense of depth.
    c. Changing building finishes or colors at logical breakpoints.
    d. Repeating patterns of windows, awnings, colonnades, porches, offsets or recesses.

BUILDING RHYTHM/ARTICULATION. All buildings, shall be designed to incorporate a form of architectural articulation as described in other sections of this document. Architectural articulation can be achieved in a variety of traditional and imaginative ways. The intent is to allow creative architectural notions but not be gregarious or draw unusual attention to their expression. This will allow for variety of design and identity within subdistricts while maintaining high standards for the overall development.

ARCHITECTURAL ELEMENTS. They are the unique details and component parts that together, form the architectural style of buildings. Architectural elements typically include compositions of forms and shapes, patterns of windows, doors, roofs and awnings but can also include compositions of materials, expressions of structure, notions of shade and respite, patterns of light and dark, placement of follies and fixtures, all of which must be combined in ways that reinforce the character and quality of the overall development.

FAÇADE TREATMENTS. Building façades, with their shapes, materials, colors, openings, textures, and details, shall be used to contribute to the architectural character of the development.

- All Retail except Major Anchor Retail shall have ground level storefront extending across a minimum of 50% of front façade length. Other uses shall have window treatments appropriate for their use.
- On secondary sides of retail buildings, windows do not need to be provided at ground level; however, buildings should avoid monotonous, uninterrupted walls by incorporating articulation standards as outlined in other sections of this document. A variety of offsets, recesses, etc. shall be used to add variety and interest to the building and eliminate long blank walls.
- Same or similar materials will be used on major as well as minor sides of the building to ensure a continuity of the building on all sides.

LIGHTING. Lighting is an important aspect of the development. Strategic placement of lighting will greatly enhance the overall ambiance of the development. Security lighting shall be installed per the codes and ordinances of the Town. Architectural lighting should be designed to enhance the buildings appearance. Exterior lighting such as street lamps, façade lighting, twinkle lights, up-lighting at key building elements and landscape features, etc., is allowed. All lighting shall meet the standards outlined in the Town's Zoning Ordinance as it currently exists or as amended there to.

PAD SITE BUILDINGS. Buildings on pad sites shall use similar materials and elements in order to visually identify with the rest of the project.

PUBLIC REALM DESIGN

The public realm exists at the intersections of the various aspects of community living. It consists of areas with unlimited and direct access and is centered upon the pedestrian experience. Streets, sidewalks, plazas and parks are all components of the public realm, and help create a pedestrian network. This network should be given priority over the street network (vehicle access) and provide visible connections to parking facilities, crossings and adjacent development while being of a size to accommodate pedestrian traffic patterns. Crossings shall be designed to minimize pedestrian traffic exposure to vehicle traffic.

The street network should provide connectivity as well as flexibility for future development and be able to accommodate a pedestrian network with appropriate shading from trees and built structures. Other streetscape elements such as benches, wayfinding devices, planting strips, receptacles for trash and recycling, water features and various art and performance media shall contribute to the pedestrian experience. This shall be in accordance with unified landscaping and streetscape plans.

Public parks and open spaces contribute not only to the pedestrian experience but also to the ecological value and appearance of the development. By providing space for recreation, they promote community and gathering and can enhance value for retail, restaurant and residential uses.

URBAN RESIDENTIAL DEVELOPMENT GUIDELINES

Residential units shall be located in a manner that will provide privacy for residents by one or several of the following:

- Provide a small landscaped front setback
- Raise or lower the finished ground level relative to the sidewalk level
- Allow for encroachment by stoops, stairs and porches within the area between the front façade and the property line

ARCHITECTURAL ELEMENTS

- Residential buildings shall have relatively little horizontal articulation and simple roofs, with most building wing articulations set at the rear of the structure. Window projections, stoops, porches, balconies and similar extensions are exempt from this standard.
- Gable roofs, if provided, shall have a minimum pitch of 9:12. The minimum pitch for hip roofs is 6:12. Other roof types shall be appropriate to the architectural style of the building.
- Architectural embellishments that add visual interest to the roof, such as dormers and masonry chimneys, may be provided.

PARKING. Where practicable, off-street parking shall be accessed via alleys along the side or rear property lines, thus eliminating driveways from the residential streetscape. However, off-street parking may also be accessed via other public/private streets along the front property line.

APPENDIX A—ZONING EXHIBIT & LEGAL DESCRIPTION

EXHIBIT "A"

PD-SUBDISTRICT 3
(DOWNTOWN CENTER)
111.81 GROSS ACRES
94.92 NET ACRES

PD-SUBDISTRICT 4
(RESIDENTIAL NEIGHBORHOOD)
71.43 GROSS ACRES
62.09 NET ACRES

PD-SUBDISTRICT 1
(REGIONAL RETAIL)
46.82 GROSS ACRES
37.58 NET ACRES

PD-SUBDISTRICT 2
(LIFESTYLE CENTER)
217.83 GROSS ACRES
190.69 NET ACRES

PD-SUBDISTRICT 1
(REGIONAL RETAIL).
173.19 GROSS ACRES
136.49 NET ACRES

POINT OF BEGINNING

SECOND STREET
FIRST STREET
CHURCH
CROCKETT
COLEMAN STREET
CRAIG ROAD
PROPOSED LOVERS LANE
FUTURE LOVERS LANE
BURLINGTON NORTHERN SANTA FE RAILROAD
PRESTON ROAD
STATE HIGHWAY 289
RICHAND DRIVE
U.S. HIGHWAY 380
DALLAS NORTH TOLLWAY

LOCATION MAP
NOT TO SCALE

Note: The throroughfare alignment(s) shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at time of final plat.

Legend

R.P.R.D.C.T. = Real Property Records of Denton County, Texas
P.R.D.C.T. = Plat Records of Denton County, Texas
ROW = Right-of-Way
O.P.R.C.C.T. = Official Public Records of Collin County, Texas
L.R.C.C.T. = Land Records of Collin County, Texas
D.R.C.C.T. = Deed Records of Collin County, Texas
F.L.U.P. = Future Land Use Plan

N
W E
S

GRAPHIC SCALE IN FEET
300' 0 150' 300' 600'
1"=300' @ 24"X36"

EXHIBIT "A"
FOR ZONING CASE NO. Z18-0003
GATES OF PROSPER
BEING 621.07 ACRES OUT OF THE COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147 B. RENISON SURVEY, ABSTRACT NO. 755 J. YARNALL SURVEY ABSTRACT NO. 1038 TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
106 West Louisiana Street
McKinney, TX 75069
Ph. 469-301-2590
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
106 West Louisiana Street
McKinney, Texas 75069
FIRM # 10115500 Tel. No. (469)-201-2590

Scale	Drawn by	Checked by	Date	Project No.
1" = 300'	DAB	JCR	May 2018	068109030

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K:\MKC_CIVIL\068109030\GATES OF PROSPER\CAD\EXHIBITS\ARCHIVE\GATES ZONING EXHIBIT-01.DWG PLOTTED BY: TEDESCO, JOHN 5/8/2018 12:01 PM LAST SAVED 5/8/2018 11:57 AM

Property ID	Owner	Volume	Page	Doc. No.	Existing Zoning	Existing Land Use	Future Land Use
1	COSERV PROPERTY HOLDINGS LLC			20140812000856950	DTC	INDUSTRIAL	OLD TOWN CORE DISTRICT
2	RAY C. MCGEE				SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
3	RAY C. MCGEE			20080528006402050	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
4	RAY C. MCGEE			20080528000640200	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
5	RUTILIO & YOLANDA AGUILAR	5236	4438		SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
6	RICKIE WEEMS	5683	6748		SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
7	TOWN OF PROSPER			20170616000784290	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
8	M.S. DALTON ESTATE			20180312000299430	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
9	TOWN OF PROSPER			20170421000509890	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
10	RODOLFO SOTO			20151218001578610	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
11	ABE & TOMOKO MANSOORI			20121211001574800	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
12	DARIL R NIX REVOCABLE LVG TRUST	94-	0014368		SF-15	RESIDENTIAL	TOWN CENTER
13	FRANCISCO IBARRA	5848	4553		SF-15	RESIDENTIAL	TOWN CENTER
14	SAYDA HERNANDEZ	5982	2009		SF-15	RESIDENTIAL	TOWN CENTER
15	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
16	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
17	JOSE & MARIA E. GONZALEZ JOSE	1395	0333		SF-15	RESIDENTIAL	TOWN CENTER
18	FLAVIO IBARRA LOZANO	99-0132985	4531-2501		SF-15	RESIDENTIAL	TOWN CENTER
19	SAYDA HERNANDEZ			20070509000626600	SF-15	RESIDENTIAL	TOWN CENTER
20	BLUE STAR LAND LP			20140411000350200	SF-15	RESIDENTIAL	TOWN CENTER
21	SHRADER SANDRA OMOHUNDRO			20170925001280500	SF-15	RESIDENTIAL	TOWN CENTER
22	183 LAND CORPORATION INC	97-	0005168		SF-15	RESIDENTIAL	TOWN CENTER
23	FIRST PRESBYTERIAN CHURCH	14700102			SF-15	Church	TOWN CENTER
24	PRESBYTERIAN CHURCH				SF-15	Church	TOWN CENTER
25	EDUARDO BELL			20120501000502170	DTO	RESIDENTIAL	TOWN CENTER
26	BLISS PET RESORT LLC			20151230001621710	C	COMMERCIAL	TOWN CENTER
27	THOMAS L. & BOBBIE JAMES			20140124000072220	SF-15	RESIDENTIAL	TOWN CENTER
28	MONTE & BARBARA KAUFFMAN	2904	892		SF-15	RESIDENTIAL	TOWN CENTER
29	FIRST BAPTIST CHURCH PROSPER	01-0130186	5023-3304		DTO	CHURCH	TOWN CENTER
30	ERNEST MAHARD, JR.				DTO	COMMERCIAL	TOWN CENTER
31	MAHARD EGG FARM INC				DTO	COMMERCIAL	TOWN CENTER
32	TOWN OF PROSPER			20070709000937360	RETAIL	COMMERCIAL	TOWN CENTER
33	GRIFFIN 4 HOLDINGS LLC			20170803001030760	DTO	RESIDENTIAL	TOWN CENTER
34	BLUE MONKEY PROPERTIES LLC			20171213001647850	SF15	RESIDENTIAL	TOWN CENTER

EXHIBIT A
LEGAL DESCRIPTION
621.07 ACRES

BEING of a tract of land out of the ED BRADLEY SURVEY, Abstract No. 86, the COLLIN COUNTY SCHOOL LAND SURVEY, Abstract No. 147, the B. RENISON SURVEY, Abstract No. 755 and the JOHN YARNELL SURVEY, Abstract No. 1038, in the Town of Prosper, Collin County, Texas, being all of the 16.496 acre Tract Five, all of the 125.92 acre Tract Six, being all of the 123.85 acre Tract Seven, all of the 10.068 acre Tract Eight, all of the 27.672 acre Tract Nine, all of the 99.96 acre Tract Ten recorded in Collin County Clerk's File No. 97-0005168 of the Land Records of Collin County, Texas and being part of the 157.13 acre tract of land described in deed to Blue Star Allen Land, L.P., recorded in Volume 6074, Page 2102 of the Deed Records of Collin County, Texas, being all of the 0.38 acre tract of land described in deed to Blue Star Land, Ltd. recorded in Document No. 20100809000819450 of the Official Public Records of Collin County, Texas and being more particularly described as follows;

BEGINNING at a point for the intersection of the centerline of U.S. Highway 380 (variable width ROW) and the centerline of the Burlington Northern Railroad (100' ROW at this point);

THENCE with said centerline of the Burlington Northern Railroad, North 11°23'13" East, a distance of 2716.96 feet to a point for corner;

THENCE leaving the centerline of the Burlington Northern Railroad, the following courses and distances two wit:
South 89°15'40" West, a distance of 123.47 feet to a point for corner;
North 00°57'41" West, a distance of 2704.85 feet to a point in the centerline of First Street;

THENCE with the centerline of First Street, the following courses and distances to wit:
North 89°37'06" East, a distance of 509.94 feet to a point for corner;
South 86°07'09" East, a distance of 202.29 feet to a point for corner;
North 89°38'54" East, a distance of 454.43 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00°45'07" West, a distance of 313.06 feet to a point for corner;
North 89°29'33" East, a distance of 481.12 feet to a point for corner;
North 00°21'57" West, a distance of 311.69 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89°38'54" East, a distance of 377.25 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00°06'52" East, a distance of 314.43 feet to a point for corner;
North 89°49'10" East, a distance of 189.92 feet to a point for corner;
North 00°09'58" West, a distance of 104.29 feet to a point for corner;
North 89°41'07" East, a distance of 455.63 feet to a point for corner in the centerline of Coleman Street;

THENCE with the centerline of said Coleman Street, South 00°05'32" East, a distance of 177.82 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 89°56'58" East, a distance of 257.38 feet to a point for corner;
North 02°09'39" East, a distance of 71.99 feet to a point for corner;
North 89°18'22" East, a distance of 555.18 feet to a point for corner;
South 00°58'50" East, a distance of 673.52 feet to a point for corner;
South 76°42'56" East, a distance of 185.47 feet to a point for corner;
South 76°51'24" East, a distance of 321.53 feet to a point for corner;
South 89°06'24" East, a distance of 1107.37 feet to a point for corner in the centerline of Craig Road;

THENCE with the centerline of said Craig Road, North 00°04'32" East, a distance of 842.40 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
North 89°30'30" East, a distance of 205.11 feet to a point for corner;
North 00°05'59" West, a distance of 299.98 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89°31'34" East, a distance of 1084.95 feet to a point for corner;

THENCE leaving the centerline of said First Street, the following courses and distances to wit:
South 01°02'13" East, a distance of 1546.12 feet to a point for corner;
South 89°20'50" West, a distance of 899.18 feet to a point for corner;
South 32°50'09" West, a distance of 339.04 feet to a point for corner;
North 54°21'33" West, a distance of 401.98 feet to a point for corner in the east right-of-way line of Preston Road (State Highway 289 - variable width ROW);
THENCE with said east right-of-way line, South 33°37'47" West, a distance of 423.21 feet to a point for corner;

THENCE leaving said east right-of-way line, he following courses and distances to wit:
South 54°19'15" East, a distance of 408.23 feet to a point for corner;
South 00°03'08" East, a distance of 3183.53 feet to a point for corner in the centerline of said U.S. Highway 380;

THENCE with said centerline, the following courses and distances to wit:
South 89°12'47" West, a distance of 2794.95 feet to a point for corner;
South 89°46'43" West, a distance of 2671.91 feet to the **POINT OF BEGINNING** and containing 621.07 acres of land.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

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EXHIBIT "A"
FOR ZONING CASE NO. Z18-0003
GATES OF PROSPER
BEING 621.07 ACRES OUT OF THE
COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147
B. RENISON SURVEY, ABSTRACT NO. 755
J. YARNALL SURVEY ABSTRACT NO. 1038
TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
106 West Louisiana Street
McKinney, TX 75069
Ph. 469-301-2590
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
106 West Louisiana Street
McKinney, Texas 75069
FIRM # 10115500
Tel. No. (469)-201-2590

Scale	Drawn by	Checked by	Date	Project No.	Sheet
N/A	DAB	JCR	May 2018	068109030	

5/8/2018 11:57 AM TEDESCO, JOHN 5/8/2018 12:01 PM LAST SAVED BY TEDESCO, JOHN S:\MKN_CIVIL\068109030-GATES OF PROSPER\CAD\EXHIBITS\ARCHIVE\GATES ZONING EXHIBIT 01.DWG PLOTTED BY

APPENDIX A-1—ZONING EXHIBIT & LEGAL DESCRIPTION

EXHIBIT "A-1"

BEING a tract of land situated in the Collin County School Land No. 12 Survey, Abstract No.147, the Ben Renison Survey, Abstract No. 755, and the John Yarnell Survey, Abstract No. 1038, the Town of Prosper, Collin County, Texas and being a portion of Block B, Lot 1 and Lot 2 of the Gates of Prosper, Phase 2, an addition to the Town of Prosper, according to the Conveyance Plat recorded in Volume 2020, Page 807 of the Plat Records of said county, same being a part of Tract 2, a called 4.448 acres tract described in a Warranty Deed to GOP #2 LLC, as recorded in Instrument No. 20190605000641620 of the Official Public Records of said county, a part of a called 157.1346 acres tract described in a Deed to 289 (Preston) & 380, LP, as recorded in 20121221001629970 and 20121221001629970 of said Official Public Records, a part of Tract Seven, a called 123.850 acres tract described in Deed to 289 (Preston) & 380 L.P., as recorded in Instrument No. 2019011800061180 of said Official Public Records, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for the southerly, southeast corner of said Block b, Lot 2, same being at the intersection of the northwesterly right-of-way line of State Highway 289 (Preston Road) (variable width Right-of-way) with the northerly right-of-way line of University Drive (U. S. Highway 380) (variable width Right-of-way);

THENCE along the northerly right-of-way line of said University Drive (U. S. Highway 380) and the southerly line of said Lot 2, the following courses and distances:

South 89°12'09" West, a distance of 792.64 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 84°43'41" West, a distance of 92.74 feet to a 1/2 inch iron rod found for corner;

North 89°50'14" West, a distance of 430.49 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 87°55'41" West, a distance of 42.02 feet to a point for corner;

THENCE North 00°00'00" East, departing the northerly right-of-way line of said University Drive (U. S. Highway 380), the southerly line of said Lot 2, crossing said Lot 2, a distance of 923.23 feet to a point at the beginning of a non-tangent curve to the left having a central angle of 4°02'38", a radius of 850.00 feet, a chord bearing and distance of South 87°58'41" East, 59.98 feet;

THENCE in an easterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 59.99 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, a distance of 747.44 feet to a point at the beginning of a tangent curve to the left having a central angle of 90°00'00", a radius of 650.00 feet, a chord bearing and distance of North 45°00'00" East, 919.24 feet;

THENCE in a northeasterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 1021.02 feet to a point for corner;

THENCE South 00°00'00" East, continuing across said Lot 2, a distance of 301.08 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, passing the common line of said Lot 2 and aforesaid Block b, Lot 1, continuing across said Lot 1, a distance of 927.55 feet to a point for corner;

THENCE South 52°50'32" East, continuing across said Lot 1, a distance of 25.77 feet to a point for corner on the southeasterly line of said Lot 1 and the northwesterly right-of-way line of aforesaid State Highway 289 (Preston Road);

THENCE along the northwesterly right-of-way line of said U. S. Highway 289 (Preston Road), the southeasterly line of said Lot 1 and the southeasterly line of aforesaid Lot 2, the following courses and distances:

South 37°09'28" West, a distance of 358.47 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 44°07'24" West, a distance of 418.54 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 60°08'40" West, a distance of 32.61 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 16°37'20" West, a distance of 93.29 feet to a 5/8 inch iron rod found for corner;

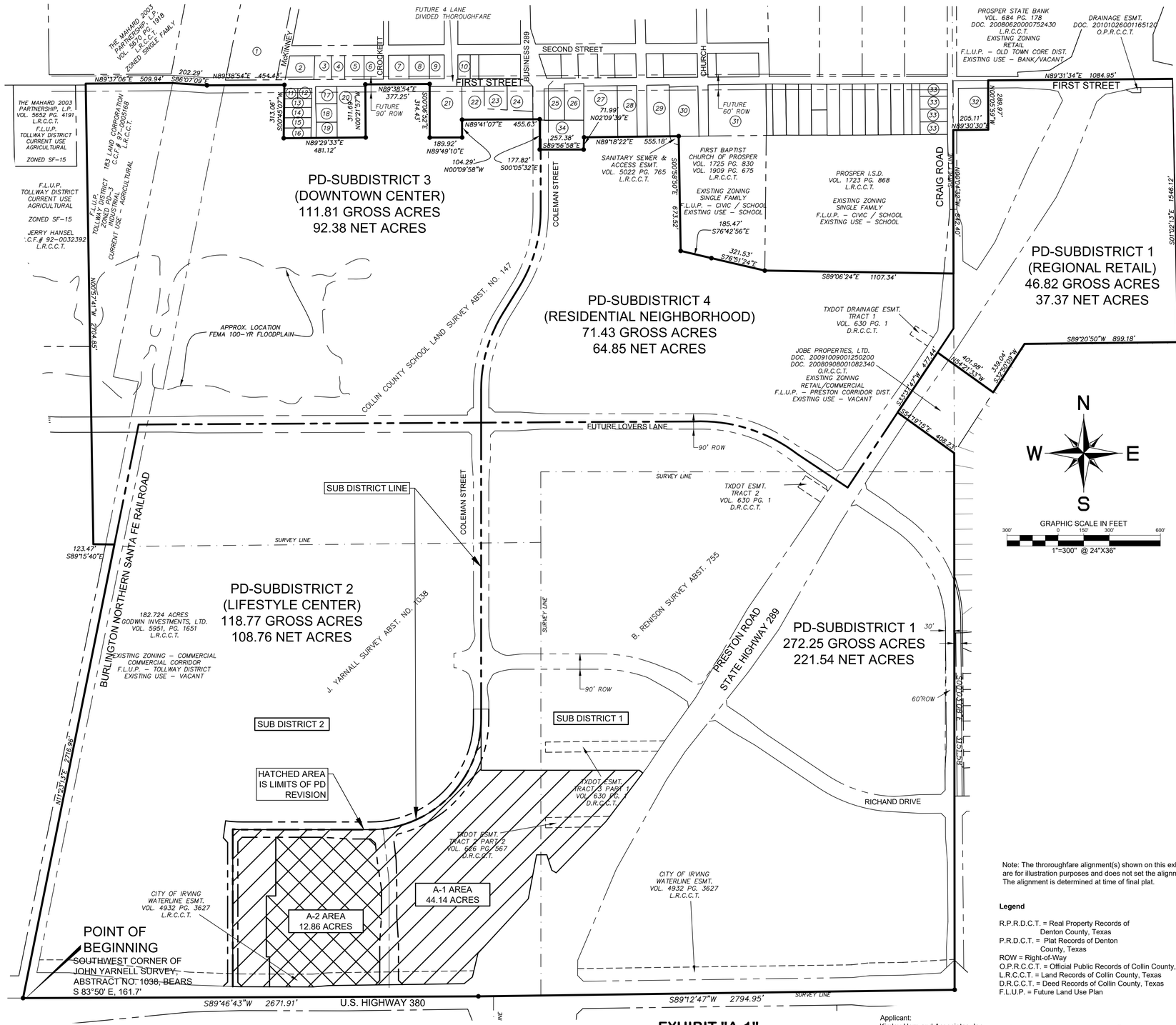
South 89°43'04" West, passing at a distance of 30.16 feet, a 1/2 inch iron rod found for the most westerly southwest corner of the aforementioned Tract Seven, continuing a total distance of 59.48 feet to a 5/8 inch iron rod found;

South 10°42'09" West, a distance of 261.71 feet to a TxDot aluminum disk found for corner;

South 42°38'30" West, a distance of 436.76 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 13°02'09" West, a distance of 142.64 feet to a TxDot aluminum disk found for corner;

South 51°12'09" West, a distance of 62.97 feet to the **POINT OF BEGINNING** and containing 44.137 acres (1,922,620 square feet) of land, more or less.



Note: The throroughfare alignment(s) shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at time of final plat.

Legend

R.P.R.D.C.T. = Real Property Records of Denton County, Texas
P.R.D.C.T. = Plat Records of Denton County, Texas
ROW = Right-of-Way
O.P.R.C.C.T. = Official Public Records of Collin County, Texas
L.R.C.C.T. = Land Records of Collin County, Texas
D.R.C.C.T. = Deed Records of Collin County, Texas
F.L.U.P. = Future Land Use Plan

EXHIBIT "A-1"
FOR ZONING CASE NO. Z21-0004
GATES OF PROSPER
BEING 44.14 ACRES OUT OF THE COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147 B. RENISON SURVEY, ABSTRACT NO. 755 J. YARNALL SURVEY ABSTRACT NO. 1038 TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
260 East Davis St, Suite 100
McKinney, TX 75069
Ph. 469-301-2580
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
260 EAST DAVIS ST, SUITE 100
McKinney, Texas 75069
FIRM # 10115500
Tel. No. (469)-301-2580

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 300'	RAB	RAK	Feb 2021	068109030	1 OF 2

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I:\NAME.K.MKN_CIVIL\068109030\GATES OF PROSPER\CAD\EXHIBITS\20210211 - GATES ZONING EXHIBIT A-1.DWG PLOTTED BY BECKLER, RACHEL 3/3/2021 8:55 AM LAST SAVED 3/3/2021 8:28 AM

Property ID	Owner	Volume	Page	Doc. No.	Existing Zoning	Existing Land Use	Future Land Use
1	COSERV PROPERTY HOLDINGS LLC			20140812000856950	DTC	INDUSTRIAL	OLD TOWN CORE DISTRICT
2	PROSPER EDC			20181030001348020	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
3	PROSPER EDC				SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
4	PROSPER EDC				SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
5	RUTILIO & YOLANDA AGUILAR	5236	4438		SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
6	PROSPER EDC			20180504000548560	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
7	TOWN OF PROSPER			20170616000784290	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
8	TOWN OF PROSPER			20190119010003140	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
9	TOWN OF PROSPER			20170421000509890	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
10	RODOLFO SOTO			20151218001578610	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
11	ABE & TOMOKO MANSOORI			20121211001574800	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
12	DARIL R NIX REVOCABLE LVG TRUST	94-	0014368		SF-15	RESIDENTIAL	TOWN CENTER
13	FRANCISCO IBARRA	5848	4553		SF-15	RESIDENTIAL	TOWN CENTER
14	SAYDA HERNANDEZ	5982	2009		SF-15	RESIDENTIAL	TOWN CENTER
15	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
16	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
17	JOSE & MARIA E. GONZALEZ JOSE	1395	0333		SF-15	RESIDENTIAL	TOWN CENTER
18	FLAVIO IBARRA LOZANO	99-0132985	4531-2501		SF-15	RESIDENTIAL	TOWN CENTER
19	SAYDA HERNANDEZ			20070509000626600	SF-15	RESIDENTIAL	TOWN CENTER
20	BLUE STAR LAND LP			20140411000350200	SF-15	RESIDENTIAL	TOWN CENTER
21	SHRADER SANDRA OMOHUNDRO			20170925001280500	SF-15	RESIDENTIAL	TOWN CENTER
22	183 LAND CORPORATION INC	97-	0005168		SF-15	RESIDENTIAL	TOWN CENTER
23	FIRST PRESBYTERIAN CHURCH	14700102			SF-15	Church	TOWN CENTER
24	PRESBYTERIAN CHURCH				SF-15	Church	TOWN CENTER
25	VISION AND STRUCTURE LLC			20200903001480220	DTO	RESIDENTIAL	TOWN CENTER
26	BLISS PET RESORT LLC			20151230001621710	C	COMMERCIAL	TOWN CENTER
27	HOLLMAN HOLDING LLC			20190830001065010	SF-15	RESIDENTIAL	TOWN CENTER
28	MONTE & BARBARA KAUFFMAN	2904	892		SF-15	RESIDENTIAL	TOWN CENTER
29	FIRST BAPTIST CHURCH PROSPER	01-0130186	5023-3304		DTO	CHURCH	TOWN CENTER
30	ERNEST MAHARD, JR.				DTO	COMMERCIAL	TOWN CENTER
31	MAHARD EGG FARM INC				DTO	COMMERCIAL	TOWN CENTER
32	TOWN OF PROSPER			20070709000937360	RETAIL	COMMERCIAL	TOWN CENTER
33	GRIFFIN 4 HOLDINGS LLC			20170803001030760	DTO	RESIDENTIAL	TOWN CENTER
34	BLUE MONKEY PROPERTIES LLC			20171213001647850	SF15	RESIDENTIAL	TOWN CENTER

BEING a tract of land situated in the Collin County School Land No. 12 Survey, Abstract No.147, the Ben Renison Survey, Abstract No. 755, and the John Yarnell Survey, Abstract No. 1038, the Town of Prosper, Collin County, Texas and being a portion of Block B, Lot 1 and Lot 2 of the Gates of Prosper, Phase 2, an addition to the Town of Prosper, according to the Conveyance Plat recorded in Volume 2020, Page 807 of the Plat Records of said county, same being a part of Tract 2, a called 4.448 acres tract described in a Warranty Deed to GOP #2 LLC, as recorded in Instrument No. 20190605000641620 of the Official Public Records of said county, a part of a called 157.1346 acres tract described in a Deed to 289 (Preston) & 380, LP, as recorded in 20121221001629970 and 20121221001629970 of said Official Public Records, a part of Tract Seven, a called 123.850 acres tract described in Deed to 289 (Preston) & 380 L.P., as recorded in Instrument No. 20190118000611180 of said Official Public Records, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for the southerly, southeast corner of said Block b, Lot 2, same being at the intersection of the northwesterly right-of-way line of State Highway 289 (Preston Road) (variable width Right-of-way) with the northerly right-of-way line of University Drive (U. S. Highway 380) (variable width Right-of-way);

THENCE along the northerly right-of-way line of said University Drive (U. S. Highway 380) and the southerly line of said Lot 2, the following courses and distances:

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South 84°43'41" West, a distance of 92.74 feet to a 1/2 inch iron rod found for corner;

North 89°50'14" West, a distance of 430.49 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 87°55'41" West, a distance of 42.02 feet to a point for corner;

THENCE North 00°00'00" East, departing the northerly right-of-way line of said University Drive (U. S. Highway 380), the southerly line of said Lot 2, crossing said Lot 2, a distance of 923.23 feet to a point at the beginning of a non-tangent curve to the left having a central angle of 4°02'38", a radius of 850.00 feet, a chord bearing and distance of South 87°58'41" East, 59.98 feet;

THENCE in an easterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 59.99 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, a distance of 747.44 feet to a point at the beginning of a tangent curve to the left having a central angle of 90°00'00", a radius of 650.00 feet, a chord bearing and distance of North 45°00'00" East, 919.24 feet;

THENCE in a northeasterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 1021.02 feet to a point for corner;

THENCE South 00°00'00" East, continuing across said Lot 2, a distance of 301.08 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, passing the common line of said Lot 2 and aforesaid Block b, Lot 1, continuing across said Lot 1, a distance of 927.55 feet to a point for corner;

THENCE South 52°50'32" East, continuing across said Lot 1, a distance of 25.77 feet to a point for corner on the southeasterly line of said Lot 1 and the northwesterly right-of-way line of aforesaid State Highway 289 (Preston Road);

THENCE along the northwesterly right-of-way line of said U. S. Highway 289 (Preston Road), the southeasterly line of said Lot 1 and the southeasterly line of aforesaid Lot 2, the following courses and distances:

South 37°09'28" West, a distance of 358.47 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 44°07'24" West, a distance of 418.54 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 60°08'40" West, a distance of 32.61 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 16°37'20" West, a distance of 93.29 feet to a 5/8 inch iron rod found for corner;

South 89°43'04" West, passing at a distance of 30.16 feet, a 1/2 inch iron rod found for the most westerly southwest corner of the aforementioned Tract Seven, continuing a total distance of 59.48 feet to a 5/8 inch iron rod found;

South 10°42'09" West, a distance of 261.71 feet to a TxDot aluminum disk found for corner;

South 42°38'30" West, a distance of 436.76 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 13°02'09" West, a distance of 142.64 feet to a TxDot aluminum disk found for corner;

South 51°12'09" West, a distance of 62.97 feet to the **POINT OF BEGINNING** and containing 44.137 acres (1,922,620 square feet) of land, more or less.

EXHIBIT "A-1"
FOR ZONING CASE NO. Z21-0004
GATES OF PROSPER
BEING 44.14 ACRES OUT OF THE
COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147
B. RENISON SURVEY, ABSTRACT NO. 755
J. YARNALL SURVEY ABSTRACT NO. 1038
TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
260 East Davis St, Suite 100
McKinney, TX 75069
Ph. 469-301-2580
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
260 EAST DAVIS ST, SUITE 100
McKinney, Texas 75069
FIRM # 10115500
Tel. No. (469)-301-2580

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	RAB	RAK	Feb 2021	068109030	2 OF 2

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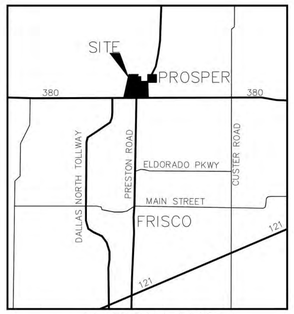
I:\NAME-K\MISC_CIVIL\068109030\GATES OF PROSPER\CAD\EXHIBITS\2021\21 - GATES ZONING EXHIBIT A-1.DWG PLOTTED BY BECKER, RACHEL 3/3/2021 8:16 AM LAST SAVED 3/1/2021 9:05 PM

APPENDIX B—CONCEPTUAL DEVELOPMENT PLAN

EXHIBIT "D"



VICINITY MAP
PROSPER, TX
NOT TO SCALE

TRACT 3
PROPOSED ZONING
PD-SUBDISTRICT 3
(DOWNTOWN CENTER)
111.81 GROSS ACRES
94.92 NET ACRES

TRACT 2
PROPOSED ZONING
PD-SUBDISTRICT 2
(LIFESTYLE CENTER)
146.49 GROSS ACRES
129.43 NET ACRES

TRACT 4
PROPOSED ZONING
PD-SUBDISTRICT 4
(RESIDENTIAL NEIGHBORHOOD)
71.43 GROSS ACRES
62.09 NET ACRES

TRACT 1B
PROPOSED ZONING
PD-SUBDISTRICT 1
(REGIONAL RETAIL)
46.82 GROSS ACRES
37.58 NET ACRES

TRACT 1A
PROPOSED ZONING
PD-SUBDISTRICT 1
(REGIONAL RETAIL)
244.38 GROSS ACRES
197.21 NET ACRES

NOTE:
THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAT.
OVERALL BUILDING, PARKING AND LOT LAYOUTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DO NOT REPRESENT THE FINAL LAYOUT.

Applicant:
Kimley-Horn and Associates, Inc.
106 West Louisiana Street
McKinney, TX 75069
469-301-2590
Contact : Joe Riccardi

Owner:
389 & 289 LP
1 Cowboys Parkway
Frisco, TX 75036

Owner:
183 Land Corporation, Inc.
1 Cowboys Parkway
Frisco, TX 75036

NORTH
0 400 800

Gates of Prosper

Blue Star Land

Exhibit D-621.07 Acres

Date: 03.03.21 Scale 1" = 300'

O'BRIEN ARCHITECTS

PLANNING

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:
Consider and act upon authorizing the Town Manager to execute a Development Agreement between 380 & 289, L.P., and the Town of Prosper, Texas, related to the Gates of Prosper.

Description of Agenda Item:
On April 13, 2021, the Town Council approved a zoning request Z21-0001 related to development within the Gates of Prosper, specifically providing a commercial tract within Subdistrict 4 of Planned Development-67 (PD-67). The zoning request was approved by a vote of 6-0, subject to approval of a development agreement regarding package liquor stores. A Development Agreement has been prepared accordingly.

Legal Obligations and Review:
Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality.

Attached Documents:
1. Development Agreement
2. Exhibit A-Property Description

Staff Recommendation:
Staff recommends the Town Council authorizing the Town Manager to execute a Development Agreement between 380 & 289, L.P., and the Town of Prosper, Texas, related to the Gates of Prosper.

Proposed Motion:
I move to authorizing the Town Manager to execute a Development Agreement between 380 & 289, L.P., and the Town of Prosper, Texas, related to the Gates of Prosper.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the Town of Prosper, Texas ("Town"), and 183 Land Corporation, Inc., a Texas corporation ("Owner") (individually, a "Party" and collectively, the "Parties") to be effective (the "Effective Date") on the latest date executed by a Party.

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Owner is developing an approximate 5.5-acre commercial tract (the "Property"), a depiction of which is attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, the foregoing Property was rezoned by the Town Council on or about April 13, 2021, and this Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in the underlying zoning ordinance, as may be amended, and/or this Development Agreement, to recognize Owner's reasonable investment-backed expectations in the Development, as may be amended, and as more fully described herein; and

WHEREAS, subject to the terms of this Agreement, Owner agrees and acknowledges that it will not lease, sell or otherwise permit or authorize on the Property any package liquor store that sells any alcoholic beverages for off-premise consumption.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. Package Liquor Stores Prohibited. Owner agrees and acknowledges that it will not lease, sell or otherwise permit or authorize on the Property any package liquor store, which is defined for purposes of this Agreement as any business entity that is required to obtain a Package Store Permit (P) from the Texas Alcoholic Beverage Commission for off-premise consumption. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

2. Covenant Running with the Land. The terms, conditions, rights, obligations, benefits, covenants and restrictions of the provisions of this Agreement shall be deemed covenants running with the land, and shall be binding upon and inure to the benefit of the Owner and its heirs, representatives, successors and assigns. This Agreement shall be deemed to be incorporated into each deed and conveyance of the Property or any portion thereof hereafter made by any other owners of the Property, regardless of whether this Agreement is expressly referenced therein.

3. **Applicability of Town Ordinances**. Owner shall develop the Property, and construct all structures on the Property, in accordance with all applicable Town ordinances and building/construction codes.

4**.** **Default**. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). In addition, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. If either Party is in default under this Agreement, the other Party shall have the right to enforce the Agreement in accordance with applicable law, provided, however, in no event shall any Party be liable for consequential or punitive damages.

5. **Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas. Exclusive venue for any action arising under this Agreement shall lie in Collin County, Texas.

6. **Notice**. Any notices required or permitted to be given hereunder (each, a "Notice") shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town: The Town of Prosper
250 W. First Street
P.O. Box 307
Prosper, Texas 75078
Attention: Town Manager

If to Owner: 183 Land Corporation, Inc.
One Cowboys Way
Frisco, Texas 75034
Attention: _____

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

8. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto with respect to development of the Property and supersedes

all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

9. Savings/Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

10. Binding Agreement. A telecopied facsimile of a duly executed counterpart of this Agreement shall be sufficient to evidence the binding agreement of each party to the terms herein, including without limitation a scanned copy sent via electronic mail by either Party.

11. Authority to Execute. This Agreement shall become a binding obligation on the Parties upon execution by all Parties hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. Owner warrants and represents that the individual executing this Agreement on behalf of Owner has full authority to execute this Agreement and bind Owner to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this Agreement on behalf of the Town.

12. Filing in Deed Records. This Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Collin County, Texas.

13. Mediation. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to nonbinding mediation.

14. Notification of Sale or Transfer; Assignment of Agreement. Owner shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer. Owner has the right (from time to time without the consent of the Town, but upon written notice to the Town) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property or that is an entity that is controlled by or under common control with Owner. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement. A copy of each assignment shall be provided to the Town within ten (10) business days after execution. Provided that the successor owner assumes the liabilities, responsibilities, and obligations of the assignor under this Agreement, the assigning party will be released from any rights and obligations under this Agreement as to the Property that is the subject of such assignment, effective upon receipt of the assignment by the Town. No assignment by Owner shall release Owner from any liability that resulted from an act or

omission by Owner that occurred prior to the effective date of the assignment. Owner shall maintain true and correct copies of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information.

15. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign immunity from suit by entering into and performing its obligations under this Agreement.

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

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

18. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original.

19. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties. A copy of each amendment to this Agreement, when fully executed and recorded, shall be provided to each Party, Assignee and successor owner of all or any part of the Property; however, the failure to provide such copies shall not affect the validity of any amendment.

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

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____
Name: Harlan Jefferson
Title: Town Manager, Town of Prosper

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ___ day of _____, 2021, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

_____
Notary Public, State of Texas
My Commission Expires: _____

OWNER:

183 LAND CORPORATION, INC.

By: _____
Name: _____
Title: _____

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ___ day of _____, 2021, by _____ in his capacity as _____ of 183 Land Corporation, Inc., known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.

_____
Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT A

(Property Depiction)

PLANNING

TOWN OF PROSPER

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:

Consider and act upon an ordinance amending Subdistrict 1 of Planned Development-67 (PD-67), on 44.1± acres, located on the northwest corner of US 380 and Preston Road, generally to modify the boundary, developments standards, and concept plan. (Z21-0004).

Description of Agenda Item:

On April 13, 2021, the Town Council approved the proposed rezoning request, by a vote of 6-0. An ordinance has been prepared accordingly.

Legal Obligations and Review:

Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Ordinance
2. Ordinance Exhibits

Town Staff Recommendation:

Staff recommends the Town Council approve an ordinance amending Subdistrict 1 of Planned Development-67 (PD-67), on 44.1± acres, located on the northwest corner of US 380 and Preston Road, generally to modify the boundary, developments standards, and concept plan.

Proposed Motion:

I move to approve an ordinance amending Subdistrict 1 of Planned Development-67 (PD-67), on 44.1± acres, located on the northwest corner of US 380 and Preston Road, generally to modify the boundary, developments standards, and concept plan.

TOWN OF PROSPER, TEXAS **ORDINANCE NO. 2021-__**

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20 AND ORDINANCE NO. 2021-10; REZONING A TRACT OF LAND CONSISTING OF 621.07 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, B. RENISON SURVEY, ABSTRACT NO. 755, AND J. YARNALL SURVEY, ABSTRACT NO. 1038, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED PLANNED DEVELOPMENT-67 (PD-67), IS HEREBY AMENDED IN ITS ENTIRETY AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-67 (PD-67); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that Zoning Ordinance No. 05-20 and Ordinance 2021-10, should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from 183 Land Corporation and 289 (Preston) & 380, L.P. ("Applicant") to rezone 621.07 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, B. Renison Survey, Abstract No. 755, and J. Yarnall Survey, Abstract No. 1038 in the Town of Prosper, Collin County, Texas; and

WHEREAS, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

WHEREAS, all legal notices required for rezoning have been given in the manner and form set forth by law, and public hearings have been held on the proposed rezoning and all other requirements of notice and completion of such zoning procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

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

SECTION 1

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

Amendments to Zoning Ordinance No. 05-20 and Ordinance No. 2021-10. Zoning Ordinance No. 05-20 is hereby amended and Ordinance No. 2021-10 is replaced in its entirety as follows: The zoning designation of the property containing 621.07 acres of land, more or less, situated in the Collin County School Land Survey, Abstract No. 147, B. Renison Survey, Abstract

No. 755, and J. Yarnall Survey, Abstract No. 1038 in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby amended in its entirety and rezoned as Planned Development-67 (PD-67). The Property as a whole and for this zoning classification is more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; 3) the concept plan, attached hereto as Exhibit "D"; 4) the development schedule, attached hereto as Exhibit "E"; 5) and the supplemental design guidelines, attached hereto as Exhibit "F", which are incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.

b. One (1) copy shall be filed with the Building Official and shall be maintained up to date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

Written notice of any amendment to this District shall be sent to all owners of properties within the District as well as all properties within two hundred feet (200') of the District to be amended.

SECTION 3

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

SECTION 4

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

SECTION 5

Penalty. Any person, firm, corporation, or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars ($2,000.00). Each continuing day's violation under this Ordinance shall constitute a

separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 6

Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 7

Savings/Repealing Clause. Prosper's Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8

Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF APRIL 2021.

_____
Ray Smith, Mayor

ATTEST:

_____
Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

_____
Terrence S. Welch, Town Attorney

GATES OF PROSPER

Planned Development Ordinance

BLUE STAR LAND

LINCOLN PROPERTY COMPANY

Adopted by Ordinance No. 14-92
May 27, 2014

Amended in its Entirety by Ordinace No. 2021-
April 27, 2021

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RELATIONSHIP TO TOWN OF PROSPER COMPREHENSIVE PLAN

Pursuant to Section 1.2 of the Town of Prosper Zoning Ordinance, zoning regulations and districts are established in accordance with an adopted Comprehensive Plan. The proposed Planned Development being an amendment to the Town of Prosper Zoning Ordinance, is consistent with the Town's Comprehensive Plan.

The proposed PD mirrors the specifications and intent of the Town Center District, as defined in the Comprehensive Plan, providing for mixed uses as well as retail and commercial development. It specifically meets Goal No. 1 of the Comprehensive Plan by providing a variety of land uses which will lead to a more diverse tax base. It will be an environment which encourages a desired lifestyle for residents to live, work, shop, eat and relax. It also provides for the desired transitional uses leading into the Town's Old Town District.

EXHIBIT "A"

ZONING EXHIBIT & LEGAL DESCRIPTION

The Zoning Exhibit and legal description of the area within the proposed Planned Development is included in Appendix 'A' as Exhibit 'A'.

LEGAL DESCRIPTION
621.07 ACRES

BEING of a tract of land out of the ED BRADLEY SURVEY, Abstract No. 86, the COLLIN COUNTY SCHOOL LAND SURVEY, Abstract No. 147, the B. RENISON SURVEY, Abstract No. 755 and the JOHN YARNELL SURVEY, Abstract No. 1038, in the Town of Prosper, Collin County, Texas, being all of the 16.496 acre Tract Five, all of the 125.92 acre Tract Six, being all of the 123.85 acre Tract Seven, all of the 10.068 acre Tract Eight, all of the 27.672 acre Tract Nine, all of the 99.96 acre Tract Ten recorded in Collin County Clerk's File No. 97-0005168 of the Land Records of Collin County, Texas and being part of the 157.13 acre tract of land described in deed to Blue Star Allen Land, L.P., recorded in Volume 6074, Page 2102 of the Deed Records of Collin County, Texas, Being all of the 0.38 acre tract of land described in deed to Blue Star Land, Ltd. Recorded in Document No. 20100809000819450 of the Official Public Records of Collin County, Texas and being more particularly described as follows;

BEGINNING at a point for the intersection of the centerline of U.S. Highway 380 (variable width ROW) and the centerline of the Burlington Northern Railroad (100' ROW at this point);

THENCE with said centerline of the Burlington Northern Railroad, North 11º23'13" East, a distance of 2716.96 feet to a point for corner;

THENCE leaving the centerline of the Burlington Northern Railroad, the following courses and distances two wit:
South 89º15'40" West, a distance of 123.47 feet to a point for corner;
North 00º57'41" West, a distance of 2704.85 feet to a point in the centerline of First Street;

THENCE with the centerline of First Street, the following courses and distances to with:
North 89º37'06" East, a distance of 509.94 feet to a point for corner;
South 86º07'09" East, a distance of 202.29 feet to a point for corner;
North 89º38'54" East, a distance of 454.43 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00º45'07" West, a distance of 313.06 feet to a point for corner;
North 89º29'33" East, a distance of 481.12 feet to a point for corner;
North 00º21'57" West, a distance of 311.69 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89º38'54" East, a distance of 377.25 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00º06'52" East, a distance of 314.43 feet to a point for corner;
North 89º49'10" East, a distance of 189.92 feet to a point for corner;

North 00º09’58” West, a distance of 104.29 feet to a point for corner;
North 89º41’07” East, a distance of 455.63 feet to a point for corner in the centerline of Coleman Street;

THENCE with the centerline of said Coleman Street, South 00º05’32” East, a distance of 177.82 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 89º56’58” East, a distance of 257.38 feet to a point for corner;
North 02º09’39” East, a distance of 71.99 feet to a point for corner;
North 89º18’22” East, a distance of 555.18 feet to a point for corner;
South 00º58’50” East, a distance of 673.52 feet to a point for corner;
South 76º42’56” East, a distance of 185.47 feet to a point for corner;
South 76º51’24” East, a distance of 321.53 feet to a point for corner;
South 89º06’24” East, a distance of 1107.37 feet to a point for corner in the centerline of Craig Road;

THENCE with the centerline of said Craig Road, North 00º04’32” East, a distance of 842.40 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
North 89º30’30” East, a distance of 205.11 feet to a point for corner;
North 00º05’59” West, a distance of 299.98 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89º31’34” East, a distance of 1084.95 feet to a point for corner;

THENCE leaving the centerline of said First Street, the following courses and distances to wit:
South 01º02’13” East, a distance of 1546.12 feet to a point for corner;
South 89º20’50” West, a distance of 899.18 feet to a point for corner;
South 32º50’09” West, a distance of 339.04 feet to a point for corner;
North 54º21’333” West, a distance of 401.98 feet to a point for corner in the east right-of-way line of Preston Road (State Highway 289 – variable width ROW);
THENCE with said east right-of-way line, South 33º37’47” West, a distance of 423.21 feet to a point for corner;

THENCE leaving said east right-of-way lien, the following courses and distances to wit: South 54º19’15” East, a distance of 408.23 feet to a point for corner;
South 00º03’08” East, a distance of 3183.53 feet to a point for corner in the centerline of said U.S. Highway 380;

THENCE with said centerline, the following courses and distances to wit:
South 89º12’47” West, a distance of 2794.95 feet to a point for corner;
South 89º46’43” West. a distance of 2671.91 feet to the POINT OF BEGINNING and containing 621.07 acres of land.

EXHIBIT "A-1"
ZONING EXHIBIT & LEGAL DESCRIPTION

The Zoning Exhibit and legal description of the area within the proposed Planned Development is included in Appendix 'A-1' as Exhibit 'A-1'.

BEING a tract of land situated in the Collin County School Land No. 12 Survey, Abstract No. 147 and the Ben Renison Survey, Abstract No. 755, Town of Prosper, Collin County, Texas, and being a portion of a called "Tract Six", conveyed to 183 Land Corporation, Inc., as evidenced in a Special Warranty Deed, recorded in County Clerk's File No. 97-0005168 of the Deed Records of Collin County, Texas, a portion of a called "Tract Seven", conveyed to 380 & 289, L.P., as evidenced in a Warranty Deed, recorded in Instrument No. 20121219001617180, Official Public Records of Collin County, Texas, and a portion of a called 157.1346-acre tract of land, conveyed to 289 (Preston) & 380, LP, as evidenced in Warranty Deeds, recorded in Instrument No. 20121221001629970 and Instrument No. 20121221001629980, both of the Official Public Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a TXDOT brass disk right of way monument found for the southerly, northeast corner of said "Tract Seven", and being the intersection of the northwesterly right of way line of State Highway 289 (Preston Road), a variable width right of way with the westerly right of way line of South Craig Road, from said corner, a found wooden TXDOT right of way marker bears South 16°19' West, 1.35 feet;

THENCE South 33°38'18" West, along the southeasterly line of said "Tract Seven" and the northwesterly right of way line of said State Highway 289 (Preston Road), a distance of 111.45 feet to a TXDOT brass disk right of way monument found for the northerly corner of a called 0.2813-acre tract of land, as evidenced in a Deed to the State of Texas, recorded in Instrument No. 20110818000872270 of the Official Public Records of Collin County, Texas, from said corner, a found wooden TXDOT right of way marker bears North 76°00' East, 0.54 feet;

THENCE in a southwesterly direction, departing the southeasterly line of said "Tract Seven", and along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.2813-acre tract, the following:

South 40°20'31" West, a distance of 85.55 feet to a corner;
South 33°38'35" West, a distance of 300.00 feet to a corner;
South 37°27'25" West, a distance of 300.67 feet to a corner;
South 33°38'35" West, a distance of 208.89 feet to the POINT OF BEGINNING of the herein described tract;

THENCE South 33°38'35" West, continuing along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.2813-acre tract, a distance of 91.11 feet to a corner;

THENCE South 29°26'34" West, continuing along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.2813-acre tract, a distance of 200.54 feet to the southernmost corner of said 0.2813-acre tract, and being on the southeasterly line of aforesaid "Tract Seven", from said corner, a found wooden TXDOT right of way marker bears North 31°18' East, 16.00 feet;

THENCE South 35°04’16” West, along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 385.16 feet to a corner, from which, a found wooden TXDOT right of way marker bears North 44°12’ East, 1.65 feet;

THENCE South 33°38’20” West, continuing along the southeasterly line of said “Tract Seven” and the northwesterly right of way line of said State Highway 289 (Preston Road), a distance of 300.00 feet to a TXDOT brass disk right of way monument found for a corner, from said corner, a found wooden TXDOT right of way marker bears South 07°00’ East, 2.25 feet;

THENCE South 30°18’02” West, continuing along the southeasterly line of said “Tract Seven” and the northwesterly right of way line of said State Highway 289 (Preston Road), a distance of 392.59 feet to a TXDOT brass disk right of way monument found for the northerly corner of a called 0.0656-acre tract of land, as evidenced in a Deed to the State of Texas, recorded in Instrument No. 20110818000872270 of the Official Public Records of Collin County, Texas;

THENCE in a southwesterly direction, departing the southeasterly line of said “Tract Seven”, and along the northwesterly right of way line of State Highway 289 (Preston Road), as described in said 0.0656-acre tract, the following:

South 33°38’35” West, a distance of 323.03 feet to a corner;

South 30°46’46” West, a distance of 100.13 feet to the southerly corner of said 0.0656-acre tract, and being on the southeasterly line of aforesaid “Tract Seven”;

THENCE South 35°32’53” West, along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 85.20 feet to a corner;

THENCE South 33°56’57” West, continuing along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 199.89 feet to a 5/8-inch iron rod found for a corner;

THENCE South 37°09’28” West, continuing along the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), a distance of 42.31 feet to a corner;

THENCE North 52°50’32” West, departing the southeasterly line of said “Tract Seven” and continuing along the northwesterly right of way line of State Highway 289 (Preston Road), crossing said “Tract Seven”, a distance of 25.77 feet to a corner;

THENCE North 90°00’00” West, continuing across said “Tract Seven”, passing the westerly line of said “Tract Seven”, the easterly line of aforesaid 157.1346-acre, 289 (Preston) & 380, LP tract, and crossing a public use road known as South Coleman Street, a distance of 972.55 feet to a corner;

THENCE in a northerly direction, continuing across said 157.1346-acre tract, the following:

North 00°00’00” East, a distance of 431.84 feet to the point of curvature of a tangent curve to the left;

Along the arc of said curve to the left, through a central angle of 21°18’24”, having a radius of 338.00 feet, a chord bearing of North 10°39’12” West, a chord distance of 124.97 feet and an arc length of 125.69 feet to the point of compound curvature of a curve to the left;
Along the arc of said curve to the left, through a central angle of 39°59’13”, having a radius of 38.00 feet, a chord bearing of North 41°18’00” West, a chord distance of 25.99 feet and an arc length of 26.52 feet to the point of tangency of said curve;
North 61°17’36” West, a distance of 36.82 feet to the point of curvature of a tangent curve to the left;
Along the arc of said curve to the left, through a central angle of 30°02’25”, having a radius of 83.00 feet, a chord bearing of North 76°18’49” West, a chord distance of 43.02 feet and an arc length of 43.52 feet to the end of said curve;
North 00°00’00” East, a distance of 84.31 feet to the point of curvature of a non-tangent curve to the left;
Along the arc of said curve to the left, through a central angle of 13°19’52”, having a radius of 338.00 feet, a chord bearing of North 75°21’32” East, a chord distance of 78.47 feet and an arc length of 78.64 feet to the point of compound curvature of a curve to the left;
Along the arc of said curve to the left, through a central angle of 39°59’13”, having a radius of 38.00 feet, a chord bearing of North 48°42’00” East, a chord distance of 25.99 feet and an arc length of 26.52 feet to the point of tangency of said curve;
North 28°42’24” East, a distance of 36.82 feet to the point of curvature of a tangent curve to the left;
Along the arc of said curve to the left, through a central angle of 35°41’21”, having a radius of 83.00 feet, a chord bearing of North 10°51’43” East, a chord distance of 50.87 feet and an arc length of 51.70 feet to the point of tangency of said curve;
North 06°58’57” West, a distance of 35.50 feet to the point of curvature of a tangent curve to the right;
Along the arc of said curve to the right, through a central angle of 06°58’57”, having a radius of 546.00 feet, a chord bearing of North 03°29’29” West, a chord distance of 66.50 feet an arc length of 66.54 feet to the point of tangency of said curve;

THENCE North 00°00’00” East, continuing across said 157.1346-acre tract, crossing the northerly line of said 157.1346-acre tract and the southerly line of aforesaid “Tract Six”, continuing across said “Tract Six”, a distance of 785.38 feet to a corner;

THENCE in a northerly and easterly direction, continuing across said 157.1346-acre tract, the following:
North 03°48’51” West, a distance of 150.33 feet to a corner;
North 00°00’00” East, a distance of 125.00 feet to a corner;
North 45°00’00” West, a distance of 35.36 feet to a corner;
North 00°00’00” East, a distance of 110.00 fee to a corner;
North 45°00’00” East, a distance of 35.36 feet to a corner;
North 90°00’00” East, a distance of 110.00 feet to a corner;
South 45°00’00” East, a distance of 35.36 feet to a corner;
North 90°00’00” East, a distance of 150.00 feet to a corner;

THENCE South 86°11’09” East, continuing across said “Tract Six”, passing the easterly line of said “Tract Six”, the westerly line of aforesaid “Tract Seven”, and crossing aforesaid public use road known as South Coleman Street, a distance of 150.33 feet to a corner;

THENCE in an easterly direction, continuing across said “Tract Seven”, the following:

North 90°00’00” East, a distance of 923.53 feet to the point of curvature of a tangent curve to the right;
Along the arc of said curve to the right, through a central angle of 34°09’35”, having a radius of 895.00 feet, a chord bearing of South 72°55’13” East, a chord distance of 525.73 feet and an arc length of 533.60 feet to the point of tangency of said curve;
South 55°50’25” East, a distance of 56.69 feet to a corner;
South 59°39’16” East, a distance of 150.33 feet to a corner;
South 55°50’25” East, a distance of 125.21 feet to a corner;
North 78°55’07” East, a distance of 13.56 feet to the **POINT OF BEGINNING** and containing 78.508 acres (3,419,790 square feet) of land, more or less.

EXHIBIT "B"

PLANNED DEVELOPMENT STATEMENT OF INTENT & PURPOSE

The purpose of the proposed Planned Development District is to accommodate a mix of office, retail, personal service, residential and community activities by providing four individual but integrated Subdistricts. This will be accomplished through the incorporation of the Planned Development Standards and Design Guidelines contained in Exhibits C and F, respectively. Although the Planned Development Standards provide criteria for development within each distinct Subdistrict, the Standards are formulated in such a manner as to allow each Subdistrict to develop as one integral part of the collective Planned Development.

The Conceptual Development Plan includes vehicular and pedestrian linkages that serve both functional and aesthetic roles. The proposed thoroughfare system has been designed to allow for safe and efficient vehicular circulation internal to the site as well as to connect to the existing thoroughfare system external to the development. Furthermore, focal points and terminuses have been provided within the thoroughfare system and pedestrian linkages to enhance the visual aesthetic of the overall design. Pedestrian scale design elements will also be incorporated into the site design in order to foster high quality street and sidewalk environments.

An essential element to the overall site is the incorporation of an open space system to provide for both active and passive recreational opportunities. The open space system will consist of landscape and hardscape elements such as plazas, greens, trails, pathways and parks for the residents and visitors of the development. These elements within the proposed development will be ultimately located so as to provide recreational opportunities within convenient proximity to as many users as possible.

The standards contained within this Planned Development District will help to achieve the vision for the overall development. These standards have been formulated so as to provide specificity where necessary and provide flexibility to allow for creative design.

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EXHIBIT "C"
PLANNED DEVELOPMENT STANDARDS

1.0 PLANNED DEVELOPMENT GENERAL PROVISIONS

1.1 GENERAL

The purpose of the proposed Planned Development District is to accommodate a mix of office, retail, personal service, residential and community activities to serve the needs of the new residents as well as the existing residents in the general area. Terms used in this ordinance shall have the same definition as given in Town of Prosper Zoning Ordinance (Ordinance 05-20), in effect at the time of adoption of this Planned Development Ordinance, unless otherwise defined herein.

1.2 SUBDISTRICTS DEFINED

1.3.1 ***Subdistrict 1—Regional Retail.*** Subdistrict 1, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing for the needs of the community by facilitating the development of regional-serving retail, personal service, and office uses.

1.3.2 ***Subdistrict 2—Lifestyle Center.*** Subdistrict 2, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a compact, neighborhood and pedestrian scale mixture of office, retail, personal service, residential and community activities on single or contiguous building sites.

1.3.3 ***Subdistrict 3—Downtown Center.*** Subdistrict 3, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing an active living and working community benefiting and enhancing the existing downtown area located on the north side of First Street.

1.3.4 ***Subdistrict 4—Residential Neighborhood.*** Subdistrict 4, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a planned residential community to serve the needs of the Town by facilitating a range of housing opportunities (e.g., Single-family detached).

2.0 SUBDISTRICT 1—REGIONAL RETAIL

2.1 GENERAL PURPOSE AND DESCRIPTION

The *Regional Retail* Subdistrict will serve the purpose of providing for the needs of the community by facilitating the development of regional-serving retail, personal service, and office uses. The development standards included in this Subdistrict are generally consistent with the Retail, Commercial and Office zoning districts in the existing Town of Prosper Zoning Ordinance. The Design Guidelines and architectural standards are intended to define the design theme for this Subdistrict as well as to integrate with adjacent Subdistricts. The uses that will be permitted in this Subdistrict will assist in meeting the intent of providing a regional retail district, personal service, hotel and office uses. Residential uses are not anticipated in this Subdistrict.

2.2 SITE CRITERIA

2.2.1 Property Development Regulations. The proposed land uses shall conform to the property development regulations in Tables 2-1 and 2-2.

Table 2-1. Size of Yards

Land Use[1]	Front	Side	Corner	Rear
Retail	30 ft.	(2)	30 ft.	(2)
Commercial	30 ft.	(2)	30 ft.	(2)
Office	30 ft.	(2)	30 ft.	(2)

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Minimum setback of 15 feet adjacent to a nonresidential district. Minimum setback of 40 feet for a one-story building and 60 feet for a two-story building adjacent to a residential district. Setback may be eliminated for attached buildings.

Table 2-2. Size of Lots and Lot Coverage

Land Use[1]	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth[2]	Maximum Lot Coverage	Maximum FAR
Retail	10,000 sq. ft.	100 ft.	100 ft.	40%[3]	0.4:1.0
Commercial	10,000 sq. ft.	100 ft.	100 ft.	50%[3]	0.5:1.0
Office	7,000 sq. ft.	70 ft.	100 ft.	50%[3]	1.5:1.0

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Mutual access agreements may be allowed to satisfy legal frontage requirements for individual lots which do not have legal frontage requirements along a public right of way with Town staff approval (Director of Development Services).
3. Includes main buildings. Parking structures and surface parking facilities shall be excluded from the coverage computations.

2.2.2 Parking. Refer to Section 6.3 of this Ordinance for the general requirements pertaining to parking standards.

2.3 BUILDING CRITERIA

2.3.1 ***Maximum Building Height.*** All structures in Subdistrict 1 shall conform to the building height requirements set forth in Table 2-3 below. Building height shall be measured to the highest point of a roof surface.

Table 2-3. Maximum Building Height

Building Type	Height (1)	# Stories
Non-Residential	40 ft.	2

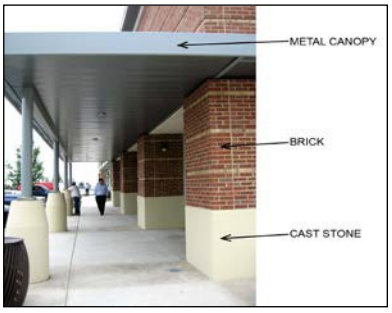
Notes

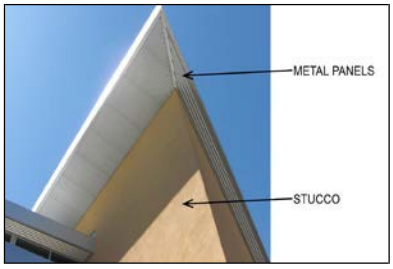
1. Non-habitable elements integral to the design of buildings shall be allowed to exceed the height limit in accordance with Ordinance Chapter 4 Section 9.5.

2.3.2 ***Maximum Building Length.*** There shall be no maximum length for buildings located within Subdistrict 1. However, all buildings shall be required to conform to the Building Articulation standards set forth in the Town's zoning ordinance.

2.3.3 ***Building Materials.*** Exterior materials used in the construction of buildings shall comply with the following standards.

a. All building façades shall be architecturally finished with 100% masonry with an allowance for up to 15% secondary materials. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, granite, marble, architectural concrete block, textured and painted concrete tilt-wall. Textured and painted concrete tilt-wall shall be limited to 50% on the front façade and 75% on the side façades. Windows, doors and accent materials shall be excluded from the façade area for the purposes of calculating percentages.





b. No single material shall exceed more than eighty (80) percent of an elevation area. A minimum of twenty-five (25) percent of the front and side façades shall be natural or manufactured stone. A minimum of twenty (20) percent of the rear façade of any building along U.S. Highway 380 shall be natural or manufactured stone; all other rear facades facing a public right-of-way shall be a minimum of ten (10) percent natural or manufactured stone unless a landscape screen consisting of a double row of evergreen canopy trees is provided along said right-of-way.

c. Secondary building materials include EIFS as a cornice, band, medallion, etc., quality wood such as, cedar, redwood, ipe, etc. (for example), tile, ornamental metal, or stucco. Other secondary materials not specifically noted herein may be allowed only if approved by the Town. EIFS and stucco is not allowed on the first nine (9') feet of a structure.

2.3.4 ***Window Areas.*** Shall not exceed 80% of any façade area for buildings located in Subdistrict 1. Windows shall have a maximum exterior visible reflectivity of 10%.

2.3.5 ***Building Entries.*** Building entries shall be clearly defined by incorporating distinguishing architectural features, awnings, canopies, lighting, signage or building articulation.

2.3.6 ***Awnings, Canopies, Arcades and Overhangs.*** These elements shall be designed and materials shall be used to complement the building design. They should be located to be as functional as possible, and with consideration to landscape areas that may be impacted by their placement.

2.3.7 ***Above-Grade Structured Parking.*** When structured garages are provided, sufficient access from the right-of-way, or fire lane and access easements shall be provided. Entrances and exits shall be clearly marked for vehicles as well as pedestrians.

The exterior façade of the parking structure if visible from the street, shall incorporate similar design elements and finishes as the surrounding buildings in order to minimize the visual impact and shall be designed to minimize visibility from the street.

Parking structures should be oriented in a manner to avoid a general site line from the intersection of Preston/US 380 unless otherwise approved by the Town.

2.3.8 Area A-2. The following specific criteria shall apply to development within Area A-2 as depicted on Exhibit A-1.

1. The support columns for the covered parking structures shall be permitted the use of metal.
2. The required parking ratio for retail businesses shall apply to the net retail area only.
3. Facade Plans shall be approved by the Town Council, subject to a recommendation by the Planning & Zoning Commission.
4. For instances where provisions of this section (Section 2.3) conflict with the conceptual elevations found in Section 2.5.2, the conceptual elevations shall govern.

2.4 PERMITTED USES

2.4.1 General. The following general conditions shall apply to Subdistrict 1.

a. Big Box uses are permitted by right within Subdistrict 1.

2.4.2 Permitted Use Matrix. The permitted uses within Subdistrict 1 shall be in accordance with the Permitted Use Matrix in Section 6.6 of this Ordinance.

2.5 CONCEPTUAL RENDERING

The following conceptual renderings shall be representative of the architectural style, color and material selections depicted therein.

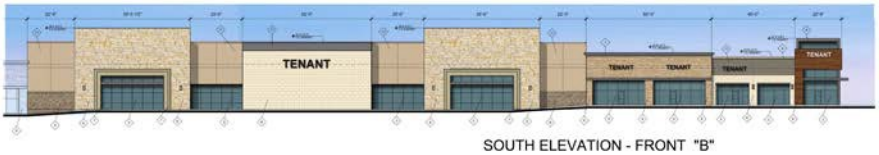
la Manna
The Gates of
PROSPER

SPORT STORE

CASE
PROMO
BOUTIQUE

2.5.1 The following conceptual renderings shall be representative of the architectural style, color and material selections in the location identified in Exhibit A-1.

SOUTH ELEVATION - FRONT "A"

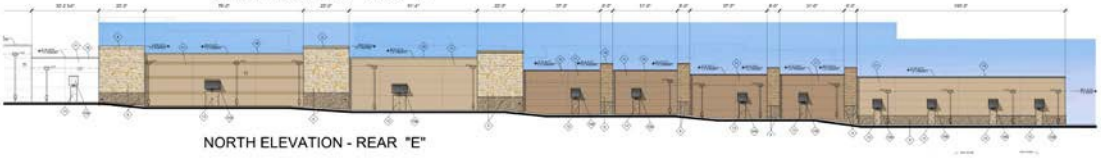


SOUTH ELEVATION - FRONT "B"

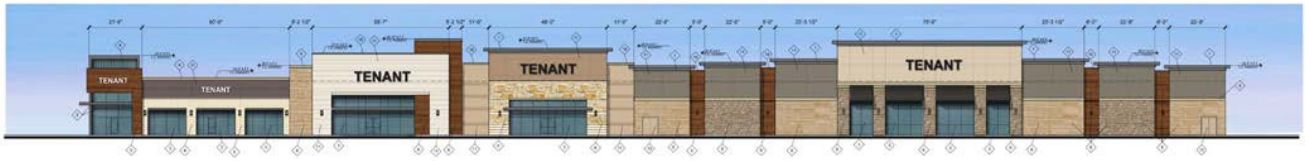
EAST ELEVATION - FRONT "C"

NORTH ELEVATION - REAR "D"

WEST ELEVATION - SIDE "F"

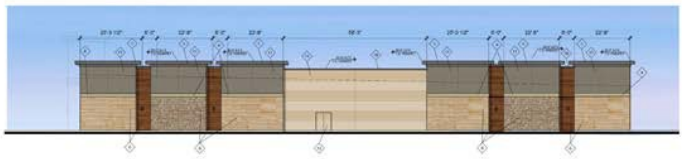


NORTH ELEVATION - REAR "E"

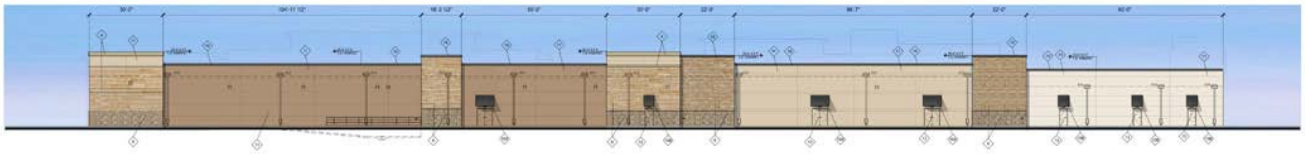


EAST ELEVATION - FRONT "G"

SOUTH ELEVATION - FRONT "J"

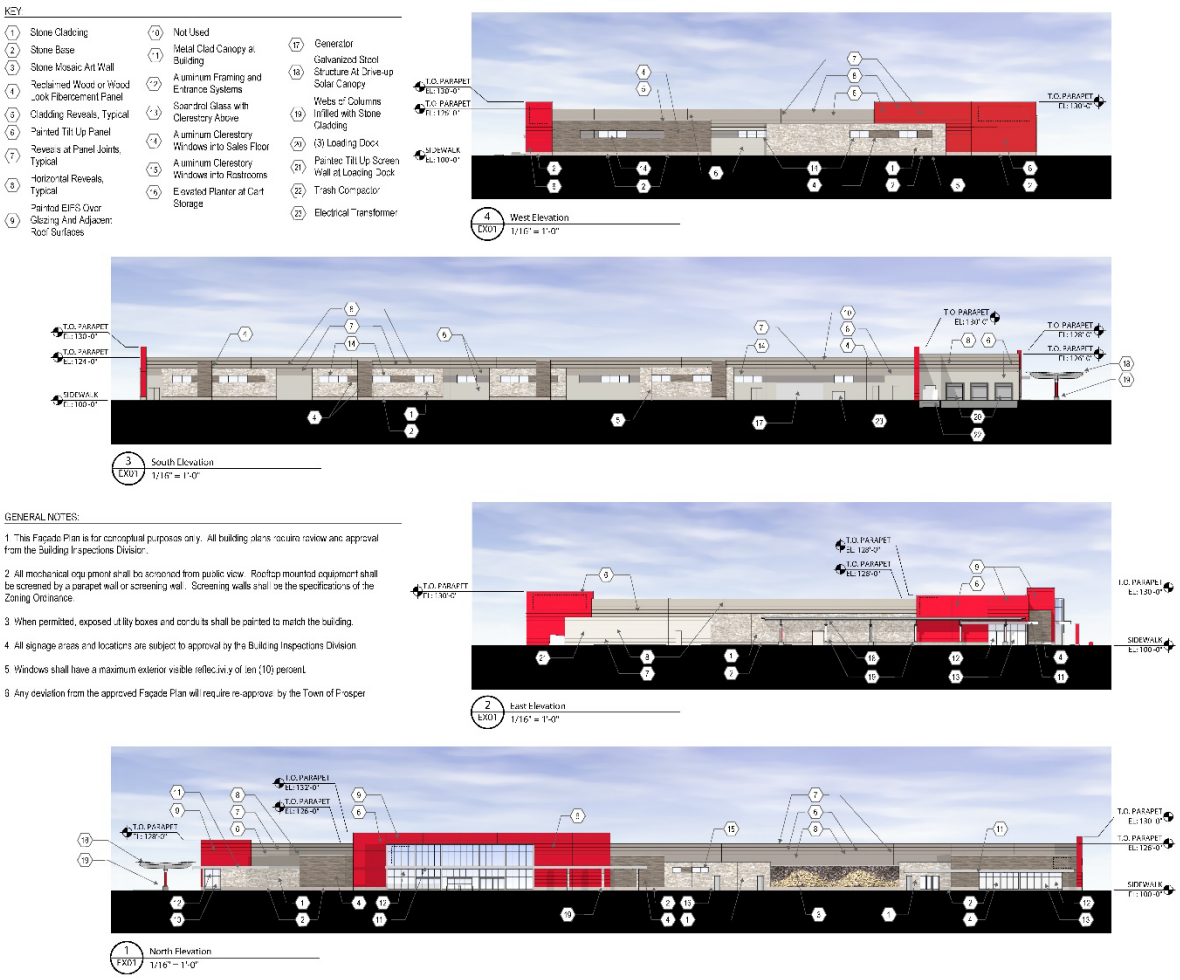


NORTH ELEVATION - SIDE "H"



WEST ELEVATION - REAR "I"

2.5.2 The following conceptual elevations and renderings shall be representative of the architectural style, colors and material selections and placement for the building located within Area A-2, as depicted on Exhibit A-1.



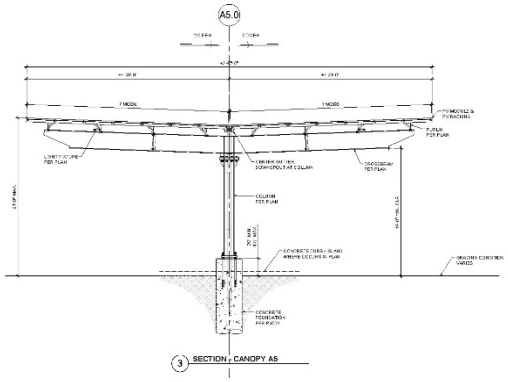
View from the Northwest

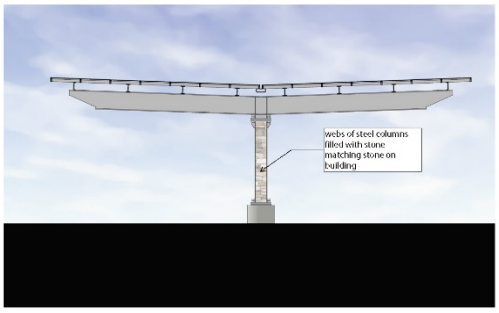
View from the North

Birds Eye View from the Northwest

View from the North East

View from the West


A5.01
SECTION - CANOPY A5


webs of steel columns
filled with stone
matching stone on
building

3.0 SUBDISTRICT 2—LIFESTYLE CENTER

3.1 GENERAL PURPOSE AND DESCRIPTION

The *Life Style* Subdistrict will serve the purpose of providing a compact, neighborhood and pedestrian-scale mixture of office, retail, personal service, residential and community activities on single or contiguous building sites. The development standards for non-residential and mixed-use development included in this Subdistrict are generally consistent with the Retail and Office zoning districts in the existing Town of Prosper Zoning Ordinance, while the development standards for residential development are generally consistent with the Townhome and Multifamily zoning districts in the existing Town of Prosper Zoning Ordinance. The Design Guidelines and architectural standards are intended to define the "Town Center" design theme for this Subdistrict by providing opportunities for mixed-use development that includes both vertical and/or horizontal integration. Urban design elements will be incorporated into the construction of the multifamily developments within this project. Buildings will be designed to provide active street-fronts that encourage pedestrian activity. The buildings will be arranged such that the viewing of any surface, and/or structured parking is minimal from the surrounding public streets. These developments will be amenitized with carefully arranged, high-quality open spaces to provide a maximum number of premium units while also providing a high level of connectivity to the overall development. The provision of centrally located open space elements coupled with the proposed development standards will allow for a pedestrian-friendly community. This lifestyle center is intended to be unique in nature to create an image which will encourage a regional draw from throughout the Metroplex. It may also include entertainment type uses as well as Big Box users which would attract patrons from other Cities in and around the Metroplex.

3.2 SITE CRITERIA

3.2.1 Property Development Regulations. The proposed land uses and housing types shall conform to the property development regulations in this Section. The proposed land uses within Subdistrict 2 may utilize the Urban Standards in Tables 3-3, 3-4 and 3-5. In addition, where Urban Standards are utilized, these standards shall apply to an entire block length so as not to disrupt the continuity of the streetscape.

Table 3-1. Size of Yards

Land Use/Housing Type[1]	Minimum Front[5]	Minimum Side	Minimum Corner[5]	Minimum Rear
Retail	5 ft.	(2)	5 ft.	(2)
Commercial	5 ft.	(2)	5 ft.	(2)
Office	5 ft.	(2)	5 ft.	(2)
Mixed Use	5 ft.	(2)	5 ft.	(2)
Townhome[3]	5 ft.	5 ft.[4]	5 ft.	20 ft.
Multifamily, Urban Living	5 ft.	(2,4)	5 ft.	(2)

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Minimum setback of 10 feet adjacent to a nonresidential district. Minimum setback of 25 feet adjacent to a residential district. Setback may be eliminated for attached buildings.
3. Vehicular access for Townhomes shall be provided at the rear of the unit via alleys
4. A minimum building separation of 15 feet is required between buildings. Zero feet

between individual attached units.

5. Additional area needed for sidewalks, outdoor dining, landscaping, etc. may be provided within public ROW and/or easements of the adjacent roadways upon approval by Town staff.

Table 3-2. Size of Lots and Lot Coverage—Non-Residential & Mixed Use

Land Use[1]	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum FAR
Retail	10,000 sq. ft.	100 ft.	100 ft.	90%[2]	0.6:1.0
Commercial	10,000 sq. ft.	100 ft.	100 ft.	90%[2]	3.0:1.0
Office	7,000 sq. ft.	70 ft.	100 ft.	90%[2]	5.0:1.0
Mixed Use (Vertical)	10,000 sq. ft.	100 ft.	100 ft.	100%[2]	5.0:1.0

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
2. Includes main buildings. Parking structures and surface parking facilities shall be excluded from the coverage computations. Open space requirements can be accounted for as per section 6.2.2.

Table 3-3. Size of Lots and Lot Coverage—Residential

Housing Type	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum Density
Townhome	2,500 sq. ft.	20 ft.	90 ft.	90%	10 du/ac
Multifamily, Urban Living[2]	10,000 sq. ft.	80 ft.	100 ft.	90%[1]	N/A

Notes

1. Includes main building, accessory buildings and structured parking facilities.

3.2.2 Minimum Dwelling Area.

a. Townhome. The minimum dwelling area shall be 1,500 square feet and minimum 2 story.

b. Multifamily. The minimum dwelling area for a one-bedroom unit shall be 700 square feet; a two bedroom unit shall be 850 square feet. Additional bedrooms shall provide an additional 150 square feet per bedroom.

3.2.3 Maximum Residential Dwelling Units. The maximum number of multi-family residential dwelling units allowed within Subdistrict 2 shall be 600 units. However, the maximum allowed number of multifamily units in this subdistrict shall be reduced by the number of multifamily dwelling units constructed in any other subdistrict, such that the maximum allowable number of multifamily units for this Planned Development District does not exceed 600 units. The maximum number of townhome dwelling units allowed within Subdistrict 2 shall be 150 units. However, the maximum allowed number of townhome units in this subdistrict shall be reduced by the number of townhome units constructed in any other subdistrict, such that the maximum allowable number of townhome units for this Planned Development District does not exceed 150 units.

3.2.4 Location Requirements for Multifamily and Townhome Construction. Apartments shall be constructed in (i) that portion of Subdistrict 2 immediately east of the BNSF railroad line, south of Lovers Lane, north of the Lifestyle Center and west of the proposed north-south greenbelt, (ii) the area bordered on the north by Lovers Lane, on the east by Coleman Street, on the south by the Lifestyle Center, and on the west by the proposed north-south greenbelt, and (iii) that portion of Subdistrict 3 immediately east of the BNSF railroad line, north of Lovers Lane and west of the proposed north-south greenbelt. Townhomes may be constructed in (i) the same locations as the apartments referenced herein, (ii) adjacent to First Street in Subdistrict 3 and (iii) that area west of Coleman Street, north of Lovers Lane and east of the proposed north-south greenbelt.

3.2.5 Timing Requirements for Multifamily and Townhome Construction. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 300,000 square feet of retail development the developer may construct up to 300 multifamily units and up to 150 Townhome units. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 600,000 square feet of retail the developer may construct up to a total of 600 multifamily units.

3.2.6 Parking. Refer to Section 6.3 of this Ordinance for the general requirements pertaining to parking standards.

3.3 BUILDING CRITERIA

3.3.1 Maximum Building Height. All structures in Subdistrict 2 shall conform to the building height requirements set forth in Table 3-7 below. Building height shall be measured to the highest point of a roof surface.

Table 3-6. Maximum Building Height

Building Type	Height [(1)]	# Stories
Non-Residential [(2)]	80 ft.	5
Hotel	145 ft.	12
Office	145 ft.	12
Mixed Use (Vertical)	80 ft.	5
Townhome	40 ft.	3[(6)]
Multifamily, Urban Living[(3)]	80 ft.	5[(4)]
Parking Structures[(5)]	80 ft.	4

Notes

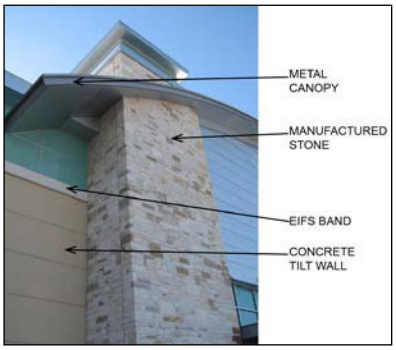
1. Non-habitable elements integral to the design of buildings shall be allowed to exceed the height limit in accordance with the Town's Zoning Ordinance Chapter 4, Section 9.5.
2. Includes all non-residential buildings except hotel, office buildings and mixed use. Hospitals will have an allowed height of 12 stories.
3. Refer to Section 8.0 for definition of building type.
4. No structure shall exceed two stories or 40' when located 150 feet or less from a single-family zoning district.
5. Main parking structure should not exceed the height of adjacent building it is serving. The maximum allowed height is reduced to 40' if predominately visible to public ROW unless otherwise approved by the Town.
6. The minimum height of a townhome is 2 stories.

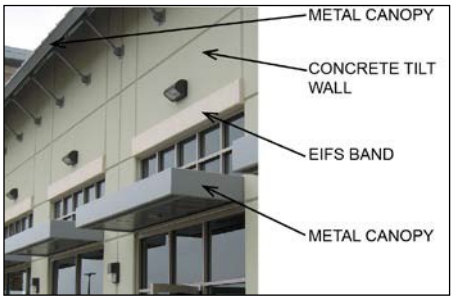
3.3.2 ***Maximum Building Length.*** There shall be no maximum length for buildings located within Subdistrict 2. However, all buildings shall be required to conform to the Building Articulation standards set forth in Section 3.3.7.

3.3.3 ***Building Materials.*** Exterior materials used in the construction of buildings shall comply with the following standards.

a. Non-Residential and Multifamily building types shall comply with the following standards:

1. All building façades shall be architecturally finished with 100% masonry with an allowance for up to 10% secondary materials. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, granite, marble, architectural concrete block, and textured and painted concrete tilt-wall (non-residential building types only). Stucco may be used on areas of facades that are at least nine (9) feet above grade on non-residential buildings and on the third floor and above for multifamily buildings. Textured and painted concrete tiltwall shall be limited to 50% on the front façade and 75% on the side façades. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.





2. The front and side facades of all multifamily buildings shall be finished with a minimum twenty (20) percent natural or manufactured stone or integral color split-faced block.

3. The front and side facades of all non-residential buildings shall be finished with a minimum of twenty-five (25) percent natural or manufactured stone.

4. A minimum of twenty (20) percent of the rear façade of any building along U.S. Highway 380 shall be natural or manufactured stone. All other rear facades facing a public right-of-way shall be a minimum of ten (10) percent natural or manufactured stone unless a landscape screen consisting of a double row of evergreen canopy trees is provided along said right-of-way.

5. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.

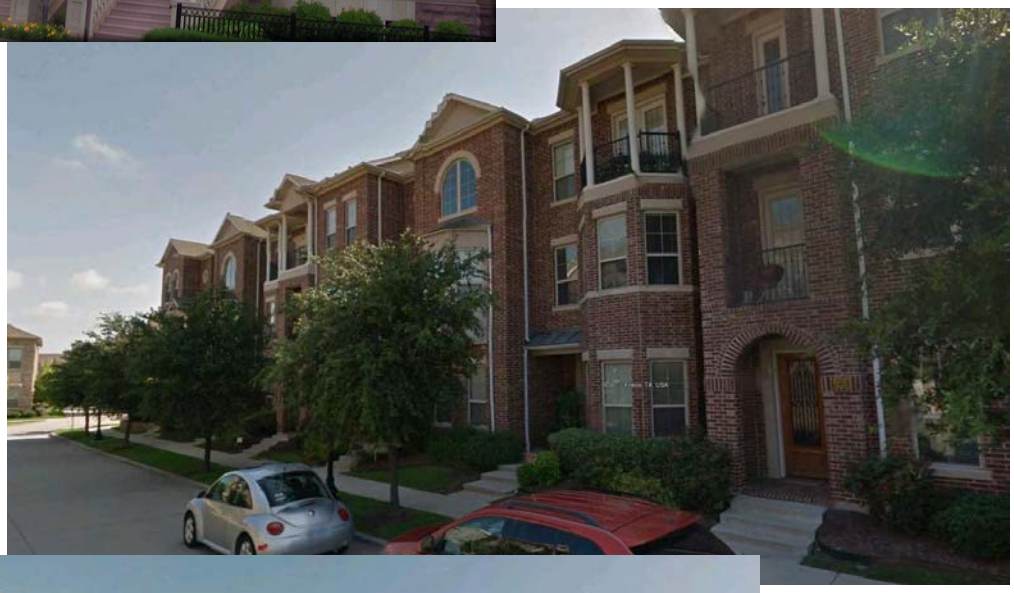
b. Townhome building types shall comply with the following standards.

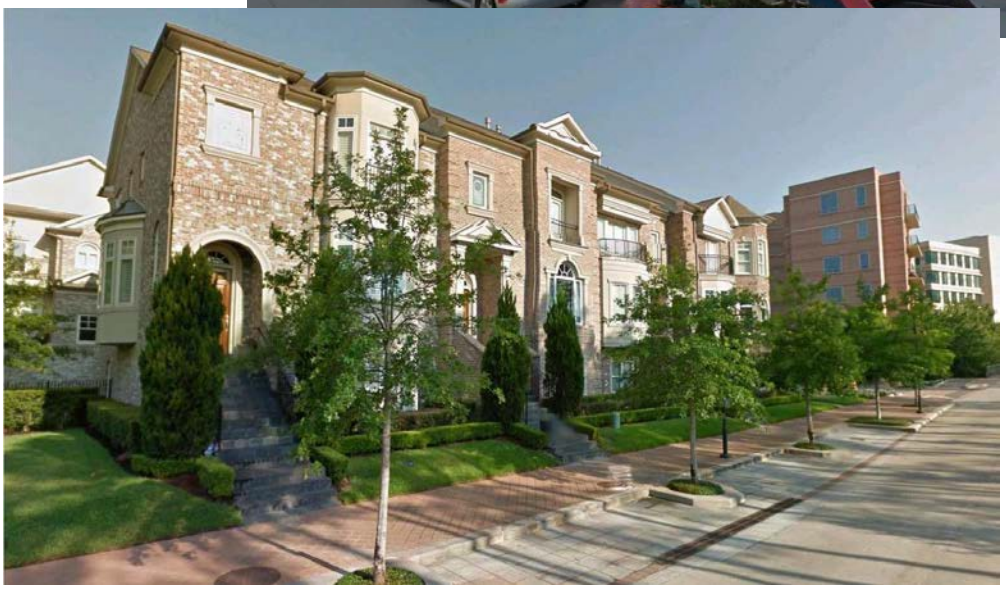
1. The exterior facades shall be constructed at 100% masonry. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, stucco (second floor or above), and cementitious fiber board (not to exceed 50% of 2nd story, in a different vertical plane and above of any façade area). Windows, doors and dormers shall be excluded from the façade area for the purpose of calculating primary building materials.

2. Townhomes shall be a minimum of two stories.

3. Each townhome unit shall have an attached garage. Garages shall open to the rear of the townhome and shall not face the public right-of-way.

Conceptual Photos – The following photographs shall be representative of the architectural style, color and material selections depicted therein.





3.3.4 ***Window Areas.*** Shall not exceed 80% of any façade area for buildings located in Subdistrict 2. Windows shall have a maximum exterior visible reflectivity of 10%.

3.3.5 ***Building Entries.*** Building entries shall be clearly defined by incorporating distinguishing architectural features, awnings, canopies, lighting, signage or building articulation.

3.3.6 ***Awnings, Canopies, Arcades and Overhangs.*** These elements shall be designed and materials shall be used to complement the building design. They should be located to be as functional as possible, and with consideration to landscape areas that may be impacted by their placement.

3.3.7 ***Building Articulation.***

a. Town Center. The Town Center is envisioned as a vibrant mixed-use area at the heart of Subdistrict 2, combining retail, restaurant, entertainment, living and working into a pedestrian oriented destination not only for the "Gates" neighborhood but also for the surrounding communities. To create an intimate pedestrian environment, buildings should be designed to incorporate articulation both horizontally and vertically at intervals of not more than 30 feet. Acceptable forms of articulation shall include the following:

1. Canopies, awnings, or porticos
2. Wall recesses / projections
3. Arcades
4. Arches

5. Display windows
6. Architectural details, such as tile work and moldings, integrated into the building façade
7. Articulated ground floor levels or base
8. Articulated cornice line
9. Integrated planters or wing walls that incorporate landscape and sitting areas
10. Offsets, reveals or projecting rib used to express architectural or structural bays
11. Varied roof heights

b. Large Peripheral Buildings. All nonresidential buildings greater than 50,000 sf with facades that face a street, have an entrance, or are highly visible from roads or parking fields shall incorporate changes in wall plane with a depth of at least 6 feet, both horizontally and vertically, at intervals of not more than 100 feet.

   Building façades that do not face a street or are not visible from roads or parking fields shall incorporate one of the following:

   1. Repeating pattern of wall recesses and projections, pilasters, offsets or reveals.
   2. Changes of color, texture or material either horizontally or vertically at intervals of not more than 60 feet.

3.3.8 Above-Grade Structured Parking. When structured garages are provided, sufficient access from the right-of-way or fire lane and access easement shall be provided. Entrances and exits shall be clearly marked for vehicles as well as pedestrians. The exterior façade of the parking structure, if visible from the street, shall incorporate similar design elements and finishes as the surrounding buildings in order to minimize the visual impact and shall be designed to minimize visibility from the street.

Parking structures should be oriented in a manner to avoid a general site line from the intersection of Preston/US 380 unless otherwise approved by the Town.

3.3.9 Projections into Setbacks and/or Rights-of-Way.

a. The following projections shall be permitted into a building setback or right-of-way for non-residential or mixed-use buildings only.

   1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to 12 inches beyond a

building face or architectural projection into the setback, but not the right-of-way.

2. Business signs and roof eaves may project up to 36 inches beyond the building face or architectural projection into the setback, but not the right-of-way.
3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed; may project up to 48 inches beyond the building face into the setback, but not the right-of-way.
4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the right-of-way to be within eight inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than 24 inches from the back of curb.
5. Below-grade footings approved in conjunction with building permits.

Projections as described above shall only be permitted into a building setback or right-of-way provided the following:

1. No projection shall be permitted into a building setback or right-of-way of Preston Road, Lovers Lane, Coleman Street or US Highway 380, or any other major or minor thoroughfare.
2. Such projections do not extend over the traveled portion of a roadway.
3. The property owner has assumed liability related to such projections
4. The property owner shall maintain such projection in a safe and non-injurious manner.

b. Where balconies, awnings, stoops and front porches are provided for Townhome and multifamily uses, they shall be permitted to encroach a maximum of five feet into the front setback line.

3.4 MULTIFAMILY CRITERIA

Multifamily construction within this development shall conform to the following urban-style criteria:

1. A minimum of forty (40) percent of the units will have private garages.
2. On-street parallel parking along public and private streets other than major or minor thoroughfares is required and is allowed to count towards the required parking for the adjacent development.
3. All on-site surface parking will be located towards the interior of the site to minimize viewing from surrounding public streets.
4. Tandem parking (ie. One parking space behind either a garage or carport parking space) shall be allowed and considered in the calculation of the required parking.
5. Front porches and/or stoops are required on facades which front public streets.
6. Sidewalks with a minimum clear width of 6’ shall be constructed along all public streets adjacent to multifamily developments. Clear width shall be increased to 7’ adjacent to vertical mixed-use developments.
7. A buffer region shall be established along all streets having on-street parking. The buffer regions shall have a minimum width of six (6) feet and shall be continuous and located adjacent to the curb. This region shall be planted with street trees located a minimum of four (4) feet from the curb at an average spacing of not more than thirty (30) feet on center. Street

trees shall be a minimum of three (3) inch caliper when planted. Root barriers shall be used in conjunction with all street trees.

8. Street furniture consisting of a minimum of a bench and a waste receptacle shall be located within the buffer area in at least one location along each block.

Conceptual Photographs – The following photographs shall be representative of the architectural style, color and material selections depicted therein.

3.5 PERMITTED USES

3.5.1 ***General.*** The following general conditions shall apply to Subdistrict 2.

a. Big Box uses are permitted by right within Subdistrict 2.

3.5.2 ***Permitted Use Matrix.*** The permitted uses within Subdistrict 2 shall be in accordance with the Permitted Use Matrix in Section 6.6 of this Ordinance.

4.0 SUBDISTRICT 3—DOWNTOWN CENTER

4.1 GENERAL PURPOSE AND DESCRIPTION

The *Downtown Center* Subdistrict will serve the purpose of providing an active living and working community benefiting from its proximity to the existing town core and the planned Lifestyle and/or Regional Retail Centers to the south. The development standards for non-residential and mixed-use development included in this Subdistrict are generally consistent with the Retail, Commercial and Office zoning districts in the existing Town of Prosper Zoning Ordinance, while the development standards for residential development are generally consistent with the Townhome and Multifamily zoning districts in the existing Town of Prosper Zoning Ordinance and/or the Life Style Standards outline herein. The Design Guidelines and architectural standards are intended to define the "Downtown Center" design theme for this Subdistrict by providing opportunities to leverage from the entertainment, office and/or retail venues located within and/or adjacent to this Subdistrict. Open space elements will be located so as to provide a central focal element for this Subdistrict, along with a proposed new Town Hall/Governmental Center. The uses that will be permitted in this Subdistrict will allow for a flexibility of options including medical campus, office, civic activities, and complementary residential housing. This area could also be developed as a more traditional business park/governmental center if proven to better fit the market demands for such a use.

4.2 SITE CRITERIA

4.2.1 Property Development Regulations. The proposed land uses and housing types shall conform to the property development regulations in this Section. The proposed land uses within Subdistrict 3 may utilize the Traditional Standards in Tables 4-1, and 4-2 or the Urban Standards in Tables 4-3, 4-4 and 4-5. Where Urban Standards are utilized, these standards shall apply to an entire block length so as not to disrupt the continuity of the streetscape.

Table 4-1. Size of Yards

Land Use/Housing Type[1]	Minimum Front[6]	Minimum Side[4]	Minimum Corner[6]	Minimum Rear
Retail	5 ft.	(2)	5 ft.	(2)
Commercial	5 ft.	(2)	5 ft.	(2)
Office	5 ft.	(2)	5 ft.	(2)
Mixed Use (Vertical)	5 ft.	(2)	5 ft.	(2)
Townhome	20 ft.[3]	10 ft.	15 ft.	20 ft.[5]

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed Use Land Uses.
2. Minimum setback of 10 feet adjacent to a nonresidential district; Minimum setback of 15 feet adjacent to a residential district; Setback may be eliminated for attached buildings.
3. The front setback may be reduced to 10 feet where vehicular access is provided via a rear alley.
4. Side setback shall be zero feet for interior units with a minimum building separation of 10 feet between buildings without openings (e.g., windows) and 15 feet between buildings with openings.
5. The rear setback may be reduced to 10 feet where vehicular access is provided at the front of the unit.

6. Additional area needed for sidewalks, outdoor dining, landscaping, etc. may be provided within public ROW and/or easements of the adjacent roadways upon approval of Town Staff.

Table 4-2. Size of Lots and Lot Coverage—Non-Residential & Mixed Use (Vertical)

Land Use[1]	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum FAR
Retail	10,000 sq. ft.	70 ft.	100 ft.	50%[2]	0.6:1.0
Commercial	10,000 sq. ft.	70 ft.	100 ft.	50%[2]	3.0:1.0
Office	7,000 sq. ft.	70 ft.	100 ft.	60%[2]	5.0:1.0
Mixed Use (Vertical)	10,000 sq. ft.	70 ft.	100 ft.	100%[2]	5.0:1.0

Notes

1. Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed Use Land Uses.
2. Includes main buildings. Parking structures and surface parking facilities shall be excluded from the coverage computations.
3. Structural parking facilities and surface parking lots shall not be included in lot coverage calculations.

Table 4-3. Size of Yards (Urban Standards)

Land Use/Housing Type	Minimum Front	Minimum Side	Minimum Corner	Minimum Rear
Townhome[2]	5 ft.	5 ft.[3]	5 ft.	20 ft.
Multifamily, Urban Living	5 ft.	(1,3)	5 ft.	(1)

Notes

1. Minimum setback of 10 feet adjacent to a nonresidential district. Minimum setback of 25 feet adjacent to a residential district. Setback may be eliminated for attached buildings.
2. Vehicular access for Townhomes shall be provided at the rear of the unit via alleys.
   - All garage doors are to be cedar/wood clad or equivalent. Metal garage doors are not permitted.
3. A minimum building separation of 15 feet is required.

Table 4-4. Size of Lots and Lot Coverage—Residential

Housing Type	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum Density
Townhome	2,500 sq. ft.	20 ft.	90 ft.	90%	10 du/ac
Multifamily[2]	10,000 sq. ft.	80 ft.	100 ft.	90%[1]	N/A

Notes

1. Includes main building, accessory buildings and structured parking facilities.

4.2.2 Minimum Dwelling Area.

a. Townhome. The minimum dwelling area shall be 1,500 square feet and a minimum 2 story.

b. Multifamily. The minimum dwelling area for a one-bedroom unit shall be 700 square feet; a two bedroom unit shall be 850 square feet. Additional bedrooms shall provide an additional 150 square feet per bedroom.

4.2.3 Maximum Residential Dwelling Units. The maximum number of multi-family residential dwelling units allowed within Subdistrict 3 shall be 300 units. However, the total number of multifamily units for all Subdistricts may not exceed 600 units. The maximum number of Townhome units in Subdistrict 3 shall be 150 units. However, the maximum combined number of Townhome units in all subdistricts may not exceed 150 units. Any residential units not developed within Subdistrict 3 shall be allowed to be developed in Subdistrict 2 provided the density standards for each Housing Type (See Tables 3-3 and 3-5) for Subdistrict 2 are followed.

4.2.4 Location Requirements for Multifamily and Townhome Construction. Apartments shall be constructed in (i) that portion of Subdistrict 2 immediately east of the BNSF railroad line, south of Lovers Lane, north of the Lifestyle Center and west of the proposed north-south greenbelt, (ii) the area bordered on the north by Lovers Lane, on the east by Coleman Street, on the south by the Lifestyle Center, and on the west by the proposed north-south greenbelt, and (iii) that portion of Subdistrict 3 immediately east of the BNSF railroad line, north of Lovers Lane and west of the proposed north-south greenbelt. Townhomes may be constructed in (i) the same locations as the apartments referenced herein, (ii) adjacent to First Street in Subdistrict 3 and (iii) that area west of Coleman Street, north of Lovers Lane and east of the proposed north-south greenbelt.

4.2.5 Timing Requirements for Multifamily and Townhome Construction. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 300,000 square feet of retail development the developer may construct up to 300 multifamily units and up to 150 Townhome units. Upon the issuance by the Town of tenant Certificates of Occupancy for at least 600,000 square feet of retail the developer may construct up to a total of 600 multifamily units.

4.2.6 Parking. Refer to Section 6.3 of this Ordinance for the general requirements pertaining to parking standards.

4.3 BUILDING CRITERIA

4.3.1 Maximum Building Height. All structures in Subdistrict 3 shall conform to the building height requirements set forth in Table 4-5 below. Building height shall be measured to the highest point of a roof surface.

Table 4-5. Maximum Building Height [7]

Building Type	Height [1]	# Stories
Non-Residential [2]	60 ft.	4
Hotel	80 ft.	5
Office	100 ft.	8
Hospital	100 ft.	8
Townhome	40 ft.	3[6]
Multifamily, Urban Living[3]	80 ft.	5[4]
Parking Structures[5]	80 ft.	4

Notes

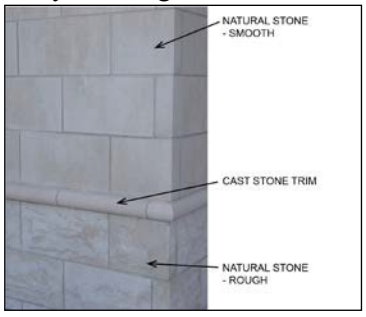
1. Non-habitable elements integral to the design of buildings shall be allowed to exceed the height limit by a maximum of 20 feet.
2. Does not include hospitals, hotels, office, or medical office buildings.
3. Refer to Section 8.0 for definition of building type.
4. No structure shall exceed two stories or 40' when located 150 feet or less from a single-family zoning district.
5. Main parking structure should not exceed the height of adjacent building it is serving. The maximum allowed height is reduced to 40' if generally visible to public ROW.
6. The minimum height of a townhome is two-story.
7. No structure within 750' of First Street can exceed 4-stories in height (60 feet max.).

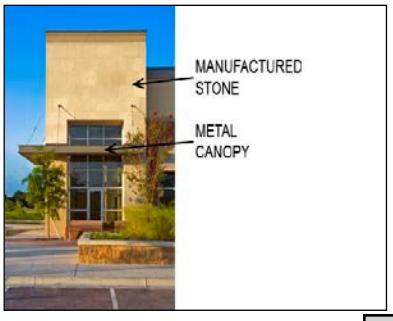
4.3.2 ***Maximum Building Length.*** There shall be no maximum length for buildings located within Subdistrict 3. However, all buildings shall be required to conform to the Building Articulation standards set forth in the Town's zoning ordinance.

4.3.3 ***Building Materials.*** Exterior materials used in the construction of buildings shall comply with the following standards.

a. Non-Residential and multifamily building types shall comply with the following standards:

1. All building façades shall be architecturally finished with 100% masonry with an allowance for up to 10% secondary materials. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, granite, marble, architectural concrete block, and textured and painted concrete tilt-wall (non-residential building types only). Stucco may be used on areas of facades that are at least nine (9) feet above grade on non-residential buildings and on the third floor and above for multifamily buildings. Textured and painted concrete tiltwall shall be limited to 50% on the front façade and 75% on side façades. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.





2. The front and side facades of all multifamily buildings shall be finished with a minimum twenty (20) percent natural or manufactured stone or integral color split-faced block.

3. The front and side facades of all non-residential buildings shall be finished with a minimum of twenty-five (25) percent natural or manufactured stone. The rear façade of any non-residential building facing a public right-of-way shall be finished with a minimum of ten (10) percent natural or manufactured stone unless a landscape screen consisting of a double row of evergreen canopy trees is provided along said right-of-way.

4. Windows, doors, porches, gables, balconies and accent materials shall be excluded from the façade area for the purposes of calculating primary building materials.

5. All multifamily criteria and conceptual photos in section 3.4 of this ordinance also applies in this subdistrict.

b. Townhome building types shall comply with the following standards.

1. The exterior facades shall be constructed of 100% masonry. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, stucco (second floor and above), and cementicious fiber board (not to exceed 50% of 2nd story and above of any façade area). Windows, doors, porches, columns and dormers shall be excluded from the façade area for the purpose of calculating primary building materials.

2. Townhomes shall be a minimum of two stories.

3. Each townhome unit shall have an attached garage. Garages shall open to the rear of the townhome and shall not face the public right-of-way.

Conceptual Photos – The following photographs shall be representative of the architectural style, color and material selections depicted therein.

4.3.4 ***Window Areas.*** There shall not exceed 80% of any façade area for buildings located in Subdistrict 3. Windows shall have a maximum exterior visible reflectivity of 10%, unless otherwise approved by the Director of Development Services or his/her designee.

4.3.5 ***Building Entries.*** Building entries shall be clearly defined by incorporating distinguishing architectural features, awnings, canopies, lighting, signage or building articulation.

4.3.6 ***Awnings, Canopies, Arcades and Overhangs.*** These elements shall be designed and materials shall be used to complement the building design. They should be located to be as functional as possible, and with consideration to landscape areas that may be impacted by their placement.

4.3.7 ***Above-Grade Structured Parking.*** When structured garages are provided, sufficient access from the right-of-way shall be provided. Entrances and exits shall be clearly marked for vehicles as well as pedestrians. The exterior façade of the parking structure, if visible from the street, shall incorporate similar design elements and finishes as the surrounding buildings in order to minimize the visual impact and shall be designed to minimize visibility from the street.

Parking structures should be oriented in a manner to avoid a general site line from the intersection of Preston/US 380 unless otherwise approved by the Town.

4.3.8 Projections into Setbacks and/or Rights-of-Way.

a. The following projections shall be permitted into a building setback or right-of-way for non-residential or mixed-use buildings only.

1. Ordinary building projections, including, but not limited to water tables, sills, belt courses, pilasters, and cornices may project up to 12 inches beyond a building face or architectural projection into the setback, but not the right-of-way.

2. Business signs and roof eaves may project up to 36 inches beyond the building face or architectural projection into the setback, but not the right-of-way.

3. Architectural projections, including balconies, bays, towers, and oriels; show windows (1st floor only); below grade vaults and areaways; and elements of a nature similar to those listed; may project up to 48 inches beyond the building face into the setback, but not the right-of-way.

4. Canopies and/or awnings may project from the building face over the entire setback. Additionally, they may be extended into the right-of-way to be within eight inches of the back of curb if used to provide a covered walkway to a building entrance and as long as any canopy/awning support is no closer than 24 inches from the back of curb.

5. Below-grade footings approved in conjunction with building permits.

Projections as described above shall only be permitted into a building setback or right-of-way provided the following:

1. No projection shall be permitted into a building setback or right-of-way of Lovers Lane, Coleman Street or Frost Street, or any other major or minor thoroughfare.

2. Such projections do not extend over the traveled portion of a roadway.

3. The property owner has assumed liability related to such projections

4. The property owner shall maintain such projection in a safe and non-injurious manner.

b. Where front porches are provided for Townhome uses, they shall be permitted to encroach a maximum of five feet into the front setback line.

4.4 PERMITTED USES

4.4.1 General. The following general conditions shall apply to Subdistrict 3.

Additional commercial uses are allowed for the parcel(s) located on the west side of the railroad as noted in Section 6.6 under Wholesale Uses and Manufacturing/Industrial Uses.

4.4.2 Permitted Use Matrix. The permitted uses within Subdistrict 3 shall be in accordance with the Permitted Use Matrix in Section 6.6 of this Ordinance.

5.0 SUBDISTRICT 4-RESIDENTIAL NEIGHBORHOOD

5.1 GENERAL PURPOSE AND DESCRIPTION

The *Residential Neighborhood* Subdistrict will serve the primary purpose of providing a planned residential community to serve the needs of the Town by facilitating a range of detached single-family housing opportunities. In addition, a small commercial tract will provide additional limited retail and commercial uses along Preston Road. Conformance with the Town's Zoning Ordinance and Subdivision Ordinance: Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance (as it currently exists or may be amended) and Subdivision Ordinance (as it currently exists or may be amended) shall apply.

5.2 SINGLE FAMILY RESIDENTIAL TRACT

5.2.1 **Property Development Regulations**: This property may develop, under the standards for SF-10 as contained in the Town's Zoning Ordinance as it exists or may be amended, as front entry lot product subject to the specific provisions contained herein below. There will be no alley-served lots within the property.

5.2.2 **Density**: The maximum number of single family detached dwelling units for this PD is 200. This equates to an overall gross density of 2.82 units per acre.

5.2.3 **Lot Types**: The single family detached lots developed within the Properties shall be in accordance with the following Lot Types, provided a minimum of 40% are Type B lots:

Type A Lots: Minimum 8,640 square foot lots
Type B Lots: Minimum 9,990 square foot lots

5.2.4 **Area and building regulations**:

1. Type A Lots: The area and building standards for Type A Lots are as follows and as set forth in Table 1:

(a) **Minimum Lot Size**. The minimum lot size for Type A Lots shall be eight thousand six hundred forty (8640) square feet. A typical lot will be 64' x 135' but may vary provided that the requirements in Table 1 are accommodated.

(b) **Minimum Lot Width**. The minimum lot width for Type A Lots shall be sixty four (64) feet, as measured at the front setback, except for lots located at the terminus of a cul-de-sac, curve or eyebrow which may have a minimum width of fifty four (54) feet at the front setback provided all other requirements of this section are met.

(c) **Minimum Yard Setbacks**.

(1) Minimum Front Yard Setback: The minimum front yard setback for Type A Lots shall be twenty-five (25) feet.

(2) Minimum Side Yard Setback: The minimum side yard setback for Type A Lots shall be seven (7) feet. For corner lots adjoining a street, the minimum side yard setback shall be fifteen (15) feet on the side adjacent the street.

(3) Minimum Rear Yard Setback: The minimum rear yard setback shall be twenty-five (25) feet.

(4) Permitted Encroachment. Architectural features and porches may encroach into required front and rear yards up to five (5) feet. Swing-in garages may encroach into required front yards up to ten (10) feet provided that the wall of the garage facing the street contains a glass pane window with a minimum size of three (3) feet by five (5) feet and the height of the garage does not exceed one (1) story. Front facing garages are permitted to extend to the front façade of the main structure but may not encroach into the required front yard.

(d) **Minimum Floor Space**. Each one-story dwelling constructed on a Type A Lot shall contain a minimum of two thousand, three hundred (2300) square feet of floor space; two story dwellings shall be a minimum of two thousand six hundred fifty (2650) square feet. Floor space shall include air-conditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling

(e) **Height**. The maximum height for structures on Type A Lots shall be forty (40) feet.

(f) **Driveways**. Driveways fronting on a street on Type A Lots shall be constructed of any of the following materials: colored concrete, brick pavers, stone, interlocking pavers, stamped concrete, salt finish concrete, concrete with stone or brick border OR any other treatment as approved by the Director of Development Services.

No broom finish concrete driveways will be allowed.

(g) **Exterior Surfaces**. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred (100) percent masonry. Cementitious fiber board is considered masonry but may only constitute thirty (30) percent of the area for stories other than the first story. However, cementitious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Building Official.

No cementitious fiber board or any other siding material will be allowed on any front elevation nor on any side/rear elevation which is visible from an adjacent community street, common area, open space, park or perimeter.

(h) **Windows**. All window framing shall be bronzed, black, cream, sand or white anodized aluminum, vinyl or wood.

(i) **Roofing**. Structures constructed on the Type A Lots shall have a composition, slate, clay tile or cement/concrete tile roof.

The color of any composition roof must appear to be weathered wood shingles, black or slate.

Composition roof shingles must be laminated and have a minimum warranty of 30 years.

The main roof pitch of any structure shall have a minimum slope of 8" in 12" except for clay tile and cement/concrete tile roofs which shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

(j) **Garages**.

(1) Homes shall have a minimum of two (2) car garages but no more than three (3). No carports shall be permitted.

(2) Homes with three (3) garages shall not have more than two (2) garage doors facing the street.

(3) No standard, traditional steel garage doors, painted or stained, will be allowed.

(4) Doors must be constructed of a material that gives the appearance of a real wood door when viewed from any community street. Materials may consist of paint or stain grade wood (Cedar, Ash, Hemlock, etc.) or other material, including fiberglass or steel, that when stained or painted gives the appearance of a real wood door.

(5) Doors may be single or double wide doors.

(6) Additionally, two of the following upgrades must be incorporated:

(a) If single doors, doors must be separated by a masonry column.

(b) Garage doors may be "carriage style door" designs giving the appearance of a classic swing-open design with the flexibility of an overhead door operation.

(c) Doors may incorporate decorative hardware.

(d) Doors may incorporate windows.

(k) **Plate Height**. Each structure on a Type A Lot shall have a minimum principal plate height of 9' on the first floor.

(l) **Fencing**. Fences, walls and/or hedges on Type A Lots shall be constructed to meet the following guidelines.

(1) All Type A Lots backing or siding to land designated by plat as public park or public hike and bike trail shall have a decorative metal fence, minimum 6 foot in height, abutting said public area.

(2) All other Type A lot fencing shall be constructed of masonry, decorative metal or cedar. All cedar fencing will be board on board with a top rail and shall be supported with galvanized steel posts.

8-foot OC minimum. A common fence stain color as well as fence detail shall be established for the community by the developer.

(3) Solid masonry fencing shall only be allowed on lots adjacent to or abutting HOA-owned common area lots.

(4) Type A corner lots adjacent to a street shall be constructed of either decorative metal or cedar board-on-board along the side yard adjoining the street with masonry columns, per developer guidelines, placed at 21 feet OC.

(5) No fencing shall extend beyond a point fifteen feet (15') behind the front wall plane of the structure into the front yard.

(m) **Landscaping**.

(1) Corner lots adjacent to a street require two additional trees be planted in the side yard @ 30 feet OC.

(2) The front, side and rear yard must be fully sodded with grass and irrigated by an automated underground irrigation system.

(n) **Accessory Structures**. Accessory structures used as a garage, a garage apartment, or guest house, will not be allowed.

2. **Type B Lots**: The area and building standards for Type B Lots are as follows and as set forth in Table 1:

(a) **Minimum Lot Size**. The minimum lot size for Type B Lots shall be nine thousand nine hundred ninety (9990) square feet. A typical lot will be 74' x 135' but may vary provided that the requirements in Table 1 are accommodated.

(b) **Minimum Lot Width**. The minimum lot width for Type B Lots shall be seventy-four (74) feet as measured at the front setback, except for lots located at the terminus of a cul-de-sac, curve or eyebrow which may have a minimum width of sixty-four (64) feet at the front setback provided all other requirements of this section are met.

(c) **Minimum Yard Setbacks**.

(1) **Minimum Front Yard Setback**: The minimum front yard setback for Type B Lots shall be twenty-five (25) feet.

(2) **Minimum Side Yard Setback**: The minimum side yard setback for Type B Lots shall be seven (7) feet. For corner lots adjoining a street, the minimum side yard setback shall be fifteen (15) feet on the side adjacent the street.

(3) **Minimum Rear Yard Setback**: The minimum rear yard setback shall be twenty-five (25) feet.

(4) **Permitted Encroachment**. Architectural features and porches may encroach into required front and rear yards up to five (5) feet.

Swing-in garages may encroach into required front yards up to ten (10) feet provided that the wall of the garage facing the street contains a glass pane window with a minimum size of three (3) feet by five (5) feet and the height of the garage does not exceed one (1) story. Front facing garages are permitted to extend to the front façade of the main structure but may not encroach into the required front yard.

(d) **Minimum Floor Space**. Each single-story dwelling constructed on a Type B Lot shall contain a minimum of two thousand five hundred (2500) square feet of floor space; two story dwellings shall contain a minimum of three thousand (3000) square feet of floor space. Floor space shall include air-conditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling.

(e) **Height.** The maximum height for structures on Type B Lots shall be forty (40) feet.

(f) **Driveways**. Driveways fronting on a street on Type B Lots shall be constructed of any of the following materials: colored concrete, brick pavers, stone, interlocking pavers, stamped concrete, salt finish concrete, concrete with stone or brick border OR any other treatment as approved by the Director of Development Services

No broom finish concrete driveways will be allowed.

(g) **Exterior Surfaces**. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred (100) percent masonry. Cementitious fiber board is considered masonry but may only constitute thirty (30) percent of the area for stories other than the first story. However, cementitious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Building Official.

No cementitious fiber board or any other siding material will be allowed on any front elevation nor on any side/rear elevation which is visible from an adjacent community street, common area, open space, park or perimeter.

(h) **Windows**. All window framing shall be bronzed, black, cream, sand or white anodized aluminum, vinyl or wood.

(i) **Roofing**. Structures constructed on the Type B Lots shall have a composition, slate, clay tile or cement/concrete tile roof.

The color of any composition roof must appear to be weathered wood shingles, black or slate.

Composition roof shingles must be laminated and have a minimum warranty of 30 years.

The main roof pitch of any structure shall have a minimum slope of 8" in 12" except for clay tile and cement/concrete tile roofs which shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

(j) **Garages**.

(1) Homes shall have a minimum of two (2) car garages but no more than four (4). No carports shall be permitted.

(2) Homes with three (3) car garages shall not have more than two (2) garage doors facing the street.

(3) No standard, traditional steel garage doors, painted or stained, will be allowed.

(4) Doors must be constructed of a material that gives the appearance of a real wood door when viewed from any community street. Materials may consist of paint or stain grade wood (Cedar, Ash, Hemlock, etc.) or other material, including fiberglass or steel, that when stained or painted gives the appearance of a real wood door.

(5) Doors may be single or double wide doors.

(6) Additionally, two of the following upgrades must be incorporated:

a. If single doors, doors must be separated by a masonry column.

b. Garage doors may be "carriage style door" designs giving the appearance of a classic swing-open design with the flexibility of an overhead door operation.

c. Doors may incorporate decorative hardware.

d. Doors may incorporate windows.

(k) **Plate Height**. Each structure on a Type B Lot shall have a minimum principal plate height of 9' on the first floor.

(l) **Fencing**. Fences, walls and/or hedges on Type B lots shall be constructed to meet the following guidelines.

(1) All Type B Lots backing or siding to land designated by plat as a public park or public hike and bike trail shall have a decorative metal fence, minimum 6 foot in height, abutting said public area.

(2) All other fencing shall be constructed of masonry, decorative metal or cedar. All cedar fencing will be board on board with a top rail, and shall be supported with galvanized steel posts, 8-foot OC minimum. A common fence stain color as well as fence detail shall be established for the community by the developer.

(3) Solid masonry fencing shall only be allowed on lots adjacent to or abutting HOA-owned common area lots.

(4) Type B corner lots adjacent to a street shall be constructed of either decorative metal or cedar board-on-board along the side yard adjoining the street with masonry columns, per Developer guidelines, placed at 21 feet OC.

(5) No fencing shall extend beyond a point fifteen feet (15') behind the front wall plane of the structure into the front yard.

(m) **Landscaping**.

(1) Corner lots adjacent to a street require two additional trees be planted in the side yard @ 30 feet OC.

(2) The front, side and rear yard must be fully sodded with grass and irrigated by an automated underground irrigation system.

(n) **Accessory Structures**. Accessory structures used as a garage, a garage apartment, a storage building or guest house, will not be allowed.

TABLE 1

	Lot Type A	Lot Type B
Min. permitted lot sizes	8,640 sq. ft.	9,990 sq. ft.
Min. Front Yard	25 ft.	25 ft.
Min. Side Yard Corner Lot	7 ft. 15 ft.	7 ft. 15 ft.
Min. Rear Yard	25 ft.	25 ft.
Max. building Height	40 ft.	40 ft.
Max. Lot Coverage	50%	50%
Min. Lot Width	64 ft.	74 ft.
Min. Lot Depth	125 ft.	125 ft.
Min. Dwelling Area	2,300 sq. ft. single story 2,650 sq. ft. two story	2,500 sq. ft. single story 3,000 sq. ft. two story

5.3 COMMERCIAL TRACT

5.3.1 PROPERTY DEVELOPMENT REGULATIONS: The approximately 5.5 acre Commercial Tract of this subdistrict shall develop in conformance to the property development regulations established within this planned development ordinance for Subdistrict 1 except as indicated below.

5.4 PERMITTED USES

5.4.1 General. The following conditions apply to Subdistrict 4.
a. Big Boxes are not permitted within Subdistrict 4.

5.4.2 Permitted Use Matrix. The permitted uses within Subdistrict 4 shall be in accordance with the Permitted Use Matrix in Section 6.7 of this Ordinance.

6.0 GENERAL REQUIREMENTS

6.1 PLAN APPROVAL PROCESSES

6.1.1 ***General.*** Development shall generally take place in accordance with the attached Conceptual Development Plan (Exhibit D), Design Guidelines (Exhibit F) and Conceptual Thoroughfare Plan (Exhibit H).

6.1.2 ***Conceptual Development Plan.*** Plats and/or site plans submitted for the development of the PD District shall conform to the data presented and approved on the Conceptual Development Plan (Exhibit D). Changes of detail on these final development plan(s) that differ from the Conceptual Development Plan (Exhibit D) may be authorized by the Planning & Zoning Commission, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. Alter the basic relationship of the proposed development to adjacent property
2. Alter the uses permitted,
3. Increase the density,
4. Increase the building height,
5. Increase the coverage of the site,
6. Reduce the off-street parking ratio
7. Reduce the building lines provided at the boundary of the site, or
8. Significantly alter any open space plans

If the Planning & Zoning Commission determines that the proposed change(s) violates one (1) or more of the above eight (8) criteria, then a public hearing must be held to adequately amend the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

Any change to the boundaries of an individual Subdistrict that results in a change of less than 15% of the land area for that Subdistrict may be authorized by the Director of Development Services or his/her designee.

6.2 OPEN SPACE

6.2.1 ***General.*** The open space and parkland dedication requirements shall be in accordance with the Town's zoning ordinance unless specified herein and/or other requirements / regulations are established via a developer's agreement with the Town at which time the authorized Developer's Agreement will hold precedence over this Planned Development and/or the Town's zoning Ordinance requirements.

6.2.2 ***Design Criteria.*** Land utilized to satisfy Open Space requirements shall meet the following criteria, as relevant:

a. A maximum of 1/2 of the required on-site Open Space for either Townhome or Multifamily development may be located off the platted lot however, within 1000' of any unit of a development towards which it will be counted with respect to the Townhome or Multifamily development but within the boundary of the overall Planned Development provided the off-site and on-site Open Space is interconnected by a minimum eight-foot trail system.

b. Required Open Space for non-residential areas do not have to be located on the individual platted lots but allocated as part of the overall master plan and/or site plan.

6.3 PARKING REQUIREMENTS

6.3.1 General. The following general standards shall apply.

a. The number of parking spaces provided for uses shall be in accordance with the requirements established in Section 6.3.2 of these standards.

b. Where on-street parking is provided, angled as well as parallel parking shall be permitted. On-street parking shall not be permitted within 30 feet of the curb line of a cross street, drive or common access easement.

c. On-street parking spaces shall be permitted within Subdistricts 2 and 3 within this Planned Development. Parking spaces may be provided in the right-of-way and shall conform to Town standards for vehicle parking areas. No on street parking spaces will be allowed on major or minor thoroughfares.

d. Vehicle maneuvering shall be allowed within the public right-of-way where on-street parking is provided.

e. When structured parking garages are provided, adequate access from public rights-of-way via private drives and/or access easements shall be made readily available.

f. Parking aisles, where practicable, shall be designed to be perpendicular to the front of the primary building in the development.

g. Parking spaces that face and are adjacent to a building shall utilize curbs, wheel stops, and/or bollards.

h. Speed bumps/humps are not permitted within a fire lane. However, speed tables may be permitted within a fire lane provided they are approved by the Town of Prosper Fire Department at the time of plat and/or site plan submittal.

i. Dead-end parking aisles are discouraged and shall only be permitted in unique circumstances upon approval by the Director of Development Services or his/her designee. Dead-end parking aisles are permitted in the multifamily development located in Subdistrict 2.

j. In the case of mixed uses, uses may share parking spaces where the practicability of shared parking can be demonstrated. The applicant shall submit a parking analysis to the Director of Development Services demonstrating the feasibility of shared parking. The parking analysis shall address, at a minimum, the size and type of the proposed development, location of required parking, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces. The applicant shall also demonstrate that any parking reduction requested as part of the shared parking study will not result in the spillover of parking onto other properties.

k. Outdoor patio and sidewalk dining, as well as other public seating areas, are permitted; these areas shall be included in parking calculations at a rate of 50% of standard requirements.
l. Surface parking is allowed in urban living multifamily development as long as the parking areas other than on-street parking are located internal to the multifamily development and are screened from public right of way through the use of landscaping and/or walls and structures.
m. For vertical mixed-use developments, no more than one drive with parking on both sides is allowed between the mixed use structure and the public ROW(s) unless otherwise approved by the Town.

6.3.2 ***Parking Requirements Based on Use.*** In all Subdistricts, at the time any building or structure is erected or structurally altered, parking spaces shall be provided in accordance with the following requirements:

- **Assisted Living Facility or Congregate Care Facility:** 1.1 parking spaces per dwelling unit.
- **Automobile Oil Change and Similar Establishments:** One parking space per service bay plus one parking space per maximum number of employees on a shift. The stacking requirements shall be 3 stacking spaces per bay.
- **Dwellings, Townhomes:** Two spaces for each unit. Townhome units with one-car garages shall be permitted to satisfy this requirement through tandem parking spaces by providing one covered space and one space located directly adjacent to the garage, provided the tandem parking spaces have minimum dimensions of nine feet by twenty feet. Townhome units with two-car garages shall provide two covered spaces, located behind the front building line, and two maneuvering spaces for each unit. Permitted on-street parking shall count toward the required off-street parking requirement provided the space(s) are within 300 feet of the property line of the affected lot.
- **Dwellings, Multifamily:** One and one-half spaces for one-bedroom units, plus one-half additional space for each additional bedroom. The required number of spaces shall be no less than 1.8 spaces per dwelling unit overall. Covered or enclosed parking shall not be required for Multifamily Dwellings except as specified in other sections of this ordinance. Where provided, covered or enclosed parking shall be counted to satisfy the minimum off-street parking requirements. Covered or enclosed parking may be a part of the dwelling structures or an accessory building. Tandem parking spaces shall be permitted to satisfy parking requirement provided they are located in front of a garage and have minimum dimensions of nine feet by twenty feet.
- **Gasoline Station:** Minimum of three spaces for employees. Adequate space shall be provided for waiting, stacking, and maneuvering automobiles for refueling. A convenient store portion of a gas station shall be parked at a ratio of one parking space per 250 square feet of gross floor area.
- **Mail Kiosks.** Mail Kiosks shall have a minimum of five of the required parking spaces for the development within 50 feet, unless a drive-through facility is provided.

- **Medical or Dental Office:** One space per 250 square feet of floor area. Facilities over 20,000 square feet shall use the parking standards set forth for hospitals.
- **Retail Store or Personal Service Establishment, Except as Otherwise Specified Herein:** One space per 250 square feet of gross floor area.
- **Restaurant, Cafe or Similar Dining Establishment:** One parking space for each 100 square feet of gross floor area.

6.4 DETENTION PONDS

Detention Ponds located adjacent to Preston Road or at other high visibility locations as generally depicted on Exhibit D, shall be treated as open space amenities and landscaped as such. If there are no prohibitive regulatory permitting issues or design constraints, these ponds will be constructed to maintain a constant normal pool elevation. The Town's engineering department shall review and confirm any design constraints that would preclude the pond from maintain a constant pool elevation. Detention ponds located in less visible locations shall be fully vegetated with turfgrass and designed to drain completely and allow ease of maintenance. All visible outfall structures shall be faced with stone.

6.5 LANDSCAPING

6.5.1 ***General.*** All required landscape areas shall comply with the specific standards contained in the Town of Prosper Zoning Ordinance except as noted herein.

6.5.2 ***Landscape Area Requirements.*** The below standards shall be applied consistent with the land uses specified below.

a. Non-Residential and Mixed Use. These standards apply to Non-Residential and Mixed-Use land uses.

1. All retail buildings which back to US 380 shall be screened with the planting of a double row of evergreen trees such as eastern red cedars or other similar tree that will provide a continuous screen. The evergreen trees used for the screen shall be a minimum of 8-foot-tall at the time of planting. There will also be additional berming and planting of smaller shrubs and trees within the water line easements along Highway 380 to the extent allowed by the Town.

2. Where on-street parking is provided, a minimum six-foot wide buffer yard shall be established in the right-of-way. The area shall be located adjacent to the curb and be planted with street trees located a minimum distance of four feet from the back of curb, with an average spacing no greater than 50 feet on center. All trees shall be a minimum of four caliper inches when planted. Due to the location of the street trees, root barriers shall be provided. The area shall also provide space for street furniture such as seating, street lighting, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus stops, bicycle racks, and public utilities. The placement of any items in the public right-of-way is subject to the approval of the Town's staff. If approved by the Town, a sidewalk with tree wells may abut the curb in lieu of said criteria.

b. Multifamily. These standards apply to multifamily land uses.

1. Perimeter Requirements.

(a) Thoroughfares. A landscape area consisting of living trees, turf or other living ground cover and being at least an average of 25 feet in width measured from the property line interior to the property shall be provided adjacent to and outside of the right-of-way on Lovers Lane, Coleman Street, and Richland Boulevard. A maximum deviation of five feet of the minimum width of the landscape area is permitted, provided the minimum average width of 25 feet or 30 feet; respectively, is maintained. One Large Tree, four-inch caliper minimum per 30 lineal feet of roadway frontage shall be planted within the required landscape area. The trees may be planted in groups with appropriate spacing based on species. A minimum of 15 shrubs with a minimum size of five gallons each will be planted in the landscape area for each 30 lineal feet of frontage. Parking abutting the landscape area will be screened from the adjacent roadway. The required screening may be with shrubs or earthen berms.

(b) Collectors or Other Roadway. A landscape area consisting of living trees, turf or other living ground cover and being at least an average of 15 feet in width measured from the property line interior to the property shall be provided adjacent to all other collector streets, where on-street parking is not provided. A maximum deviation of three feet of the minimum width of the landscape area is permitted, provided the minimum average width of ten feet is maintained.

Where on-street parking is provided, a minimum six-foot wide buffer yard shall be established in the right-of-way. The area shall be located adjacent to the curb and be planted with street trees located a minimum distance of four feet from the back of curb, with an average spacing no greater than 50 feet on center. All trees shall be a minimum of three caliper inches when planted. Due to the location of the street trees, root barriers shall be provided. The area shall also provide space for street furniture such as seating, street lighting, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus stops, bicycle racks, and public utilities. If approved by the Town, a sidewalk with tree wells may abut the curb in lieu of said criteria.

2. Interior Parking. Any multifamily surface parking area shall provide interior landscaping as follows:

(a) Twenty square feet of landscaping for each parking space shall be provided within the paved boundaries of the parking lot area.

(b) All landscaped areas shall be protected by a raised 6-inch concrete curb. Pavement shall not be placed closer than four feet from the trunk of a tree unless a Town approved root barrier is utilized.

(c) Landscape islands shall be located at the terminus of all parking rows, and shall contain at least one Large Tree, four-inch caliper minimum, with no more than 12 parking spaces permitted in a continuous row without being interrupted by a landscaped island. The maximum number of continuous parking spaces may be expanded with approval by the Director of Development Services or his/her designee, in the event that required islands are grouped to form larger islands.

(d) Landscape islands shall be a minimum of 160 square feet, not less than nine feet wide and a length equal to the abutting space.

(e) There shall be at least one Large Tree, three-inch caliper minimum, within 150 feet of every parking space. This minimum distance may be expanded with approval by the Director of Development Services or his/her designee, in the event that required islands are grouped to form larger islands.

(f) Subject to approval by the Director of Development Services or his/her designee, landscape islands may be grouped to form one large island. Grouping for large islands is prohibited adjacent to public street frontage.

(g) These standards shall not apply to structured parking facilities.

3. Building Landscaping. Foundation plantings of a single row of shrubs are required along the front façade of all buildings adjacent to a public street.

4. Irrigation Requirements. Permanent irrigation shall be provided for all required landscaping as follows:

   (a) Irrigation lines shall be placed a minimum of two and one-half feet from a Town sidewalk or alley. Reduction of this requirement is subject to review and approval by the Town Engineer.

   (b) Trees and shrubs shall be irrigated by bubbler irrigation lines only. Other landscaping may be irrigated by spray irrigation. Separate valves shall be provided to turn off the spray irrigation line during periods of drought or water conservation.

   (c) Rain, freeze, and wind detectors shall be installed on all irrigation lines.

6.6 SIGNAGE

The developer will follow the Town's standard signage ordinance with the understanding it can create a special purpose sign district per Section 1.12 of the Town's sign ordinance for each development phase to meet the unique needs of the overall development.

6.7 PERMITTED USE MATRIX

RESIDENTIAL USES	SUBDISTRICT 1	2	3	4
Mobile and /or Manufactured Homes				
Model Home		●	●	●
Multifamily Dwelling (including loft, work/live units and studio apartments)		●	●	
Private Street Development (excluding MF)		S	S	S
Retirement Community Residential Development (RCRD Housing)		S	S	S
Single Family Dwelling, Attached (Townhome)		●	●	
Retirement Housing				12
Single Family Dwelling, Detached				●
Two Family Dwelling (Duplex)				

ACCESSORY & INCIDENTAL USES	SUBDISTRICT 1	2	3	4
Accessory Building	●	●	●	●
Caretaker's/Guard's Residence				
Construction Yard and Field Office, Temporary	*TEMPORARY BUILDING PERMIT ISSUED BY BUILDING OFFICIAL*			
Electronic security facilities including gatehouse and control counter		●	●	●
Garage Apartment (not to be rented)				●
Guest House (see conditions in Zoning Ordinance; over .5 acre lot)				●
Homebuilder Marketing Center	1	1	1	1
Home Occupation		2	2	2

ACCESSORY & INCIDENTAL USES (continued)	SUBDISTRICT 1	2	3	4
Mail Kiosk		●	●	●
Mobile Food Vendor				
Retail/Service Incidental Use	●	●	●	●
Storage Facilities and uses (incidental to primary use)	●	●		
Temporary Building – see conditions in Town Zoning Ord. (Section 2.0)	S	S	S	S

EDUCATIONAL, INSTITUTIONAL, PUBLIC AND SPECIAL USES	SUBDISTRICT 1	2	3	4
Airport/Heliport				
Assisted Care or Living Facility, including Memory Care		S	S	
Athletic Stadium or Field, Private		3	3	3
Athletic Stadium or Field, Public		●	●	●
Cemetery or Mausoleum				
Civic/Convention Center	●	●	●	
College, University, Trade, or Private Boarding School	●	●	●	
Community Center	●	●	●	●
Farm, Ranch, Stable, Garden, or Orchard				●
Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority		●	●	
Helistop		S	S	
Rehabilitation Care Institution		14	14	
Hospital		●	●	
Household Care Facility		S	S	●
House of Worship	●	●	●	●
Municipal Uses Operated by the Town of Prosper	●	●	●	●
Museum/Art Gallery	●	●	●	
Open Storage – see conditions in Town Zoning Ord.	●	●		
Park or Playground	●	●	●	●
Private Recreation Center	●	●	●	●
Public Recreation Facilities	●	●	●	●
Rehabilitation Care Facility				
Rehabilitation Care Institution				
School, Public	●	●	●	●
School, Private or Parochial	●	●	●	S

TRANSPORTATION, UTILITY AND COMMUNICATIONS USES	SUBDISTRICT 1	2	3	4
Antenna and/or Antenna Support Structure, Non-Commercial		4	4	4
Antenna and/or Antenna Support Structure, Commercial				
Stealth Antenna, Commercial	5	5	5	
Bus Terminal		S	S	
Carting or Express Hauling				
Electric Power Generating Plant				

TRANSPORTATION, UTILITY AND COMMUNICATIONS USES (continued)	SUBDISTRICT 1	2	3	4
Landfill				
Office and Storage Area for Public/Private Utility				
Private Utility, Other Than Listed	●	●	●	●
Radio and Television Studios and Broadcasting Facilities				
School District Bus Yard	6	6	6	
Sewage Treatment Plant/Pumping Station	S	S	S	S
Telephone Exchange	●	●	●	S
Transit Center		S	S	
Utility Distribution/Transmission Facility	S	S	S	S
Water Treatment Plant	S	S	S	S

OFFICE AND PROFESSIONAL USES	SUBDISTRICT 1	2	3	4
Administrative, Medical, or Professional Office	●	●	●	18
Corporate Campus		●	●	
Governmental Office	●	●	●	18
Insurance Office	●	●	●	18
Multi-Tenant Office Building	●	●	●	18
Research and Development Center –see conditions in Town Zoning Ord.	S	S	S	18, S

RETAIL USES	SUBDISTRICT 1	2	3	4
Antique Shop and Used Furniture	●	●	●	18, S
Alcohol Sales (Must comply with all the conditional standards in the zoning ordinance as it exists, or may be amended.)	●	●	●	18
Building Material and Hardware Sales, Major	●	S		
Building Material and Hardware Sales, Minor	●	●	●	18, S
Convenience Store with Gas Pumps	10	10	10	
Convenience Store without Gas Pumps	●	●	●	
Equipment and Machinery Sales and Rental, Major				
Equipment and Machinery Sales and Rental, Minor	●	●	●	18, S
Farmer's Market	S	S	S	18, S
Feed Store				
Flea Market, Inside				
Flea Market, Outside				
Furniture, Home Furnishings and Appliance Store	●	●	●	18
Gas Pump as Accessory Use	13	13		
Nursery, Major	S	S		
Nursery, Minor	●	●	●	18
Pawn Shop				
Retail Stores and Shops	●	●	●	18

SERVICE USES	SUBDISTRICT 1	2	3	4
Artisan's Workshop		●	●	18
Bank, Savings and Loan, or Credit Union	●	●	●	18
Beauty Salon/Barber Shop	●	●	●	18
Bed and Breakfast Inn				S
Body Art Studio				
Business Service	●	●	●	
Cabinet/Upholstery Shop	●	●	●	18
Campground or Recreational Vehicle Park				
Catering Establishments	●	●	●	
Commercial Amusement, Indoor	●	●	●	
Commercial Amusement, Outdoor	S	S	S	
Computer Sales and Repairs	●	●	●	18
Contractor's Shop and/or Storage Yard				
Dance Hall	S	S		
Day Care Center, Adult		S	S	S
Day Care Center, Child	7	7	7	7
Day Care Center, In-Home		8	8	8
Day Care Center, Incidental	S	S	S	S
Dinner Theater	●	●	●	
Dry Cleaning, Minor	●	●	●	18
Fairgrounds/Exhibition Area		S	S	
Fortune Teller/Psychic				
Furniture Restoration			S	
Golf Course and/or Country Club	S	S	S	
Gunsmith				
Gymnastics/Dance Studio	●	●	●	18
Health/Fitness Center	●	●	●	18
Hotel – see conditions in Town Zoning Ord.,	17	●	●	
Household Appliance Service and Repair	●	●	●	
Indoor Gun Range	9	9	9	
Landscaping Service				
Laundromat	●	●	●	
Locksmith/Security System Company	●	●	●	
Massage Therapy, Licensed	●	●	●	
Massage Therapy, Unlicensed				
Medical and Health Care Facilities/Clinics	●	●	●	
Messenger/Courier and Telegraph Services	●	●	●	
Mortuary/Funeral Parlor	S	S	S	
Motel				
Pest Control/Exterminating Shops	●	●		
Pet Day Care – see conditions in Town Zoning Ord.	●	●	●	
Print Shop, Minor	●	●	●	18

SERVICE USES (continued)	SUBDISTRICT 1	2	3	4
Private Club	S	S	S	
Residence Hotel – See conditions in Town Zoning Ord.	●	●		
Restaurant or Cafeteria	●	●	●	18
Restaurant, Drive Through	16	16	16	
Sexually Oriented Uses				
Small Engine Repair Shop				
Stable, Commercial				
Taxidermist				
Theater, Drive In				
Theater, Neighborhood	●	●	●	18
Theater, Regional	●	●		
Trailer Rental				
Veterinarian Clinic and/or Kennel, Indoor	●	●	●	18
Veterinarian Clinic and/or Kennel, Outdoor				

AUTOMOBILE AND RELATED USES	SUBDISTRICT 1	2	3	4
Auto Parts Sales, Inside	●	●	●	
Auto Parts Sales, Outside				
Automobile Parking Lot/Garage	●	●	●	
Automobile Paid Parking Lot/Garage	●	●	●	
Automobile Repair, Minor	●		●	
Automobile Sales / Leasing, New	11	11	11	
Automobile Sales, Used				
Automobile Storage				
Car Wash	●	S	S	
Car Wash, Self-Serve				
Motorcycle Sales/Service	S	S	S	
Recreational Vehicle/Truck Parking Lot or Garage				
Recreational Vehicle Sales and Service, New/Used	9	9	9	
Salvage Yard				
Truck/Bus Repair				
Truck Sales, Heavy Trucks				
Truck Terminal				

WHOLESALE USES	SUBDISTRICT 1	2	3	4
Apparel Distribution Center			15	
Bottling Works			15	
Clothing, Footwear and Textile Center			15	
Food Product Distribution Center			15	
Mini-Warehouse/Public Storage			S	
Office/Showroom			15	

WHOLESALE USES (continued)	SUBDISTRICT 1	2	3	4
Office/Warehouse/Distribution Center			15	
Storage or Wholesale Warehouse			15	
Winery			S	

MANUFACTURING AND INDUSTRIAL USES	SUBDISTRICT 1	2	3	4
Bakery (Commercial)				
Concrete/Asphalt Batching Plant, Permanent				
Concrete/Asphalt Batching Plant, Temporary	*TEMPORARY BUILDING PERMIT ISSUED BY BUILDING OFFICIAL*			
General Manufacturing/Industrial Use Complying with Performance Standards			15	
Limited Assembly and Manufacturing Use Complying with Performance Standards			15	
Machine Shop				
Mineral Extraction				
Miscellaneous Hazardous Industrial Uses				
Portable Building Sales			S	
Recycling Collection Point			15	
Recycling Center			S	
Recycling Plant				
Trailer/Mobile Home Display and Sales				

LEGEND	
●	Use permitted in district indicated
	Use prohibited in district indicated
S	Use is permitted in district upon approval of a specific use permit
1	Use is permitted in the Subdistrict indicated in accordance with the conditional development standards or limitations in the corresponding numeric end note in Section 6.6.1 of this Ordinance.

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6.7.1 Conditional Development Standards.

1. Homebuilder Marketing Center. Shall be used only to market homes/lots in the development where it is located when located in a residential zoning district. The use must be removed when all homes/lots in the development have been sold.

2. Home Occupation. A home occupation is a business that is customarily carried on in a home by the resident and shall adhere to all of the following conditions and requirements:

   (a) No signage associated with the home occupation and visible from outside of the dwelling shall be allowed on the premises.

   (b) Only two employees other than the occupants of the residence may be employed on-site at any one time. This shall not include the coordination or supervision of employees who do not regularly visit the house for purposes related to the business.

   (c) Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. for outdoor activities.

   (d) Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.

   (e) No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the home occupation.

   (f) The home occupation shall not produce offensive noises, vibrations, smoke, dust, odors, heat or glare beyond the property lines.

   (g) A home occupation shall not serve as an office or storage facility for a vehicle fleet operation in which fleet vehicles visit the site.

   (h) No major alterations to the property or exterior of the dwelling unit shall be allowed that changes the residential character of the home.

   (i) No repair or servicing of vehicles, internal combustion engines, large equipment or large appliances shall be allowed.

   (j) No storage of hazardous materials for business purposes shall be allowed on the premises.

   (k) Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made by telephone or at a sales party may be filled on the premises.

   (l) No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot.

   Homeowners/occupants who establish an occupation in their residence must adhere to all of the above conditions.

3. Athletic Stadium or Field, Private. Only permitted by Specific Use Permit when developed in conjunction with a School, Private or Parochial.

4. Antenna, Non-Commercial.

   (a) Satellite Dishes and Wireless Broadband Antennas

      (1) In Subdistrict 4 (Single Family Detached), satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two feet in diameter. Only three satellite dishes and/or wireless broadband antennas shall be permitted per lot or primary structure. One of the three satellite dishes and/or wireless broadband antennas on a residential structure and/or lot may be up to 12 feet in diameter. The other two satellite dishes and/or wireless broadband antennas shall not exceed two feet in diameter.

      (2) In Subdistricts 2 and 3 (Townhome and Multifamily), satellite dishes and wireless broadband antennas are permitted only on the back half of a residential structure or in the back yard of a residential lot unless a signal cannot be received in these areas. Should a satellite dish or wireless broadband antenna be placed somewhere other than on the back half of a residential structure or in the back yard of a residential lot, it shall be limited to not more than two feet in diameter. Only three satellite dishes and/or wireless broadband antennas shall be permitted per residential unit. One of the three satellite dishes and/or wireless broadband antennas on a residential unit may be up to 12 feet in diameter. The other two satellite dishes and/or wireless broadband antennas shall not exceed two feet in diameter.

   (b) Non-commercial antennas shall not interfere with radio or television reception of adjoining property owners, and shall comply with all regulations of the Federal Communications Commission (FCC). In no case shall the height of such antennas exceed 45 feet and proper guy wire securement shall be followed. In no manner shall the use of such equipment infringe upon adjoining property owners. Roof mounted satellite dishes in excess of 50 pounds shall be approved by a registered architect or professional engineer by written letter to the building official, prior to installation, stating the antenna's stability and support and shall not extend more than six feet above the first story.

5. Antenna, Stealth. Stealth antennas are permitted by right in the residential land uses within a Subdistrict only as a secondary use when the primary use on the lot is a church, school, athletic stadium or field, or public utility structure. Stealth antennas are permitted by right in the non-residential districts. The Director of Development Services, or his/her designee, may approve a request to install a stealth antenna when the proposed stealth antenna is of a type that is specifically listed in the definition of Antenna, Stealth in Chapter 2, Section 1.2 of the Prosper Zoning Ordinance (Ordinance 05-20). For stealth antenna requests of a type that are not specifically listed in this definition, the Town Council may determine if a proposed commercial

antenna is a stealth antenna or not when considering site plan approval for the proposal.

6. School District Bus Yard. A School District Bus Yard shall be owned and/or operated by a public Independent School District. Unless otherwise approved by the Planning & Zoning Commission, School District Bus Yards shall be screened using one of the following methods:

   (a) Option 1

      (1) A six (6) foot ornamental metal fence,

      (2) Three (3) inch caliper evergreen trees on twenty (20) foot centers, and

      (3) Five (5) gallon evergreen shrubs on three (3) foot centers.

   (b) Option 2

      (1) A six (6) foot clay-fired brick wall, and

      (2) Three (3) inch caliper evergreen trees on twenty (20) foot centers.

7. Day Care Center, Child. Notwithstanding anything to the contrary herein, a public independent school district is not required to obtain a SUP for the operation of a Day Care Center, Child in a public school. A Day Care Center, Child not operated by a public independent school district is permitted by SUP in all Subdistricts.

8. Day Care Center, In-Home. Permitted by right as a home occupation in the designated Subdistricts and is subject to the regulations of Home Occupation.

9. Shall be permitted by right when serving as a complementary use to a primary use. Shall not be subject to the limitations of a maximum of 15% of a main use. Other similar uses not specifically defined may also be permitted. Primary use sales/services may only be allowed by S.U.P.

10. Limited to one at each of the following intersections: Lover's Lane at Preston, First Street at Preston, and Lover's Lane at Coleman Street.

11. Shall be limited to high-end or specialty automobile sales and shall have limited out door model displays. A maximum of two rows of display parking (one drive) is allowed along any street frontage. The use shall only be allowed if permitted by SUP.

12. Only allowed in Subdistrict 4 as detached units.

13. Gas Pumps as Accessory Use – Accessory gas pumps are only allowed as an accessory use to a big box tenant and are subject to the following development standards.

   a. Accessory gas pumps must be located on the same lot as a big box tenant.
   b. A sales kiosk servicing the accessory gas pumps shall be less than five hundred (500) square-feet in floor area.
   c. Accessory gas pumps shall be located at least two hundred and fifty (250) feet from a property line of a residential lot.

1. For the purposes of this section, a residential lot means a lot on which a residential use is located, a lot zoned residential, or a lot designated as residential on the Future Land Use Plan.
2. Accessory gas pumps do not have to meet the spacing requirement if:
    i. A major thoroughfare separates the accessory gas pumps from the residential lot; or
    ii. The Future Land Use Plan designates a lot as residential, but Town Council subsequently rezones the property to a nonresidential zoning district and no residential use is located on the lot.

d. Canopies shall have pitched roofs.

e. Canopy support columns shall be fully encased with masonry materials that are complementary to that used on the main building.

f. The canopy band face shall be of a color consistent with the main structure or an accent color and may not be backlit or used as signage.

14. Requires a S.U.P. if located within 250 feet of single family detached zoning.
15. Uses only allowed west of railroad.
16. Limited to 3 locations on the east side of Preston and 3 locations on the west side of Preston and no more than 2 adjacent to each other. Additional drive-through restaurants are permitted subject to approval of a Specific Use Permit (SUP).
17. Subject to conditions in Town Zoning Ord., except as follows:
    a. Hotels in Subdistrict 1, as shown on Exhibit D, shall have a maximum height of eighty feet (80').
18. Use is permitted only within Commercial tract of this subdivision in addition to any other conditions listed.

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7.0 INFRASTRUCTURE DESIGN STANDARDS

7.1 GENERAL

Due to the unique and dynamic nature of Town Center Developments, there are a number of design elements that deviate from standard suburban design criteria. Therefore, it is understood that that alternate design criteria may be utilized in the layout and design of this Planned Development. The design criteria may include such elements as design speeds for streets, street and parking layouts, alternative street sections, storm drain inlets (e.g., grate inlets, slotted drains, etc.), alternative storm pipe materials (e.g., PVC, HDPE), utility locations, etc. Design criteria may be based on similar criteria utilized in similar development throughout the Dallas-Fort Worth Metroplex as previously referenced herein or as determined to be comparable developments. Such standards must be approved by the Town's Engineering Department.

8.0 DEFINITIONS

Adjacent. The condition of sharing a common dividing line (e.g., property line). For the purposes of this Ordinance, properties that are separated by a thoroughfare shall not be considered adjacent.

Apartment, loft. A dwelling unit consisting of a single room or a series or rooms, which is attached to but secondary to a main non-residential structure and is generally located above the first floor of the structure.

Apartment, studio. A dwelling unit which has, as an integral part of the unit, a work area generally associated with the creative arts and which may consist of a single room or series or rooms.

Big Box. Retail buildings over 80,000 square feet where the primary tenant occupies at least 80 percent of the building.

Catering Establishment. An establishment where food and drink are prepared, for immediate off premises consumption.

Commercial Land Use. Commercial Land Use shall include "Service Uses" and "Automobile and Related Uses" as listed in Section 6.5 of this Ordinance and similar uses.

Dinner Theater. A building or portion of a building used primarily for showing motion pictures or for dramatic, musical or live performance where food and drink are prepared and consumed on the premises during the event.

Dwelling Area. Dwelling Area shall mean the area between the floor and roof above it, as measured from the outside edge of the exterior walls of the main structure. The dwelling area calculation excludes basements, patios, decks, balconies, uncovered porches, and covered porches unenclosed on one or more sides.

EIFS. An acronym for Exterior Insulation and Finish System; a type of exterior cladding for building walls.

Flag Lot. A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than twenty-five (25) feet. There shall be no maximum distance for the required width from the front property line.

Landscape Service. Professional service focused on the design and/or installation of landscaping in either a commercial or residential application. The service may include open storage of the materials and equipment used in the process of landscape installation.

Messenger / Courier Service. Premium service specializing in the personal delivery of messages, packages and mail.

Mixed Use Land Use. An integrated (either horizontal or vertical) mix of land uses within a tract of land or a building. For the purposes of this Planned Development, a Mixed-Use Land Use shall include a minimum of two individual land uses (residential/non-residential; retail/multi-family; office/multi-family; etc.).

Multifamily, Urban Living. Attached dwelling units designed to be occupied by three or more families living independently of one another, exclusive of Hotels, Motels, or Residence Hotels. Urban Living Multifamily dwelling units are consistent with an urban-style dwelling unit and

intended to accommodate multifamily residential uses, including both for-sale and rental units. Parking can be either surface parking and/or structural parking.

Office Land Use. Office Land Use shall include "Office and Professional Uses" as listed in Section 6.6 of this Ordinance and similar uses.

Open Storage. The outside storage or exhibition of goods, materials, merchandise or equipment that is either for sale on the premises or is used in the normal course of doing business or conducting a business service.

Pest Control / Extermination Service. Service specializing in the regulation or management of pests perceived to be detrimental to a person's health, the ecology or the economy. The service may include open storage of the materials and equipment used in the process of performing the service.

Rehabilitation Care Institution. Subject to being licensed to operate by the Texas Department of Again and Disability Services (DADS), a facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

Retirement Housing. Any age restricted development which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semiprivate rooms and designed to provide meals and nursing care.

Retail Land Use. Retail Land Use shall include "Retail Uses" as listed in Section 6.6 of this Ordinance and similar uses.

Security Facilities (including gatehouse and control counter). A freestanding structure which is part of a larger development that's primary function is to aid in monitoring and controlling incoming and outgoing vehicular traffic. The facility may be occupied by security personnel or it may only house electronic surveillance equipment.

Storage Facility. A freestanding or attached structure which is part of a larger commercial or residential development that's primary function is to store material or equipment necessary for the ongoing maintenance or upkeep of the development which it is associated with.

Townhome. A structure containing three to eight dwelling units with each unit designed for occupancy by one family and each unit attached to another by a common wall.

Work/Live Space. a space within a building that is used jointly for residential and/or commercial purposes, where the residential space is accessory to the primary use as a place of work.

EXHIBIT "E"
DEVELOPMENT SCHEDULE

DEVELOPMENT SCHEDULE

It is currently anticipated that the development of Gates of Prosper will begin within two to four years after approval and signing of the zoning ordinance. During this time period, prior to the initial stages of development, it is foreseen that plans and studies will be prepared for development and marketing of the property. The development schedule for the approximate 621 acres will be phased over the next 10 to 15 years and is primarily dependent on the marketability of the highest and best use of the land for the respective land tracts. Progress of development improvements will primarily depend on the time frames established for construction of thoroughfares, utilities, and market trends/demands for the area.

The development of non-residential uses within Subdistrict 1 and Subdistrict 2 will constitute the initial phases of development. The development of Urban Living Multifamily and townhome residential units in Subdistrict 2, and/or Subdistrict 3 shall not begin until a minimum combined total of 300,000 square feet of commercial/retail development has been issued tenant certificates of occupancy by the Town. The required commercial/retail development may include regional retail anchors, a town center mixed-use component, a major multi-purpose medical center with emergency care facilities, a mall, a hotel, or another major development anchor as determined by Town Council.

Incorporation of residential units into a mixed-use town center are not subject to the aforementioned preconditions as long as they are vertically integrated into the retail/commercial structures.

The development schedule is subject to change due to various factors beyond the control of the developer, such as housing market conditions, construction materials and labor availability, acts of nature, and other similar conditions.

EXHIBIT "F"
SUPPLEMENTAL DESIGN GUIDELINES

SUPPLEMENTAL DESIGN PRINCIPLES

The Town of Prosper is on the cusp of transforming itself from a prosperous farming community into a prosperous economic engine and enviable residential neighborhood. The vision for the "Gates of Prosper" is to be the gateway into Prosper's new future.

The architectural design principles for this development are intended to reinforce a uniform spirit and character throughout the development while promoting fresh and visionary diversity.

- Subdistricts have been carefully planned to maximize vehicular access to transportation arteries and pedestrian access to future transit systems.
- Subdistricts are designed and planned to create a special community that offers the opportunity to live, work, shop and recreate in an urban environment located in a suburban area.
- Each Subdistrict can have its own identity yet still create a sense of belonging through use of consistent iconic markers, streetscape designs, landscape forms, signage, lighting and architectural building standards. These elements should allow Subdistricts to transition seamlessly from one to the next.
- Public amenities including parks, trails, plazas, interactive areas and gateways are planned to serve as venues for recreation, entertainment and social interaction.
- Pedestrian ways should be memorable through their use of landscaping and lighting, and by incorporating shade, street furnishings and other sidewalk amenities.

SITE DESIGN

The entire site has been effectively designed for efficient land use, as a strong gateway into Prosper and as a quality environment that resonates a "sense of place". This design contributes to the overall identity which adds value to the project as well as the entire community. To promote these benefits the design has incorporated following features:

- Street design and streetscapes including boulevards connecting and traversing through the different subdistricts.
- Gateway icons that announce entry into and welcome residents and guests to the development. Wayfinding markers that give direction within the development and reinforce the quality of the development.
- Public areas that are accessible and provide for a variety of entertainment and recreational experiences.
- Subdistricts that allow for a crossover of uses while concentrating like uses for the convenience of residents and guests.

SUBDISTRICT DESIGN

- ***Subdistrict 1—Regional Retail.*** Subdistrict 1, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing for the needs of the community by facilitating the development of regional-serving retail, personal service, and office uses.
- ***Subdistrict 2—Lifestyle Center.*** Subdistrict 2, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a compact, neighborhood and pedestrian scale mixture of office, retail, personal service, residential and community activities on single or contiguous building sites.
- ***Subdistrict 3—Downtown Center.*** Subdistrict 3, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing an active living and working community benefiting from its proximity to the existing Town core and the adjacent Subdistricts.
- ***Subdistrict 4—Residential Neighborhood.*** Subdistrict 4, as depicted on the Conceptual Development Plan (Exhibit D) shall serve the purpose of providing a planned residential community to serve the needs of the Town and add a complimentary use to the overall development.

BUILDING DESIGN

Building design is only one element that contributes to the fabric of a community. Although building design can be the most effective means of translating the character, it has to work in concert with all other designed elements. It is not the intent of this section inhibit but give the freedom to achieve excellence in building design within the limits of a few design criteria.

BUILDING MASSING AND SCALE. A building's mass or scale is determined by its component parts, including the size of its footprint, its height, its proportions and its relationship to surrounding buildings. Individual characteristics of mass and scale include:

- ***Form:*** A buildings form should have a relationship to the proposed streetscape that contributes to a comfortable environment and pleasing pedestrian experience. Its form should also be in context with surrounding buildings.
- ***Shape:*** A buildings shape should incorporate variations in height, rooflines and wall planes and be expressive without seeming unnatural.
- ***Scale:*** The use may be a determining factor in the size of a building. Incorporating special design techniques can reduce the apparent scale of a structure, such as:
    a. Subdividing the façade of the building into top, bottom and middle components.
    b. Using overhangs and shadow lines to create a sense of depth.
    c. Changing building finishes or colors at logical breakpoints.
    d. Repeating patterns of windows, awnings, colonnades, porches, offsets or recesses.

BUILDING RHYTHM/ARTICULATION. All buildings, shall be designed to incorporate a form of architectural articulation as described in other sections of this document. Architectural articulation can be achieved in a variety of traditional and imaginative ways. The intent is to allow creative architectural notions but not be gregarious or draw unusual attention to their expression. This will allow for variety of design and identity within subdistricts while maintaining high standards for the overall development.

ARCHITECTURAL ELEMENTS. They are the unique details and component parts that together, form the architectural style of buildings. Architectural elements typically include compositions of forms and shapes, patterns of windows, doors, roofs and awnings but can also include compositions of materials, expressions of structure, notions of shade and respite, patterns of light and dark, placement of follies and fixtures, all of which must be combined in ways that reinforce the character and quality of the overall development.

FAÇADE TREATMENTS. Building façades, with their shapes, materials, colors, openings, textures, and details, shall be used to contribute to the architectural character of the development.

- All Retail except Major Anchor Retail shall have ground level storefront extending across a minimum of 50% of front façade length. Other uses shall have window treatments appropriate for their use.
- On secondary sides of retail buildings, windows do not need to be provided at ground level; however, buildings should avoid monotonous, uninterrupted walls by incorporating articulation standards as outlined in other sections of this document. A variety of offsets, recesses, etc. shall be used to add variety and interest to the building and eliminate long blank walls.
- Same or similar materials will be used on major as well as minor sides of the building to ensure a continuity of the building on all sides.

LIGHTING. Lighting is an important aspect of the development. Strategic placement of lighting will greatly enhance the overall ambiance of the development. Security lighting shall be installed per the codes and ordinances of the Town. Architectural lighting should be designed to enhance the buildings appearance. Exterior lighting such as street lamps, façade lighting, twinkle lights, up-lighting at key building elements and landscape features, etc., is allowed. All lighting shall meet the standards outlined in the Town's Zoning Ordinance as it currently exists or as amended there to.

PAD SITE BUILDINGS. Buildings on pad sites shall use similar materials and elements in order to visually identify with the rest of the project.

PUBLIC REALM DESIGN

The public realm exists at the intersections of the various aspects of community living. It consists of areas with unlimited and direct access and is centered upon the pedestrian experience. Streets, sidewalks, plazas and parks are all components of the public realm, and help create a pedestrian network. This network should be given priority over the street network (vehicle access) and provide visible connections to parking facilities, crossings and adjacent development while being of a size to accommodate pedestrian traffic patterns. Crossings shall be designed to minimize pedestrian traffic exposure to vehicle traffic.

The street network should provide connectivity as well as flexibility for future development and be able to accommodate a pedestrian network with appropriate shading from trees and built structures. Other streetscape elements such as benches, wayfinding devices, planting strips, receptacles for trash and recycling, water features and various art and performance media shall contribute to the pedestrian experience. This shall be in accordance with unified landscaping and streetscape plans.

Public parks and open spaces contribute not only to the pedestrian experience but also to the ecological value and appearance of the development. By providing space for recreation, they promote community and gathering and can enhance value for retail, restaurant and residential uses.

URBAN RESIDENTIAL DEVELOPMENT GUIDELINES

Residential units shall be located in a manner that will provide privacy for residents by one or several of the following:

- Provide a small landscaped front setback
- Raise or lower the finished ground level relative to the sidewalk level
- Allow for encroachment by stoops, stairs and porches within the area between the front façade and the property line

ARCHITECTURAL ELEMENTS

- Residential buildings shall have relatively little horizontal articulation and simple roofs, with most building wing articulations set at the rear of the structure. Window projections, stoops, porches, balconies and similar extensions are exempt from this standard.
- Gable roofs, if provided, shall have a minimum pitch of 9:12. The minimum pitch for hip roofs is 6:12. Other roof types shall be appropriate to the architectural style of the building.
- Architectural embellishments that add visual interest to the roof, such as dormers and masonry chimneys, may be provided.

PARKING. Where practicable, off-street parking shall be accessed via alleys along the side or rear property lines, thus eliminating driveways from the residential streetscape. However, off-street parking may also be accessed via other public/private streets along the front property line.

APPENDIX A—ZONING EXHIBIT & LEGAL DESCRIPTION

EXHIBIT "A"

PD-SUBDISTRICT 3
(DOWNTOWN CENTER)
111.81 GROSS ACRES
94.92 NET ACRES

PD-SUBDISTRICT 4
(RESIDENTIAL NEIGHBORHOOD)
71.43 GROSS ACRES
62.09 NET ACRES

PD-SUBDISTRICT 1
(REGIONAL RETAIL)
46.82 GROSS ACRES
37.58 NET ACRES

PD-SUBDISTRICT 2
(LIFESTYLE CENTER)
217.83 GROSS ACRES
190.69 NET ACRES

PD-SUBDISTRICT 1
(REGIONAL RETAIL).
173.19 GROSS ACRES
136.49 NET ACRES

POINT OF BEGINNING

SECOND STREET
FIRST STREET
COLEMAN STREET
CRAIG ROAD
CHURCH
CROCKETT
BUSINESS 289
PROPOSED LOVERS LANE
FUTURE LOVERS LANE
DALLAS NORTH TOLLWAY
BURLINGTON NORTHERN SANTA FE RAILROAD
PRESTON ROAD
STATE HIGHWAY 289
RICHAND DRIVE
U.S. HIGHWAY 380

LOCATION MAP
NOT TO SCALE

Note: The throroughfare alignment(s) shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at time of final plat.

Legend

R.P.R.D.C.T. = Real Property Records of Denton County, Texas
P.R.D.C.T. = Plat Records of Denton County, Texas
ROW = Right-of-Way
O.P.R.C.C.T. = Official Public Records of Collin County, Texas
L.R.C.C.T. = Land Records of Collin County, Texas
D.R.C.C.T. = Deed Records of Collin County, Texas
F.L.U.P. = Future Land Use Plan

N
W E
S

GRAPHIC SCALE IN FEET
300' 0 150' 300' 600'
1"=300' @ 24"X36"

EXHIBIT "A"
FOR ZONING CASE NO. Z18-0003
GATES OF PROSPER
BEING 621.07 ACRES OUT OF THE COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147 B. RENISON SURVEY, ABSTRACT NO. 755 J. YARNALL SURVEY ABSTRACT NO. 1038 TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
106 West Louisiana Street
McKinney, TX 75069
Ph. 469-301-2590
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
106 West Louisiana Street
McKinney, Texas 75069
FIRM # 10115500 Tel. No. (469)-201-2590

Scale	Drawn by	Checked by	Date	Project No.
1" = 300'	DAB	JCR	May 2018	068109030

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K:\MKN_CIVIL\068109030\GATES OF PROSPER\CAD\EXHIBITS\ARCHIVE\GATES ZONING EXHIBIT-01.DWG PLOTTED BY: TEDESCO, JOHN 5/8/2018 12:01 PM LAST SAVED 5/8/2018 11:57 AM

Property ID	Owner	Volume	Page	Doc. No.	Existing Zoning	Existing Land Use	Future Land Use
1	COSERV PROPERTY HOLDINGS LLC			20140812000856950	DTC	INDUSTRIAL	OLD TOWN CORE DISTRICT
2	RAY C. MCGEE				SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
3	RAY C. MCGEE			20080528006402050	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
4	RAY C. MCGEE			20080528000640200	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
5	RUTILIO & YOLANDA AGUILAR	5236	4438		SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
6	RICKIE WEEMS	5683	6748		SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
7	TOWN OF PROSPER			20170616000784290	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
8	M.S. DALTON ESTATE			20180312000299430	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
9	TOWN OF PROSPER			20170421000509890	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
10	RODOLFO SOTO			20151218001578610	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
11	ABE & TOMOKO MANSOORI			20121211001574800	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
12	DARIL R NIX REVOCABLE LVG TRUST	94-	0014368		SF-15	RESIDENTIAL	TOWN CENTER
13	FRANCISCO IBARRA	5848	4553		SF-15	RESIDENTIAL	TOWN CENTER
14	SAYDA HERNANDEZ	5982	2009		SF-15	RESIDENTIAL	TOWN CENTER
15	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
16	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
17	JOSE & MARIA E. GONZALEZ JOSE	1395	0333		SF-15	RESIDENTIAL	TOWN CENTER
18	FLAVIO IBARRA LOZANO	99-0132985	4531-2501		SF-15	RESIDENTIAL	TOWN CENTER
19	SAYDA HERNANDEZ			20070509000626600	SF-15	RESIDENTIAL	TOWN CENTER
20	BLUE STAR LAND LP			20140411000350200	SF-15	RESIDENTIAL	TOWN CENTER
21	SHRADER SANDRA OMOHUNDRO			20170925001280500	SF-15	RESIDENTIAL	TOWN CENTER
22	183 LAND CORPORATION INC	97-	0005168		SF-15	RESIDENTIAL	TOWN CENTER
23	FIRST PRESBYTERIAN CHURCH	14700102			SF-15	Church	TOWN CENTER
24	PRESBYTERIAN CHURCH				SF-15	Church	TOWN CENTER
25	EDUARDO BELL			20120501000502170	DTO	RESIDENTIAL	TOWN CENTER
26	BLISS PET RESORT LLC			20151230001621710	C	COMMERCIAL	TOWN CENTER
27	THOMAS L. & BOBBIE JAMES			20140124000072220	SF-15	RESIDENTIAL	TOWN CENTER
28	MONTE & BARBARA KAUFFMAN	2904	892		SF-15	RESIDENTIAL	TOWN CENTER
29	FIRST BAPTIST CHURCH PROSPER	01-0130186	5023-3304		DTO	CHURCH	TOWN CENTER
30	ERNEST MAHARD, JR.				DTO	COMMERCIAL	TOWN CENTER
31	MAHARD EGG FARM INC				DTO	COMMERCIAL	TOWN CENTER
32	TOWN OF PROSPER			20070709000937360	RETAIL	COMMERCIAL	TOWN CENTER
33	GRIFFIN 4 HOLDINGS LLC			20170803001030760	DTO	RESIDENTIAL	TOWN CENTER
34	BLUE MONKEY PROPERTIES LLC			20171213001647850	SF15	RESIDENTIAL	TOWN CENTER

EXHIBIT A
LEGAL DESCRIPTION
621.07 ACRES

BEING of a tract of land out of the ED BRADLEY SURVEY, Abstract No. 86, the COLLIN COUNTY SCHOOL LAND SURVEY, Abstract No. 147, the B. RENISON SURVEY, Abstract No. 755 and the JOHN YARNELL SURVEY, Abstract No. 1038, in the Town of Prosper, Collin County, Texas, being all of the 16.496 acre Tract Five, all of the 125.92 acre Tract Six, being all of the 123.85 acre Tract Seven, all of the 10.068 acre Tract Eight, all of the 27.672 acre Tract Nine, all of the 99.96 acre Tract Ten recorded in Collin County Clerk's File No. 97-0005168 of the Land Records of Collin County, Texas and being part of the 157.13 acre tract of land described in deed to Blue Star Allen Land, L.P., recorded in Volume 6074, Page 2102 of the Deed Records of Collin County, Texas, being all of the 0.38 acre tract of land described in deed to Blue Star Land, Ltd. recorded in Document No. 20100809000819450 of the Official Public Records of Collin County, Texas and being more particularly described as follows;

BEGINNING at a point for the intersection of the centerline of U.S. Highway 380 (variable width ROW) and the centerline of the Burlington Northern Railroad (100' ROW at this point);

THENCE with said centerline of the Burlington Northern Railroad, North 11°23'13" East, a distance of 2716.96 feet to a point for corner;

THENCE leaving the centerline of the Burlington Northern Railroad, the following courses and distances two wit:
South 89°15'40" West, a distance of 123.47 feet to a point for corner;
North 00°57'41" West, a distance of 2704.85 feet to a point in the centerline of First Street;

THENCE with the centerline of First Street, the following courses and distances to wit:
North 89°37'06" East, a distance of 509.94 feet to a point for corner;
South 86°07'09" East, a distance of 202.29 feet to a point for corner;
North 89°38'54" East, a distance of 454.43 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00°45'07" West, a distance of 313.06 feet to a point for corner;
North 89°29'33" East, a distance of 481.12 feet to a point for corner;
North 00°21'57" West, a distance of 311.69 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89°38'54" East, a distance of 377.25 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 00°06'52" East, a distance of 314.43 feet to a point for corner;
North 89°49'10" East, a distance of 189.92 feet to a point for corner;
North 00°09'58" West, a distance of 104.29 feet to a point for corner;
North 89°41'07" East, a distance of 455.63 feet to a point for corner in the centerline of Coleman Street;

THENCE with the centerline of said Coleman Street, South 00°05'32" East, a distance of 177.82 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
South 89°56'58" East, a distance of 257.38 feet to a point for corner;
North 02°09'39" East, a distance of 71.99 feet to a point for corner;
North 89°18'22" East, a distance of 555.18 feet to a point for corner;
South 00°58'50" East, a distance of 673.52 feet to a point for corner;
South 76°42'56" East, a distance of 185.47 feet to a point for corner;
South 76°51'24" East, a distance of 321.53 feet to a point for corner;
South 89°06'24" East, a distance of 1107.37 feet to a point for corner in the centerline of Craig Road;

THENCE with the centerline of said Craig Road, North 00°04'32" East, a distance of 842.40 feet to a point for corner;

THENCE leaving said centerline, the following courses and distances to wit:
North 89°30'30" East, a distance of 205.11 feet to a point for corner;
North 00°05'59" West, a distance of 299.98 feet to a point for corner in the centerline of said First Street;

THENCE with the centerline of First Street, North 89°31'34" East, a distance of 1084.95 feet to a point for corner;

THENCE leaving the centerline of said First Street, the following courses and distances to wit:
South 01°02'13" East, a distance of 1546.12 feet to a point for corner;
South 89°20'50" West, a distance of 899.18 feet to a point for corner;
South 32°50'09" West, a distance of 339.04 feet to a point for corner;
North 54°21'33" West, a distance of 401.98 feet to a point for corner in the east right-of-way line of Preston Road (State Highway 289 - variable width ROW);
THENCE with said east right-of-way line, South 33°37'47" West, a distance of 423.21 feet to a point for corner;

THENCE leaving said east right-of-way line, he following courses and distances to wit:
South 54°19'15" East, a distance of 408.23 feet to a point for corner;
South 00°03'08" East, a distance of 3183.53 feet to a point for corner in the centerline of said U.S. Highway 380;

THENCE with said centerline, the following courses and distances to wit:
South 89°12'47" West, a distance of 2794.95 feet to a point for corner;
South 89°46'43" West, a distance of 2671.91 feet to the **POINT OF BEGINNING** and containing 621.07 acres of land.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

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EXHIBIT "A"
FOR ZONING CASE NO. Z18-0003
GATES OF PROSPER
BEING 621.07 ACRES OUT OF THE
COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147
B. RENISON SURVEY, ABSTRACT NO. 755
J. YARNALL SURVEY ABSTRACT NO. 1038
TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
106 West Louisiana Street
McKinney, TX 75069
Ph. 469-301-2590
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
106 West Louisiana Street
McKinney, Texas 75069
FIRM # 10115500
Tel. No. (469)-201-2590

Scale	Drawn by	Checked by	Date	Project No.	Sheet
N/A	DAB	JCR	May 2018	068109030	

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APPENDIX A-1—ZONING EXHIBIT & LEGAL DESCRIPTION

EXHIBIT "A-1"

BEING a tract of land situated in the Collin County School Land No. 12 Survey, Abstract No.147, the Ben Renison Survey, Abstract No. 755, and the John Yarnell Survey, Abstract No. 1038, the Town of Prosper, Collin County, Texas and being a portion of Block B, Lot 1 and Lot 2 of the Gates of Prosper, Phase 2, an addition to the Town of Prosper, according to the Conveyance Plat recorded in Volume 2020, Page 807 of the Plat Records of said county, same being a part of Tract 2, a called 4.448 acres tract described in a Warranty Deed to GOP #2 LLC, as recorded in Instrument No. 20190605000641620 of the Official Public Records of said county, a part of a called 157.1346 acres tract described in a Deed to 289 (Preston) & 380, LP, as recorded in 20121221001629970 and 20121221001629970 of said Official Public Records, a part of Tract Seven, a called 123.850 acres tract described in Deed to 289 (Preston) & 380 L.P., as recorded in Instrument No. 2019011800061180 of said Official Public Records, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for the southerly, southeast corner of said Block b, Lot 2, same being at the intersection of the northwesterly right-of-way line of State Highway 289 (Preston Road) (variable width Right-of-way) with the northerly right-of-way line of University Drive (U. S. Highway 380) (variable width Right-of-way);

THENCE along the northerly right-of-way line of said University Drive (U. S. Highway 380) and the southerly line of said Lot 2, the following courses and distances:

South 89°12'09" West, a distance of 792.64 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 84°43'41" West, a distance of 92.74 feet to a 1/2 inch iron rod found for corner;

North 89°50'14" West, a distance of 430.49 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 87°55'41" West, a distance of 42.02 feet to a point for corner;

THENCE North 00°00'00" East, departing the northerly right-of-way line of said University Drive (U. S. Highway 380), the southerly line of said Lot 2, crossing said Lot 2, a distance of 923.23 feet to a point at the beginning of a non-tangent curve to the left having a central angle of 4°02'38", a radius of 850.00 feet, a chord bearing and distance of South 87°58'41" East, 59.98 feet;

THENCE in an easterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 59.99 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, a distance of 747.44 feet to a point at the beginning of a tangent curve to the left having a central angle of 90°00'00", a radius of 650.00 feet, a chord bearing and distance of North 45°00'00" East, 919.24 feet;

THENCE in a northeasterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 1021.02 feet to a point for corner;

THENCE South 00°00'00" East, continuing across said Lot 2, a distance of 301.08 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, passing the common line of said Lot 2 and aforesaid Block b, Lot 1, continuing across said Lot 1, a distance of 927.55 feet to a point for corner;

THENCE South 52°50'32" East, continuing across said Lot 1, a distance of 25.77 feet to a point for corner on the southeasterly line of said Lot 1 and the northwesterly right-of-way line of aforesaid State Highway 289 (Preston Road);

THENCE along the northwesterly right-of-way line of said U. S. Highway 289 (Preston Road), the southeasterly line of said Lot 1 and the southeasterly line of aforesaid Lot 2, the following courses and distances:

South 37°09'28" West, a distance of 358.47 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 44°07'24" West, a distance of 418.54 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 60°08'40" West, a distance of 32.61 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 16°37'20" West, a distance of 93.29 feet to a 5/8 inch iron rod found for corner;

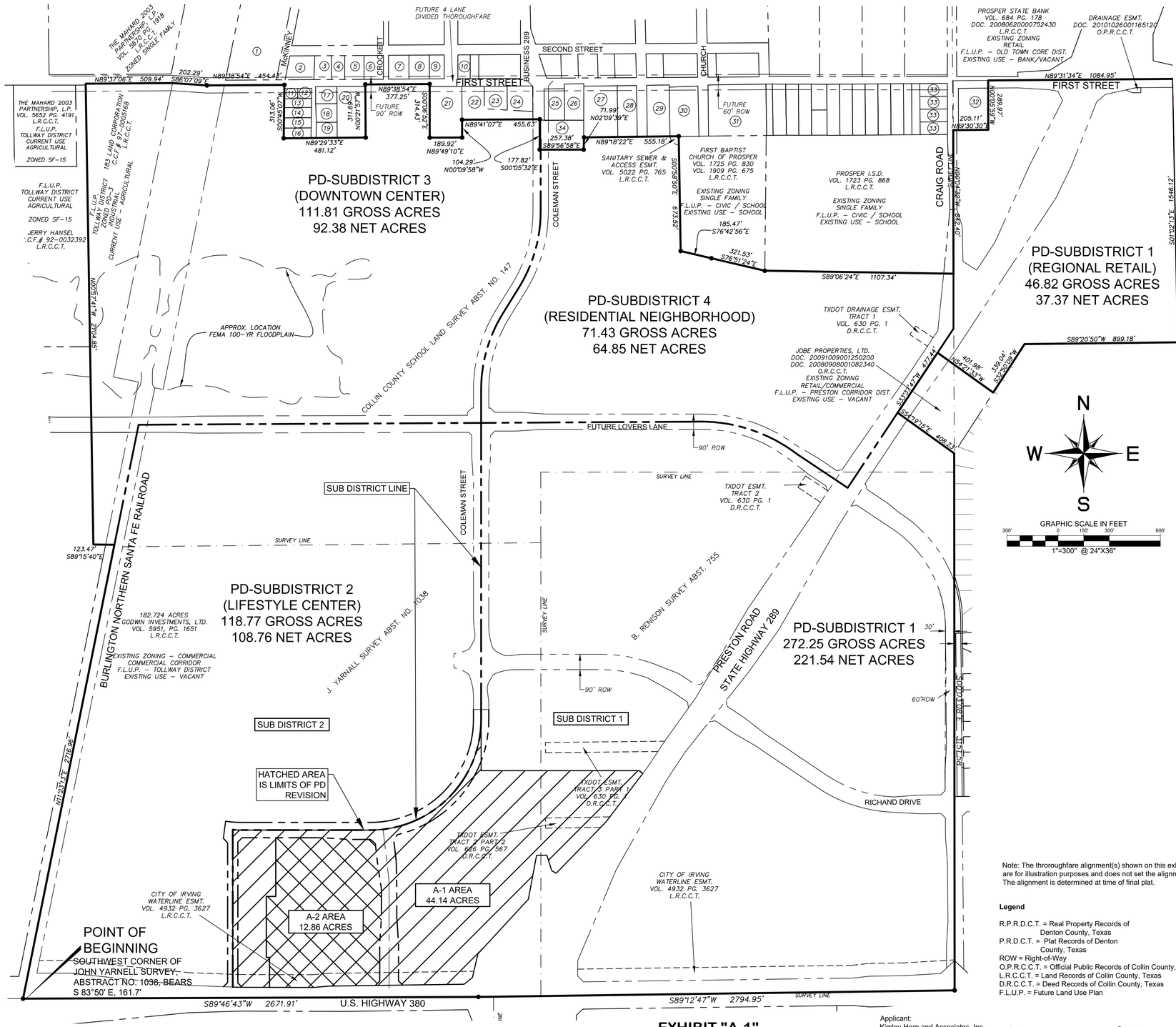
South 89°43'04" West, passing at a distance of 30.16 feet, a 1/2 inch iron rod found for the most westerly southwest corner of the aforementioned Tract Seven, continuing a total distance of 59.48 feet to a 5/8 inch iron rod found;

South 10°42'09" West, a distance of 261.71 feet to a TxDot aluminum disk found for corner;

South 42°38'30" West, a distance of 436.76 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 13°02'09" West, a distance of 142.64 feet to a TxDot aluminum disk found for corner;

South 51°12'09" West, a distance of 62.97 feet to the **POINT OF BEGINNING** and containing 44.137 acres (1,922,620 square feet) of land, more or less.



Note: The throroughfare alignment(s) shown on this exhibit are for illustration purposes and does not set the alignment. The alignment is determined at time of final plat.

Legend

R.P.R.D.C.T. = Real Property Records of Denton County, Texas
P.R.D.C.T. = Plat Records of Denton County, Texas
ROW = Right-of-Way
O.P.R.C.C.T. = Official Public Records of Collin County, Texas
L.R.C.C.T. = Land Records of Collin County, Texas
D.R.C.C.T. = Deed Records of Collin County, Texas
F.L.U.P. = Future Land Use Plan

EXHIBIT "A-1"
FOR ZONING CASE NO. Z21-0004
GATES OF PROSPER
BEING 44.14 ACRES OUT OF THE COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147 B. RENISON SURVEY, ABSTRACT NO. 755 J. YARNALL SURVEY ABSTRACT NO. 1038 TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
260 East Davis St, Suite 100
McKinney, TX 75069
Ph. 469-301-2580
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
260 EAST DAVIS ST, SUITE 100
McKinney, Texas 75069
FIRM # 10115500
Tel. No. (469)-301-2580

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 300'	RAB	RAK	Feb 2021	068109030	1 OF 2

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Property ID	Owner	Volume	Page	Doc. No.	Existing Zoning	Existing Land Use	Future Land Use
1	COSERV PROPERTY HOLDINGS LLC			20140812000856950	DTC	INDUSTRIAL	OLD TOWN CORE DISTRICT
2	PROSPER EDC			20181030001348020	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
3	PROSPER EDC				SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
4	PROSPER EDC				SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
5	RUTILIO & YOLANDA AGUILAR	5236	4438		SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
6	PROSPER EDC			20180504000548560	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
7	TOWN OF PROSPER			20170616000784290	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
8	TOWN OF PROSPER			20190119010003140	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
9	TOWN OF PROSPER			20170421000509890	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
10	RODOLFO SOTO			20151218001578610	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
11	ABE & TOMOKO MANSOORI			20121211001574800	SF-15	RESIDENTIAL	OLD TOWN CORE DISTRICT
12	DARIL R NIX REVOCABLE LVG TRUST	94-	0014368		SF-15	RESIDENTIAL	TOWN CENTER
13	FRANCISCO IBARRA	5848	4553		SF-15	RESIDENTIAL	TOWN CENTER
14	SAYDA HERNANDEZ	5982	2009		SF-15	RESIDENTIAL	TOWN CENTER
15	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
16	JOSE & ISIDRA GRANADOS	97-	0003293		SF-15	RESIDENTIAL	TOWN CENTER
17	JOSE & MARIA E. GONZALEZ JOSE	1395	0333		SF-15	RESIDENTIAL	TOWN CENTER
18	FLAVIO IBARRA LOZANO	99-0132985	4531-2501		SF-15	RESIDENTIAL	TOWN CENTER
19	SAYDA HERNANDEZ			20070509000626600	SF-15	RESIDENTIAL	TOWN CENTER
20	BLUE STAR LAND LP			20140411000350200	SF-15	RESIDENTIAL	TOWN CENTER
21	SHRADER SANDRA OMOHUNDRO			20170925001280500	SF-15	RESIDENTIAL	TOWN CENTER
22	183 LAND CORPORATION INC	97-	0005168		SF-15	RESIDENTIAL	TOWN CENTER
23	FIRST PRESBYTERIAN CHURCH	14700102			SF-15	Church	TOWN CENTER
24	PRESBYTERIAN CHURCH				SF-15	Church	TOWN CENTER
25	VISION AND STRUCTURE LLC			20200903001480220	DTO	RESIDENTIAL	TOWN CENTER
26	BLISS PET RESORT LLC			20151230001621710	C	COMMERCIAL	TOWN CENTER
27	HOLLMAN HOLDING LLC			20190830001065010	SF-15	RESIDENTIAL	TOWN CENTER
28	MONTE & BARBARA KAUFFMAN	2904	892		SF-15	RESIDENTIAL	TOWN CENTER
29	FIRST BAPTIST CHURCH PROSPER	01-0130186	5023-3304		DTO	CHURCH	TOWN CENTER
30	ERNEST MAHARD, JR.				DTO	COMMERCIAL	TOWN CENTER
31	MAHARD EGG FARM INC				DTO	COMMERCIAL	TOWN CENTER
32	TOWN OF PROSPER			20070709000937360	RETAIL	COMMERCIAL	TOWN CENTER
33	GRIFFIN 4 HOLDINGS LLC			20170803001030760	DTO	RESIDENTIAL	TOWN CENTER
34	BLUE MONKEY PROPERTIES LLC			20171213001647850	SF15	RESIDENTIAL	TOWN CENTER

BEING a tract of land situated in the Collin County School Land No. 12 Survey, Abstract No.147, the Ben Renison Survey, Abstract No. 755, and the John Yarnell Survey, Abstract No. 1038, the Town of Prosper, Collin County, Texas and being a portion of Block B, Lot 1 and Lot 2 of the Gates of Prosper, Phase 2, an addition to the Town of Prosper, according to the Conveyance Plat recorded in Volume 2020, Page 807 of the Plat Records of said county, same being a part of Tract 2, a called 4.448 acres tract described in a Warranty Deed to GOP #2 LLC, as recorded in Instrument No. 20190605000641620 of the Official Public Records of said county, a part of a called 157.1346 acres tract described in a Deed to 289 (Preston) & 380, LP, as recorded in 20121221001629970 and 20121221001629970 of said Official Public Records, a part of Tract Seven, a called 123.850 acres tract described in Deed to 289 (Preston) & 380 L.P., as recorded in Instrument No. 20190118000611180 of said Official Public Records, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for the southerly, southeast corner of said Block b, Lot 2, same being at the intersection of the northwesterly right-of-way line of State Highway 289 (Preston Road) (variable width Right-of-way) with the northerly right-of-way line of University Drive (U. S. Highway 380) (variable width Right-of-way);

THENCE along the northerly right-of-way line of said University Drive (U. S. Highway 380) and the southerly line of said Lot 2, the following courses and distances:

South 89°12'09" West, a distance of 792.64 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 84°43'41" West, a distance of 92.74 feet to a 1/2 inch iron rod found for corner;

North 89°50'14" West, a distance of 430.49 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 87°55'41" West, a distance of 42.02 feet to a point for corner;

THENCE North 00°00'00" East, departing the northerly right-of-way line of said University Drive (U. S. Highway 380), the southerly line of said Lot 2, crossing said Lot 2, a distance of 923.23 feet to a point at the beginning of a non-tangent curve to the left having a central angle of 4°02'38", a radius of 850.00 feet, a chord bearing and distance of South 87°58'41" East, 59.98 feet;

THENCE in an easterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 59.99 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, a distance of 747.44 feet to a point at the beginning of a tangent curve to the left having a central angle of 90°00'00", a radius of 650.00 feet, a chord bearing and distance of North 45°00'00" East, 919.24 feet;

THENCE in a northeasterly direction, continuing across said Lot 2, with said curve to the left, an arc distance of 1021.02 feet to a point for corner;

THENCE South 00°00'00" East, continuing across said Lot 2, a distance of 301.08 feet to a point for corner;

THENCE North 90°00'00" East, continuing across said Lot 2, passing the common line of said Lot 2 and aforesaid Block b, Lot 1, continuing across said Lot 1, a distance of 927.55 feet to a point for corner;

THENCE South 52°50'32" East, continuing across said Lot 1, a distance of 25.77 feet to a point for corner on the southeasterly line of said Lot 1 and the northwesterly right-of-way line of aforesaid State Highway 289 (Preston Road);

THENCE along the northwesterly right-of-way line of said U. S. Highway 289 (Preston Road), the southeasterly line of said Lot 1 and the southeasterly line of aforesaid Lot 2, the following courses and distances:

South 37°09'28" West, a distance of 358.47 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 44°07'24" West, a distance of 418.54 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 60°08'40" West, a distance of 32.61 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set for corner;

North 16°37'20" West, a distance of 93.29 feet to a 5/8 inch iron rod found for corner;

South 89°43'04" West, passing at a distance of 30.16 feet, a 1/2 inch iron rod found for the most westerly southwest corner of the aforementioned Tract Seven, continuing a total distance of 59.48 feet to a 5/8 inch iron rod found;

South 10°42'09" West, a distance of 261.71 feet to a TxDot aluminum disk found for corner;

South 42°38'30" West, a distance of 436.76 feet to a 5/8 inch iron rod with a red plastic cap, stamped "KHA", set;

South 13°02'09" West, a distance of 142.64 feet to a TxDot aluminum disk found for corner;

South 51°12'09" West, a distance of 62.97 feet to the **POINT OF BEGINNING** and containing 44.137 acres (1,922,620 square feet) of land, more or less.

EXHIBIT "A-1"
FOR ZONING CASE NO. Z21-0004
GATES OF PROSPER
BEING 44.14 ACRES OUT OF THE
COLLIN COUNTY SCHOOL SURVEY, ABSTRACT NO. 147
B. RENISON SURVEY, ABSTRACT NO. 755
J. YARNALL SURVEY ABSTRACT NO. 1038
TOWN OF PROSPER, COLLIN COUNTY, TEXAS

Applicant:
Kimley-Horn and Associates, Inc.
260 East Davis St, Suite 100
McKinney, TX 75069
Ph. 469-301-2580
Contact : Joe Riccardi

Owner:
380 & 289 LP
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Owner:
183 Land Corporation, Inc.
1 Cowboys Way
Frisco, TX 75034
Ph. 972-497-4367

Kimley»Horn
260 EAST DAVIS ST, SUITE 100
McKinney, Texas 75069
FIRM # 10115500
Tel. No. (469)-301-2580

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	RAB	RAK	Feb 2021	068109030	2 OF 2

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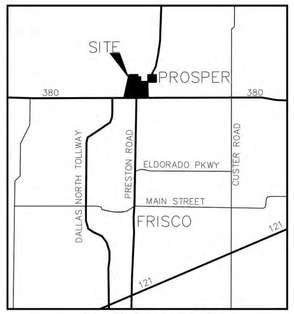
I:\NAME-K\MISC_CIVIL\068109030\GATES OF PROSPER\CAD\EXHIBITS\2021\21 - GATES ZONING EXHIBIT A-1.DWG PLOTTED BY BECKLER, RACHEL 3/3/2021 8:16 AM LAST SAVED 3/1/2021 9:05 PM

APPENDIX B—CONCEPTUAL DEVELOPMENT PLAN

EXHIBIT "D"



VICINITY MAP
PROSPER, TX
NOT TO SCALE

TRACT 3
PROPOSED ZONING
PD-SUBDISTRICT 3
(DOWNTOWN CENTER)
111.81 GROSS ACRES
94.92 NET ACRES

TRACT 2
PROPOSED ZONING
PD-SUBDISTRICT 2
(LIFESTYLE CENTER)
146.49 GROSS ACRES
129.43 NET ACRES

TRACT 4
PROPOSED ZONING
PD-SUBDISTRICT 4
(RESIDENTIAL NEIGHBORHOOD)
71.43 GROSS ACRES
62.09 NET ACRES

TRACT 1B
PROPOSED ZONING
PD-SUBDISTRICT 1
(REGIONAL RETAIL)
46.82 GROSS ACRES
37.58 NET ACRES

TRACT 1A
PROPOSED ZONING
PD-SUBDISTRICT 1
(REGIONAL RETAIL)
244.38 GROSS ACRES
197.21 NET ACRES

FUTURE 4 LANE DIVIDED THOROUGHFARE
McKINNEY
CROCKETT
BUSINESS 289
SECOND STREET
CHURCH
FIRST STREET
80' ROW
FUTURE 60' ROW
CRAIG ROAD
PRESTON ROAD
OFFICE / MIXED USE
OFFICE/ MIXED USE
PARK
APPROX. LOCATION FEMA 100-YR FLOODPLAIN
DETENTION
SANITARY SEWER & ACCESS ESMT. VOL. 5022, PG. 765 L.R.C.C.T.
5.5 AC COMMERCIAL
PROPOSED LOVERS LANE
LOVERS LANE
MULTI-FAMILY UNITS
BURLINGTON NORTHERN SANTA FE RAILROAD
HOTEL / CONFERENCE CENTER
ANCHOR 104,913 S.F 1-LEVEL
THEATER 36,748 S.F
FITNESS 57,000 SF
HOTEL
ANCHOR 55,000 SF
ANCHOR 21,360 SF
RETAIL 12,500 SF
RETAIL 17,500 SF
RETAIL 5,280 SF
RETAIL 10,000 SF
RETAIL 10,500 SF
RETAIL 15,700 SF
RETAIL 10,000 SF
STATE HIGHWAY 289 PRESTON ROAD
RICHAND DRIVE
ANCHOR 185,632 SF
ANCHOR 90,000 SF
136,000 SF
BOARDWALK
10.93 AC
1.59 AC
1.07 AC
1.30 AC
5.26 AC
2.35 AC
1.65 AC
2.4 AC
12 AC
12 AC
7.5 AC
FUEL/ 2,756 SF
JR ANCHOR 15,196 SF
RETAIL 3,304 SF
RETAIL 2,455 SF
STORAGE 1,519 SF
RETAIL 4,143 SF
RETAIL 2,455 SF
RETAIL 2,338 SF
RETAIL 3,000 SF
RETAIL 3,000 SF
RETAIL 5,000 SF
JR ANCHOR 18,017 SF
RETAIL 7,700 SF
RETAIL 6,001 SF
RETAIL 10,010 SF
RETAIL 12,566 SF
JR ANCHOR 25,060 SF
JR ANCHOR 21,000 SF
RETAIL 5,999 SF
RETAIL 6,500 SF
JR ANCHOR 41,071 SF
RETAIL 4,564 SF
5,000 SF
8,000 SF
GROCER 120,000 S.F
6.37 AC
13,300 S.F
PARK
TOWN HALL
PROPOSED LOVERS LANE
U.S. HIGHWAY 380

NOTE:
THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAT.
OVERALL BUILDING, PARKING AND LOT LAYOUTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DO NOT REPRESENT THE FINAL LAYOUT.

NORTH
0 400 800

Applicant:
Kimley-Horn and Associates, Inc.
106 West Louisiana Street
McKinney, TX 75069
469-301-2590
Contact : Joe Riccardi

Owner:
389 & 289 LP
1 Cowboys Parkway
Frisco, TX 75036

Owner:
183 Land Corporation, Inc.
1 Cowboys Parkway
Frisco, TX 75036

Gates of Prosper

Blue Star Land

Exhibit D-621.07 Acres

Date: 03.03.21 Scale 1" = 300'

O'BRIEN ARCHITECTS

PLANNING

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:

Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plan or Preliminary Site Plan, including Prosper ISD Elementary School, No. 15 and Wild Fork Foods.

Description of Agenda Item:

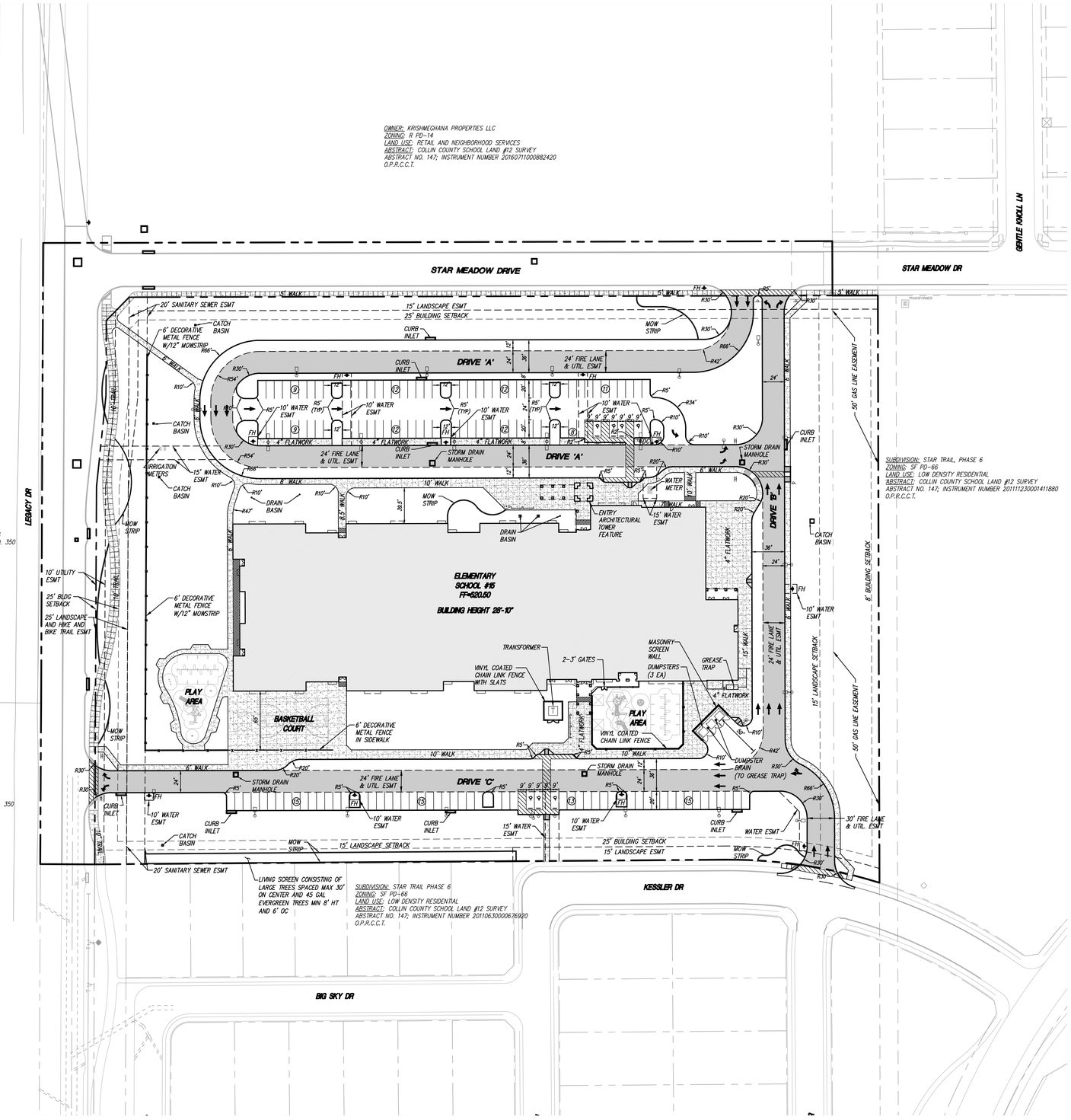
Attached are the Site Plans that were acted on by the Planning & Zoning Commission at their April 20, 2021, meeting. Per the Zoning Ordinance, the Town Council has the ability to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department for any Preliminary Site Plan or Site Plan acted on by the Planning & Zoning Commission.

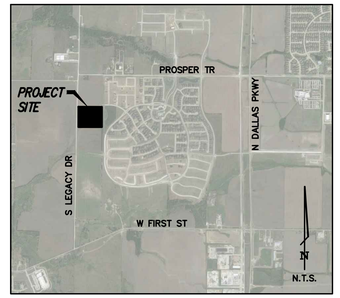
Attached Documents:

1. Site Plan for Prosper ISD Elementary School, No. 15
2. Site Plan for Wild Fork Foods (Prosper Commons)

Town Staff Recommendation:

Town staff recommends the Town Council take no action on this item.





LOCATION MAP
NOT TO SCALE

GRAPHIC SCALE
60 0 30 60 120
GRAPHIC SCALE: 1" = 60'

LEGEND
- FIRE LANE & UTILITY EASEMENT
- FLATWORK
- FIRE HYDRANT
- (12) PARKING COUNT

SITE PLAN NOTES
ANY REVISION TO THIS PLAN WILL REQUIRE TOWN APPROVAL AND WILL REQUIRE REVISIONS TO ANY CORRESPONDING PLANS TO AVOID CONFLICTS BETWEEN PLANS.

1. DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
2. OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
3. OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE AND SUBDIVISION ORDINANCE.
4. LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN.
5. ALL ELEVATIONS SHALL COMPLY WITH THE STANDARDS CONTAINED WITH THE ZONING ORDINANCE.
6. BUILDINGS OF 5,000 SQUARE FEET OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE APPROVED BY THE FIRE DEPARTMENT.
7. FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT.
8. TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.
9. SPEED BUMPS/HUMPS ARE NOT PERMITTED WITHIN A FIRE LANE.
10. HANDICAPPED PARKING AREAS AND BUILDING ACCESSIBILITY SHALL CONFORM TO THE AMERICANS WITH DISABILITIES ACT (ADA) AND WITH THE REQUIREMENTS OF THE CURRENT, ADOPTED BUILDING CODE.
11. ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
12. ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
13. ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FACADE PLAN.
14. SIDEWALKS OF NOT LESS THAN SIX (6') FEET IN WIDTH ALONG THOROUGHFARES AND COLLECTORS AND FIVE (5') FEET IN WIDTH ALONG RESIDENTIAL STREETS, AND BARRIER FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
15. APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING DEPARTMENT.
16. SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
17. ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
18. ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
19. ALL LANDSCAPE EASEMENTS MUST BE EXCLUSIVE OF ANY OTHER TYPE OF EASEMENT.
20. THE APPROVAL OF A SITE PLAN SHALL BE EFFECTIVE FOR A PERIOD OF EIGHTEEN (18) MONTHS FROM THE DATE OF APPROVAL BY THE PLANNING & ZONING COMMISSION, AT THE END OF WHICH TIME THE APPLICANT MUST HAVE SUBMITTED AND RECEIVED APPROVAL OF ENGINEERING PLANS AND BUILDING PERMITS. IF THE ENGINEERING PLANS AND BUILDING PERMITS ARE NOT APPROVED, THE SITE PLAN APPROVAL, TOGETHER WITH ANY PRELIMINARY SITE PLAN FOR THE PROPERTY, IS NULL AND VOID.

SITE DATA SUMMARY

EXISTING ZONING:	SF PD 66
PROPOSED USE:	ELEMENTARY SCHOOL
GROSS LOT AREA:	14.405 ACRES (627,490 SF)
NET LOT AREA:	12.307 ACRES (536,088 SF)
BUILDING AREA:	96,113 SF
HEIGHT:	28' 10" – ONE STORY
LOT COVERAGE RATIO:	17.9%
FLOOR AREA RATIO:	17.9%
TOTAL IMPERVIOUS AREA:	308,040 SF (7.07 AC)
REQUIRED PARKING: (1.5 SPACES PER CLASSROOM) 46 CLASSROOMS X 1.5 SPACES	69 SPACES
TOTAL PROVIDED PARKING:	143 SPACES
REQUIRED HANDICAP SPACES:	5 SPACES
STANDARD SPACES: (9'x20')	136 SPACES
HANDICAP SPACES:	7 SPACES
OPEN SPACE REQUIRED (%):	10% (53,609 SF)
OPEN SPACE PROVIDED (%):	29% (154,941 SF)

BUILDING AREA SUMMARY

BUILDING AREA:	
ELEMENTARY SCHOOL:	96,113 SF
TOTAL BUILDING AREA:	96,113 SF

FEMA NOTE
BASED ON THE FEMA FLOOD MAP SERVICE CENTER, THE SUBJECT TRACT OF LAND SHOWN HEREON LIES WITHIN ZONE 'X' UNSHADED, DEFINED AS 'AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE OF FLOODPLAIN' AS IDENTIFIED BY THE CURRENT FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP, MAP NO. 48121C0430G, EFFECTIVE DATE OF APRIL 11, 2011, FOR DENTON COUNTY, TEXAS AND INCORPORATED AREAS.

WATER METER TABLE

LOCATION	TYPE	SIZE	NUMBER
BUILDING	DOM	4"	1
LANDSCAPE	IRRIGATION	2"	2

OWNER:
PROSPER I.S.D.
CONTACT: DR. GREGORY BRADLEY
PH: 469.219.2000
605 E. SEVENTH STREET
PROSPER, TEXAS 75078

ENGINEER:
TEAGUE NALL & PERKINS
CONTACT: AMANDA M. MULLEN, P.E.
817.336.5773 PH 817.336.2813 FX
5237 N. RIVERSIDE DRIVE, SUITE 100
FORT WORTH, TEXAS 76137

ARCHITECT:
HUCKABEE, INC.
CONTACT: JOE TREMBLAY, AIA
972.292.7670 PH 214.785.2965 FX
5830 GRANITE PARKWAY, SUITE 750
PLANO, TEXAS 75024

SURVEYOR:
TEAGUE NALL & PERKINS
CONTACT: BRIAN J. MADDOX II
214.461.9867 PH 214.461.9864 FX
825 WATTERS CREEK BLVD SUITE M300
ALLEN, TEXAS 75013

LANDSCAPE ARCHITECT:
TEAGUE NALL & PERKINS
CONTACT: WILLIAM H. SMITH, R.L.A.
817.336.5773 PH 817.336.2813 FX
5237 N. RIVERSIDE DRIVE, SUITE 100
FORT WORTH, TEXAS 76137

SITE PLAN FOR PROSPER ELEMENTARY SCHOOL No. 15 TOWN OF PROSPER COLLIN COUNTY, TEXAS

DATE PREPARED: APRIL 2021
TOWN CASE # D21-0025

no.	revision	by	date
1	ADDENDUM #1		XX/XX/XX

teague nall and perkins, inc
5237 N. Riverside Drive, Suite 100
Fort Worth, Texas 76137
817.336.5773 ph 817.336.2813 fx
www.tnpinc.com
TBPELS: ENGR F-230; SURV 10011600, 10011601, 10194381
GBPE: PEF007431; TBAE: BR 2673

Prosper Independent School District

scale	
horiz	1"=60'
vert	N/A
date	APRIL 2021

This document is for interim review and is not intended for construction, bidding or permit purposes.

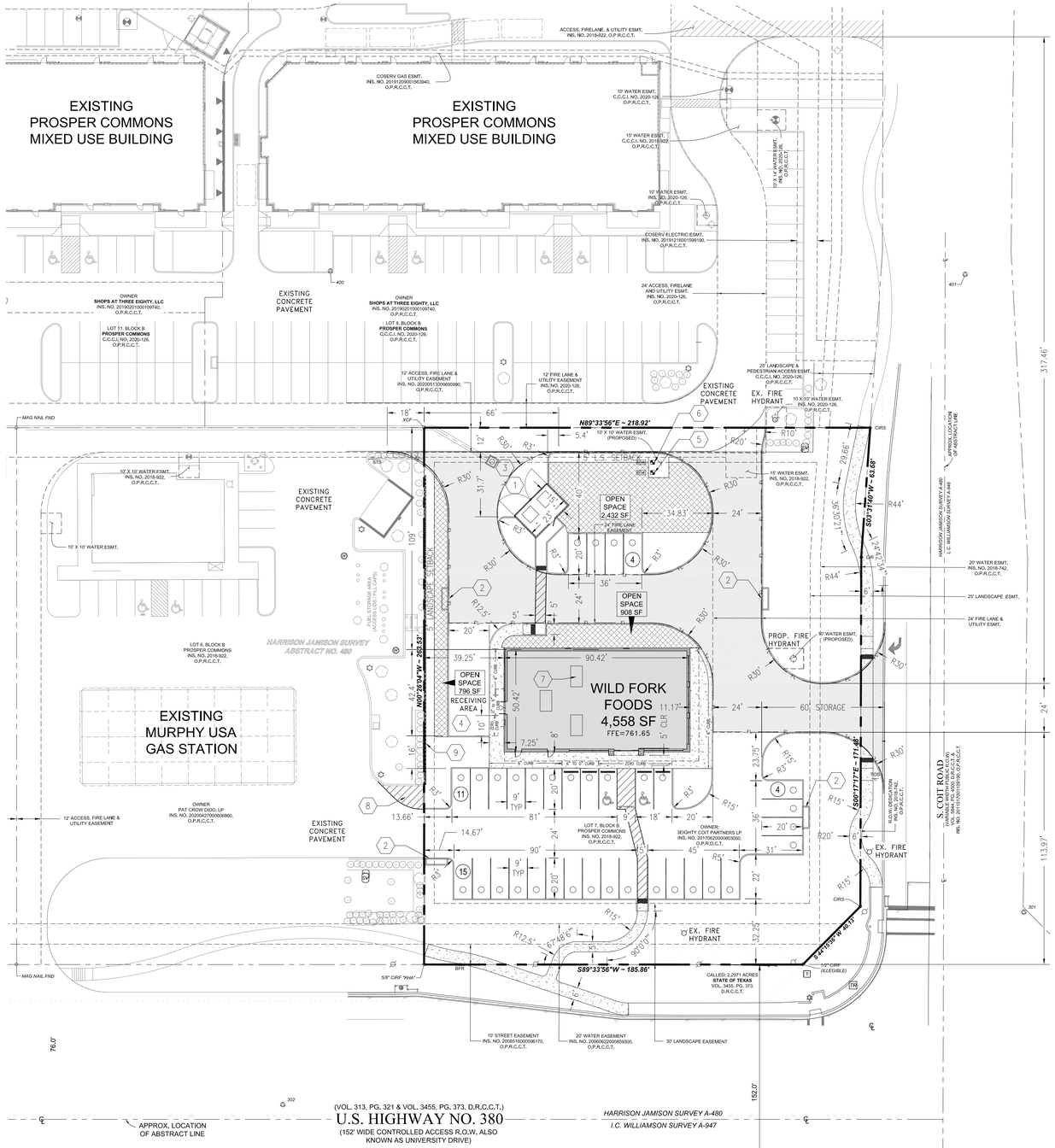
AMANDA M. MULLEN, P.E. Date: APRIL 2021

Tx. Reg. # 123232

Town of Prosper, Texas
Prosper Independent School District
New Elementary #15
SITE PLAN

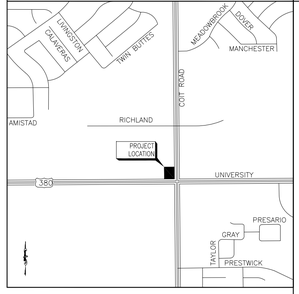
tnp project HUC21051
sheet

Drawing: T:\Projects\HUC2105\Eng-CAD\CAD\sheets_SITE PLAN.dwg at Apr 12, 2021-9:55am by cmullen
Layout: SITE PLAN Xrefs: XREF-BORDER.dwg – X3D-BLDG.dwg – X3D-WSS.dwg – X3D-SD.dwg – seal-JLM_JR.dwg – MSW SEAL PLAN.dwg – seal-JLM_LA.dwg – X3D-SD-OFFSITE.dwg – X3D-WSS-OFFSITE.dwg



1 PROJECT SITE PLAN

VICINITY MAP



LEGEND

CIRS	5/8" IRON ROD WITH CAP STAMPED "SPOONER 5922"
CIRF	IRON ROD WITH CAP FOUND
IRF	IRON ROD FOUND
XCF	"X" CUT FOUND
D.R.C.C.T.	DEED RECORDS COLLIN COUNTY, TEXAS
O.P.R.C.C.T.	OFFICIAL PUBLIC RECORDS COLLIN COUNTY, TEXAS
	CONTROL POINT
	TEMPORARY BENCHMARK
	PROPERTY CORNER
	MARKER FOUND - AS NOTED
	PROPERTY CORNER SET
	POWER POLE
	GUY WIRE
	LIGHT POLE
T	TELEPHONE RISER
FMK	FIBER OPTIC MARKER
FO	FIBER OPTIC PULL BOX
	INLET RIM
WMK	
W	
	FIRE HYDRANT
S	SAN. SEWER MANHOLE
ICV	IRRIGATION CONTROL VALVE
	TRAFFIC SIGNAL LIGHT
TSB	TRAFFIC SIGNAL BOX
	SIGN
CI	CURB INLET
GI	GRATE INLET
BDE	BRICK DUMPSTER ENCLOSURE
CWS	CROSS WALK SIGNAL
BFR	BURIED FIBER ROUTE SIGN
STS	STOP SIGN
TOS	TURN ONLY SIGN
X 555.55	SPOT ELEVATION
EC 555.55	EDGE OF CONCRETE ELEVATION
GT 555.55	GUTTER ELEVATION
TC 555.55	TOP OF CURB ELEVATION
OHE	OVERHEAD ELEC.
FO	U.G. FIBER OPTIC
NG	U.G. GAS
W	
SS	U.G. SAN. SEWER
SD	U.G. STORM SEWER
X	GATE
AE	ASPHALT EDGE
	SUBJECT PROPERTY LINE
	EXISTING EASEMENT LINE
	BUILDING SETBACK LINE
	FIRELINE PAINT MARKS
	TREE (AS DESCRIBED)
	BUSH (GENERAL)
	CM (CREPE MYRTLE)
	WATER METER

SITE PLAN LEGEND

FL FL	FIRE LANE
	SIDEWALK - CONCRETE
	6" CONCRETE CURB AT ALL LANDSCAPE AREAS
	PARKING COUNT
	OPEN SPACE
	FRENCH DRAIN

WATER METER SCHEDULE

SERVICE TYPE	METER SIZE	USE
DISPLACEMENT	1 1/2"	DOMESTIC
DISPLACEMENT	1"	IRRIGATION

1. CONTRACTOR TO INSTALL DOMESTIC/IRRIGATION METERS & RPZS.
2. CONTRACTOR TO INSTALL METER BOX WITHIN DEDICATED WATER EASEMENT.
3. CONTRACTOR TO INSTALL ALL WATER LINE APPURTENANCES UP TO THE METER.

TOWN OF PROSPER SITE PLAN NOTES

ANY REVISION TO THIS PLAN WILL REQUIRE TOWN APPROVAL AND WILL REQUIRE REVISIONS TO ANY CORRESPONDING PLANS TO AVOID CONFLICTS BETWEEN PLANS.

1) Dumpsters and trash compactors shall be screened per the Zoning Ordinance.
2) Open storage, where permitted, shall be screened per the Zoning Ordinance.
3) Outdoor lighting shall comply with the lighting and glare standards contained within the Zoning Ordinance and Subdivision Ordinance.
4) Landscaping shall conform to landscape plans approved by the Town.
5) All elevations shall comply with the standards contained within the Zoning Ordinance.
6) Buildings of 5,000 square feet or greater shall be 100% fire sprinkled. Alternative fire protection measures may be approved by the Fire Department.
7) Occupant notification per this section and 907.5 shall be required for all new construction, or existing construction complying with the International Building Code, for renovations to existing buildings, tenant spaces, changes in occupancy, replacement or modification of the existing fire alarm system, or as required by the Fire Code Official, for all buildings or spaces provided with an approved automatic sprinkler system.
8) Fire lanes shall be designed and constructed per Town Standards or as directed by the Fire Department.
9) Two points of access shall be maintained for the property at all times.
10) Speed bumps/humps are not permitted within a fire lane.
11) Fire lanes shall be provided within 150 feet of all exterior walls of any building for hose lay requirements. Amendment 503.1.1
12) The fire lane shall be a minimum of 24 feet wide. Amendment 503.2.1
13) Buildings more than 30 feet in height are required to have a minimum of a 26-foot wide fire lane in the immediate vicinity for firefighting operations of the building. One of the 26-foot wide fire lanes shall be located a minimum of 15 feet from the building and no more than 30 feet. Appendix D105
14) The inside turning radius of the 24-foot fire lane shall be a minimum of 30 feet. Amendment 503.2.4
15) The inside turning radius of the 26-foot fire lane shall be a minimum of 30 feet. Amendment 503.2.4
16) Dead-end fire lanes are only permitted with approved hammerheads.
17) Fire hydrants shall be provided at the entrances and intersections. Amendment 507.5.1
18) As properties develop, fire hydrants shall be located at all intersecting streets and the maximum spacing shall be every 300 feet (300') for all developments, and facilities other than R-3. R-3 developments shall be every 500 feet (500'). Distances between hydrants shall be measured along the route that fire hose is laid by a fire apparatus from hydrant-to-hydrant, not as the "crow flies." Amendment 507.5.1
19) Fire department connection (FDC) for the fire sprinkler system shall be located within 50 feet of a fire hydrant and 50 feet of a fire lane. 5" Storz, 30-degree downward turn with locking cap. Amendment 507.5.1
20) Fire hydrants shall be located 2 foot (2') to 6 foot (6') back from the curb or fire lane and shall not be located in the bulb of a cul-de-sac. Amendment 507.5.1
21) There shall be a minimum of two (2) fire hydrants serving each property within the prescribed distances listed above. A minimum of one fire hydrant shall be located on each lot. Amendment 507.5.1
22) A minimum 10-foot unobstructed width shall be provided around a building for adequate Fire Department access. A continuous row of parking and landscaping shall be considered a barrier. Amendment 503.1.1
23) The maximum dead- end cul-de-sac length shall not exceed six hundred feet (600') as measured from the centerline of the intersection street to the center point of the radius. Amendment 503.1.5
24) One-and two-family dwellings automatic fire systems. Automatic fire protection systems per NFPA 13D or NFPA 13R shall be provided in all one-and two-family dwellings with a conditioned floor area of 5,500 square feet (511 m2) or greater, dwellings three (3) stories or greater, or dwellings with roof heights exceeding thirty-five feet (35') from grade. IRC-2015 Amendment R313.2
25) Handicapped parking areas and building accessibility shall conform to the Americans with Disabilities Act (ADA) and with the requirements of the current, adopted Building Code.
26) All signage is subject to Building Official approval.
27) All fences and retaining walls shall be shown on the Site Plan and are subject to Building Official approval.
28) All exterior building materials are subject to Building Official approval and shall conform to the approved façade plan.
29) Sidewalks of not less than six (6) feet in width along thoroughfares and collectors and five (5) feet in width along residential streets and barrier-free ramps at all curb crossings shall be provided per Town Standards.
30) Approval of the Site Plan is not final until all engineering plans are approved by the Engineering Services Department.
31) Site Plan Approval is required before the grading release.
32) All new electrical lines shall be installed and/or relocated underground.
33) All mechanical equipment shall be screened from public view per the Zoning Ordinance.
34) All landscape easements must be exclusive of any other type of easement.
35) Impact fees will be assessed per the land use classification(s) identified on the Site Data Summary Table; however, changes to the proposed land use at the time of CO and/or finish-out permit may result in additional impact fees and/or parking requirements.
36) The approval of a Site Plan shall be effective for eighteen (18) months from the date of approval by the Planning & Zoning Commission, at the end of which time the applicant must have submitted and received the approval of engineering plans and building permits. If the engineering plans and building permits are not approved, the Site Plan approval, together with any preliminary Site Plan for the property, is null and void.

SITE SUMMARY

ZONING:		PD-2
PROPOSED USE:		RETAIL (GROCERY: PREPACKAGED GOODS)
LOT 7 AREA:		1.291 ACRES OR 56,220 SF
GROSS BUILDING AREA:		4,558 SF
BUILDING STORIES & HEIGHT:		1 STORY, 24'-8"
BUILDING COVERAGE:		8.10 %
FLOOR AREA RATIO:		0.1:1
PARKING REQUIRED:	1:250 (RETAIL)	19
PARKING PROVIDED:		34
ADA PARKING REQUIRED:		2
ADA PARKING PROVIDED:		2
INTERIOR LANDSCAPING REQUIRED:		510 SF
INTERIOR LANDSCAPING PROVIDED:		1,090 SF
IMPERVIOUS AREA:		35,092 SF
OPEN SPACE REQUIRED (7% OF LOT AREA):		3,936 SF
OPEN SPACE PROVIDED:		4,136 SF

GENERAL NOTES

1. NO EXISTING TREE MASSES, ANTICIPATED TREE LOSS, DRAINAGE WAYS, WETLANDS, OR CREEKS ARE PRESENT.
2. NO 100 YEAR FLOOD PLAIN EXISTS ON THE SITE.
3. ALL DIMENSIONS ARE SHOWN TO FACE OF CURB UNLESS NOTED OTHERWISE.
4. ALL PAVEMENT SURFACES SHALL BE CONCRETE.
5. TREES SHALL NOT BE LOCATED WITHIN PUBLIC EASEMENTS IN ACCORDANCE WITH TOWN STANDARDS.
6. FOUNDATION PLANTINGS TO BE PROVIDED IN ACCORDANCE WITH THE ZONING ORDINANCE.
7. NO TREES EXIST ON THE SITE.

(#) KEYED NOTES

1. DUMPSTER ENCLOSURE, 8' MASONRY WALLS WITH STEEL FRAME GATES AND WOOD CLADDING.
2. STORM SEWER INLETS
3. STORM SEWER JUNCTION BOX
4. RECEIVING AREA FOR DELIVERY TRUCKS
5. 1 1/2" DOMESTIC WATER METER
6. 1" IRRIGATION WATER METER
7. ROOFTOP HVAC EQUIPMENT, TOTAL OF 3
8. CROSS HATCH STRIPING AT TRANSITION FROM EXISTING 35' DRIVE AISLE TO PROPOSED 24' DRIVE AISLE.
9. FRENCH DRAIN ALONG PROPERTY LINE

CONTROL POINT TABLE

POINT	DESCRIPTION	NORTHING	EASTING	ELEV.
301	CP~5/8" CIRS "S&A CONTROL"	7,130,791.72	2,498,272.15	758.87'
302	CP "X" CUT SET	7,130,694.48	2,497,909.23	758.26'
400	CP "X" CUT SET	7,131,103.87	2,497,929.50	757.97'
401	CP~5/8" CIRS "S&A CONTROL"	7,131,104.61	2,498,241.02	761.95'

Texas 811 Know what's below. Call before you dig.

WILD FORK FOODS
PROSPER COMMONS
BLOCK B, LOT 7
TOWN CASE NO. D21-0019
03/23/21

DEVELOPMENT SERVICES, INC.
TEXAS REGISTRATION #F-002239
900 Town & Country Lane Suite 220 Houston, Texas 77024 (713) 647-9211

WILD FORK FOODS #9040
PROSPER COMMONS, BLOCK B, LOT 7
PROSPER, TEXAS
FIRST HARTFORD REALTY CORPORATION
149 COLONIAL RD MANCHESTER, CT 06042

NO:	ISSUE:	DATE:

STATE OF TEXAS
STEVEN W. GRIGGS
79192
LICENSED
PROFESSIONAL ENGINEER
04/12/21

DRAWN	SWG
CHECKED	SWG
DATE	04/12/21

SHEET TITLE
PROJECT SITE PLAN

ALL DRAWN AND WRITTEN INFORMATION APPEARING HEREIN SHALL NOT BE DUPLICATED, DISCLOSED, OR OTHERWISE USED WITHOUT THE WRITTEN CONSENT OF DEVELOPMENT SERVICES, INC.

SHEET
PSP1

FINANCE DEPARTMENT

TOWN OF PROSPER

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Betty Pamplin, Finance Director**

Through: **Harlan Jefferson, Town Manager**
Chuck Springer, Executive Director of Administrative Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:

Consider and act upon an ordinance amending Ordinance No. 2020-71 (FY 2020-2021 Budget). **(BP)**

Description of Agenda Item:

The Town of Prosper suffered landscape plant loss and damage during the winter freeze that occurred in early February 2021. This winter freeze was particularly damaging to landscaping plants due to the extended exposure to freezing and subzero temperatures.

The entire State of Texas has suffered plant loss and depending on the region, different plants were affected at different levels. In Prosper, some of the trees have been delayed in leafing out and some may have permanent damage. The full extent may not be known for several years. However, staff estimates that ninety-five percent of the trees on Town property have started to bud out or put on new leaves. We are hopeful that others will leaf out as well. Most experts have indicated that an inventory of trees should wait until July before determining the amount of damage or death rate in trees.

Two herbaceous plants suffered greatly due to the cold weather in the metroplex. Indian Hawthorn and Loropetalum are almost a complete loss in the metroplex. Although these plants suffered severely, staff and experts are still recommending the use of these shrubs due to their other positive characteristics, growth patterns, and being an evergreen shrub. It is unlikely that we will suffer a freeze as severe as the February 2021 freeze for quite some time. For the Loropetalums and Indian Hawthorns that did survive, it will take approximately two years or so for them to look like they did before the freeze.

Hollies are an evergreen shrub used in this area that did not freeze, but caution should be exercised in creating a mono-culture of a single species of shrubs. Insect or disease could cause great devastation due to overuse, similar to the knock out roses a few years ago.

Approximately 60% of the ornamental grasses have also died. The more established and older grasses were able to withstand the freeze and are recovering.

Staff will utilize improved varieties and dwarf varieties of shrubs and grasses where it would reduce maintenance cost or where possible.

Staff has received quotes for 4,210 plants as well as for the mulch and bedding material that will be required. The cost is as follows:

Plants – $ 49,900
Mulch / bedding material – $ 11,837

The quote for plants was obtained from a grower at a price that is substantially lower than what local retail nurseries are charging. While plant prices are higher than they were six months ago, they are not unreasonable. The grower has agreed to hold the plants for the Town and care for them at the nursery until we need to take delivery if the Town issues a purchase order in advance.

Landscape plants are currently in short supply due to the large number of plants being purchased as replacements, along with many nurseries and growers lost plants as well. If the Town decides to wait on replacing the plants until the summer or fall, it is possible that the supply will be available; however, it is also likely that prices will be even higher at that time.

The Town is receiving separate bids for the labor to remove the dead shrubs / grasses, install new plants, repair any irrigation damage, clean up and mulch beds. Staff estimates this cost to be approximately $100,000.00.

It should be noted that the extent of tree loss and replacement cost are not known at this time.

Budget Impact:
The General Fund expenditures will increase by $161,737.

Legal Obligations and Review:
Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed and approved the budget amendment ordinance as to form and legality.

Attached Documents:
1. Ordinance

Town Staff Recommendation:
Town staff recommends approval of amending Ordinance No. 2020-71 (FY 2020-2021 Budget) to provide funding increased expenditures in the General Fund.

Proposed Motion:
I move to approve amending Ordinance No. 2020-71 (FY 2020-2021 Budget) to provide funding increased expenditures in the General Fund.

TOWN OF PROSPER, TEXAS **ORDINANCE NO. 2021-XX**

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING ORDINANCE NO. 2020-71 (FY 2020-2021 BUDGET) TO FUND INCREASED EXPENDITURES OF $161,737 IN THE GENERAL FUND; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council"), has investigated and determined that it will be beneficial and advantageous to the residents of the Town of Prosper, Texas ("Prosper"), to amend Ordinance No. 2020-71 (FY 2020-2021 Budget) for the purposes listed in Exhibit "A," attached hereto and incorporated herein by reference; and

WHEREAS, the changes will result in an overall net increase in the budget for funding from fund balance.

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

SECTION 1

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

Amendment to Ordinance No. 2020-71 (FY 2020-2021 Budget). Ordinance No. 2020-71 (FY 2020-2021 Budget) is hereby amended to allow for increases to appropriations as shown in Exhibit "A," attached hereto and incorporated herein by reference.

SECTION 3

Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

SECTION 4

Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION 5

Effective Date. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF APRIL, 2021.

TOWN OF PROSPER, TEXAS

Ray Smith, Mayor

ATTEST TO:

Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

EXHIBIT "A"
BUDGET AMENDMENT
FISCAL YEAR 2020-2021
April 27, 2021

General Fund	Original Budget	Current Budget	Amended Budget	Increase (Decrease)
Revenues:				
Property Tax	18,246,167	18,246,167	18,246,167	-
Sales Tax	5,793,141	5,793,141	5,793,141	-
Franchise Fees	1,792,875	1,792,875	1,792,875	-
License, Fees & Permits	3,575,100	5,127,742	5,127,742	-
Charges for Services	845,275	845,275	845,275	-
Fines & Warrants	400,000	400,000	400,000	-
Grants	414,672	514,672	514,672	-
Investment Income	85,000	85,000	85,000	-
Transfers In	1,071,820	1,071,820	1,071,820	-
Miscellaneous	252,350	252,350	252,350	-
Park Fees	222,000	222,000	222,000	-
Total	**$ 32,698,400**	**$ 34,351,042**	**$ 34,351,042**	**$ -**
Expenditures:				
Administration	5,598,394	6,544,400	6,544,400	-
Police Services	5,997,484	6,142,033	6,142,033	-
Fire Services	7,713,465	9,669,958	9,669,958	-
Public Works	3,272,379	3,290,077	3,290,077	-
Community Services	4,605,459	4,612,744	4,774,481	161,737
Development Services	3,371,304	4,208,958	4,208,958	-
Engineering	2,031,806	2,055,123	2,055,123	-
Total	**$ 32,590,291**	**$ 36,523,293**	**$ 36,685,030**	**$ 161,737**

Total Revenue	**$ -**
Total Expenditures	**$ 161,737.00**
Net Effect All Funds	**$ (161,737.00)**

PLANNING

TOWN OF PROSPER

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to amend the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway. This is a companion case to Z20-0026. (CA20-0004).

Description of Agenda Item:

Staff has received a request to rezone Planned Development-69 (PD-69), on 74.3± acres, generally to rezone the single-family tract to allow for retail uses. Rezoning requests, which do not conform to the Future Land Use Plan, shall be accompanied by a request to amend the Future Land Use Plan. The Comprehensive Plan anticipates the Town will encounter "development proposals that do not directly reflect the purpose and intent of the land use pattern as shown on the Future Land Use Plan map."

The document recommends that "development proposals that are inconsistent with the Future Land Use Plan map (or that do not meet its general intent)" should be reviewed based on the following questions and should be reviewed on their own merit.

- Will the proposed change enhance the site and the surrounding area?
- Is the proposed change a better use than that originally envisioned and depicted on the Future Land Use Plan map?
- Will the proposed use impact adjacent residential areas in a negative manner?
- Will the proposed use be compatible with and/or enhance adjacent residential uses?
- Are uses adjacent to the proposed use similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
- Does the proposed use present a significant benefit to the public health, safety, welfare and/or social well-being of the community?
- Would it contribute to the Town's long-term economic stability?

The Plan states, “it should be incumbent upon the applicant making such a proposal to provide evidence that the proposal meets the aforementioned considerations, supports community goals and objectives as set forth within this Plan, and represents long term economic and/or social benefits for the community as a whole, not just a short-term financial gain for whoever is developing the project.”

In response, the applicant provided the attached Request Letter.

Legal Obligations and Review:

The Town Council is required to hold a Public Hearing prior to acting on an amendment to the Future Land Use Plan.

Attached Documents:

1. Existing Future Land Use Plan
2. Proposed Future Land Use Plan
3. Request Letter

Staff Recommendation:

Staff recommends the Town Council consider and act upon a request to amend the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway.

Planning & Zoning Commission Recommendation:

At their April 6, 2021 meeting, the Planning & Zoning Commission recommended the Town Council approve the request, by a vote of 4-2.

Proposed Motion:

I move to (approve / deny) the request to amend the Future Land Use Plan from Medium Density Residential to Tollway District, generally located on the south side of Frontier Parkway, east of Dallas Parkway.

EXISTING

Parvin Rd.
Legacy Dr.
Shawnee Trl.
Frontier Pkwy.
F.M. 1461
Colt Rd.
Prosper Trail
F.M. 1385
Teel Pkwy
Dallas North Tollway
BNSF RR
N. Coleman
Preston Rd.
Hays Rd
Custer Rd
First St.
S. Coleman
Fishtrap Rd.
Lovers Ln
Prairie Dr.
Gee
Mahard Pkwy
La Cima Blvd.
F.M. 2478
U.S. 380

Note: A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.

Updated September 2020

0 0.25 0.5 1 1.5 Miles

Legend

- Low Density Residential
- Medium Density Residential
- High Density Residential
- Retail & Neighborhood Services
- Business Park
- Old Town District
- Town Center
- Tollway District
- US 380 District
- 100 Year Floodplain
- Major Gateway
- Minor Gateway
- Town of Prosper
- ETJ

Future Land Use Plan

TOWN OF PROSPER

Pla

PROPOSED

Parvin Rd.
Legacy Dr.
Shawnee Trl.
Frontier Pkwy.
F.M. 1461
Coit Rd.
Prosper Trail
F.M. 1385
Teel Pkwy.
Dallas North Tollway
BNSF RR
N. Coleman
Preston Rd.
Hays Rd
Custer Rd.
First St.
S. Coleman
Fishtrap Rd.
Lovers Ln
La Cima Blvd.
F.M. 2478
Prairie Dr.
Gee
Mahard Pkwy
U.S. 380

Note: A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.

CA20-0004 Proposed

0 0.25 0.5 1 1.5 Miles

Legend

- Low Density Residential
- Medium Density Residential
- High Density Residential
- Retail & Neighborhood Services
- Business Park
- Old Town District
- Town Center
- Tollway District
- US 380 District
- 100 Year Floodplain
- Major Gateway
- Minor Gateway
- Town of Prosper
- ETJ

Future Land Use Plan

TOWN OF PROSPER

Pla

CLAYMOORE ENGINEERING

February 11, 2021

Mr. Alex Glushko
Senior Planner
Town of Prosper
250 W. First Street
Prosper, TX 75078

Re: Future Land Use Plan Amendment
Metten Tract – SEQ of Dallas North Tollway/Frontier Parkway

Dear Alex:

On behalf of our Client, Metten Real Estate, LP, please let this letter serve as a formal request to amend the Future Land Use Plan for the property located along the southside of Frontier Parkway and east of Dallas North Tollway. The current plan calls for this property to be Medium Density Residential and we would request an amendment to Tollway District.

Our team feels that this site is better suited for commercial uses along the Frontier Parkway which will be a 6-lane major thoroughfare in the near future. It is our belief that including the additional eastern acreage to the Tollway District is more suited for commercial with the access to Frontier and the Dallas North Tollway. The location of Frontier Park to the east of the tract is a compatible adjacent use to this tract. We do have single family adjacency to the south of this tract and we have incorporated additional setbacks for any use that has multi-story height. Given the imminent construction of the Dallas North Tollway and the tracts proximity to the established Town limits, if this tract stays residential it is our team's belief this will hinder commercial development at this corner and likely positions the northern corners of this intersection for that commercial development This additional commercial acreage affords the Town additional commercial development opportunities at one of their gateway intersections along the Dallas North Tollway which we believe helps the long term economics of the Town.

We would respectfully request that the Future Land Use Plan be amended to allow the proposed commercial uses.

Please contact me if you have any questions.

Respectfully,

ClayMoore Engineering, Inc.

Matt Moore, P.E.

PLANNING

TOWN OF PROSPER

Prosper is a place where everyone matters.

To: **Mayor and Town Council**

From: **Alex Glushko, AICP, Planning Manager**

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services
Khara Dodds, AICP, Director of Development Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:

Conduct a Public Hearing, and consider and act upon a request to amend Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses, located on the southeast corner of Dallas Parkway and Frontier Parkway. This is a companion case to CA20-0004. (Z20-0026).

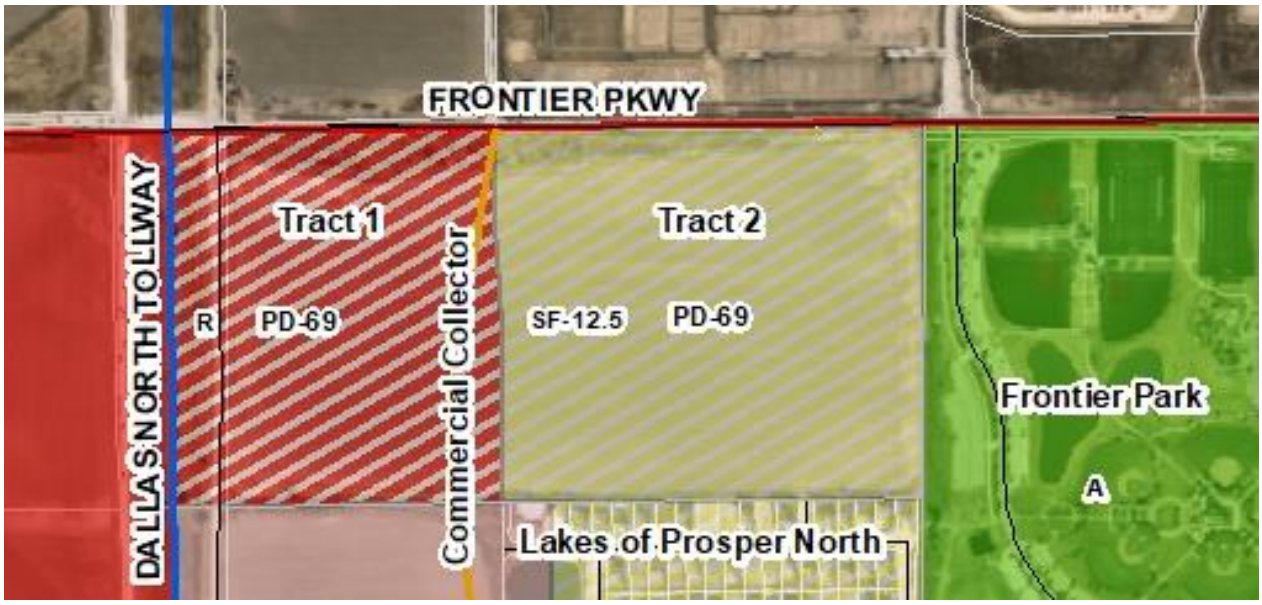
Description of Agenda Item:

The zoning and land use of the surrounding properties are as follows:

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Planned Development-69-Retail and Single Family-12.5	Undeveloped	Tollway District and Medium Density Residential
North	City of Celina	Undeveloped and Single Family Residential	City of Celina
East	Agricultural	Town of Prosper Frontier Park	Medium Density Residential
South	Commercial Corridor and Planned Development-8	Undeveloped and Lakes of Prosper North	Medium Density Residential
West	Commercial	Undeveloped	Tollway District

Requested Zoning – The purpose of this request is to amend Planned Development-69 (PD-69) generally to rezone the residential tract to retail. PD-69 currently consists of the following:

- Tract 1 which is 35.2± acres located on the southeast corner of Frontier Parkway and Dallas Parkway and allows for retail uses, in accordance with the Retail (R) District.
- Tract 2 which is 45.6± acres located on the south side of Frontier Parkway, east of Dallas parkway, adjacent to Frontier Park and Lakes of Prosper North, and allows for single family uses, in accordance with the Single Family-12.5 (SF-12.5) District, as shown below.



With this request the applicant is proposing to replace the existing single family residential (SF-12.5) zoning of Tract 2, with the retail (R) zoning of Tract 1. Tract 1 is proposed to remain retail, no amendments are proposed on Tract 1. If approved, entire property would be zoned Planned Development-Retail. With the request there are no conceptual site layout exhibits. Rather, the PD currently requires approval of Conceptual Development Plans by the Planning & Zoning Commission and the Town Council prior to any development of the property. At this point in time, there are no plans for development of the property. This request is primarily to designate additional land along the Dallas Parkway (future Dallas North Tollway) for non-residential uses. Because the Future Land Use Plan currently designates the residential area (Tract 2) for Medium Density Residential uses, this zoning request is accompanied by a request to amend the subject property on the Future Land Use Plan entirely for Tollway District uses.

Staff has requested market data to substantiate the viability of the additional non-residential acreage of Tract 2; however, such data was not provided. If the rezoning request is approved, the property owner has agreed to enter into a Development Agreement with the Town of Prosper to adopt architectural regulations consistent with Town standards.

Lakes of Prosper North – The Town has received numerous letters of opposition from the southern adjacent neighborhood. The applicant has met with neighborhood representatives on multiple occasions to discuss the proposed rezoning request. The applicant and neighborhood have come to the following agreements:

- Minor Automotive Repair and Automotive Part Sales are prohibited within 230 feet of the neighborhood;
- Restaurant and Retail are prohibited within 230 feet of the neighborhood;
- A 30-foot landscape buffer with dense evergreen trees are required adjacent to the neighborhood, to be provided with the first development within Tract 2;

- Dumpsters are not permitted within 100 feet of the neighborhood;
- A minimum 100-foot ornamental metal fence shall be required along the eastern property line, commencing at the southeast corner of Tract 2, adjacent to Frontier Park;
- The street stub within Lakes of Prosper North, Straight Lane, shall be closed. As proposed the Zoning does not require cross-access from the neighborhood to the commercial development; however, a formal request to abandon the roadway will need to be formally pursued to finalize this request.
- The neighborhood has also requested replacement of the existing privacy wood fencing; however, staff has advised this request not be included in the zoning and to pursue a private agreement between the homeowners and the commercial landowner.

At this time, one item related to building height adjacent to the neighborhood remains unresolved. The neighborhood has requested the applicant limit the maximum building height to 1-story within 100 feet of the neighborhood; however, the applicant is requesting to retain the current standard which allow for a 2-story / 40-foot building in that area. The current rezoning request as proposed does not include the requirement to limit building height to a single story within 100 feet of the neighborhood.

Future Land Use Plan – The Future Land Use Plan recommends Tollway District and Medium Density Residential for the subject property. The proposed zoning request does not conform to the Medium Density Residential District of the Future Land Use Plan. The companion item is a request to amend the Future Land Use Plan to Tollway District to accommodate the rezoning request.

Thoroughfare Plan – The property has direct access to the Dallas Parkway and Frontier Parkway, 6-lane divided major thoroughfares. The property also has direct access to a 2-lane undivided north/south Commercial Collector along the west side of the property as shown above. This request conforms to the Thoroughfare Plan.

Parks Master Plan – The Parks Master Plan does not indicate a park is needed on the subject property; however, a hike and bike trail along Frontier Parkway will be required at the time of development.

Legal Obligations and Review:

Notification was provided to neighboring property owners as required by State Law. To date, Town staff has received twelve (12) Public Hearing Notice Reply Forms, seven (7) being located within 200' feet of the subject property, all in opposition.

Attached Documents:

1. Aerial and Zoning Maps
2. Existing PD-69
3. Proposed Exhibits
4. Exhibit C (Redlined)
5. Public Hearing Notice Reply Forms and Responses

Staff Recommendation:

There are two options for a recommendation, subject to the action taken on the companion case for the amendment to the Future Land Use Plan (CA20-0004).

1. If the Town Council recommends approval of the amendment to the Future Land Use Plan, then staff recommends approval of the rezoning request with the condition that the property owner enter into a Development Agreement with the Town of Prosper.

2. If the Town Council recommends denial of the amendment to the Future Land Use Plan, then staff recommends denial of the rezoning request.

Planning & Zoning Commission Recommendation:

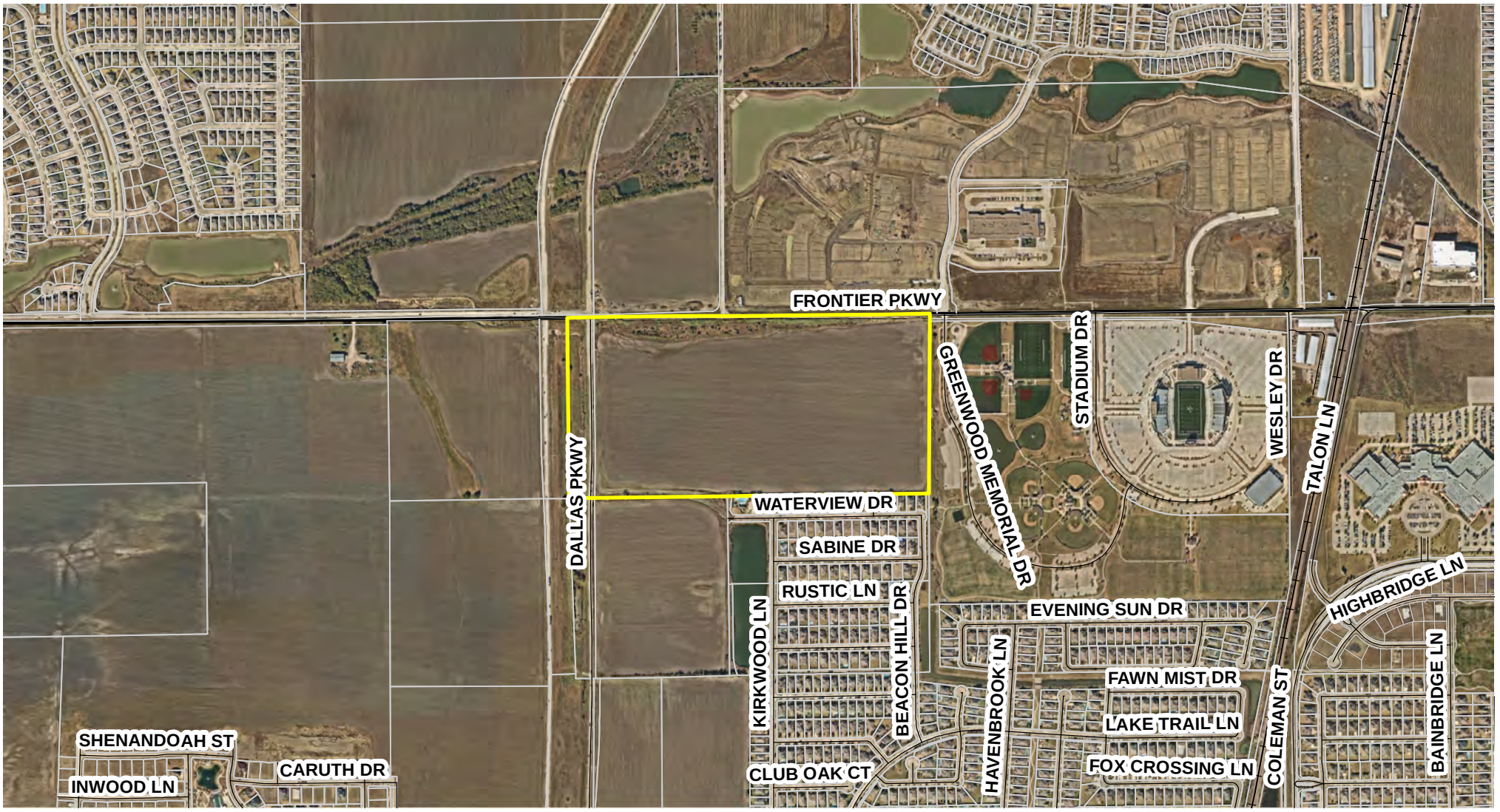
At their April 6, 2021 meeting, the Planning & Zoning Commission recommended the Town Council approve the request, by a vote of 4-2.

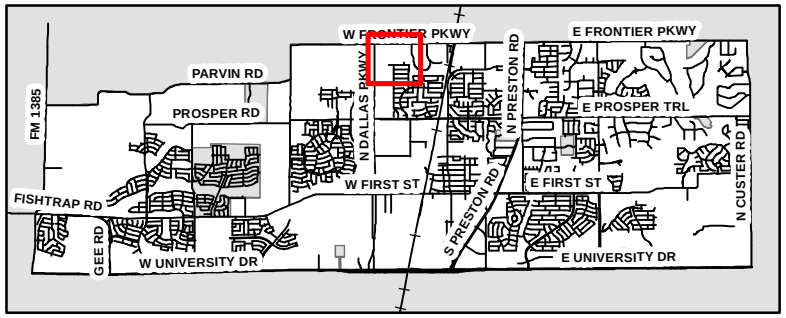
In conjunction with their vote, the Commission emphasized the need for continued communication and collaboration between the applicant and representatives of Lakes of Prosper North to discuss topics including, but not limited to land uses, buffering, landscaping, screening, building height and design, and cross-access, prior to Town Council consideration.

Proposed Motion:

I move to (approve / deny) the request to amend Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses, located on the southeast corner of Dallas Parkway and Frontier Parkway.

Z20-0026 - Metten Tract





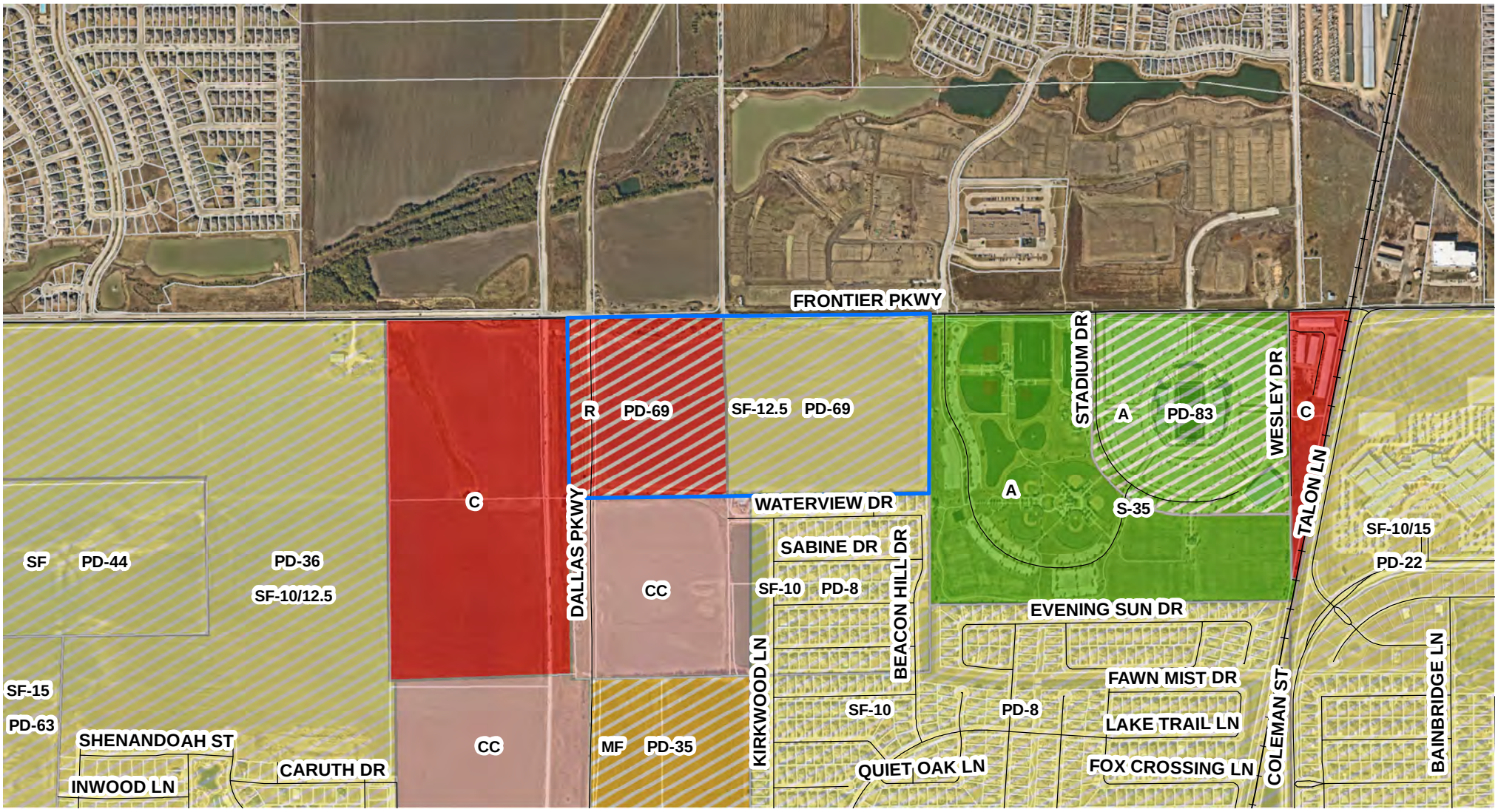
This map is for illustration purposes only.

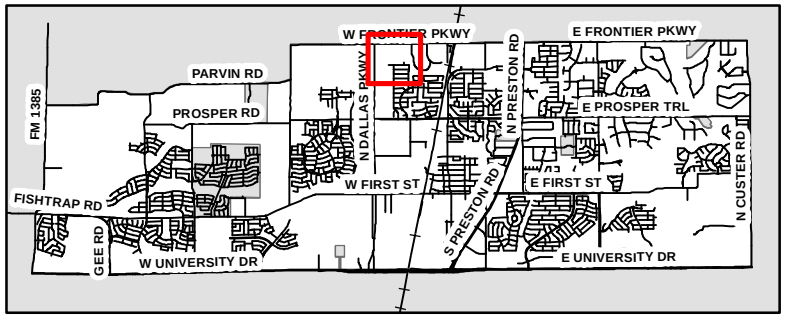
N W E S

0 750 1,500 Feet

TOWN OF PROSPER

Z20-0026 - Metten Tract





This map is for illustration purposes only.

N W E S

0 750 1,500 Feet

TOWN OF PROSPER

TOWN OF PROSPER, TEXAS **ORDINANCE NO. 14-41**

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 80.71 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY NO. 12, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED SINGLE FAMILY-15 (SF-15) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-SINGLE FAMILY-12.5/RETAIL (PD-SF-12.5/R); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has investigated and determined that Zoning Ordinance No. 05-20 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Metten Real Estate, L.P. ("Applicant") to rezone 80.71 acres of land, more or less, situated in the Collin County School Land Survey No. 12, Abstract No. 147, in the Town of Prosper, Collin County, Texas; and

WHEREAS, the Town Council has investigated into and determined that the facts contained in the request are true and correct; and

WHEREAS, all legal notices required for rezoning have been given in the manner and form set forth by law, and public hearings have been held on the proposed rezoning and all other requirements of notice and completion of such zoning procedures have been fulfilled; and

WHEREAS, the Town Council has further investigated into and determined that it will be advantageous and beneficial to Prosper and its inhabitants to rezone this property as set forth below.

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

SECTION 1

Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

Amendments to Zoning Ordinance No. 05-20. Zoning Ordinance No. 05-20 is amended as follows: The zoning designation of the below-described property containing 80.71 acres of land, more or less, situated in the Collin County School Land Survey No. 12, Abstract No. 147, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-Single Family-12.5/Retail (PD-SF-12.5/R). The property as a whole and the boundaries for

each zoning classification are more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes as if set forth verbatim.

The development plans, standards, and uses for the Property in this Planned Development District shall conform to, and comply with 1) the statement of intent and purpose, attached hereto as Exhibit "B"; 2) the planned development standards, attached hereto as Exhibit "C"; 3) the conceptual development plan requirements, attached hereto as Exhibit "D"; and 4) the development schedule, attached hereto as Exhibit "E", which are incorporated herein for all purposes as if set forth verbatim. Except as amended by this Ordinance, the development of the Property within this Planned Development District must comply with the requirements of all ordinances, rules, and regulations of Prosper, as they currently exist or may be amended.

Three (3) original, official and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

a. Two (2) copies shall be filed with the Town Secretary and retained as original records and shall not be changed in any matter.

b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

Written notice of any amendment to this District shall be sent to all owners of properties within the District as well as all properties within two hundred feet (200') of the District to be amended.

SECTION 3

No Vested Interest/Repeal. No developer or property owner shall acquire any vested interest in this Ordinance or in any other specific regulations contained herein. Any portion of this Ordinance may be repealed by the Town Council in the manner provided for by law.

SECTION 4

Unlawful Use of Premises. It shall be unlawful for any person, firm or corporation to make use of said premises in some manner other than as authorized by this Ordinance, and shall be unlawful for any person, firm or corporation to construct on said premises any building that is not in conformity with the permissible uses under this Zoning Ordinance.

SECTION 5

Penalty. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance No. 05-20, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars ($2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6

Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 7

Savings/Repealing Clause. Prosper's Zoning Ordinance No. 05-20 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8

Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 22nd DAY OF JULY, 2014.

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney

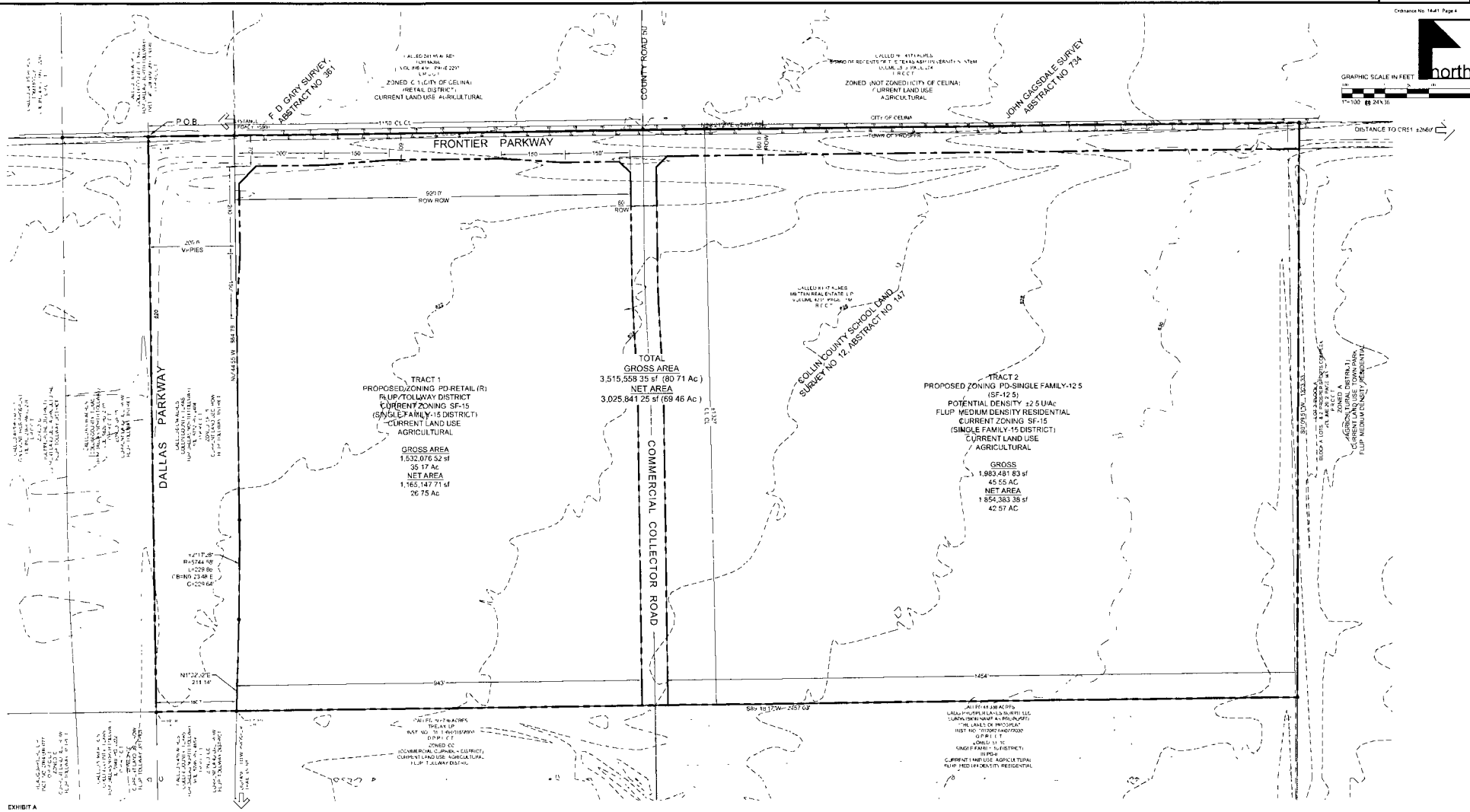


EXHIBIT A

BEING a tract of land situated in the Collin County School Land Survey No 12, Abstract No. 147, Town of Prosper, Collin County, Texas, and being all of a called 80 37 acre tract conveyed to Metten Real Estate, L P., as evidenced in a Warranty Deed recorded in Volume 4238, Page 1 MAP of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows

BEGINNING at the northwest corner of said 80 37 acre tract and the northwest corner of a called 6 034 acre tract of land conveyed to Collin County, Texas, as evidenced in a Special Warranty Deed recorded in Volume 5 70, Page 3866 of the Official Public Records of Collin County, Texas, same also being the intersection of the centerline of future Dallas North Tollway, with the approximate centerline of Frontier Parkway,

THENCE North 89°21'20" East, along the north line of said 80 37 acre tract and generally along the centerline of said Frontier Parkway, a distance of 2 662 05 feet to the northeast corner of said 80 37 acre tract,

THENCE South 00°09'57" West, departing said Frontier Parkway, along the east line of said 80 37 acre tract and the west line of Lot C, Block A of Block A 1 Lots 1 & 2, Prosper Sports Complex, an Addition to the Town of Prosper, Texas, according to the Final Plat thereof recorded in Volume 2012, Page 341 of the Plat Records of Collin County, Texas, a distance of 1,329 33 feet to the southeast corner of said 80 37 acre tract, same being the northeast corner of a called 44 336 acre tract conveyed to CADG Prosper Lakes North, LLC, as evidenced in a Special Warranty Deed with Vendor's Lien recorded in Instrument No 20120507000772 20 of the Official Public Records of Collin County, Texas,

THENCE South 89°18'17" West, along the south line of said 80 37 acre tract, the north line of said 44 336 acre tract and the north line of a called 24 60 acre tract conveyed to Prosper LP, as evidenced in Special Warranty Deed recorded in Instrument No 20142708000558400 of the Official Public Records of Collin County, Texas, passing at a distance of 2 457 03 feet to a 1/2-inch capped iron rod found for the southeast corner of aforesaid 6 034 acre tract, same being on the east right of way line of aforesaid Dallas Parkway, future Dallas North Tollway, continuing for a total distance of 2 663 95 feet to a 1/2 inch iron rod found for the southwest corner of said 80 37 acre tract

THENCE North 16°45'57" West, along the west line of said 80 37 acre tract, the west line of said 6 034 acre tract and along the centerline of future Dallas North Tollway, a distance of 1,225 54 feet to the POINT OF BEGINNING and containing 80 706 acres of land, more or less

Bearings based upon Texas State Plane Coordinate System, NAD 1983, North Central Zone 4202

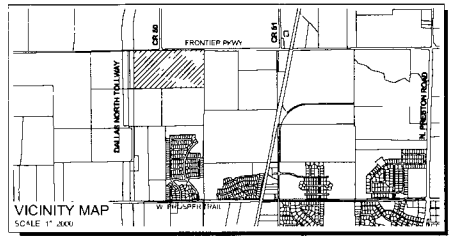
NOTES

1. PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE 100 YEAR FLOOD PLAIN PER FEMA FLOOD INSURANCE RATE MAP PANELS 48085C0115J AND 48085C0120J DATED JUNE 2, 2009
2. ZONING BOUNDARIES ARE TO CENTERLINES OF EXISTING AND FUTURE ROADS AS SHOWN NET ACREAGE SUBTRACTS AREAS WITHIN SAID ROAD RIGHTS OF WAY
3. THE THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT THE ALIGNMENT IS DETERMINED AT TIMES OF FINAL PLAT

Michael B. Mora
Registered Professional Land Surveyor No. 5181
Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1900
Dallas, Texas 75251
Ph. 972 770-1300

STATE OF TEXAS
MICHAEL B. MORA
5181
REGISTERED
LAND SURVEYOR

PRELIMINARY
THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE



VICINITY MAP
SCALE: 1" =2000'

EXHIBIT A

ZONING CASE #14-0006

Metten Tract

COLLIN COUNTY SCHOOL LAND SURVEY NO. 12, ABSTRACT #147
MAY, 2014

OWNER / APPLICANT
Metten Real Estate, LP
6842 Vereridge Drive
Dallas, Texas 75249
Contact: Christian Metten

ENGINEER / SURVEYOR
Kimley-Horn and Associates
State of Texas Registration No. F-928
5750 Genesis Court, Suite 200
Frisco, TX, 75034
P (972) 335 3580
F (972) 335 3779
Contact: Frank Abbott, P.E.

Kimley»Horn

Plotted By: Russell Aiken Date: May 05, 2014 04:44:23pm File: P:\Prosper\Metten Real Estate Tract\Dwg\Exhibit\Zoning Exhibit 142505.dwg
The document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Exhibit B for Z14-0006
Statement of Intent and Purpose

The purpose of this planned development is to create a mix of retail and single family residential uses which are consistent with the Town's comprehensive plan. It is intended to utilize the Town's base standards and incorporate some additional uses and criteria which will better position the proposed development due to the properties proximity to the future Tollway and surrounding uses.

Exhibit C for Z14-0006
Planned Development Standards

Tract 1 Retail

A. **General Description:** The areas identified as Retail will provide the ability to encourage and to accommodate the development of office and retail service centers within growth corridors located along the North Dallas Tollway extension. The property within these areas shall develop under the standards for the Retail District as contained within the Town of Prosper Zoning Ordinance, as it exists or may be amended, subject to the specific provisions contained herein below.

B. **Permitted Uses:** In addition to those permitted uses as allowed per the Retail District of the Town of Prosper Zoning Ordinance, the following use shall be permitted in the retail areas indicated on Exhibit "D". Uses followed by an **S** are only permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to the conditional standards in the Town's Zoning Ordinance:

1. Hotels - **C**
2. Theater, Regional
3. Research & Development Center - **S**

C. **Max. FAR:** Max. FAR for buildings taller than two (2) stories shall be 1.5:1. Max. FAR for all other buildings shall be 0.4:1.

D. **Building Heights:** The permitted height of all buildings within the retail areas of the Planned Development District shall be as follows:

a. The allowed height for Hotels, Office buildings, and Hospitals located within the retail tract shall be eight (8) stories, not greater than one hundred (100) feet. All other uses shall be limited to two (2) stories, not greater than forty (40) feet.

b. Non-residential buildings located within one hundred fifty feet (150') of a single-family zoned area shall be limited to a maximum height of two (2) stories.

c. Non-residential buildings, which exceed two (2) stories in height, shall be required to have additional setbacks from single-family zoned areas. These additional setbacks will require one foot (1') of setback, beyond the aforementioned one hundred fifty feet (150'), for each additional foot of building height above two (2) stories.

E. **Lot Area:** The minimum area of any lot shall be then thousand (10,000) square feet.

F. **Lot Width:** The minimum width of any lot shall be one hundred feet (100').

G. **Lot Depth:** The minimum depth of any lot shall be one hundred (100').

H. **Lot Coverage:** In no case shall more than sixty percent (60%) of the total lot area be covered by the combined area of the main buildings exceeding 2-stories. Parking structures and surface parking facilities shall be excluded from the coverage computations. Lot coverage is limited to forty percent (40%) excluding parking and parking structures for all structures 2-stories and less.

I. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and constructed as a wet detention pond (constant water level) with a fountain and/or bubblers. The wet pond requirement may be waived if in conflict with TCEQ regulations, other applicable City/Town downstream water rights and/or other applicable regulatory requirements. Underground detention may be utilized within nonresidential components of the Planned Development.

Tract 2 Single Family Residential

A. The property shall be developed in accordance with the Single Family-12.5 District as outlined in the Town of Prosper Zoning Ordinance 05-20, as it exists or may be amended, unless identified below.

B. Fencing: Privacy fences on single family residential lots shall be located ten (10) feet behind the front elevation of the main building and shall not exceed eight (8) feet in height above grade. All fencing located on single family residential lots adjacent to open space, parks, or floodplain shall consist of ornamental metal (wrought iron or decorative tubular steel). All wood fencing shall consist of cedar, board on board with a top rail, and comply with the Town's fencing standards as they exist or may be amended. A common wood fence stain color shall be established for the development.

C. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and constructed as a wet detention pond (constant water level) with a fountain and/or bubblers. The wet pond requirement may be waived if in conflict with TCEQ regulations, other applicable City/Town downstream water rights and/or other applicable regulatory requirements. Underground detention may be utilized within nonresidential components of the Planned Development.

D. All homes shall provide an exterior lighting package to illuminate front entrances, landscaping and/or trees located in the front yard and garages.

Exhibit D for Z14-0006
Conceptual Development Plan

Conceptual Development Plan: Prior to application for a Preliminary Site Plan or a Preliminary Plat, a Conceptual Development Plan shall be submitted, receive a recommendation from the Planning & Zoning Commission and be approved by the Prosper Town Council. This Conceptual Development Plan shall only be required for the general area within which development is to occur. This general area shall be bounded by thoroughfares, ownership lines, creekways or other physical barriers that define a geographic boundary that separates the area of interest from other parcels.

Plats and/or site plans submitted for the development of the PD District shall conform to the data presented and approved on the Conceptual Development Plan. Changes of detail on these final development plan(s) that differ from the Conceptual Development Plan may be authorized by the Planning & Zoning Commission, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. alter the basic relationship of the proposed development to adjacent property,
2. alter the uses permitted,
3. increase the density,
4. increase the building height,
5. increase the coverage of the site,
6. reduce the off-street parking ratio,
7. reduce the building lines provided at the boundary of the site, or
8. significantly alter any open space plans

If the Director of Development Services or the Planning & Zoning Commission determines that the proposed changes(s) violates one (1) or more of the above eight (8) criteria, then a public hearing shall be held to adequately amend the Conceptual Development Plan that is attached to the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

Exhibit E for Z14-0006
Development Schedule

The development schedule will be influenced by actual market conditions. It is believed the single family residential development will occur in the next 2 to 3 years and will likely be an extension of the ongoing residential development to the south. The retail/office development will likely occur once the future improvements to Frontier Pkwy and the Dallas North Tollway are underway and/or completed.

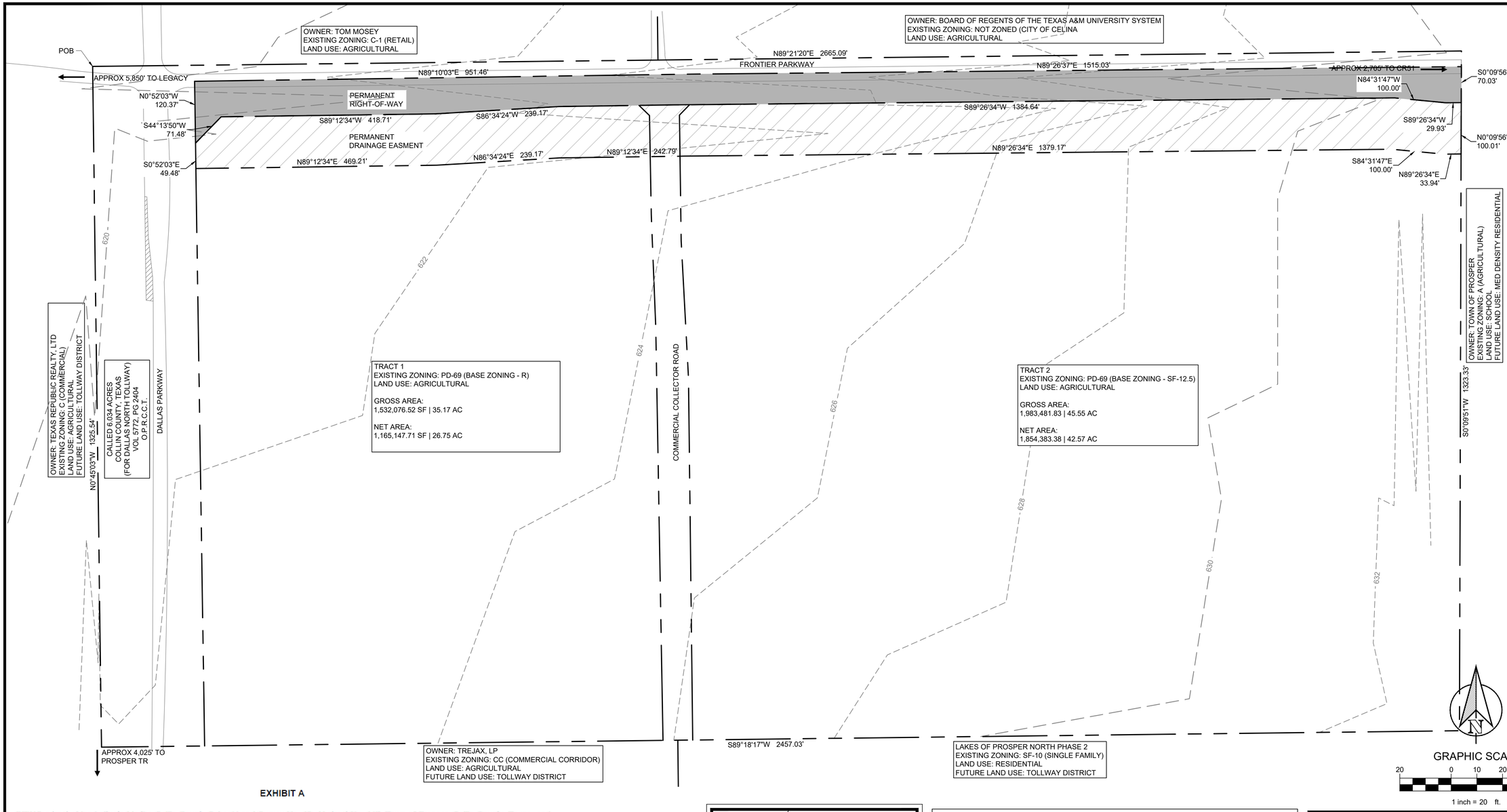


EXHIBIT A

BEING a tract of land situated in the Collin County School Land Survey No. 12, Abstract No. 147, Town of Prosper, Collin County, Texas, and being all of a called 80.37 acre tract, conveyed to Metten Real Estate, L.P., as evidenced in a Warranty Deed recorded in Volume 4234, Page 1348 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said 80.37 acre tract and the northwest corner of a called 6.034 acre tract of land, conveyed to Collin County, Texas, as evidenced in a Special Warranty Deed recorded in Volume 5772, Page 2404 of the Official Public Records of Collin County, Texas, same also being the intersection of the centerline of future Dallas North Tollway, with the approximate centerline of Frontier Parkway;

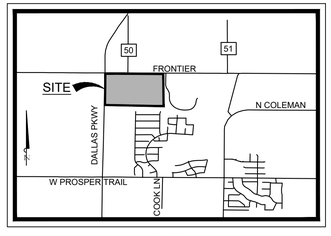
THENCE North 89°21'20" East, along the north line of said 80.37 acre tract and generally along the centerline of said Frontier Parkway, a distance of 2,665.09 feet to the northeast corner of said 80.37 acre tract;

THENCE South 00°09'51" West, departing said Frontier Parkway, along the east line of said 80.37 acre tract and the west line of Lot 2, Block A of Block A, Lots 1 & 2, Prosper Sports Complex, an Addition to the Town of Prosper, Texas, according to the Final Plat, thereof recorded in Volume 2012, Page 343 of the Plat Records of Collin County, Texas, a distance of 1,323.33 feet to the southeast corner of said 80.37 acre tract, same being the northeast corner of a called 44.338 acre tract, conveyed to CADG Prosper Lakes North, LLC, as evidenced in a Special Warranty Deed with Vendor's Lien recorded in Instrument No. 20120627000772030 of the Official Public Records of Collin County, Texas;

THENCE South 89°18'17" West, along the south line of said 80.37 acre tract, the north line of said 44.338 acre tract and the north line of a called 29.6736 acre tract, conveyed to Trejax, LP, as evidenced in Special Warranty Deed recorded in Instrument No. 20121206001558000 of the Official Public Records of Collin County, Texas, passing at a distance of 2,457.03 feet to a 1/2-inch capped iron rod found for the southeast corner of aforesaid 6.034 acre tract, same being on the east right of way line of aforesaid Dallas Parkway, future Dallas North Tollway, continuing for a total distance of 2,643.95 feet to a 1/2-inch iron rod found for the southwest corner of said 80.37 acre tract;

THENCE North 00°45'03" West, along the west line of said 80.37 acre tract, the west line of said 6.034 acre tract and along the centerline of future Dallas North Tollway, a distance of 1,325.54 feet to the POINT OF BEGINNING and containing 80.706 acres of land, more or less.

Bearings based upon Texas State Plane Coordinate System, NAD 1983, North Central Zone 4202.



VICINITY MAP
N.T.S.

THOROUGHFARE NOTE

THOROUGHFARE ALIGNMENT(S) SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES ONLY AND DO NOT SET THE ALIGNMENT. THE ALIGNMENT WILL BE DETERMINED AT THE TIME OF FINAL PLAT

TRACT 1:
EXISTING ZONING: PD-69 (BASE -R) (35.17 AC)
PROPOSED ZONING: PD-69

TRACT 2:
EXISTING ZONING: PD-69 (BASE SF-12.5) (45.55 AC)
PROPOSED ZONING: PD-69

FLOODPLAIN NOTE

ACCORDING TO MAP NO. 48085C0120J, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X", (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN). IF THIS SITE IS NOT WITHIN AN IDENTIFIED SPECIAL FLOOD HAZARD AREA, THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR THE STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

PROSPER, TX 75078

CASE # : Z20-0026

OWNER:
METTEN REAL ESTATE, LP
4872 NASHWOOD LANE
DALLAS, TX 75244
CONTACT NAME: CHRISTIAN METTEN

APPLICANT/REPRESENTATIVE:
CLAYMOORE ENGINEERING, INC.
301 S. COLEMAN, SUITE #40
PROSPER, TX 75078
PH: 817.201.6982 CONTACT NAME: MATT MOORE

SURVEYOR:
KIMLEY HORNE & ASSOCIATES
5750 GENESIS COURT, STE 200
FRISCO, TX 75034
PH: 972.335.3580 CONTACT NAME: FRANK ABBOT

LEGAL DESCRIPTION:
ABS A0147 COLLIN COUNTY SCHOOL LAND #12
SURVEY, SHEET 1, TRACT 35, 74.336 ACRES

CITY:	STATE:	
PROSPER	TEXAS	
COUNTY	SURVEY:	ABSTRACT NO.
COLLIN	C.C.S.L.	A0147

TEXAS REGISTRATION #14199
CLAYMOORE ENGINEERING
1105 CHERI SPARGER RD. SUITE #1
COLLEYVILLE, TX 76034
PHONE: 817.281.0572
WWW.CLAYMOOREENG.COM

PRELIMINARY
FOR REVIEW ONLY
Not for construction purposes.
CLAYMOORE ENGINEERING
ENGINEERING AND PLANNING CONSULTANTS
Engineer DREW DONOSKY
P.E. No 125651 Date 2/11/2021

METTEN PROSPER
PROSPER, TEXAS 75078

No.	REVISION	DATE	BY

EXHIBIT A

DESIGN: MAM
DRAWN: MAM
CHECKED: MAM
DATE: 01/10/2020
SHEET
EX-A
File No.

PLOTTED BY: LYNN ROWLAND
PLOT DATE: 2/11/2021 10:53 AM
LOCATION: Z:\PROJECTS\2020-129 METTEN PROSPER ZONING\CADD\EXHIBIT\ZONING EXHIBIT A.DWG
LAST SAVED: 2/11/2021 8:40 AM

Z20-0026

EXHIBIT B

STATEMENT OF INTENT AND PURPOSE

The subject Tract 1 is currently zoned PD-69-Retail and tract 2 is currently zoned PD-69-SF 12.5. The purpose of the planned development is to create retail and office uses which are consistent with the Town's Comprehensive Plan for the overall tract. It is intended to utilize the Town's base standards and incorporate some additional uses and criteria which will better position the proposed development due to proximity to the future Tollway.

Z20-0026
EXHIBIT C
DEVELOPMENT STANDARDS

Conformance with the Town's Zoning and Subdivision Ordinances: Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance, as it exists or may be amended, and the Subdivision Ordinance, as it exists or may be amended, shall apply.

Tract 1 & Tract 2 Retail

A. **General Description:** The areas identified as Retail will provide the ability to encourage and to accommodate the development of office and retail service centers within growth corridors located along the North Dallas Tollway extension. The property within these areas shall develop under the standards for the Retail District as contained within the Town of Prosper Zoning Ordinance, as it exists or may be amended, subject to the specific provisions contained herein below.

B. **Permitted Uses:** In addition to those permitted uses as allowed per the Retail District of the Town of Prosper Zoning Ordinance, the following use shall be permitted in the retail areas indicated on Exhibit "D". Uses followed by an **S** are only permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to the conditional standards in the Town's Zoning Ordinance:
   a. Hotels - **C**
   b. Theater, Regional
   c. Research & Development Center – **S**
   d. Automobile Repair, Minor – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property
   e. Automobile Parts Sales – Shall not be located within 230 feet of residentially zoned property
   f. Restaurant – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property.
   g. Retail Shops and Stores – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property.
   h. Convenience Store with Gas Pumps – Shall be prohibited within Tract 2. Tract 1 shall be governed by the Conditional Standards of the Zoning Ordinance as they exist or may be amended.

C. **Max. FAR:** Max. FAR for buildings taller than two (2) stories shall be 1.5:1. Max. FAR for all other buildings shall be 0.4:1.

D. **Building Heights:** The permitted height of all buildings within the retail areas of the Planned Development District shall be as follows:
   a. The allowed height for Hotels, Office buildings, and Hospitals located within the retail tract shall be eight (8) stories, not greater than one hundred (100) feet. All other uses shall be limited to two (2) stories, not greater than forty (40) feet.
   b. Non-residential buildings located within one hundred fifty feet (150') of a single- family zoned area shall be limited to a maximum height of two (2) stories.

c. Non-residential buildings, which exceed two (2) stories in height, shall be required to have additional setbacks from single-family zoned areas. These additional setbacks will require one foot (1') of setback, beyond the aforementioned one hundred fifty feet (150'), for each additional foot of building height above two (2) stories.

E. **Lot Area:** The minimum area of any lot shall be then thousand (10,000) square feet.

F. **Lot Width:** The minimum width of any lot shall be one hundred feet (100').

G. **Lot Depth:** The minimum depth of any lot shall be one hundred (100').

H. **Lot Coverage:** In no case shall more than sixty percent (60%) of the total lot area be covered by the combined area of the main buildings exceeding 2-stories. Parking structures and surface parking facilities shall be excluded from the coverage computations. Lot coverage is limited to forty percent (40%) excluding parking and parking structures for all structures 2-stories and less.

I. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and constructed as a wet detention pond (constant water level) with a fountain and/ or bubblers. The wet pond requirement may be waived if in conflict with TCEQ regulations, other applicable City/Town downstream water rights and/ or other applicable regulatory requirements. Underground detention may be utilized within nonresidential components of the Planned Development.

J. **Landscaping:**

a. A 30-foot landscape buffer shall be provided adjacent to residentially zoned property.

b. Perimeter landscaping adjacent to residentially zoned property shall consist of a double row of Nellie R Stevens Holly or Eastern Red Cedar trees, or similar as approved by the Parks Department, planted on 15-foot-centers, minimum of eight feet (8') in height at the time of planting, in addition to canopy tees as require by the Zoning Ordinance.

i. The landscape buffer and associated planting shall be provided in conjunction with the first development that occurs within Tract 2.

K. **Screening:**

a. Dumpster enclosures shall not be permitted within 100 feet of a residentially zoned property for retail/restaurant uses.

b. An eight-foot (8') ornamental metal fence shall be required along the east property line for a minimum distance of 200 feet and commencing at the southeast corner of the subject property.

i. The ornamental metal fence shall be provided in conjunction with the first development that occurs within Tract 2.

L. **Access:**

a. Cross-access from Tract 2 shall not be required to the southern adjacent property.

Z20-0026

Exhibit D

Conceptual Development Plan

Conceptual Development Plan: Prior to application for a Preliminary Site Plan or a Preliminary Plat, a Conceptual Development Plan shall be submitted, receive a recommendation from the Planning & Zoning Commission and be approved by the Town Council. This Conceptual Development Plan shall only be required for the general area within which development is to occur. This general area shall be bounded by thoroughfares, ownership lines, creek ways or other physical barriers that define a geographic boundary that separates the area of interest from other parcels.

Site Plans and and/or Plats submitted for the development within the PD District shall conform to the data presented and approved on the Conceptual Development Plan. Changes of detail on these final development plan(s) that differ from the Conceptual Development Plan may be authorized by the Planning & Zoning Commission, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1) alter the basic relationship of the proposed development to adjacent property,
2) alter the uses permitted,
3) increase the density,
4) increase the building height,
5) increase the coverage of the site,
6) reduce the off-street parking ratio,
7) reduce the building lines provided at the boundary of the site, or
8) significantly alter any open space plans

If the Planning & Zoning Commission determines that the proposed change(s) violates one (1) or more of the above eight (8) criteria, then a public hearing must be held to adequately amend the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

Z20-0026

EXHIBIT E

DEVELOPMENT SCHEDULE

With the impending improvements to Frontier Parkway and the Dallas North Tollway, it is anticipated that the development schedule will accelerate in the next couple of years. It is believed the development will occur in the next 2-5 years.

Z20-0026

EXHIBIT C

DEVELOPMENT STANDARDS

Conformance with the Town's Zoning and Subdivision Ordinances: Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance, as it exists or may be amended, and the Subdivision Ordinance, as it exists or may be amended, shall apply.

Tract 1 & Tract 2 Retail

A. **General Description:** The areas identified as Retail will provide the ability to encourage and to accommodate the development of office and retail service centers within growth corridors located along the North Dallas Tollway extension. The property within these areas shall develop under the standards for the Retail District as contained within the Town of Prosper Zoning Ordinance, as it exists or may be amended, subject to the specific provisions contained herein below.

B. **Permitted Uses:** In addition to those permitted uses as allowed per the Retail District of the Town of Prosper Zoning Ordinance, the following use shall be permitted in the retail areas indicated on Exhibit "D". Uses followed by an **S** are only permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to the conditional standards in the Town's Zoning Ordinance:

a. Hotels - **C**
b. Theater, Regional
c. Research & Development Center – **S**
d. Automobile Repair, Minor – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property
e. Automobile Parts Sales – Shall not be located within 230 feet of residentially zoned property
f. Restaurant – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property.
g. Retail Shops and Stores – In addition to conditional standards, shall not be located within 230 feet of residentially zoned property.
h. Convenience Store with Gas Pumps – Shall be prohibited within Tract 2. Tract 1 shall be governed by the Conditional Standards of the Zoning Ordinance as they exist or may be amended.

C. **Max. FAR:** Max. FAR for buildings taller than two (2) stories shall be 1.5:1. Max. FAR for all other buildings shall be 0.4:1.

D. **Building Heights:** The permitted height of all buildings within the retail areas of the Planned Development District shall be as follows:

a. The allowed height for Hotels, Office buildings, and Hospitals located within the retail tract shall be eight (8) stories, not greater than one hundred (100) feet. All other uses shall be limited to two (2) stories, not greater than forty (40) feet.
b. Non-residential buildings located within one hundred fifty feet (150') of a single- family zoned area shall be limited to a maximum height of two (2)

stories.

c. Non-residential buildings, which exceed two (2) stories in height, shall be required to have additional setbacks from single-family zoned areas. These additional setbacks will require one foot (1') of setback, beyond the aforementioned one hundred fifty feet (150'), for each additional foot of building height above two (2) stories.

E. **Lot Area:** The minimum area of any lot shall be then thousand (10,000) square feet.

F. **Lot Width:** The minimum width of any lot shall be one hundred feet (100').

G. **Lot Depth:** The minimum depth of any lot shall be one hundred (100').

H. **Lot Coverage:** In no case shall more than sixty percent (60%) of the total lot area be covered by the combined area of the main buildings exceeding 2-stories. Parking structures and surface parking facilities shall be excluded from the coverage computations. Lot coverage is limited to forty percent (40%) excluding parking and parking structures for all structures 2-stories and less.

I. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and constructed as a wet detention pond (constant water level) with a fountain and/ or bubblers. The wet pond requirement may be waived if in conflict with TCEQ regulations, other applicable City/Town downstream water rights and/ or other applicable regulatory requirements. Underground detention may be utilized within nonresidential components of the Planned Development.

J. **Landscaping:**

a. A 30-foot landscape buffer shall be provided adjacent to residentially zoned property.

b. Perimeter landscaping adjacent to residentially zoned property shall consist of a double row of Nellie R Stevens Holly or Eastern Red Cedar trees, or similar as approved by the Parks Department, planted on 15-foot-centers, minimum of eight feet (8') in height at the time of planting, in addition to canopy tees as require by the Zoning Ordinance.

i. The landscape buffer and associated planting shall be provided in conjunction with the first development that occurs within Tract 2.

K. **Screening:**

a. Dumpster enclosures shall not be permitted within 100 feet of a residentially zoned property for retail/restaurant uses.

b. An eight-foot (8') ornamental metal fence shall be required along the east property line for a minimum distance of 200 feet and commencing at the southeast corner of the subject property.

i. The ornamental metal fence shall be provided in conjunction with the first development that occurs within Tract 2.

L. **Access:**

a. Cross-access from Tract 2 shall not be required to the southern adjacent property.

Tract 2 Single Family Residential

A. The property shall be developed in accordance with the Single Family-12.5 District as outlined in the Town of Prosper Zoning Ordinance 05-20, as it exists or may be amended, unless identified below.

B. Single Family Lots within 300' of the perimeter of Tract 2 may be developed in accordance to Single Family-10 District as long as the overall residential density does not exceed 2.5 units per acre.

C. Fencing: Privacy fences on single family residential lots shall be located ten (10) feet behind the front elevation of the main building and shall not exceed eight (8) feet in height above grade. All fencing located on single family residential lots adjacent to open space, parks, or floodplain shall consist of ornamental metal (wrought iron or decorative tubular steel). All wood fencing shall consist of cedar, board on board with a top rail, and comply with the Town's fencing standards as they exist or may be amended. A common wood fence stain color shall be established for the development.

D. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and/or as a wet detention pond (constant water level) with a fountain.

E. All homes shall provide an exterior lighting package to illuminate front entrances, landscaping and trees located in the front yard and garages.

TOWN OF PROSPER

Prosper is a place where everyone matters.

DEVELOPMENT SERVICES DEPARTMENT
250 W. First Street
Prosper, TX 75078
Phone: 972-346-3502

REPLY FORM

SUBJECT:

Zoning Case Z20-0026: The Town of Prosper has received a request to amend Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses.

LOCATION OF SUBJECT PROPERTY:

The property is located on the southeast corner of Dallas Parkway and Frontier Parkway.

☒ I **OPPOSE** the request as described in the notice of Public Hearing. If in opposition, please provide a reason for opposition.

☐ I **DO NOT OPPOSE** the request as described in the notice of Public Hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

We prefer residential behind our home not commercial. Moved to Prosper to get away from over developed Frisco / McKinney.

Luke Elliott
Name (please print)

Signature

850 Waterview Dr.
Address

2/10/21
Date

Prosper TX 75078
City, State, and Zip Code

Lukeandrew7@aol.com
E-mail Address

RECEIVED
FEB 24 2021
BY: .....

TOWN OF PROSPER

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DEVELOPMENT SERVICES DEPARTMENT
250 W. First Street
Prosper, TX 75078
Phone: 972-346-3502

REPLY FORM

SUBJECT:

Zoning Case Z20-0026: The Town of Prosper has received a request to amend Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses.

LOCATION OF SUBJECT PROPERTY:

The property is located on the southeast corner of Dallas Parkway and Frontier Parkway.

- [X] I **OPPOSE** the request as described in the notice of Public Hearing. If in opposition, please provide a reason for opposition.
- [ ] I **DO NOT OPPOSE** the request as described in the notice of Public Hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

Troy Gaddis
Name (please print)

Signature

990 Waterview Drive
Address

2/8/2021
Date

Prosper, Tx 75078
City, State, and Zip Code

troygaddis11@gmail.com
E-mail Address

RECEIVED
FEB 24 2021
BY: .....

From: Caleb Heaton
To: Scott Ingalls; Evelyn Mendez
Subject: [*EXTERNAL*] - Zoning Case Z20-0026
Date: Wednesday, February 24, 2021 1:11:52 PM

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

Hello,

My name is Caleb Heaton and I live at 860 Waterview Trail in Prosper TX 75078. I am voting no, against the rezoning. Please reach out to me if you have any questions. Thanks!

--
Caleb Heaton

From: Jeanine Kirk
To: Scott Ingalls; Evelyn Mendez
Cc: Ron Kirk
Subject: [*EXTERNAL*] - VOTE - Zoning Case Z20-0026
Date: Wednesday, February 24, 2021 6:23:44 PM
Importance: High

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

Hello,

We are both voting **AGAINST** the proposed rezone.

Ron & Jeanine Kirk
991 Waterview Dr.
Prosper, TX 75078

All my best,
~ Jeanine

From: Jeanine Kirk
To: Scott Ingalls
Subject: [*EXTERNAL*] - Zoning Case - Z20-0026 Opposition
Date: Monday, April 5, 2021 4:04:52 PM

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

Hello,

We oppose Zoning Case - Z20-0026 for all of the reasons that have been previously discussed by ourselves, our neighbors on behalf of our neighborhood.

Ron & Jeanine Kirk
991 Waterview Dr.
Prosper, TX 75078

Thank you ~

All my best,

All my best,
~ Jeanine

From: Randall Rogers
To: Evelyn Mendez
Subject: [*EXTERNAL*] - Zoning
Date: Wednesday, February 24, 2021 9:04:12 AM

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

I reside at 840 waterview drive in Lakes of prosper north and I would like to vote against the rezoning of the property north of us , it should remain residential.

Randy Rogers

From: Jeremy Whisler
To: Scott Ingalls
Subject: [*EXTERNAL*] - Zoning Case Z20-0026
Date: Monday, April 5, 2021 4:45:14 PM

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

I would like to submit my opposition to the rezone proposal in Zoning Case Z20-0026. I am hopeful we can reach an agreement with the land owners change my opposition to support. I oppose what has been offered or proposed to this point.

Jeremy Whisler
851 Waterview Dr, Prosper, TX 75078

From: Chris P
To: Scott Ingalls
Subject: [*EXTERNAL*] - Zoning case Z20-0026
Date: Tuesday, April 6, 2021 1:51:09 PM

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

I live at 830 Waterview Drive, Prosper, Tx 75078 and would like to oppose the rezoning from residential to commercial in this case.

Chris Puckett

TOWN OF PROSPER
Prosper is a place where everyone matters.

DEVELOPMENT SERVICES DEPARTMENT
250 W. First Street
Prosper, TX 75078
Phone: 972-346-3502

REPLY FORM

SUBJECT:

Zoning Case Z20-0026: The Town of Prosper has received a request to amend Planned Development-69 (PD-69), on 74.3± acres, generally to amend the residential tract to allow for non-residential uses.

LOCATION OF SUBJECT PROPERTY:

The property is located on the southeast corner of Dallas Parkway and Frontier Parkway.

☑ I **OPPOSE** the request as described in the notice of Public Hearing. If in opposition, please provide a reason for opposition.

☐ I **DO NOT OPPOSE** the request as described in the notice of Public Hearing.

COMMENTS (ATTACH ADDITIONAL SHEETS IF NECESSARY):

I oppose the zoning of current Medium Density housing to commercial. This will reduce the Property Value of Lakes of Prosper North, subject our community to thoroughfare of unknown / commercial vehicles who want to avoid DNT to go from Frontier to Prosper Trail. There is an Elementary school Nearby also, we Need to take care of environment around it

RIMA LAL KHOSLA
Name (please print)

Signature

871 Waterview Dr.
Address
Prosper, TX - 75078
City, State, and Zip Code

03/01/2021
Date

RIMALAL@GMAIL.COM
E-mail Address

RECEIVED
MAR 0 2 2021
BY: .....

From: Adam Corder
To: Scott Ingalls
Subject: [*EXTERNAL*] - Vote
Date: Wednesday, February 24, 2021 11:12:53 PM

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

Reference zoning case z20-0026

The property owners at 921 Sabine vote against the retail zoning.

Adam Corder

From: Lindsey Corder
To: Scott Ingalls
Subject: [*EXTERNAL*] - Vote
Date: Wednesday, February 24, 2021 11:15:26 PM

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Case - Z20-0026

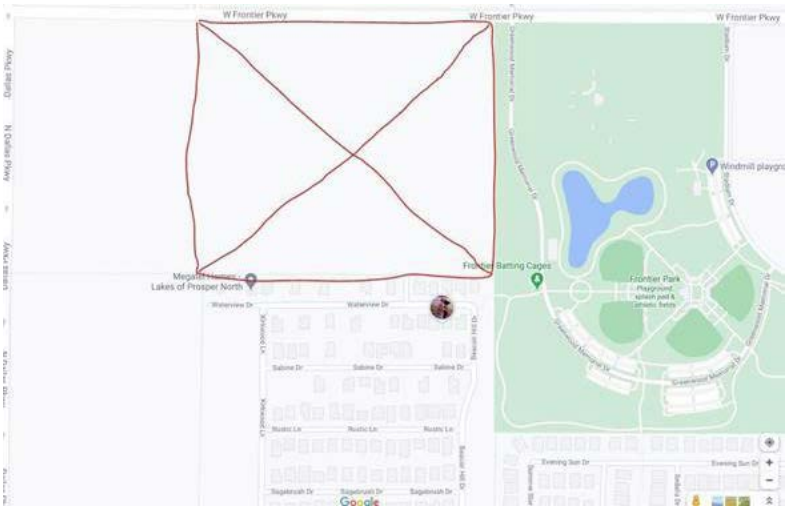
The home owner at 921 Sabine vote against the decision to re zone this area to retail. Please consider the families this will affect.

Lindsey Corder

From: Mcgowan, Jim (Nokia - US/Dallas)
To: Evelyn Mendez
Subject: [*EXTERNAL*] - Proposed re-zoning of the property located at SE corner of Frontier Pkwy & Dallas Pkwy (Tract 2)
Date: Wednesday, February 24, 2021 10:11:44 AM

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

I am a resident in Lakes of Prosper North, and would like to voice my opposition to the proposal to change the zoning of this property (Tract 2), which is currently zoned for **medium residential**. Is there a specific process to follow to ensure my "rejection" vote counts?



Regards.

Jim McGowan

From: Scott Ingalls
To: Evelyn Mendez
Subject: FW: [*EXTERNAL*] - Zoning Case Z20-0026
Date: Thursday, February 25, 2021 3:37:14 PM

From: Eli Smith <binspoonal@gmail.com>
Sent: Thursday, February 25, 2021 12:25 PM
To: Scott Ingalls <SIngalls@prospertx.gov>
Cc: Alina Ryn <alinamryn@gmail.com>
Subject: [*EXTERNAL*] - Zoning Case Z20-0026

***** This is an email from an EXTERNAL source. DO NOT click links or open attachments without positive sender verification of purpose. Never enter USERNAME, PASSWORD or sensitive information on linked pages from this email. *****

Hi,

We would like to vote against re-zoning.

941 Rustic Ln
Prosper TX 75078

Regards,
Eli L. Smith

TOWN OF PROSPER

Prosper is a place where everyone matters.

ENGINEERING SERVICES

To: **Mayor and Town Council**

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

Through: **Harlan Jefferson, Town Manager**
Rebecca Zook, Executive Director of Development and Infrastructure Services

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:
Consider and act upon approving a resolution strongly opposing the proposed alignment of FM 1461 from SH 289 (Preston Road) to FM 2478 (Custer Road).

Description of Agenda Item:
As Council is aware, TxDOT is designing the expansion of FM 1461 (Frontier Parkway) from SH 289 (Preston Road) to County Road 165 in McKinney from a two-lane asphalt rural road to a four-lane urban road expandable to an ultimate six-lane configuration. The Town of Prosper's initial involvement in the project began in December 2017, during review of the draft schematic design. During multiple reviews and meetings with TxDOT, the Town of Prosper requested alternative design considerations to address the impacts to the south of the roadway caused by the alignment of the roadway. The proposed alignment affects the existing trees and landscape berms along the corridor. In addition, TxDOT's decision to construct a new bridge south of the existing bridge, instead of widening both sides of the existing bridge, further compound the inequity of additional right-of-way required on the south side of the roadway.

Since TxDOT has commenced with completing the design of the project without addressing the Town's comments, and is currently engaged in the right-of-way acquisition phase of the project, it is necessary that the Town provide a resolution strongly opposing the proposed alignment of FM 1461 from SH 289 (Preston Road) to FM 2478 (Custer Road). The attached resolution also requests TxDOT stop all negotiations on the proposed right-of-way until an alternative design is considered to address the Town's comments.

Legal Obligations and Review:
Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the resolution as to form and legality.

Attached Documents:
1. Resolution
2. Centerline Exhibit

Town Staff Recommendation:
Town staff recommends that the Town Council approve a resolution strongly opposing the proposed alignment of FM 1461 from SH 289 (Preston Road) to FM 2478 (Custer Road).

Proposed Motion:
I move to approve a resolution strongly opposing the proposed alignment of FM 1461 from SH 289 (Preston Road) to FM 2478 (Custer Road).

TOWN OF PROSPER, TEXAS **RESOLUTION NO. 2021- __**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, STRONGLY OPPOSING THE PROPOSED ALIGNMENT OF FM 1461 (FRONTIER PARKWAY FROM SH 289 (PRESTON ROAD) TO FM 2478 (CUSTER ROAD); MAKING FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Texas Department of Transportation (TxDOT) has completed the design of the alignment of FM 1461 (Frontier Parkway) which roadway alignment in the Town is from Preston Road to Custer Road; and

WHEREAS, the December 2017 TxDOT Draft Schematic for such alignment included a right turn lane at Winding Creek Road; and

WHEREAS, at a meeting on February 12, 2018, Town Staff requested alternative sections to narrow medians, and retaining walls to minimize impact on existing trees, landscape berms, and underground water line adjacent to Gentle Creek subdivision; and

WHEREAS, on May 31, 2018, Town Staff commented again about looking at alternative sections to mitigate the right-of-way on the south side of the roadway; and

WHEREAS, the June 2018 Schematic was approved with the removal of the right turn lane into Gentle Creek subdivision and a significant shift of main lanes to the south; and

WHEREAS, the Town's comments apparently were not addressed by TxDOT and it was not clear from the approved Schematic that the main lanes had shifted south approximately fifteen feet (15'), thereby the Town in effect lost the right turn lane, and TxDOT shifted the road to create an additional impact on the entire Gentle Creek subdivision; and

WHEREAS, at a virtual meeting with TxDOT on July 10, 2018, the Town and TxDOT met regarding the Town review comments dated May 31, 2018, which were not addressed in the TxDOT approved Schematic; and

WHEREAS, on January 22, 2019, Town Staff commented on the 30% Plans to add the right turn lane at Winding Creek Road based on the assumption that the reduction of the outer lane from fourteen feet (14') to twelve feet (12') could allow enough room to get the right turn lane included back into the project; however, it was not clearly identified that TxDOT had shifted the main lanes south approximately fifteen feet (15'); and

WHEREAS, on May 20, 2020, the Town again made the same comment to TxDOT about the right turn lane and posed questions about impacts to fences, trees, landscaping, stone walls, and other features, including specific reference to the median and subdivision entry walls at Winding Creek Road; and

WHEREAS, the current set of design plans still shows an approximate shift of fifteen feet (15') in right-of-way from the current centerline of FM 1461 which disproportionally impacts the existing developments on the south side of FM 1461 when compared to the proposed development on the north side that had not yet been constructed when the Schematic was approved; and

WHEREAS, in addition, the current set of plans shows approximately twenty-five feet (25') of right-of-way from the south curb line of the proposed roadway versus approximately nine feet (9') from the north curb line of the proposed roadway, thereby creating an even more disproportionate impact on the existing developments on the south side of FM 1461; and

WHEREAS, the design of a new bridge (STA 198+00 to STA 203+00) to the south of the existing bridge instead of widening on both sides of the existing bridge creates an additional disproportionate impact on the eastern edge of the Gentle Creek subdivision.

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

SECTION 1

The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2

The Town Council of the Town of Prosper, Texas, hereby expresses its strong opposition to the proposed alignment of FM 1461 from SH 289 (Preston Road) to FM 2478 (Custer Road).

SECTION 3

The Town Council hereby directs no further Town staff coordination with TxDOT or any other entity related to the proposed alignment of FM 1461 (Frontier Parkway from SH 289 (Preston Road) to FM 2478 (Custer Road).

SECTION 4

The Town Council hereby requests that TxDOT stop all negotiations on proposed rights-of-way until an alternative design is considered to address the Town's comments.

SECTION 5

Any and all resolutions, rules, regulations, policies, or provisions in conflict with the provisions of this Resolution are hereby repealed and rescinded to the extent of any conflict herewith.

SECTION 6

This Resolution shall be effective from and after its passage by the Town Council.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 27TH DAY OF APRIL, 2021.

_____
Ray Smith, Mayor

ATTEST:

_____
Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

_____
Terrence S. Welch, Town Attorney

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

CENTERLINE CURVE DATA	
PI STATION	= 102+11.58
PI NORTHING	= 7,147,652.95
PI EASTING	= 2,493,491.71
DELTA	= 00°56'17"
DEGREE OF CURVE	= 00°34'23"
TANGENT	= 81.87'
LENGTH	= 163.73'
RADIUS	= 10,000.00'
CHORD BEARING	= N 89°00'48" E
CHORD DISTANCE	= 163.73'

CENTERLINE CURVE DATA	
PI STATION	= 104+83.70
PI NORTHING	= 7,147,659.87
PI EASTING	= 2,493,763.75
DELTA	= 00°19'34"
DEGREE OF CURVE	= 00°34'23"
TANGENT	= 28.46'
LENGTH	= 56.92'
RADIUS	= 10,000.00'
CHORD BEARING	= N 88°42'26" E
CHORD DISTANCE	= 56.92'

CENTERLINE CURVE DATA	
PI STATION	= 109+16.90
PI NORTHING	= 7,147,668.41
PI EASTING	= 2,494,196.86
DELTA	= 00°22'58"
DEGREE OF CURVE	= 00°34'23"
TANGENT	= 33.41'
LENGTH	= 66.82'
RADIUS	= 10,000.00'
CHORD BEARING	= N 89°03'42" E
CHORD DISTANCE	= 66.82'

LINE TABLE		
L1	S 00°42'05" E	34.02'
L2	S 46°40'21" E	79.72'
L3	S 00°23'03" E	36.09'

FOUND 4"BRASS DISK STAMPED "TEXAS DEPARTMENT OF TRANSPORTATION (CM)

EXISTING R.O.W.

STATE OF TEXAS
TRACT #1
VOLUME 625, PAGE 37
D.R.C.C.T.
CALLED 2.167 ACRES

GRID COORDINATE
N=7,146,882.2486
E=2,492,444.2946

COLLIN COUNTY
SCHOOL LAND SURVEY
ABSTRACT NO. 167

CITY OF CELINA
COLLIN COUNTY

STATE OF TEXAS
TRACT #2
VOLUME 625, PAGE 37
D.R.C.C.T.
CALLED 1.920 ACRES

SH 289 (PR

(VARIABLE WID

STATE OF TEXAS
PARCEL 1
DOCUMENT NO. 20110810000839420
CALLED 0.0316 ACRES

STATE OF TEXAS
PARCEL 4
DOCUMENT NO. 20110718000741730
CALLED 0.3904 ACRES

FOUND TXDOT
WOOD MONUMENT (CM)

OWNER:
KEERAN FAMILY PARTNERSHIP, LTD.
VOLUME 4957, PAGE 2455
O.P.R.C.C.T.
REMAINDER OF 134.88 ACRES

BEGIN PROJECT
CCSJ: 1973-01-015
RCSJ: 1973-01-018
STA. 100+00.15
N = 7,147,651.04
E = 2,493,280.29
LAT. = 33°15'45.2668" N
LONG. = 96°47'03.3781" W

S 46°40'21" E

STA 101+60.40
109.12' LT

NEW R.O.W. LINE

N 88°32'39" E 351.27'

STA 105+12.51
110.17' LT

S 82°45'47" E 207.32'

STA 107+17.62
80.00' LT

N 88°52'13" E 199.55'

STA 109+16.90
80.06' LT

JONATHAN WESTOVER SURVEY
ABSTRACT NO. 1030

CITY OF CELINA
COLLIN COUNTY

OWNER:
BLUE STAR LAND, L.P.
VOLUME 5470, PAGE 2177
(AN UNDIVIDED 3.8241% INTEREST)
AND VOLUME 5470, PAGE 2182
(AN UNDIVIDED 96.1759% INTEREST)
O.P.R.C.C.T.
CALLED 15.00 ACRES

LOT 3
PRESTON HILLS ADDITION
CABINET C, PAGE 784
P.R.C.C.T.

LOT 2
PRESTON HILLS ADDITION
CABINET C, PAGE 784
P.R.C.C.T.

GRID COORDINATE
N=7,146,984.5891
E=2,493,798.9874

LOT 1
PRESTON HILLS ADDITION
CABINET C, PAGE 784
P.R.C.C.T.

OWNER:
JANNA L. JOHNSON
AND AARON W. JOHNSON
DOCUMENT NO. 20170215000206880
O.P.R.C.C.T.

P.O.C.
PARCEL 2
& PARCEL 4
FOUND 1/2"
IRON ROD (CM)

P.O.B.
PARCEL 2
& PARCEL 4
N=7,147,749.00
E=2,494,241.57
STATION 109+62.65
80.00' LT

S 00°23'03" E 175.15'

SOUTHWESTERN BELL
TELEPHONE COMPANY
EASEMENT
VOLUME 4791
PAGE 3178
O.P.R.C.C.T.

N 89°15'12" E
340.67'

294.65'

46.02'

416.91'

FOUND WOOD TXDOT
MONUMENT (CM)

FOUND 1/2"
IRON ROD (CM)

EXISTING R.O.W.

TOWN OF PROSPER, TEXAS
DOCUMENT NO.
20090721000915890
D.R.C.C.T.

FOUND 1/2"IRON ROD
WITH CAP STAMPED
"KHA" (CM)

STATE OF TEXAS
(NO DEED OF RECORD FOUND)

FOUND TXDOT
WOOD MONUMENT
(CM)

PC 101+29.71

FOUND 1/2"IRON ROD
WITH CAP STAMPED
"ALLIANCE" (CM)

S 89°51'16" E 207.82'

FOUND TXDOT TYPE I
MONUMENT BEARS
N 73°28'55"W 1.04'

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

EXISTING R.O.W.

STATE OF TEXAS
VOLUME 484, PAGE 281
D.R.C.C.T.
CALLED 1.203 ACRES

N 89°18'29" E 3,878.69'

536.83'

SOUTHWESTERN BELL
TELEPHONE COMPANY EASEMENT
DOCUMENT NO. 94-0086227
O.P.R.C.C.T.

STATE OF TEXAS
VOLUME 484, PAGE 287
D.R.C.C.T.
CALLED 0.924 ACRES

N 89°28'56" E

FOUND 3-1/2"ALUMINUM DISK STAMPED
"TEXAS DEPARTMENT OF TRANSPORTATION
ROW MONUMENT NO. (CM)

PT 102+93.44

N 88°32'39" E

PC 104+55.24

PT 105+12.16

STATE OF TEXAS
VOLUME 484, PAGE 305
D.R.C.C.T.
CALLED 2.642 ACRES

N 88°52'13" E

APPROXIMATE CITY LIMIT LINE

PC 108+83.49

PT 109+50.31

N 89°15'12" E

EXISTING R.O.W.

N 89°18'29" E 3,878.30'

483.29'

1,629.16'

FOUND 1/2"IRON ROD
BEARS N 00°42'05" W 0.34'

8.40'

N 84°28'31" E 183.46'

N 88°11'33" E 124.16'

FOUND TXDOT
TYPE I MONUMENT (CM)

HM#E0430166
3-1/4"ALUMINUM
DISK SE

296.58'

N 88°52'13" E 304.98'

N 89°15'12" E
361.91'

STA 109+16.90
79.94' RT

P.O.B.
PARCEL 1
& PARCEL 3
N=7,147,588.25
E=2,494,189.78
STATION 109+08.44
79.97' RT

N 42°35'47" E
74.88'

N 01°24'20" E
59.15'

N 43°13'10" E
103.55'

STA 101+37.11
96.23' RT

N 88°32'39" E 316.81'

NEW R.O.W. LINE

STA 104+52.42
95.00' RT

N 83°24'27" E 159.42'

STA 106+11.66
80.00' RT

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4029, PAGE 1820
O.P.R.C.C.T.

10' WATER EASEMENT
TOWN OF PROSPER
DOCUMENT NO. 20080623000754670
O.P.R.C.C.T.

30' ROW DEDICATION
TOWN OF PROSPER
VOLUME 2018, PAGE 699
O.P.R.C.C.T.

FOUND 4"BRASS DISK
STAMPED "TEXAS
DEPARTMENT OF
TRANSPORTATION (CM)

FOUND 5/8"IRON ROD
WITH CAP STAMPED
"WINDROSE" (CM)

FOUND 4"BRASS DISK
STAMPED "TEXAS
DEPARTMENT OF
TRANSPORTATION (CM)

EXISTING R.O.W.

LOT 3, BLOCK A
VICTORY AT FRONTIER
VOLUME 2018, PAGE 699
O.P.R.C.C.T.

LOT 2, BLOCK A
VICTORY AT FRONTIER
VOLUME 2018, PAGE 699
O.P.R.C.C.T.

SPENCER RICE SURVEY
ABSTRACT NO. 788

STA 100+65.59
171.05' RT

STATE OF TEXAS
VOLUME 625, PAGE 37
D.R.C.C.T.
CALLED 9.710 ACRES

OWNER:
BLUE STAR LAND, L.P.
DOCUMENT NO. 20170711000905730
O.P.R.C.C.T.
REMAINDER TRACT

TOWN OF PROSPER
COLLIN COUNTY

COLLIN COUNTY
SCHOOL LAND SURVEY
ABSTRACT NO. 172

REMAINDER OF
LOT 1, BLOCK A
FRONTIER ESTATES
VOLUME 2013, PAGE 561
O.P.R.C.C.T.

OWNER:
MERITAGE HOMES OF TEXAS, LLC
DOCUMENT NO.
20130726001053280
O.P.R.C.C.T.
CALLED 124.655 ACRES

N 00°42'05" W 849.69'

FOUND 5/8"IRON ROD
WITH CAP STAMPED
"KHA" (CM)

FOUND 1/2"
IRON ROD (CM)

FOUND 5/8"IRON ROD
WITH CAP STAMPED
"KHA" (CM)

SH 289 (PRESTON ROAD)
(VARIABLE WIDTH RIGHT-OF-WAY)

EXISTING R.O.W. N 01°24'20" E

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4029, PAGE 1820
O.P.R.C.C.T.

GRID COORDINATE
N=7,146,092.5016
E=2,492,701.1330

GRID COORDINATE
N=7,146,243.1619
E=2,493,674.5332

EXISTING R.O.W.
NEW R.O.W. LINE
P.O.B.
P.O.C.
EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
P.O.B.
NEW R.O.W. LINE
P.O.C.

PARENT TRACT INSERT
(NOT TO SCALE)

LOT 18, BLOCK Q
FRONTIER ESTATES PHASE 1
VOLUME 2014, PAGE 697
O.P.R.C.C.T.

LOT 19, BLOCK Q
FRONTIER ESTATES PHASE 1
VOLUME 2014, PAGE 697
O.P.R.C.C.T.

P.O.C.
PARCEL 1
& PARCEL 3
FOUND 1/2"IRON ROD
WITH CAP STAMPED
"SPIARS ENG" (CM)

GRAPHIC SCALE
50' 25' 0' 50' 100'

22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

NOTE: SEE SHEET 04 FOR
THE REMAINDER OF PARCELS 3 & 4

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.			HIGHWAY NO.
6	TEXAS	N/A			FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

O.P.R.C.C.T.
CALLED 15.00 ACRES

P.O.C.
PARCEL 2
& PARCEL 4
FOUND 1/2"
IRON ROD (CM)

BUILDING LINE
CABINET C, PAGE 784
P.R.C.C.T.

FOUND 1/2"
IRON ROD (CM)

LOT 1
PRESTON HILLS ADDITION
CABINET C, PAGE 784
P.R.C.C.T.

OWNER:
JANNA L. JOHNSON
AND AARON W. JOHNSON
DOCUMENT NO. 20170215000206880
O.P.R.C.C.T.

SOUTHWESTERN BELL
TELEPHONE COMPANY
EASEMENT
VOLUME 4791 PAGE 3178
O.P.R.C.C.T.

P.O.B.
PARCEL 2
& PARCEL 4
N=7,147,749.00
E=2,494,241.57
STATION 109+62.65
80.00' LT

STA 109+16.90
80.06' LT

N 88°52'13" E
199.55'

S 00°23'03" E 175.15'

STA 113+41.04
116.00' LT

STA 112+93.04
116.00' LT

RIGHT-OF-WAY EASEMENT
STATE OF TEXAS
VOLUME 484, PAGE 287
D.R.C.C.T.

STA 112+57.31
80.00' LT

N 89°15'12" E 340.67'

294.65'

46.02'

SOUTHWESTERN BELL
TELEPHONE COMPANY EASEMENT
DOCUMENT NO. 94-0086227
O.P.R.C.C.T.

416.91'

EXISTING R.O.W.

N 89°18'29" E 3,878.69'

STATE OF TEXAS
VOLUME 484, PAGE 281
D.R.C.C.T.
CALLED 1.203 ACRES

536.83'

N 88°52'13" E
PC 108+83.49

PT 109+50.31

112+78.43

N 89°15'12" E

483.29'

296.58'

8.40'

N 88°52'13" E
304.98'

FOUND 1/2"IRON ROD
BEARS N 00°42'05" W 0.34'

STA 109+16.90
79.94' RT

P.O.B.
PARCEL 1
& PARCEL 3
N=7,147,588.25
E=2,494,189.78
STATION 109+08.44
79.97' RT

N 00°42'05" W 849.69'

OWNER:
BLUE STAR LAND, L.P.
DOCUMENT NO.
20170711000905730
O.P.R.C.C.T.
REMAINDER TRACT

P.O.C.
PARCEL 1
& PARCEL 3
FOUND 1/2"IRON ROD
WITH CAP STAMPED
"SPIARS ENG" (CM)

LOT 19, BLOCK Q
FRONTIER ESTATES PHASE 1
VOLUME 2014, PAGE 697
O.P.R.C.C.T.

LOT 18, BLOCK Q
FRONTIER ESTATES PHASE 1
VOLUME 2014, PAGE 697
O.P.R.C.C.T.

GRID COORDINATE
N=7,146,263.8491
E=2,493,934.1718

N 89°15'12" E 361.91'

STA 112+79.45
80.00' RT

STA 112+93.45
94.00' RT

STA 113+43.45
80.00' RT

STA 113+29.45
94.00' RT

N 89°30'50" E 155.08'

N 86°38'52" E
100.00'

STA 114+98.53
80.00' RT

STA 115+98.40
75.00' RT

NEW R.O.W. LINE

N 89°30'50" E 320.20'

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4029, PAGE 1820
O.P.R.C.C.T.

STA 119+18.38
75.00' RT

N 89°10'27" E 194.29'

STA 121+12.45
75.00' RT

N 86°25'08" E 228.63'

STA 123+41.05
69.00' RT

REMAINDER OF
LOT 1, BLOCK A
FRONTIER ESTATES
VOLUME 2013, PAGE 561
O.P.R.C.C.T.

OWNER:
MERITAGE HOMES OF TEXAS, LLC
DOCUMENT NO. 20130726001053280
O.P.R.C.C.T.
CALLED 124.655 ACRES

TOWN OF PROSPER
COLLIN COUNTY

COLLIN COUNTY
SCHOOL LAND SURVEY
ABSTRACT NO. 172

GRID COORDINATE
N=7,146,340.3981
E=2,495,089.1925

LOT 34
PRESTON HILLS ADDITION
CABINET C, PAGE 784
P.R.C.C.T.

EXISTING R.O.W.

PRESTON HILLS CIRCLE
(60' RIGHT-OF-WAY)
CABINET C, PAGE 784
P.R.C.C.T.

CITY OF CELINA
COLLIN COUNTY

LOT 35
PRESTON HILLS ADDITION
CABINET C, PAGE 784
P.R.C.C.T.

30' BUILDING LINE
CABINET C, PAGE 784
P.R.C.C.T.

N 89°26'49" E 427.22'

P.O.C.
PARCEL 5
PARCEL 6
& PARCEL 7
FOUND 1/2"
IRON ROD (CM)

S 03°18'42" E 206.11'

N 03°18'42" W 175.53'

P.O.B.
PARCEL 5
& PARCEL 6
N=7,147,744.47
E=2,494,717.25
STATION 114+37.92
70.00' LT

STA 113+77.37
79.67' LT

L1 L2 L3 L4 L5 L6 L7 L8 L9 L10 L11

60.06'

417.87'

416.70'

N 89°30'50" E 480.25'

FOUND 1/2"IRON ROD
BEARS N 13°33'32" E 0.46'

HM#E0430176 △
3-1/4"ALUMINUM
DISK SE

STATE OF TEXAS
VOLUME 484, PAGE 287
D.R.C.C.T.
CALLED 0.924 ACRES

115+00

N 89°30'50" E

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

STATE OF TEXAS
VOLUME 484, PAGE 305
D.R.C.C.T.
CALLED 2.642 ACRES

N 89°18'29" E 3,878.30'

1,629.16'

LOT 36
PRESTON HILLS ADDITION
CABINET C, PAGE 784
P.R.C.C.T.

OWNER:
JAMES L. HARGIS
DOCUMENT NO. 20100107000018010
O.P.R.C.C.T.

NEW R.O.W. LINE

S 00°42'49" E 206.36'

FOUND 1/2"IRON ROD
BEARS N 89°26'49" E 0.78'

APPROXIMATE CITY LIMIT LINE

FOUND 1/2"IRON ROD
BEARS S 01°49'36" E 1.12'

EXISTING R.O.W.

NEW R.O.W. LINE

P.O.B.
PARCEL 8
N=7,147,748.01
E=2,495,135.11
STATION 118+55.80
70.00' LT

62.38'

STA 119+18.17
70.00' LT

119+18.38

120+00

N 87°18'27" E

APPROXIMATE CITY LIMIT LINE

JONATHAN WESTOVER SURVEY
ABSTRACT NO. 1030

CITY OF CELINA
EXTRATERRITORIAL JURISDICTION
COLLIN COUNTY

OWNER:
MICHAEL R. MILLEN
AND WIFE, MARIA E. MILLEN
DOCUMENT NO. 2000-0054434
O.P.R.C.C.T.
CALLED 8.87 ACRES

STA 121+12.66
70.00' LT

461.77'

STATE OF TEXAS
VOLUME 485, PAGE 147
D.R.C.C.T.
CALLED 3.440 ACRES

PC 121+12.66

PT 121+74.43

N 87°24'16" E

N 89°18'47" E

PC 122+74.43

PT 123+41.05

OWNER:
MICHAEL R. MILLEN
AND WIFE MARIA E. MILLEN
DOCUMENT NO. 20150127000089990
O.P.R.C.C.T.
CALLED 17.99 ACRES

GRID COORDINATE
N=7,147,006.9790
E=2,495,168.9556

P.O.C.
P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

P.O.C.
P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

P.O.C.
P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

STA 123+18.76
78.55' LT

STA 123+41.05
80.00' LT

N 85°25'16" E 229.01'

205.79'

23.22'

590.29'

L11 L12

197.04'

EXISTING R.O.W.

LINE TABLE		
L1	S 00°42'05" E	34.02'
L3	S 00°23'03" E	36.09'
L4	S 44°30'50" W	51.05'
L5	S 89°30'50" W	48.00'
L6	N 45°29'10" W	51.38'
L7	S 81°24'48" E	61.32'
L8	N 89°18'47" E	352.86'
L9	S 45°29'10" E	19.80'
L10	N 89°30'50" E	36.00'
L11	N 44°30'50" E	19.80'
L12	N 89°18'47" E	400.80'
L13	S 03°18'42" E	35.74'
L14	S 03°18'42" E	25.84'
L15	S 00°42'49" E	24.32'
L16	S 00°42'54" E	38.50'

CENTERLINE CURVE DATA

PI STATION	= 109+16.90
PI NORTHING	= 7,147,668.41
PI EASTING	= 2,494,196.86
DELTA	= 00°22'58"
DEGREE OF CURVE	= 00°34'23"
TANGENT	= 33.41'
LENGTH	= 66.82'
RADIUS	= 10,000.00'
CHORD BEARING	= N 89°03'42" E
CHORD DISTANCE	= 66.82'

CENTERLINE CURVE DATA

PI STATION	= 121+43.55
PI NORTHING	= 7,147,681.79
PI EASTING	= 2,495,423.43
DELTA	= 01°46'11"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 30.89'
LENGTH	= 61.77'
RADIUS	= 2,000.00'
CHORD BEARING	= N 88°17'21" E
CHORD DISTANCE	= 61.77'

CENTERLINE CURVE DATA

PI STATION	= 123+07.75
PI NORTHING	= 7,147,689.23
PI EASTING	= 2,495,587.47
DELTA	= 01°54'31"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 33.31'
LENGTH	= 66.62'
RADIUS	= 2,000.00'
CHORD BEARING	= N 88°21'31" E
CHORD DISTANCE	= 66.62'

NOTE: SEE SHEET 03 FOR THE REMAINDER OF PARCELS 1 & 2

NOTE: SEE SHEET 05 FOR THE REMAINDER OF PARCELS 3 & 8

NOTE: P.O.C. AND P.O.B. FOR PARCEL 8 IS LOCATED ON SHEET 05

N

GRAPHIC SCALE
50' 25' 0' 50' 100'

22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.			HIGHWAY NO.
6	TEXAS	N/A			FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

CURVE TABLE					
CURVE	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH	ARC LENGTH
C1	2,530.38'	03°33'59" (LT)	S 02°39'43" E	157.48'	157.51'
C2	970.00'	01°24'33" (RT)	S 03°44'28" E	23.86'	23.86'
C3	970.00'	00°54'19" (RT)	S 02°35'02" E	15.33'	15.33'
C4	1,030.00'	00°34'19" (RT)	S 02°20'07" E	10.28'	10.28'

TER TRANSMISSION
INE EASEMENT
Y OF CELINA
CUMENT NO.
4060000406990
).P.R.C.C.T.

' UTILITY EASEMENT
LUME 2006, PAGE 480
O.P.R.C.C.T.

GRID COORDINATE
N=7,146,887.5048
E=2,495,416.3511

JONATHAN WESTOVER SURVEY
ABSTRACT NO. 1030

CITY OF CELINA
EXTRATERRITORIAL JURISDICTION
COLLIN COUNTY

OWNER:
MICHAEL R. MILLEN
AND WIFE,
MARIA E. MILLEN
DOCUMENT NO.
2000-0054434
O.P.R.C.C.T.
CALLED
8.87 ACRES

OWNER:
MICHAEL R. MILLEN
AND WIFE MARIA E. MILLEN
DOCUMENT NO. 20150127000089990
O.P.R.C.C.T.
CALLED 17.99 ACRES

P.O.C.
PARCEL 8
FOUND 1/2" IRON ROD
WITH CAP STAMPED
"SPIARS ENG" (CM)

CITY OF CELINA
COLLIN COUNTY

APPROXIMATE
CITY LIMIT LINE

LOT 3, BLOCK A
PRESTON MEADOW PHASE 2
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"SPIARS ENG" (CM)

LOT 2, BLOCK A
PRESTON MEADOW PHASE 2
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

30' BUILDING LINE
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

25' BUILDING LINE
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

15' DRAINAGE, WATER
& SANITARY SEWER EASEMENT
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

EXISTING R.O.W.

7.5' DRAINAGE, WATER
& SANITARY SEWER EASEMENT
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

OWNER:
MELISSA A. BARRETT
DOCUMENT NO.
20120904001098070
O.P.R.C.C.T.

LOT 1, BLOCK A
PRESTON MEADOW PHASE 2
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

P.O.C.
PARCEL 11
& PARCEL 12
FOUND "X" CUT
IN CONCRETE (CM)

TWIN LAKES DRIVE
(60' RIGHT-OF-WAY)
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

30' BUILDING LINE
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

GRID COORDINATE
N=7,146,999.4452
E=2,496,483.8581

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"SPIARS ENG" (CM)

100' DRAINAGE EASEMENT
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

LOT 25, BLOCK A
PRESTON MEADOW PHASE 2
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

15' DRAINAGE, WATER
& SANITARY SEWER EASEMENT
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

P.O.C.
PARCEL 16
& PARCEL 18
FOUND 1/2"IRON ROD
WITH CAP STAMPED
"SPIARS ENG" (CM)

FOUND 1/2"
IRON ROD (CM)

LOT 26, BLOCK A
PRESTON MEADOW PHASE 2
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

7.5' DRAINAGE, WATER
& SANITARY SEWER EASEMENT
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

OWNER:
BILLY MCMURTRE
AND WIFE SHELBY MCMURTRE
DOCUMENT NO.
20160525000839280
O.P.R.C.C.T.

OWNER:
DONALD E METTICA,
MARCEY L METTICA
DOCUMENT NO. 96-0009946
CALLED 3.200 ACRES

FOUND 1/2"
IRON ROD (CM)

10' UTILITY EASEMENT
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

OWNER:
DEAN A BELVIS
AND WIFE KELLEY J BELVIS
DOCUMENT NO. 96-0081180
O.P.R.C.C.T.
CALLED 3.308 ACRES

P.O.B.
PARCEL 16
& PARCEL 18

STA 123+18.76
78.55' LT

STA 123+41.05
80.00' LT

N 85°25'16" E
229.01'

205.79'

23.22'

461.77'

EXISTING R.O.W.

N 87°24'16" E

PC 122+74.43

PT 123+41.05

1,629.16'

197.04'

N 86°25'08" E
228.63'

STA 123+41.05
69.00' RT

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4029, PAGE 1820
O.P.R.C.C.T.

STATE OF TEXAS
VOLUME 484, PAGE 585
D.R.C.C.T.
CALLED 2.642 ACRES

REMAINDER OF
LOT 1, BLOCK A
FRONTIER ESTATES
VOLUME 2013, PAGE 561
O.P.R.C.C.T.

OWNER:
MERITAGE HOMES OF TEXAS, LLC
DOCUMENT NO. 20130726001053280
O.P.R.C.C.T.
CALLED 124.655 ACRES

TOWN OF PROSPER
COLLIN COUNTY

COLLIN COUNTY
SCHOOL LAND SURVEY
ABSTRACT NO. 172

GRID COORDINATE
N=7,146,236.9650
E=2,495,356.8703

EXISTING R.O.W.

P.O.B.

NEW
R.O.W. LINE

P.O.C.

PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.

NEW
R.O.W.
LINE

P.O.B.

P.O.C.

EXISTING
R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

NEW R.O.W. LINE

STA 126+93.91
80.00' LT

STA 127+59.85
104.00' LT

STA 127+95.85
104.00' LT

STA 129+08.85
90.00' LT

STA 129+08.72
80.00' LT

P.O.B.
PARCEL 8
N=7,147,786.43
E=2,496,187.45
STATION 129+08.85
90.00' LT

EXISTING R.O.W.

N 89°18'47" E 346.27'

N 89°16'22" E 346.98'

N 89°18'29" E 346.69'

FOUND 1/2" IRON ROD
BEARS S 00°14'34" W 0.49'

STATE OF TEXAS
VOLUME 485, PAGE 147
D.R.C.C.T.
CALLED 3.440 ACRES

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4029, PAGE 1820
O.P.R.C.C.T.

FOUND 1/2"IRON ROD
BEARS S 89°29'40" W 0.54'

FOUND 5/8"IRON ROD
WITH CAP STAMPED "SPIARS ENG"
BEARS N 04°33'38" E 0.82'

STATE OF TEXAS
VOLUME 484, PAGE 585
D.R.C.C.T.
CALLED 2.958 ACRES

ROW DEDICATION
CITY OF CELINA
VOLUME 2006, PAGE 480
O.P.R.C.C.T.

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"SPIARS ENG" (CM)

N 89°18'47" E

APPROXIMATE CITY LIMIT LINE

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

RIGHT-OF-WAY DEDICATION
STATE OF TEXAS
VOLUME 484, PAGE 585
D.R.C.C.T.

5' UTILITY EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

30' DRAINAGE EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

FOUND 5/8"
IRON ROD (CM)

30' LANDSCAPE &
UTILITY EASEMENT
CABINET P, PAGE 91
P.R.C.C.T.

N 89°18'47" E 618.18'

STA 136+42.04
75.00' RT

STA 136+19.04
95.00' RT

LOT 15, BLOCK A
HIGHLAND MEADOWS
PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.

OWNER:
MICHAEL TRZCINSKI
AND WIFE DEBORAH TRZCINSKI
DOCUMENT NO. 20051204001366830
O.P.R.C.C.T.

P.O.C.
PARCEL 15
& PARCEL 17
FOUND 1/2"IRON ROD
WITH CAP ILLEGIBLE) (CM)

LOT 14, BLOCK A
HIGHLAND MEADOWS PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.

GRID COORDINATE
N=7,146,329.2364
E=2,496,410.6921

20' DRAINAGE EASEMENT
CABINET P, PAGE 91
P.R.C.C.T.

LOT 13, BLOCK A
HIGHLAND MEADOWS
PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.

LOT 12, BLOCK A
HIGHLAND MEADOWS PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.

P.O.B.
PARCEL 9
& PARCEL 10
FOUND 1/2"
IRON ROD (CM)

N 89°18'47" E 751.72'

STA 133+19.18
75.00' RT

P.O.C.
PARCEL 13
& PARCEL 14
FOUND 1/2"
IRON ROD (CM)

OWNER:
JOHN J. FOLEY III
AND SANDRA K FOLEY
DOCUMENT NO.
20140919001317030
O.P.R.C.C.T.

OWNER:
DONNA FENLEY
AND DAVID E FENLEY
DOCUMENT NO.
20150127000660700
O.P.R.C.C.T.

LOT 3, BLOCK C
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

OWNER:
KEVIN FULTON AND EMILEE FULTON
DOCUMENT NO. 20160126000060550
O.P.R.C.C.T.

LOT 2, BLOCK C
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

LOT 1, BLOCK C
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

35' BUILDING LINE
CABINET K, PAGE 885
P.R.C.C.T.

10' DRAINAGE EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

1' DRAINAGE &
UTILITY EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

HIGHLAND MEADOWS COURT
(50' RIGHT-OF-WAY)
CABINET K, PAGE 885
P.R.C.C.T.

Highland Meadows Ct

P.O.C.
PARCEL 9
& PARCEL 10
FOUND 1/2"
IRON ROD (CM)

EXISTING R.O.W.

FOUND 5/8"
IRON ROD (CM)

30' DRAINAGE EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

EXISTING R.O.W.

Highland Meadows Dr

HIGHLAND MEADOWS DRIVE
(VARIABLE WIDTH RIGHT-OF-WAY)
CABINET K, PAGE 885
P.R.C.C.T.

LOT 5, BLOCK C
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

LOT 4, BLOCK C
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

LOT 6, BLOCK C
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

LOT 7, BLOCK C
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

ELISHA CHAMBERS SURVEY
ABSTRACT NO. 179

TOWN OF PROSPER
COLLIN COUNTY

LOT 1, BLOCK A
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

LOT 2, BLOCK A
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

LOT 3, BLOCK A
HIGHLAND MEADOWS
CABINET K, PAGE 885
P.R.C.C.T.

15' DRAINAGE EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

15' UTILITY EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

30' DRAINAGE EASEMENT
CABINET K, PAGE 885
P.R.C.C.T.

20' DRAINAGE EASEMENT
CABINET P, PAGE 91
P.R.C.C.T.

E Frontier Pkwy

LINE TABLE		
LINE	BEARING	LENGTH
L8	N 89°18'47" E	352.80'
L12	N 89°18'47" E	400.80'
L16	N 89°18'47" E	38.50'
L17	N 69°18'47" E	76.17'
L18	N 89°18'47" E	36.00'
L19	S 70°41'13" E	40.93'
L20	N 89°18'47" E	74.53'
L21	S 85°56'29" E	60.44'
L22	N 44°18'47" E	41.37'
L23	N 89°18'18" E	41.49'
L24	S 45°37'34" E	41.34'
L25	S 45°41'13" E	22.63'
L26	N 89°18'47" E	46.49'

LINE TABLE		
LINE	BEARING	LENGTH
L28	S 45°41'13" E	22.63'
L29	N 89°18'47" E	27.00'
L30	N 44°18'47" E	32.53'
L31	S 00°03'16" W	50.03'
L32	S 00°00'47" E	34.96'
L33	N 00°41'23" W	18.95'
L34	N 00°39'13" W	24.97'
L35	S 00°39'13" E	24.99'
L36	N 00°39'13" W	25.96'
L37	N 00°39'13" W	25.00'
L38	N 00°39'13" W	25.01'
L39	N 00°39'35" W	48.04'

CENTERLINE CURVE DATA
PI STATION = 123+07.75
PI NORTHING = 7,147,689.23
PI EASTING = 2,495,587.47
DELTA = 01°54'31"
DEGREE OF CURVE = 02°51'53"
TANGENT = 33.31'
LENGTH = 66.62'
RADIUS = 2,000.00'
CHORD BEARING = N 88°21'31" E
CHORD DISTANCE = 66.62'

NOTE: SEE SHEET 04 FOR THE REMAINDER OF PARCELS 3 & 7

NOTE: SEE SHEET 06 FOR THE REMAINDER OF PARCELS 17 & 18

NOTE: P.O.C. AND P.O.B. FOR PARCEL 3 IS LOCATED ON SHEET 04

NOTE: P.O.C. AND P.O.B. FOR PARCEL 7 IS LOCATED ON SHEET 04

GRAPHIC SCALE
50' 25' 0' 50' 100'

22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.		HIGHWAY NO.
6	TEXAS	N/A		FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

R SURVEY
1030
IA
TY

OWNER:
SANDY H. STEPHENS
ND WIFE, DIANE H. STEPHENS
TRACT 1
UMENT NO. 20060406000449980
O.P.R.C.C.T
CALLED 2.9971 ACRES

P.O.C.
NEW R.O.W. LINE
P.O.B.
EXISTING R.O.W.
PARENT TRACT INSERT (NOT TO SCALE)

P.O.B.
P.O.C.
NEW R.O.W. LINE
EXISTING R.O.W.
PARENT TRACT INSERT (NOT TO SCALE)

P.O.C.
NEW R.O.W. LINE
P.O.B.
EXISTING R.O.W.
PARENT TRACT INSERT (NOT TO SCALE)

P.O.C.
P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.
PARENT TRACT INSERT (NOT TO SCALE)

EXISTING R.O.W.
NEW R.O.W. LINE
P.O.B.
P.O.C.
PARENT TRACT INSERT (NOT TO SCALE)

EXISTING R.O.W.
NEW R.O.W. LINE
P.O.B.
P.O.C.
PARENT TRACT INSERT (NOT TO SCALE)

GRID COORDINATE
N=7,146,919.6686
E=2,496,692.3227

OWNER:
DEAN A BELVIS
AND WIFE KELLEY J. BELVIS
DOCUMENT NO. 96-0081180
O.P.R.C.C.T.
CALLED 3.308 ACRES

EXISTING R.O.W.

FALCON ROAD
(50' RIGHT-OF-WAY)
CABINET I, PAGE 344
P.R.C.C.T.

S 00°03'24" E 201.71'

PARCEL 20
& PARCEL 21
FOUND 1/2"
IRON ROD (CM)

P.O.B.
PARCEL 20
& PARCEL 21
N=7,147,585.62
E=2,497,447.05
STATION 141+68.58
94.09' LT

OWNER:
MICKAEL A. MOORE
AND SHARON P. MOORE
DOCUMENT NO. 20140811000851520
O.P.R.C.C.T
CALLED 3.222 ACRES

TEXAS POWER & LIGHT COMPANY EASEMENT VOLUME 489, PAGE 43 D.R.C.C.T.

S 00°03'26" W 203.34'

P.O.C.
PARCEL 23
FOUND 1/2"
IRON ROD (CM)

GRID COORDINATE
N=7,146,962.9654
E=2,497,996.6974

OWNER.
BRAZOS ELECTRIC POWER COOPERATIVE, INC.
DOCUMENT NO. 20160129000111830
O.P.R.C.C.T.
CALLED 12.853 ACRES

EASEMENT TO
THE COUNTY OF COLLIN
VOLUME 4549, PAGE 420
O.P.R.C.C.T.

COUNTY ROAD 83

STA 151+41.67
139.78' LT
FOUND TXDOT
TYPE I MONUMENT
BEARS S 28°06'18" W 0.63'

STA 150+94.42
139.81' LT

P.O.B.
PARCEL 23
N=7,147,784.48
E=2,497,990.82
STATION 147+11.52
70.00' LT

WASTEWATER TRANSMISSION
PIPELINE EASEMENT
CITY OF CELINA
DOCUMENT NO.
20151204001521140
O.P.R.C.C.T.

STA 150+25.39
70.00' LT

L45
N 89°43'48" E
89.86'
EXISTING R.O.W.

L44
N 44°21'26" E 140.38'

NEW R.O.W. LINE
N 89°46'01" E 765.44'
313.86'
331.74'

STA 152+87.49
90.00' LT

L46
S 45°33'00" E 74.94'
60.43'
135.37'

EASEMENT TO
THE COUNTY OF COLLIN
VOLUME 4569,
PAGE 4008
O.P.R.C.C.T.

OWNER:
FRONTIER RETAIL
PARTNERS, LP
DOCUMENT NO.
20161221001731270
O.P.R.C.C.T.
CALLED 10.372 ACRES

FOUND 5/8" IRONROD
WITH CAP STAMPED
"HUITT-ZOLLARS (CM)

STATE OF TEXAS
VOLUME 485, PAGE 147
D.R.C.C.T.
CALLED 3.440 ACRES

STATE OF TEXAS
VOLUME 484, PAGE 275
D.R.C.C.T.
CALLED 3.885 ACRES

N 89°48'59" E 739.11'

N 89°46'01" E 150+00

APPROXIMATE CITY LIMIT LINE

FOUND 1/2"IRON ROD
WITH CAP STAMPED
"DAA" (CM)

FOUND 1/2"
IRON ROD (CM)

EXISTING R.O.W.
317.41'
309.60'

STA 147+26.98
75.00' RT

NEW R.O.W. LINE

STA 150+36.57
75.00' RT

S 45°35'42" E
118.30'

S 45°35'50" E 133.37'

STATE OF TEXAS
VOLUME 484, PAGE 285
D.R.C.C.T.
CALLED 3.558 ACRES

STA 153+20.57
85.00' RT

N 45°17'38" E
101.82'
87.82'

L57

STA 152+57.90
146.52' RT

L56

L48

NEW R.O.W. LINE

P.O.B.
PARCEL 26
PART 1
N=7,147,471.17
E=2,498,493.77
STATION 152+13.20
245.35' RT

CHRISTIAN CHAPEL
ASSEMBLY OF GOD CHURCH
VOLUME 5937, PAGE 3136
O.P.R.C.C.T.
CALLED 2.00 ACRES

P.O.B.
PARCEL 24
& PARCEL 25
N=7,147,558.02
E=2,498,400.98
STATION 151+20.75
158.12' RT

L47

S 01°01'26" E 99.82'

STA 151+41.97
245.25' RT

DRAINAGE EASEMENT
TOWN OF PROSPER
VOLUME 5334, PAGE 3792
O.P.R.C.C.T.

N 57°10'37" E 282.77'

P.O.C.
PARCEL 24
& PARCEL 25
FOUND 1/2"
IRON ROD (CM)

GRID COORDINATE
N=7,146,276.5949
E=2,497,861.1137

OWNER:
VI RAAMA, LLC,
DOCUMENT NO.
20100426000402810
O.P.R.C.C.T.
CALLED 9.624 ACRES

FOUND 1/2" IRON ROD
WITH CAP (ILLEGIBLE) (CM)

COUNTY ROAD 83 (COIT ROAD)
(VARIABLE WIDTH RIGHT-OF-WAY)
(NO DEED OF RECORD FOUND)

EXISTING R.O.W.

OWNER:
R.L. WHITE LIVING TRUST
DOCUMENT NO.
20150706000823550
O.P.R.C.C.T.
CALLED 10.00 ACRES

N 00°33'24" W 927.03'

ABIAH DYER
SURVEY
ABSTRACT
NO. 258

NOTE: SEE SHEET 05 FOR THE REMAINDER OF PARCELS 17 & 18

NOTE: SEE SHEET 07 FOR THE REMAINDER OF PARCELS 27

NOTE: P.O.C. AND P.O.B. FOR PARCEL 17 & 18 IS LOCATED ON SHEET 05

NOTE: P.O.C. AND P.O.B. FOR PARCEL 27 IS LOCATED ON SHEET 07

NOTE: P.O.C. FOR PARCEL 26 IS LOCATED ON SHEET 07

N

GRAPHIC SCALE
50' 25' 0' 50' 100'

22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.			HIGHWAY NO.
6	TEXAS	N/A			FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

EXISTING R.O.W.
N 89°18'47" E 437.93'
STA 141+15.52
95.63' LT
STA 140+97.43
75.00' LT
L41
L42
L43
STA 141+92.36
70.00' LT
STA 142+60.22
70.00' LT
FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)
WASTEWATER TRANSMISSION PIPELINE EASEMENT CITY OF CELINA DOCUMENT NO. 20160128000100130 O.P.R.C.C.T.
WASTEWATER TRANSMISSION PIPELINE EASEMENT CITY OF CELINA DOCUMENT NO. 20150410000470010 O.P.R.C.C.T.
E Frontier Pkwy
EXISTING R.O.W.
N 89°18'29" E 3,378.69'
FOUND 1/2"IRON ROD WITH CAP STAMPED "DAA" (CM)
FOUND 1/2" IRON ROD (CM)
FOUND 1/2"IRON ROD WITH CAP STAMPED "DAA" (CM)
N 89°48'59" E 740.06'
140+00
142+60.22
145+00
N 89°18'47" E
STATE OF TEXAS VOLUME 484, PAGE 334 D.R.C.C.T. CALLED 4.029 ACRES
N 89°18'29" E 3,878.30'
WATERLINE EASEMENT CITY OF PROSPER VOLUME 4029, PAGE 1813 O.P.R.C.C.T.
FOUND 1/2"IRON ROD WITH CAP STAMPED "DAA" (CM)
N 89°18'47" E 618.18'
N 89°46'02" E 775.76'
STA 140+32.39
75.00' RT
STA 142+60.01
75.00' RT
P.O.B.
PARCEL 19
& PARCEL 22
N=7,147,638.72
E=2,497,806.03
STATION 145+26.14
75.00' RT
P.O.C.
PARCEL 19
& PARCEL 22
FOUND 1/2"IRON ROD
WITH CAP STAMPED
"DAA" (CM)
LOT 15, BLOCK A
HIGHLAND MEADOWS
PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.
9' ACCESS UTILITY & DRAINAGE EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
41' ACCESS UTILITY & DRAINAGE EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
OWNER:
MICHAEL JEZCINSKI
AND WIFE
DEBORAH JEZCINSKI
DOCUMENT NO.
20081204001386850
O.P.R.C.C.T.
FOUND 1/2" IRON ROD (CM)
FOUND CUT IN CONCRETE (CM)
FOUND 1/2" IRON ROD WITH CAP STAMPED "ROOF" (CM)
OWNER:
FARAZ PAUL AND SARAH PAUL
DOCUMENT NO. 20140610000583950
O.P.R.C.C.T.
35' BUILDING LINE CABINET P, PAGE 91 P.R.C.C.T.
LOT 14, BLOCK A
HIGHLAND MEADOWS
PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.
UTILITY EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
LOT 17, BLOCK A
HIGHLAND MEADOWS PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.
30' DRAINAGE EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
BLUE FOREST DRIVE
Blue Forest Dr
(50' RIGHT-OF-WAY)
CABINET P, PAGE 91
P.R.C.C.T.
EXISTING R.O.W.
20' DRAINAGE EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
LOT 13, BLOCK A
HIGHLAND MEADOWS
PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.
15' DRAINAGE EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
GRID COORDINATE
N=7,146,130.8046
E=2,496,770.7409
LOT 12, BLOCK A
HIGHLAND MEADOWS PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.
LOT 18, BLOCK A
HIGHLAND MEADOWS PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.
15' DRAINAGE EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
UTILITY EASEMENT CABINET P, PAGE 91 P.R.C.C.T.
LOT 19, BLOCK A
HIGHLAND MEADOWS PHASE THREE
CABINET P, PAGE 91
P.R.C.C.T.
CHRISTIAN CHAPEL ASSEMBLY OF GOD CHURCH VOLUME 5937, PAGE 3136 O.P.R.C.C.T. CALLED 2.549 ACRES
TOWN OF PROSPER
COLLIN COUNTY
ELISHA CHAMBERS SURVEY
ABSTRACT NO. 179
FOUND 5/8" IRON ROD (BENT) (CM)

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

OWNER:
FRONTIER RETAIL PARTNERS, LP
DOCUMENT NO. 20190109000026970
O.P.R.C.C.T.
CALLED 10.013 ACRES

S 89°47'25" W 496.39'

P.O.C.
PARCEL 27
& PARCEL 29
FOUND 5/8"IRON ROD
WITH CAP STAMPED
"HUITT-ZOLLARS" (CM)

JONATHAN WESTOVER SURVEY
ABSTRACT NO. 1030

CITY OF CELINA
COLLIN COUNTY

PARENT TRACT INSERT
(NOT TO SCALE)

OWNER:
FRONTIER RETAIL PARTNERS, LP
DOCUMENT NO. 20161221001731270
O.P.R.C.C.T.
CALLED 10.372 ACRES

COUNTY

N 89°43'48" E
89.86'

FOUND 5/8" IRON ROD
WITH CAP STAMPED
"HUITT-ZOLLARS (CM)

S 45°53'00" E 74.94'

STA 152+87.49
90.00' LT

L46 135.33' 60.43'

STA 154+90.86
91.60' LT

20' WASTEWATER TRANSMISSION
PIPELINE EASEMENT
CITY OF CELINA
DOCUMENT NO. 20151211001549870
O.P.R.C.C.T.

NEW R.O.W. LINE
S 85°45'27" E 320.34'

STA 158+13.92
84.97' LT

N 89°47'01" E 200.43'

STA 160+14.81
85.00' LT

S 84°31'57" E
99.35'

P.O.B.
PARCEL 27
& PARCEL 29
N=7,147,775.25
E=2,499,392.41
STATION 161+13.67
75.16' LT

S 00°12'35" E 274.75'

20' DRAINAGE EASEMENT
DOCUMENT NO.
20161221001731300
O.P.R.C.C.T.

STA 161+63.77
75.17' LT

SEE DETAIL "B"

38.39'

N 89°46'31" E 510.27'

RIGHT-OF-WAY EASEMENT
STATE OF TEXAS
VOLUME 487, PAGE 352
D.R.C.C.T.

20' WASTEWATER TRANSMISSION
PIPELINE EASEMENT
CITY OF CELINA
DOCUMENT NO. 20151211001549870
O.P.R.C.C.T.

LOT 1X, BLOCK L
DRAINAGE & DETENTION EASEMENT
LILYANA PHASE I
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

EXISTING R.O.W.

780.44'

N 89°45'56" E 868.94'

20,252 sf

7,197 sf

471.87'

30 PART 1

N 89°45'56" E 2,339.07'

EXISTING R.O.W.

L64 15.15' 1,711 sf 125.00'

FOUND
MAG NAIL (CM)

STA 156+68.97

PT 158+24.62

STATE OF TEXAS
VOLUME 484, PAGE 275
D.R.C.C.T.
CALLED 3.885 ACRES

SEE DETAIL "A"

29

50.11' L63

15' RESERVATION FOR FUTURE
FRONTIER PARKWAY / F.M. 1461 WIDENING
CITY OF CELINA
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

20' WATER EASEMENT
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

N 89°46'01" E

155+00

PC 154+12.73

PT 155+68.97

S 85°45'27" E

APPROXIMATE CITY LIMIT LINE

160+00

N 89°47'01" E

STATE OF TEXAS
VOLUME 484, PAGE 285
D.R.C.C.T.
CALLED 3.558 ACRES

165+00

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

FOUND 1/2"
IRON ROD (CM)

N 89°45'56" E 871.00'

EXISTING R.O.W.

47,965 sf

FOUND 5/8"
IRON ROD (CM)

134.84'

N 89°45'56" E 1,802.77'

778.92'

EXISTING R.O.W.

L59 291.47' 209.49' PART 2 26 L68 202.32' 579.53'

S 87°26'58" E 411.81'

L69

592.17'

N 89°47'01" E 1,004.76'

N 45°17'58" E
101.82'
87.82'

L57

STA 153+20.57
85.00' RT

STA 154+12.64
85.00' RT

STA 158+24.62
85.00' RT

N 89°47'01" E 512.45'

L70

N 85°11'28" E 187.34'

STA 163+37.07
85.00' RT

STA 165+23.81
70.00' RT

26
PART 1
2,448 sf

STA 152+57.90
146.52' RT

L56

L48

NEW R.O.W. LINE

P.O.B.
PARCEL 26 PART 2
& PARCEL 28
N=7,147,623.01
E=2,498,901.85
STATION 156+28.84
84.66' RT

NEW R.O.W. LINE

OWNER:
R.L. WHITE LIVING TRUST
DOCUMENT NO. 20150706000823560
O.P.R.C.C.T.
CALLED 18.00 ACRES

TOWN OF PROSPER
COLLIN COUNTY

ABIAH DYER SURVEY
ABSTRACT NO. 258

OWNER:
R.L. WHITE LIVING TRUST
DOCUMENT NO. 20150706000823550
O.P.R.C.C.T.
CALLED 10.00 ACRES

P.O.B.
PARCEL 26
PART 1
N=7,147,471.17
E=2,498,493.77
STATION 152+13.20
245.35' RT

EXISTING R.O.W.

N 00°33'24" W 927.03'

N 00°10'38" E 1,076.20'

COUNTY ROAD 83
(COIT ROAD)
(A VARIABLE WIDTH RIGHT-OF-WAY)
(NO DEED OF RECORD FOUND)

GRID COORDINATE
N=7,146,210.1536
E=2,498,206.6997

P.O.C.
PARCEL 26 PART 1
FOUND 1/2"IRON ROD
WITH CAP STAMPED
"SPARR SURVEYING" (CM)

S 89°37'10" W
146.88'
110.00'

FOUND 5/8"
IRON ROD (CM)

P.O.C.
PARCEL 26 PART 2
& PARCEL 28
FOUND 1/2"IRON ROD
WITH CAP
(ILLEGIBLE) (CM)

TRACT 37
GENTLE CREEK ESTATES
PHASE SEVEN
VOLUME 2006, PAGE 568
O.P.R.C.C.T.

TRACT 36
GENTLE CREEK ESTATES
PHASE SEVEN
VOLUME 2006, PAGE 568
O.P.R.C.C.T.

TRACT 35
GENTLE CREEK ESTATES
PHASE SEVEN
VOLUME 2006, PAGE 568
O.P.R.C.C.T.

TRACT 34
GENTLE CREEK ESTATES
PHASE SEVEN
VOLUME 2006, PAGE 568
O.P.R.C.C.T.

PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
NEW R.O.W. LINE
P.O.B.
P.O.C.

PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
NEW R.O.W. LINE
P.O.B.
P.O.C.

PARENT TRACT INSERT
(NOT TO SCALE)

DETAIL "A"
NOT TO SCALE

DETAIL "B"
NOT TO SCALE

GRAPHIC SCALE
50' 25' 0' 50' 100'
22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

GRID COORDINATE
N=7,146,930.4541
E=2,499,471.4563

EXISTING R.O.W.

NEW R.O.W. LINE

P.O.C.

P.O.B.

30 EXISTING R.O.W.

PART 1
PARENT TRACT INSERT
(NOT TO SCALE)

7.5 UTILITY EASEMENT
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

LOT 3X
BLOCK R
LILYANA PHASE I
VOLUME 2017
PAGE 199
P.R.C.C.T.

LOT 2X, BLOCK P
LILYANA PHASE I
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

P.O.C.
PARCEL 30 PART 1
FOUND 5/8"IRON ROD
WITH CAP STAMPED
"HUITT-ZOLLARS" (CM)

P.O.B.
PARCEL 30 PART 1
FOUND 5/8"IRON ROD
WITH CAP STAMPED
"HUITT-ZOLLARS" (CM)
N=7,147,777.45
E=2,499,952.78
STATION 166+74.04
75.24' LT

LILYANA LANE

(A VARIABLE WIDTH RIGHT-OF-WAY)
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

EXISTING R.O.W.

OWNER:
JIANMING HE AND CYNTHIA ZHENG
DOCUMENT NO. 20090421000463380
O.P.C.C.R.T.
CALLED 20.00 ACRES

GRID COORDINATE
N=7,146,204.9121
E=2,499,417.8046

CENTERLINE CURVE DATA

PI STATION	= 154+90.90
PI NORTHING	= 7,147,717.65
PI EASTING	= 2,498,770.48
DELTA	= 04°28'32"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 78.15'
LENGTH	= 156.22'
RADIUS	= 2,000.00'
CHORD BEARING	= S 87°59'43" E
CHORD DISTANCE	= 156.18'

CENTERLINE CURVE DATA

PI STATION	= 157+46.84
PI NORTHING	= 7,147,698.71
PI EASTING	= 2,499,025.79
DELTA	= 04°27'32"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 77.86'
LENGTH	= 155.65'
RADIUS	= 2,000.00'
CHORD BEARING	= S 87°59'13" E
CHORD DISTANCE	= 155.61'

LINE TABLE

L46	N 89°46'01" E	206.93'
L48	N 24°06'27" E	108.46'
L56	N 00°33'24" W	99.24'
L57	S 89°42'22" E	45.27'
L58	N 89°46'31" E	50.10'
L59	N 89°46'01" E	92.08'
L61	S 00°12'35" E	5.24'
L62	S 00°13'29" E	5.24'
L63	N 00°14'04" W	10.00'
L64	S 00°13'29" E	15.15'
L65	S 44°46'30" W	28.28'
L68	N 00°10'38" E	19.99'
L69	N 00°14'04" W	25.00'
L70	N 00°15'07" W	54.99'

NOTE: SEE SHEET 08 FOR THE REMAINDER OF PARCELS 31

NOTE: P.O.C. AND P.O.B. FOR PARCEL 31 IS LOCATED ON SHEET 08

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.			HIGHWAY NO.
6	TEXAS	N/A			FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

LOT 32 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 31 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 30 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 29 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 28 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 27 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 26 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 25 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 24 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 23 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 22 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 21 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 20 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T. | LOT 19 BLOCK C LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

25' BUILDING LINE VOLUME 2017, PAGE 199 O.P.R.C.C.T.

CITY OF CELINA COLLIN COUNTY

7.5 UTILITY EASEMENT VOLUME 2017, PAGE 199 O.P.R.C.C.T.

15' DRAINAGE EASEMENT VOLUME 2017, PAGE 199 O.P.R.C.C.T.

EXISTING R.O.W.

SNAPDRAGON COURT
(A 50' RIGHT-OF-WAY)
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

JONATHAN WESTOVER SURVEY
ABSTRACT NO. 1030

GRID COORDINATE
N=7,146,861.4440
E=2,500,999.5228

LILYANA PHASE I
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

N=7,146,852.9860
E=2,499,743.7851

LILYANA LANE
(A VARIABLE WIDTH RIGHT-OF-WAY)
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

LOT 1

LOT 2

LOT 6X

P.O.C.
PARCEL 30 PART 2
FOUND 5/8"IRON ROD
WITH CAP STAMPED
"HUITT-ZOLLARS" (CM)

P.O.B.
PARCEL 30 PART 2
N=7,147,777.94
E=2,500,077.78
STATION 167+99.04
75.26' LT

LOT 3, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 4, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 5, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 6, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 7, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 8, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 9, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 10, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 11, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 12, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 13, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 14, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 15, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 16, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 17, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 18, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 19, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 P.R.C.C.T.

NEW R.O.W. LINE

N 89°46'31" E 1,691.64'

24,202 sf

PART 2

1,711.61'

EXISTING R.O.W.

APPROXIMATE CITY LIMIT LINE

L66 125.00' L67

FOUND MAG NAIL (CM)

DRAINAGE EASEMENT VOLUME 2017, PAGE 199 O.P.R.C.C.T.

STATE OF TEXAS
VOLUME 484, PAGE 275
D.R.C.C.T.
CALLED 3.885 ACRES

FOUND 5/8" IRON ROD WITH CAP STAMPED "HUITT-ZOLLARS" (CM)

N 89°45'56" E 2,339.07'

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

FOUND 5/8" IRON ROD WITH CAP STAMPED "HUITT-ZOLLARS" (CM)

FOUND 5/8" IRON ROD WITH CAP STAMPED "HUITT-ZOLLARS" (CM)

20' WATER EASEMENT VOLUME 2017 PAGE 199 O.P.R.C.C.T.

15' RESERVATION FOR FUTURE FRONTIER PARKWAY (FM 1461 WIDENING CITY OF CELINA VOLUME 2017 PAGE 199 O.P.R.C.C.T.

E Frontier Pkwy

STATE OF TEXAS
VOLUME 484, PAGE 285
D.R.C.C.T.
CALLED 3.558 ACRES

170+00

N 89°47'01" E

175+00

N 89°45'56" E 1,802.77'

778.92'

592.17'

EXISTING R.O.W.

812.79'

73,178 sf

FOUND 1/2" IRON ROD WITH CAP STAMPED "J.E. SMITH" (CM)

L71

412.59'

NEW R.O.W. LINE

** S 79°54'43" E 139.76'

** 49.27'

N 89°47'01" E 1,004.76'

STA 175+28.57
70.00' RT

STA 176+66.07
95.00' RT

P.O.B.
PARCEL 31
& PARCEL 32
N=7,147,633.88
E=2,500,395.27
STATION 171+15.98
70.00' RT

P.O.B.
PARCEL 32E
N=7,147,611.15
E=2,500,994.72
STATION 177+15.34
95.00' RT

OWNER:
JIANMING HE AND CYNTHIA ZHENG
DOCUMENT NO. 20090421000463380
O.P.C.C.R.T.
CALLED 20.00 ACRES

N 00°14'47" W 1,077.11'

OWNER:
DA' HOOD TRUST
DOCUMENT NO. 20060512000645050
O.P.R.C.C.T.
CALLED 20.831 ACRES

TOWN OF PROSPER
COLLIN COUNTY

ABIAH DYER SURVEY
ABSTRACT NO. 258

GRID COORDINATE
N=7,146,176.5682
E=2,499,674.7209

P.O.C.
PARCEL 31
PARCEL 32
& PARCEL 32E
FOUND 3/8"
IRON ROD (CM)

TRACT 24
GENTLE CREEK ESTATES
PHASE SEVEN
VOLUME 2006, PAGE 568
O.P.R.C.C.T.

TRACT 23
GENTLE CREEK ESTATES
PHASE SEVEN
VOLUME 2006, PAGE 568
O.P.R.C.C.T.

TRACT 22
GENTLE CREEK ESTATES
PHASE SEVEN
VOLUME 2006, PAGE 568
O.P.R.C.C.T.

LINE TABLE		
L60	N 78°27'19" E	101.82'
L66	S 45°13'29" E	28.28'
L67	S 00°13'29" E	15.13'
L71	N 00°14'47" W	40.23'
L72	N 00°17'07" W	45.49'
L73	S 73°08'30" E	68.12'
L74	S 45°58'24" E	74.53'
L75	S 17°10'15" E	71.09'
L76	N 89°47'01" E	44.00'

EXISTING R.O.W.
NEW R.O.W. LINE
P.O.B.
P.O.B.
PARENT TRACT INSERT (NOT TO SCALE)

EXISTING R.O.W.
P.O.B.
NEW R.O.W. LINE
P.O.B.
P.O.C.
PARENT TRACT INSERT (NOT TO SCALE)

EXISTING R.O.W.
NEW R.O.W. LINE
P.O.B.
P.O.C.
EXISTING R.O.W.
PARENT TRACT INSERT (NOT TO SCALE)

NOTE: SEE SHEET 07 FOR THE REMAINDER OF PARCEL 31

NOTE: SEE SHEET 09 FOR THE REMAINDER OF PARCELS 30 PART 2 AND 33

NOTE: P.O.C. AND P.O.B. FOR PARCEL 33 IS LOCATED ON SHEET 09

STA 179+28.50
75.00' RT

STA 178+28.97
95.00' RT

STA 178+98.47
81.08' RT

N 89°47'01" E 562.89'

LANDSCAPE EASEMENT CABINET K, PAGE 476 P.R.C.C.T.

LOT 2, BLOCK C GENTLE CREEK ESTATES, PHASE TWO CABINET K, PAGE 476 P.R.C.C.T.

OWNER:
MICHAEL D. ROGERS AND KRISTA N. ROGERS
DOCUMENT NO. 20160705000905960
O.P.R.C.C.T.

WILLIAM T HORN SURVEY
ABSTRACT NO. 376

50' BUILDING LINE CABINET K, PAGE 476 P.R.C.C.T.

15' UTILITY EASEMENT CABINET K, PAGE 476 P.R.C.C.T.

LOT 3, BLOCK C GENTLE CREEK ESTATES, PHASE TWO CABINET K, PAGE 476 P.R.C.C.T.

GRID COORDINATE
N=7,146,186.9375
E=2,500,865.2957

GENTLE WAY
(A 50' RIGHT-OF-WAY)
CABINET K, PAGE 476
P.R.C.C.T.

50' BUILDING LINE CABINET K, PAGE 476 P.R.C.C.T.

LOT 4, BLOCK C GENTLE CREEK ESTATES, PHASE TWO CABINET K, PAGE 476 P.R.C.C.T.

EXISTING R.O.W.

GRAPHIC SCALE
50' 25' 0' 50' 100'
22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.		HIGHWAY NO.
6	TEXAS	N/A		FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

CENTERLINE CURVE DATA	
PI STATION	= 194+27.06
PI NORTHING	= 7,147,721.04
PI EASTING	= 2,502,706.00
DELTA	= 04°26'33"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 77.58'
LENGTH	= 155.07'
RADIUS	= 2,000.00'
CHORD BEARING	= S 88°29'22" E
CHORD DISTANCE	= 155.03'

CENTERLINE CURVE DATA	
PI STATION	= 196+82.13
PI NORTHING	= 7,147,704.44
PI EASTING	= 2,502,960.60
DELTA	= 04°26'33"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 77.58'
LENGTH	= 155.07'
RADIUS	= 2,000.00'
CHORD BEARING	= S 88°29'22" E
CHORD DISTANCE	= 155.03'

CURVE TABLE					
CURVE	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH	ARC LENGTH
C5	62.50'	02°19'34" (RT)	N 00°59'19" W	2.54'	2.54'
C6	62.50'	18°09'58" (LT)	N 09°54'57" E	19.73'	19.82'
C7	62.50'	00°41'27" (RT)	N 00°29'14" E	0.75'	0.75'

TWELVE OAKS LANE
(A 50' RIGHT-OF-WAY)
CABINET N, PAGE 755
P.R.C.C.T.

EXISTING R.O.W.

FOUND 1/2" IRON ROD WITH CAP STAMPED "ROOME" (CM)

FOUND 1/2" IRON ROD WITH CAP STAMPED "5439" (CM)

10' DRAINAGE & UTILITY EASEMENT CABINET N, PAGE 755 P.R.C.C.T.

30' BUILDING LINE CABINET N, PAGE 755 P.R.C.C.T.

LOT 10R-1, BLOCK B
LOT 10R-1 AND LOT 11R, BLOCK B, TWELVE OAKS, PHASE I
VOLUME 2011, PAGE 380
O.P.R.C.C.T.

100 YEAR FLOODPLAIN EASEMENT CABINET N, PAGE 755 O.P.R.C.C.T.

P.O.C.
PARCEL 40
& PARCEL 43
FOUND 1/2"
IRON ROD (CM)

COLEMAN WATSON SURVEY
ABSTRACT NO. 945

CITY OF CELINA
COLLIN COUNTY

GRID COORDINATE
N=7,146,935.1333
E=2,502,533.4880

LOT 11R, BLOCK B
LOT 10R-1 AND LOT 11R, BLOCK B, TWELVE OAKS, PHASE I
VOLUME 2011, PAGE 380
O.P.R.C.C.T.

OWNER:
BRIAN B. KOOIMAN
AND APRIL L KOOIMAN
DOCUMENT NO. 20140722000761870
O.P.R.C.C.T.

10' COSERV UTILITY EASEMENT CABINET N, PAGE 755 P.R.C.C.T.

FOUND TXDOT TYPE I MONUMENT (CM)

7.5 UTILITY EASEMENT VOLUME 2017, PAGE 199 O.P.R.C.C.T.

HEATHE
(A 50' RIGHT-OF-WAY)
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

SNAPDRAGON COURT
(A 50' RIGHT-OF-WAY)
VOLUME 2017, PAGE 199
O.P.R.C.C.T.

EXISTING R.O.W.

7.5 UTILITY EASEMENT VOLUME 2017, PAGE 199 O.P.R.C.C.T.

COUNTY ROAD 84
(A 70' RIGHT-OF-WAY)

S 00°07'16" E 338.57'

LANDSCAPE EASEMENT CABINET N, PAGE 755 P.R.C.C.T.

30' BUILDING LINE CABINET N, PAGE 755 P.R.C.C.T.

LOT 13, BLOCK B
TWELVE OAKS PHASE I
CABINET N, PAGE 755
P.R.C.C.T.

OWNER:
MICHAEL J. HAWKINS
DOCUMENT NO. 20180523000628460
O.P.R.C.C.T.

LOT 12, BLOCK B
TWELVE OAKS PHASE I
CABINET N, PAGE 755
P.R.C.C.T.

OWNER:
M JAY CARTER
AND DEBORAH L. CARTER
DOCUMENT NO. 20170428000540720
O.P.R.C.C.T.

S 00°43'48" E 321.71'

P.O.B.
PARCEL 36
& PARCEL 37
N=7,147,800.55
E=2,501,859.38
STATION 185+81.49
90.00' LT

P.O.B.
PARCEL 40
& PARCEL 43
N=7,147,799.02
E=2,502,542.46
STATION 192+64.50
80.00' LT

LOT 19, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 P.R.C.C.T.

LOT 20, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 21, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

LOT 22, BLOCK A LILYANA PHASE I VOLUME 2017 PAGE 199 O.P.R.C.C.T.

25' BUILDING LINE VOLUME 2017, PAGE 199 O.P.R.C.C.T.

15' RESERVATION FOR FUTURE FRONTIER PARKWAY F.M. 1461 WIDENING CITY OF CELINA VOLUME 2017, PAGE 199 O.P.R.C.C.T.

STA 185+11.53
94.98' LT

STA 184+91.33
75.15' LT

N 89°46'31" E
1,691.64'

NEW R.O.W. LINE

STA 189+01.53
90.00' LT

STA 189+25.35
87.38' LT

STA 189+92.43
80.00' LT

N 89°17'21" E 320.04'

L78

L79

22,728 sf

N 89°17'21" E 437.72'

10' UTILITY EASEMENT CABINET N, PAGE 755 P.R.C.C.T.

STA 194+27.02
81.56' LT

STA 195+26.41
80.00' LT

S 86°16'06" E
102.53'

N 89°20'44" E
328.08'

N 83°32'16" E 273.92'

153.57'

181.57'

FM 1461
(A VARIABLE WIDTH RIGHT-OF-WAY)
E Frontier Pkwy

Frontier Pkwy

WINDING CREEK ROAD
(A 50' RIGHT-OF-WAY)
CABINET K, PAGE 474
P.R.C.C.T.

Winding Creek Rd

GENTLE WAY
(A 50' RIGHT-OF-WAY)
CABINET K, PAGE 476
P.R.C.C.T.

N 89°47'01" E
562.89

N 89°17'21" E 837.13'

S 83°25'39" E 431.98'

STATE	FEDERAL AID PROJECT NO.	HIGHWAY NO.
TEXAS	N/A	FM 1461

DIST.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	197	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

CENTERLINE CURVE DATA		
03+17.82	PI STATION	= 205+72.89
147,712.33	PI NORTHING	= 7,147,735.24
503,596.32	PI EASTING	= 2,503,850.44
4°26'33"	DELTA	= 04°26'33"
2°51'53"	DEGREE OF CURVE	= 02°51'53"
7.58'	TANGENT	= 77.58'
55.07'	LENGTH	= 155.07'
000.00'	RADIUS	= 2,000.00'
87°04'05" E	CHORD BEARING	= N 87°04'05" E
55.03'	CHORD DISTANCE	= 155.03'

CURVE TABLE					
CURVE	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH	ARC LENGTH
C8	1,686.59'	03°43'31" (RT)	S 01°26'37" E	109.64'	109.66'

PECAN GROVE LANE
(A 50' RIGHT-OF-WAY)
CABINET P, PAGE 486
P.R.C.C.T.

EXISTING R.O.W.

PEBBLE CREEK DRIVE
(50' RIGHT-OF-WAY)
CABINET P, PAGE 486
P.R.C.C.T.

FOUND 1/2" IRON ROD
WITH CAP STAMPED
EC&D RPLS 5439 (CM)

FOUND 5/8"
IRON ROD (CM)

P.O.C.
PARCEL 50
& PARCEL 51
FOUND 1/2"
IRON ROD (CM)

P.O.C.
PARCEL 52
& PARCEL 54
FOUND 1/2"
IRON ROD (CM)

GRID COORDINATE
N=7,147,029.3292
E=2,504,111.5505

CITY OF CELINA
COLLIN COUNTY

20' DRAINAGE
& UTILITY EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

30' BUILDING LINE
CABINET P, PAGE 486
P.R.C.C.T.

LOT 1, BLOCK D
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

LOT 2, BLOCK D
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

LOT 3, BLOCK D
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

LOT 4, BLOCK D
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

OWNER:
JAMES TOKARCZYK
AND KELLY TOKARCZYK
DOCUMENT NO.
20130314000346820
O.P.R.C.C.T.

OWNER:
SHANE P TRICKEY
AND GELAREH F TRICKEY
DOCUMENT NO.
20170217000219220
O.P.R.C.C.T.

OWNER:
KRISTI W. GLAMETTA
AND CHRISTOPHER J. GLAMETTA
DOCUMENT NO.
20100201000099430
O.P.R.C.C.T.

OWNER:
DONNA RILEY LUCADO
DOCUMENT NO.
20161003001329530
O.P.R.C.C.T.

10' COSERV EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

50' BUILDING LINE
& LANDSCAPE EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

15' WATER & SANITARY
SEWER EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

P.O.B.
PARCEL 50
& PARCEL 51
N=7,147,807.61
E=2,504,042.49
STATION 207+65.74
69.98' LT

P.O.B.
PARCEL 52
& PARCEL 54
N=7,147,812.14
E=2,504,406.64
STATION 211+29.92
69.99' LT

STA 206+00.33
100.01' LT

STA 206+28.67
70.10' LT

STA 209+47.53
69.99' LT

N 89°17'17" E 671.36'

N 89°16'56" E 1,712.98'

S 00°42'02" E 404.17'

S 00°43'24" E 406.46'

100 YEAR FLOODPLAIN
EASEMENT
CABINET N, PAGE 755
P.R.C.C.T.

20' FLOODPLAIN
EASEMENT
VOLUME 2011, PAGE 380
O.P.R.C.C.T.

100 YEAR
FLOODPLAIN EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

COLEMAN WATSON SURVEY
ABSTRACT NO. 945

LOT 2, BLOCK C
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

P.O.C.
PARCEL 48
& PARCEL 49
FOUND 1/2"
IRON ROD(CM)

LOT 11R, BLOCK B
LOT 10R-1 AND LOT 11R, BLOCK B,
TWELVE OAKS, PHASE I
VOLUME 2011, PAGE 380
O.P.R.C.C.T.

OWNER:
BRIAN B. KOOIMAN
AND APRIL L KOOIMAN
DOCUMENT NO. 20140722000761870
O.P.R.C.C.T.

10' UTILITY EASEMENT
CABINET N, PAGE 755
P.R.C.C.T.

10' COSERV
UTILITY EASEMENT
CABINET N, PAGE 755
P.R.C.C.T.

OWNER:
CITY OF CELINA, TEXAS
DOCUMENT NO.
20150918001190270
O.P.R.C.C.T.

20' UTILITY EASEMENT
VOLUME 5432, PAGE 4919
O.P.R.C.C.T.

5' WATER & SANITARY
SEWER EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

LOT 1, BLOCK C
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

OWNER:
LARRY B. ROGERS AND
SPOUSE AE C. ROGERS
DOCUMENT NO.
20141222001391340
O.P.R.C.C.T.

15' WATER & SANITARY
SEWER EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

P.O.B.
PARCEL 48
& PARCEL 49
N=7,147,804.63
E=2,503,802.83
STATION 205+30.41
73.71" LT

STA 202+24.45
84.97' LT

STA 203+55.21
86.58' LT

NEW R.O.W. LINE

N 89°17'17" E 175.28'

N 89°20'44" E 328.08'

181.57'

146.51'

EXISTING R.O.W.

143.87'

S 84°46'02" E 260.94'

67.84'

49.23'

L94

L95

L96

L97

L98

L99

L100

L101

L102

L103

L104

L105

L106

C8

137.83'

170.14'

181.79'

181.78'

182.40'

182.41'

169.34'

170.20'

13,079 SF

STATE OF TEXAS
VOLUME 484, PAGE 307
D.R.C.C.T.
CALLED 2.064 ACRES

STATE OF TEXAS
VOLUME 5241, PAGE 4108
O.P.R.C.C.T.

FOUND 3-1/2" BRASS DISK
STAMPED "TEXAS DEPARTMENT
OF TRANSPORTATION" (CM)

10' COSERV EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

FOUND 1/2"
IRON ROD (CM)

FOUND 1/2" IRON ROD
BEARS S 21°35'32" W 1.19'

STATE OF TEXAS
VOLUME 484, PAGE 289
D.R.C.C.T.
CALLED 4.375 ACRES

FOUND 1/2"
IRON ROD (CM)

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"EC&D RPLS 5439" (CM)

15' DRAINAGE EASEMENT
CABINET M, PAGE 24
P.R.C.C.T.

STATE OF TEXAS
VOLUME 5231, PAGE 3460
O.P.R.C.C.T.

STATE OF TEXAS
VOLUME 5194, PAGE 3206
O.P.R.C.C.T.

PT 197+59.62

200+00

N 89°17'21" E

PC 202+40.24

FOUND 3-1/2" BRASS DISK
STAMPED "TEXAS DEPARTMENT
OF TRANSPORTATION" (CM)

PT 203+95.31

N 84°50'48" E

205+00

PC 204+95.31

PT 206+50.38

210+00

APPROXIMATE CITY LIMIT LINE

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

EXISTING R.O.W.

611.08

308.95'

500.74'

506.52'

S 87°29'29" E 474.76'

N 82°12'16" E 274.82'

S 87°29'19" E
87.28'

S 87°29'15" E
39.80'

LANDSCAPE EASEMENT
CABINET M, PAGE 24
P.R.C.C.T.

STATE OF TEXAS
VOLUME 5225, PAGE 5017
O.P.R.C.C.T.
117.92'

FOUND 3-1/2" BRASS DISK
STAMPED "TEXAS DEPARTMENT
OF TRANSPORTATION" (CM)

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4265, PAGE 1983
O.P.R.C.C.T.

87,913 sf

N 86°51'36" E 185.00'

N 78°24'21" E 275.00'

N 89°17'21" E 815.47'

377.83'

22.39'

199.62'

S 83°25'39" E
431.98'

N 89°17'21" E 339.93'

STA 198+53.24
110.00' RT

STA 201+93.17
110.00' RT

STA 204+58.21
69.17' RT

STA 206+48.61
70.00' RT

SET MAG NAIL
WITH WASHER
STA 200+75.25
110.00' RT

P.O.B.
PARCEL 46
N=7,147,596.85
E=2,503,155.54
STATION 198+75.63
110.00" RT

NEW R.O.W. LINE

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4265, PAGE 1983
O.P.R.C.C.T.

P.O.B.
PARCEL 47
& PARCEL 53
N=7,147,670.02
E=2,504,236.09
STATION 209+57.62
70.00' RT

GRID COORDINATE
N=7,146,528.7296
E=2,504,003.2761

OWNER:
PROSPER TWIN CREEK PARTNERS, LP
TRACT 2
DOCUMENT NO. 20121003001259750
O.P.R.C.C.T.
CALLED 20.18 ACRES

TOWN OF PROSPER
COLLIN COUNTY

WILLIAM T HORN SURVEY
ABSTRACT NO. 376

OWNER:
PROSPER TWIN CREEK PARTNERS, LP
TRACT 1
DOCUMENT NO. 20121003001259750
O.P.R.C.C.T.
REMAINDER OF CALLED 39.970 ACRES

WM T HORN SURVEY
ABSTRACT NO. 419

N 08°00'36" E 680.03'

P.O.C.
PARCEL 47
& PARCEL 53
FOUND 3/4"
IRON ROD (CM)

15' UTILITY EASEMENT
CABINET M, PAGE 24
P.R.C.C.T.

N 45°43'02" E 384.95'

FLOODWAY &
DRAINAGE EASEMENT
CABINET M, PAGE 24
P.R.C.C.T.

REMAINDER OF
LOT 7R, BLOCK A
REPLAT OF
LOT 6 THROUGH LOT 27, BLOCK A,
GENTLE CREEK ESTATES
CABINET M, PAGE 24
P.R.C.C.T.

OWNER:
DONALD R. KIMBRIL
AND SHIRLEY C. KIMBRIL
DOCUMENT NO.
20131209001622490
O.P.R.C.C.T.

REMAINDER OF
LOT 6R, BLOCK A
REPLAT OF
LOT 6 THROUGH LOT 27, BLOCK A,
GENTLE CREEK ESTATES
CABINET M, PAGE 24
P.R.C.C.T.

OWNER:
SCOTT M. ZUEHL
AND CHRISTY JO ZUEHL
DOCUMENT NO. 20160526000649070
O.P.R.C.C.T.

GRID COORDINATE
N=7,146,299.6331
E=2,502,891.4980

LOT 8R, BLOCK A
REPLAT OF
LOT 6 THROUGH
LOT 27, BLOCK A,
GENTLE CREEK ESTATES
CABINET M, PAGE 24
P.R.C.C.T.

EXISTING R.O.W.
P.O.C.
NEW R.O.W. LINE
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
P.O.B.
NEW R.O.W. LINE
P.O.C.
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
P.O.B.
NEW R.O.W. LINE
P.O.B.
PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
P.O.B.
NEW R.O.W. LINE
P.O.C.
PARENT TRACT INSERT
(NOT TO SCALE)

NOTE: SEE SHEET 09 FOR THE REMAINDER OF PARCEL 45

NOTE: SEE SHEET 11 FOR THE REMAINDER OF PARCELS 53 & 54

NOTE: P.O.C. AND P.O.B. FOR PARCEL 45 IS LOCATED ON SHEET 09

NOTE: P.O.C. PARCEL FOR 46 IS LOCATED ON SHEET 09

LINE TABLE		
L94	N 87°06'56" E	125.82'
L95	S 46°23'19" E	42.04'
L96	S 16°49'41" W	35.73'
L97	S 02°38'53" W	31.08'
L98	S 02°38'53" W	9.86'
L99	N 67°01'45" E	77.55'
L100	S 02°30'50" W	39.27'
L101	S 00°42'02" E	9.82'
L102	S 00°39'59" E	9.80'
L103	S 00°43'24" E	9.78'
L104	N 45°43'02" E	106.09'
L105	S 50°13'02" E	109.16'
L106	N 08°00'36" E	40.66'

GRAPHIC SCALE
50' 25' 0' 50' 100'

22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.		HIGHWAY NO.
6	TEXAS	N/A		FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

LOT 4, BLOCK D
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

OWNER:
KRISTI W. GLAMETTA
AND CHRISTOPHER J. GLAMETTA
DOCUMENT NO.
20100201000099430
O.P.R.C.C.T.

20' DRAINAGE
& UTILITY EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

15' WATER & SANITARY
SEWER EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

OAK BEND TR
(50' RIGHT-OF-WAY)
CABINET P, PAGE 486
P.R.C.C.T.

P.O.C.
PARCEL 55
& PARCEL 56
FOUND 1/2"
IRON ROD (CM)

P.O.B.
PARCEL 55
& PARCEL 56
FOUND 1/2" IRON ROD
WITH CAP (ILLEGIBLE) (CM)
N=7,147,845.28
E=2,504,643.12
STATION 213+66.79
100.19' LT

LOT 29, BLOCK C
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

LOT 30, BLOCK C
TWELVE OAKS PHASE II
CABINET P, PAGE 486
P.R.C.C.T.

OWNER:
JAN OLOF HJALBER
& ANNA CARINA JONSSONHJALBER
DOCUMENT NO. 20161006001355070
O.P.R.C.C.T.

P.O.C. PARCEL 59
FOUND 1/2" IRON ROD
WITH CAP (ILLEGIBLE) (CM)

P.O.B.
PARCEL 59
N=7,147,830.60
E=2,505,034.84
STATION 217+52.64
86.09' LT

S 00°55'19" W 140.25'

'2" IRON ROD
CAP STAMPED
"DAA" (CM)

30' BUILDING LINE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

LOT 2, BLOCK B
MUSTANG LAKES PHASE ONE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

DRAINAGE EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

10' UTILITY EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

LOT 1, BLOCK B
MUSTANG LAKES PHASE ONE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

5' WALL MAINTENANCE EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

LOT 2X, BLOCK B
MUSTANG LAKES PHASE ONE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

AMERICAN PHARAOH WAY
(50' RIGHT-OF-WAY)
CABINET P, PAGE 486
P.R.C.C.T.

EXISTING R.O.W.

5' WALL MAINTENANCE EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

30' BUILDING LINE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

LOT 1, BLOCK A
MUSTANG LAKES PHASE ONE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

7.5' UTILITY EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

WATERVIEW TRAIL
(VARIABLE WIDTH RIGHT-OF-WAY)
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

EXISTING R.O.W.

25'X25' VISIBILITY
EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

OWNER:
MUSTANG LAKES OWNERS
ASSOCIATION, INC.
DOCUMENT NO.
20170905001187960
O.P.R.C.C.T.

LOT 1X, BLOCK A
MUSTANG LAKES
PHASE ONE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

DRAINAGE &
DETENTION EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

15' SANITARY
SEWER EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

PROPOSED 15'
SANITARY SEWER
EASEMENT

DRAINAGE &
DETENTION EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

PROPOSED DRAINAGE EASEMENT
DOCUMENT NO. 20190916010003940
O.P.R.C.C.T.

CITY OF CELINA
COLLIN COUNTY

LOT 4X, BLOCK C
MUSTANG LAKES PHASE ONE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

LOT 1X, BLOCK H
OPEN SPACE/PUBLIC ACCESS EASEMENT
WELLSPRING ESTATES PHASE I
DOCUMENT NO. 20190916010003940
O.P.R.C.C.T.

OWNER:
SUNSHINE DEVELOPMENT GROUP, LTD
DOCUMENT NO. 20150731000953760
O.P.R.C.C.T.
CALLED 112.274 ACRES

OWNER:
MUSTANG LAKES OWNERS ASSOCIATION, INC.
DOCUMENT NO. 20170905001187960
O.P.R.C.C.T.

GRID COORDINATE
N=7,146,871.3278
E=2,505,585.0591

STA 225+18.26
121.07' LT

STA 224+92.45
100.86' LT

NEW R.O.W. LINE

STA 226+05.45
112.48' LT

STA 226+18.25
85.49' LT

N 89°40'30" E
727.21'

STA 219+77.35
96.48' LT

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"DAA" (CM)

STA 223+89.59
94.55' LT

N 89°40'25" E 196.16'

212.56'

N 89°41'52" E 566.90'

752.57'

N 89°40'07" E 2,592.42'

N 89°17'17" E 671.36'

169.34'

170.20'

N 89°16'56" E
1,712.98'

7,877 sf

19,281 sf

5,626 sf

NEW R.O.W. LINE N 89°17'17" E 360.96'

387.51'

229.28'

EXISTING R.O.W.

10' COSERV EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

FOUND 1/2"
IRON ROD (CM)

FOUND 1/2"
IRON ROD (CM)

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"EC&D RPLS 5439"
BEARS S 23°37'58"E 0.21'

STATE OF TEXAS
VOLUME 484, PAGE 289
D.R.C.C.T.
CALLED 4.375 ACRES

10' UTILITY EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"DAA" (CM)

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

25' PERMANENT
ACCESS EASEMENT
VOLUME 5880, PAGE 28
O.P.R.C.C.T.

20' RIGHT-OF-WAY DEDICATION
CITY OF CELINA
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

10' UTILITY EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

APPROXIMATE CITY LIMIT LINE

N 89°17'21" E

215+00

PC 216+07.36

PT 217+41.83

PC 218+41.83

S 86°51'31" E

PT 219+65.47

220+00

N 89°35'56" E

PC 223+15.47

PT 225+15.86

225+00

N 83°51'30" E

PC 226+15.86

N 89°16'56" E 1,634.00'

500.74'

506.52'

STATE OF TEXAS
VOLUME 484, PAGE 309 D.R.C.C.T.
CALLED 2.339 ACRES

EXISTING R.O.W.

208.74'

313.44'

911.31'

930.97'

N 89°40'07" E 2,591.69'

STATE OF TEXAS
VOLUME 484, PAGE 342
D.R.C.C.T.
CALLED 0.719 ACRES

FOUND 1/2" IRON ROD
WITH CAP (ILLEGIBLE) (CM)

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"GEER 4117" (CM)

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"GEER 4117" (CM)

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4265, PAGE 1989
O.P.R.C.C.T.

104,976 sf

N 89°17'21" E 815.47'

WATERLINE EASEMENT
CITY OF PROSPER
VOLUME 4265, PAGE 1983
O.P.R.C.C.T.

P.O.B.
PARCEL 57
N=7,147,676.31
E=2,504,742.57
STATION 214+64.14
70.00' RT

S 84°43'54" E 144.00'

STA 216+07.36
85.00' RT

65.41'

292.16'

S 88°11'25" E 357.57'

P.O.B.
PARCEL 58
N=7,147,661.02
E=2,504,951.35
STATION 216+75.69
86.76' RT

STA 219+65.47
85.00' RT

N 89°35'56" E 476.87'

NEW R.O.W. LINE

STA 224+37.02
88.86' RT

S 08°15'05" E
107.75'

N 11°44'55" E
108.48'

STA 225+14.72
208.49' RT

S 86°09'12" E
78.28'

STA 224+44.50
196.31' RT

N 79°26'09" E 263.80'

STA 225+47.93
105.25' RT

N 00°10'12" W 272.68'

APPROXIMATE CITY LIMIT LINE

N 00°09'51" W 254.86'

APPROXIMATE CITY LIMIT LINE
N 89°18'17" E 208.71'

OWNER:
PROSPER TWIN CREEK PARTNERS, LP
TRACT 1
DOCUMENT NO. 20121003001259750
O.P.R.C.C.T.
REMAINDER OF CALLED 39.970 ACRES

OWNER;
ARSHAD NIAZ
DOCUMENT NO. 20170330000404710
O.P.R.C.C.T.
CALLED 1.4999 ACRES

OWNER:
OM FRONTIER ESTATES, LLC
DOCUMENT NO. 20170629000854270
O.P.R.C.C.T.
CALLED 21.53 ACRES

TOWN OF PROSPER
COLLIN COUNTY

TOWN OF PROSPER
EXTRATERRITORIAL JURISDICTION
COLLIN COUNTY

WM T HORN SURVEY
ABSTRACT NO. 419

GRID COORDINATE
N=7,146,328.4350
E=2,504,151.2789

**EE-01
50' BUILDING LINE
& LANDSCAPE EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

**EE-02
15' WATER & SANITARY
SEWER EASEMENT
CABINET P, PAGE 486
P.R.C.C.T.

**EE-03
20'X20' SOUTHWESTERN
BELL TELEPHONE EASEMENT
DOCUMENT NO.
20160218000186210
O.P.R.C.C.T.

**EE-04
20' COSERV EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

**EE-05
10' UTILITY EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

**EE-06
20' UTILITY EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

**EE-07
45'X45' SIGHT VISIBILITY
TRIANGLE EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

*EE-08
15' SANITARY
SEWER EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

*EE-09
15' PERMANENT
WATER LINE EASEMENT
VOLUME 5880, PAGE 28
O.P.R.C.C.T.

**EE-10
DENTON COUNTY ELECTRIC
COOPERATIVE, INC.
RIGHT-OF-WAY EASEMENT
VOLUME 467, PAGE 480
VOLUME 468, PAGE 125
D.R.C.C.T.

P.O.C.
PARCEL 57
& PARCEL 58
FOUND 5/8"
IRON ROD (CM)

EXISTING R.O.W.
P.O.B.
NEW
R.O.W. LINE
P.O.C.
PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
P.O.B.
NEW
R.O.W. LINE
P.O.C.
PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
NEW
R.O.W. LINE
P.O.C.
P.O.B.
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
P.O.C.
NEW
R.O.W. LINE
P.O.B.
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

CENTERLINE CURVE DATA
PI STATION = 216+74.62
PI NORTHING = 7,147,748.91
PI EASTING = 2,504,952.16
DELTA = 03°51'08"
DEGREE OF CURVE = 02°51'53"
TANGENT = 67.26'
LENGTH = 134.46'
RADIUS = 2,000.00'
CHORD BEARING = S 88°47'05" E
CHORD DISTANCE = 134.44'

CENTERLINE CURVE DATA
PI STATION = 224+15.75
PI NORTHING = 7,147,739.94
PI EASTING = 2,505,693.03
DELTA = 05°44'26"
DEGREE OF CURVE = 02°51'53"
TANGENT = 100.28'
LENGTH = 200.38'
RADIUS = 2,000.00'
CHORD BEARING = N 86°43'43" E
CHORD DISTANCE = 200.30'

CENTERLINE CURVE DATA
PI STATION = 219+03.67
PI NORTHING = 7,147,736.36
PI EASTING = 2,505,180.92
DELTA = 03°32'32"
DEGREE OF CURVE = 02°51'53"
TANGENT = 61.84'
LENGTH = 123.65'
RADIUS = 2,000.00'
CHORD BEARING = S 88°37'47" E
CHORD DISTANCE = 123.63'

CENTERLINE CURVE DATA
PI STATION = 227+17.47
PI NORTHING = 7,147,772.24
PI EASTING = 2,505,993.18
DELTA = 05°49'00"
DEGREE OF CURVE = 02°51'53"
TANGENT = 101.61'
LENGTH = 203.04'
RADIUS = 2,000.00'
CHORD BEARING = N 86°46'00" E
CHORD DISTANCE = 202.95'

LINE TABLE		
L107	N 65°11'32" E	73.97'
L108	S 45°45'32" E	42.75'
L109	N 89°16'52" E	219.14'
L110	N 82°18'39" E	98.03'
L111	N 44°40'30" E	31.78'
L112	N 89°29'10" E	87.61'
L113	S 31°40'59" E	29.92'
L114	S 19°57'15" E	37.07'
L115	S 05°43'55" E	9.80'
L116	S 05°35'59" E	40.10'
L117	S 00°55'19" W	20.38'
L118	N 00°10'12" W	40.25'
L119	N 00°09'51" W	58.16'

CURVE TABLE					
CURVE	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH	ARC LENGTH
C9	1,686.59'	03°18'30" (LT)	S 02°02'36" E	97.37'	97.38'

NOTE: SEE SHEET 10 FOR THE REMAINDER OF PARCELS 53 & 54

NOTE: SEE SHEET 12 FOR THE REMAINDER OF PARCELS 58 & 60

NOTE: P.O.C. AND P.O.B. FOR PARCEL 53 & 54 IS LOCATED ON SHEET 10

NOTE: P.O.C. AND P.O.B. FOR PARCEL 60 IS LOCATED ON SHEET 12

GRAPHIC SCALE
50' 25' 0' 50' 100'
22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

20' DRAINAGE EASEMENT
CABINET K, PAGE 515
P.R.C.C.T.

LOT 33, BLOCK A
AMBERWOOD FARMS
PHASE ONE
CABINET K, PAGE 515
P.R.C.C.T.

OWNER:
ANITA HAWKINS
VOLUME 5595,
PAGE 3277
O.P.R.C.C.T.

10' UTILITY
EASEMENT
CABINET K,
PAGE 515
P.R.C.C.T.

GRID COORDINATE
N=7,146,284.0665
E=2,505,315.8507

APPROXIMATE CITY LIMIT LINE

LOT 32, BLOCK A
AMBERWOOD FARMS
PHASE ONE
CABINET K, PAGE 515
P.R.C.C.T.

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.		HIGHWAY NO.
6	TEXAS	N/A		FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

*EE-06
20' UTILITY EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

*EE-08
15' SANITARY
SEWER EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

*EE-09
15' PERMANENT
WATER LINE EASEMENT
VOLUME 5880, PAGE 28
O.P.R.C.C.T.

**EE-10
DENTON COUNTY ELECTRIC
COOPERATIVE, INC.
RIGHT-OF-WAY EASEMENT
VOLUME 467, PAGE 480
VOLUME 468, PAGE 125
D.R.C.C.T.

**EE11
25' PERMANENT ACCESS EASEMENT
& TEMPORARY CONSTRUCTION EASEMENT
CITY OF CELINA, TEXAS
VOLUME 5880, PAGE 8
O.P.R.C.C.T.

**EE-12
15' PERMANENT
WATER LINE EASEMENT
CITY OF CELINA, TEXAS
VOLUME 5880, PAGE 8
O.P.R.C.C.T.

**EE-13
NATURAL GAS DISTRIBUTION
SYSTEM EASEMENT
COSERV GAS, LTD.
VOLUME 5120, PAGE 4665
O.P.R.C.C.T.

**EE-14
DENTON COUNTY
ELECTRIC COOPERATIVE, INC.
EASEMENT
VOLUME 2503, PAGE 952
D.R.C.C.T.

**EE-15
10' EASEMENT TO
COSERV GAS, LTD &
VOLUME 4772, PAGE 981
O.P.R.C.C.T.

**EE-16
25' PERMANENT ACCESS EASEMENT
& TEMPORARY CONSTRUCTION EASEMENT
CITY OF CELINA, TEXAS
VOLUME 5880, PAGE 1
O.P.R.C.C.T.

**EE-17
5' WALL &
MAINTENANCE EASEMENT
DOCUMENT NO.
20190916010003940
O.P.R.C.C.T.

**EE-18
15' PERMANENT
WATER LINE EASEMENT
CITY OF CELINA, TEXAS
VOLUME 5880, PAGE 1
O.P.R.C.C.T.

COLEMAN WATSON SURVEY
ABSTRACT NO. 945
CITY OF CELINA
COLLIN COUNTY

OWNER:
SUNSHINE DEVELOPMENT GROUP. LTD
DOCUMENT NO. 20150731000953760
O.P.R.C.C.T.
CALLED 112.274 ACRES

GRID COORDINATE
N=7,146,942.7832
E=2,506,995.1849

FOUNTAIN PARK DRIVE
(A 50' RIGHT-OF-WAY)

WELLSPRING PARKWAY
(VARIABLE WIDTH RIGHT-OF-WAY)

7.5' UTILITY EASEMENT
DOCUMENT NO.
20190916010003940
O.P.R.C.C.T.

EXISTING R.O.W.

LOT 1X, BLOCK H
OPEN SPACE/PUBLIC ACCESS EASEMENT
WELLSPRING ESTATES PHASE I
DOCUMENT NO. 20190916010003940
O.P.R.C.C.T.

OWNER:
SUNSHINE DEVELOPMENT GROUP. LTD
DOCUMENT NO. 20150731000953760
O.P.R.C.C.T.
CALLED 112.274 ACRES

LOT 14X, BLOCK A
OPEN SPACE
WELLSPRING ESTATES PHASE I
DOCUMENT NO. 20190916010003940
O.P.R.C.C.T.

10' UTILITY EASEMENT
DOCUMENT NO. 20190916010003940
O.P.R.C.C.T.

DRAINAGE & DETENTION EASEMENT
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

P.O.C.
PARCEL 60
& PARCEL 61
FOUND 1/2"
IRON ROD (CM)

P.O.C.
PARCEL 62
FOUND 1/2" IRON ROD
WITH CAP STAMPED
"CORWIN ENG INC" (CM)

P.O.C.
PARCEL 64
FOUND 1/2" IRON ROD
WITH CAP STAMPED
"CORWIN ENG INC" (CM)

P.O.B.
PARCEL 60
& PARCEL 61
N=7,147,837.38
E=2,506,612.68
STATION 227+44.71
76.43' LT

P.O.B.
PARCEL 62
N=7,147,850.75
E=2,506,612.68
STATION 233+37.23
75.00' LT

P.O.B.
PARCEL 64
N=7,147,856.53
E=2,505,749.20
STATION 234+73.75
80.00' LT

BLOCK A
WELLSPRING ESTATES PHASE I
DOCUMENT NO.
20190916010003940
O.P.R.C.C.T.

LOT 2
LOT 3
LOT 4
LOT 5
LOT 6
LOT 7
LOT 8
LOT 9
LOT 10
LOT 11
LOT 12

**EE-17
**EE-18

NEW R.O.W. LINE

N 89°40'30" E 889.39'

N 89°40'30" E 727.21'

9,604 sf

30,494 sf

14,674 sf

N 89°45'22" E 689.12'

**EE-15
**EE-16

240+00

N 89°40'30" E

RIGHT-OF-WAY DEDICATION
PROSPER, TEXAS
CABINET G, PAGE 245
P.R.C.C.T.

STATE OF TEXAS
VOLUME 484, PAGE 269
D.R.C.C.T.
CALLED 1.321 ACRES

1,007.59'

N 89°43'48" E 500.02'

3,678 sf

N 89°40'30" E
500.02'

STA 241+22.22
70.00' RT

LOT 10, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

OWNER:
PHILLIP JOHNSON
DOCUMENT NO.
20170630000863510
O.P.R.C.C.T.

FOUND 1/2"
IRON ROD (CM)

STATE OF TEXAS
VOLUME 484, PAGE 269
D.R.C.C.T.
CALLED 1.321 ACRES

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

E Frontier Pkwy

EXISTING R.O.W.

NEW R.O.W. LINE

EXISTING R.O.W.

APPROXIMATE CITY LIMIT LINE

OWNER:
SUNSHINE DEVELOPMENT GROUP. LTD
DOCUMENT NO. 20150731000953760
O.P.R.C.C.T.
CALLED 112.274 ACRES

LOT 13X, BLOCK A
WELLSPRING ESTATES
PHASE I

235+00

230+00

STA 233+30.39
69.63' RT

STA 234+60.32
69.70' RT

STA 234+48.95
79.49' RT

STA 235+82.26
73.64' RT

STA 238+24.13
73.64' RT

N 89°43'48" E 249.90'

N 89°40'30" E 239.92'

N 89°40'30" E
107.67'

L125

P.O.B.
PARCEL 63
& PARCEL 65
N=7,146,707.50
E=2,506,848.57
STATION 235+72.30
69.59' RT

OWNER:
RODNEY WAYNE DUNN AND
CHARLA KAY DUNN
VOLUME 2747, PAGE 410
O.P.R.C.C.T.

10' UTILITY EASEMENT
CABINET G, PAGE 245
P.R.C.C.T.

LOT 1, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

LOT 2, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

LOT 3, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

40' BUILDING LINE
CABINET G, PAGE 245
P.R.C.C.T.

P.O.C.
PARCEL 63
& PARCEL 65
FOUND 1/2"
IRON ROD (CM)

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"DAA" (CM)

10' DRAINAGE &
UTILITY EASEMENT
CABINET K, PAGE 515
P.R.C.C.T.

40' BUILDING LINE
CABINET K, PAGE 515
P.R.C.C.T.

OWNER:
ANITA HAWKINS
VOLUME 6595, PAGE 3277
D.R.C.C.T.

LOT 33, BLOCK A
AMBERWOOD FARMS
PHASE ONE
CABINET K, PAGE 515
P.R.C.C.T.

OWNER:
AMBERWOOD FARMS
HOMEOWNERS
ASSOCIATION, INC.
VOLUME 4423,
PAGE 233
O.P.R.C.C.T.

FOUND 1/2"
IRON ROD (CM)

40' BUILDING LINE
CABINET K, PAGE 515
P.R.C.C.T.

10' UTILITY EASEMENT
CABINET K, PAGE 515
P.R.C.C.T.

20' DRAINAGE EASEMENT
CABINET K, PAGE 515
P.R.C.C.T.

AMBERWOOD LANE
(Amberwood Ln.)
CABINET K, PAGE 515
P.R.C.C.T.

TOWN OF PROSPER
COLLIN COUNTY
WM. T. HORN SURVEY
ABSTRACT NO. 419

GRID COORDINATE
N=7,146,379.3138
E=2,505,663.7011

OWNER:
MUSTANG LAKES
OWNERS ASSOCIATION, INC.
DOCUMENT NO.
20170905001187960
O.P.R.C.C.T.

LOT 4X, BLOCK C
MUSTANG LAKES PHASE ONE
VOLUME 2017, PAGE 74
O.P.R.C.C.T.

P.O.B.
PARCEL 60
& PARCEL 61
N=7,147,837.38
E=2,506,612.68
STATION 227+44.71
76.43' LT

NEW R.O.W. LINE

*EE-08

*EE-09

*EE-06

**EE-10

EXISTING R.O.W.

752.57'

N 89°41'52" E

566.90'

131.87'

17.40'

EXISTING R.O.W.

**EE-10 — 25' PERMANENT ACCESS EASEMENT VOLUME 5880, PAGE 28 O.P.R.C.C.T.

20' RIGHT-OF-WAY DEDICATION CITY OF CELINA VOLUME 2017, PAGE 74 O.P.R.C.C.T.

FOUND 1/2" IRON ROD WITH CAP STAMPED "CORWIN ENG INC" (CM)

DETAIL "A"
NOT TO SCALE

P.O.C.
P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

P.O.C.
P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

P.O.C.
P.O.B.
NEW R.O.W. LINE
EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

CENTERLINE CURVE DATA

PI STATION	= 227+17.47
PI NORTHING	= 7,147,772.24
PI EASTING	= 2,505,993.18
DELTA	= 05°49'00"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 101.61'
LENGTH	= 203.04'
RADIUS	= 2,000.00'
CHORD BEARING	= N 86°46'00" E
CHORD DISTANCE	= 202.95'

NOTE: SEE SHEET 11 FOR THE REMAINDER OF PARCELS 58 & 60

NOTE: SEE SHEET 13 FOR THE REMAINDER OF PARCELS 64 & 68

NOTE: P.O.C. AND P.O.B. FOR PARCEL 58 IS LOCATED ON SHEET 11

NOTE: P.O.C. AND P.O.B. FOR PARCEL 68 IS LOCATED ON SHEET 13

COLLIN GREEN BOULEVARD
(50' RIGHT-OF-WAY)
CABINET K, PAGE 515
P.R.C.C.T.

EXISTING R.O.W.

S 00°07'50" W 192.25'

S 00°07'50" W 189.01'

S 00°07'50" W 191.00'

P.O.B.
PARCEL 66
& PARCEL 67
N=7,147,708.79
E=2,507,148.48
STATION 238+72.21
70.00' RT

P.O.C.
PARCEL 66
& PARCEL 67
FOUND 1/2"
IRON ROD (CM)

LOT 1, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

OWNER:
MALCOLM CAMPBELL
DOCUMENT NO.
20130114000058550
O.P.R.C.C.T.

10' UTILITY EASEMENT
CABINET G, PAGE 245
P.R.C.C.T.

40' BUILDING LINE
CABINET G, PAGE 245
P.R.C.C.T.

LOT 2, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

TOWN OF PROSPER
COLLIN COUNTY
GEORGE HORN SURVEY
ABSTRACT NO. 412

FOUND 1/2"
IRON ROD (CM)

LOT 9, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

GRID COORDINATE
N=7,146,298.5254
E=2,507,032.0370

LOT 3, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

LOT 8, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

N

GRAPHIC SCALE
50' 25' 0' 50' 100'

22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.		HIGHWAY NO.
6	TEXAS	N/A		FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

CENTERLINE CURVE DATA

PI STATION	= 247+51.84
PI NORTHING	= 7,147,781.91
PI EASTING	= 2,508,027.69
DELTA	= 03°13'55"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 56.42'
LENGTH	= 112.82'
RADIUS	= 2,000.00'
CHORD BEARING	= N 88°36'10" E
CHORD DISTANCE	= 112.80'

CENTERLINE CURVE DATA

PI STATION	= 249+64.65
PI NORTHING	= 7,147,793.09
PI EASTING	= 2,508,240.24
DELTA	= 03°13'55"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 56.42'
LENGTH	= 112.82'
RADIUS	= 2,000.00'
CHORD BEARING	= N 88°36'10" E
CHORD DISTANCE	= 112.80'

CENTERLINE CURVE DATA

PI STATION	= 257+77.28
PI NORTHING	= 7,147,789.99
PI EASTING	= 2,509,052.89
DELTA	= 03°41'55"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 64.58'
LENGTH	= 129.11'
RADIUS	= 2,000.00'
CHORD BEARING	= S 87°55'55" E
CHORD DISTANCE	= 129.09'

LINE TABLE

L140	N 88°13'01" E	78.59'
L141	N 89°40'30" E	113.42'
L143	N 45°13'08" E	41.01'
L144	S 89°46'52" E	42.00'
L145	S 44°46'52" E	41.01'
L146	N 89°40'30" E	50.00'
L147	N 89°40'30" E	132.20'
L148	N 45°59'04" E	28.67'
L149	S 42°22'43" E	16.10'
L150	N 89°45'22" E	80.27'
L151	S 83°00'43" E	75.17'
L152	S 00°42'38" W	21.14'
L153	S 00°42'38" W	15.32'
L154	S 00°42'38" W	36.49'
L155	N 00°07'50" E	9.76'

LINE TABLE

L156	N 00°07'50" E	9.71'
L157	N 00°59'08" E	15.74'
L158	N 00°59'08" E	9.80'
L159	N 00°46'00" W	21.37'
L160	S 00°44'37" E	15.03'
L161	S 00°44'37" E	8.87'
L162	S 45°42'19" E	12.68'
L163	N 51°36'34" E	9.34'
L164	S 89°48'00" E	51.03'
L165	S 44°57'40" E	21.06'
L166	S 44°57'40" E	16.95'
L167	N 89°50'28" W	28.66'
L168	N 44°57'40" W	102.93'
L169	N 00°59'08" E	61.05'

CITY OF CELINA
EXTRATERRITORIAL JURISDICTION
COLLIN COUNTY

COLEMAN WATSON SURVEY
ABSTRACT NO. 945

CITY OF CELINA
COLLIN COUNTY

OWNER:
YOUNG LEI KIM
DOCUMENT NO. 20121219001618900
O.P.R.C.C.T.
CALLED 34.62 ACRES

GRID COORDINATE
N=7,146,932.6633
E=2,508,469.4080

BLOCK A
WELLSPRING ESTATES
PHASE I
DOCUMENT NO.
20190916010003940
O.P.R.C.C.T.

OWNER:
SUNSHINE DEVELOPMENT GROUP, LTD
DOCUMENT NO. 20150731000953760
O.P.R.C.C.T.
CALLED 112.274 ACRES

EXISTING R.O.W.

LOT 2

LOT 3

LOT 13X, BLOCK A
WELLSPRING ESTATES
PHASE I

LOT 1

OWNER:
SUNSHINE DEVELOPMENT GROUP, LTD
DOCUMENT NO. 20150731000953760
O.P.R.C.C.T.
CALLED 92.349 ACRES

NEW R.O.W. LINE

**EE-16

**EE-18

N 89°40'30" E 889.39'

MILL POND DRIVE
(50' RIGHT-OF-WAY)

EXISTING R.O.W.

EXISTING R.O.W.

LOT 6, BLOCK C
WELLSPRING ESTATES
PHASE I

LOT 7, BLOCK C
WELLSPRING ESTATES
PHASE I

LOT 8, BLOCK C
WELLSPRING ESTATES
PHASE I

LOT 9X, BLOCK C
WELLSPRING ESTATES
PHASE I

OWNER:
SUNSHINE DEVELOPMENT GROUP, LTD
DOCUMENT NO. 20150731000953760
O.P.R.C.C.T.
CALLED 112.274 ACRES

**EE-17

**EE-18

L140

L141

L148

L149

L150

L151

L152

L153

84.76'

S 00°42'38" W

98.08'

P.O.C.
PARCEL 70
& PARCEL 72
FOUND 1/2" IRON ROD
WITH CAP STAMPED
"CORWIN ENG INC" (CM)

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"CORWIN ENG INC" (CM)

P.O.B.
PARCEL 70
& PARCEL 72
N=7,147,864.46
E=2,507,883.13
STATION 246+06.96
82.00' LT

OWNER:
WILLIAM M. KLEBER
AND WIFE, WYNELLE H. KLEBER
VOLUME 5358, PAGE 1583
O.P.R.C.C.T.
CALLED 11.22 ACRES

15' PERMANENT
WATER LINE EASEMENT
CITY OF CELINA, TEXAS
VOLUME 5858, PAGE 1
O.P.R.C.C.T.

FOUND 1/2 " IRON ROD
WITH CAP STMAPED
"GEER 4117" BEARS
S 07°43'37"W 0.62'

**EE-19

APPROXIMATE CITY LIMIT LINE

STA 249+59.42
70.98' LT

S 89°46'52" E 953.97'

15' PERMANENT
WATER LINE EASEMENT
CITY OF CELINA, TEXAS
(NO EASEMENT OF RECORD FOUND)

NEW R.O.W. LINE

STA 255+08.63
70.00' LT

STA 255+37.63
99.00' LT

STA 255+79.63
99.00' LT

STA 256+08.63
70.00' LT

L143

L144

L145

S 89°46'52" E
749.40'

425.92'

825.77'

551.38'

350.00'

350.00'

52.59'

26.54'

64

62

70

72

74

N 89°45'22" E 689.12'

EXISTING R.O.W.

**EE-15

N 89°40'07" E 2,591.68'

1,839.85'

STATE OF TEXAS
VOLUME 484, PAGE 269
D.R.C.C.T.
CALLED 3.667 ACRES

FOUND 1/2" IRON ROD
WITH CAP STAMPED
"CORWIN ENG INC" (CM)

N 89°40'30" E

RIGHT-OF-WAY DEDICATION
CITY OF CELINA
DOCUMENT NO.
20190916010003940
O.P.R.C.C.T.

FOUND TXDOT TYPE I
MONUMENT BEARS
S 80°00'34"W 3.24'

245+00

245+54.76

FOUND TXDOT TYPE I
MONUMENT (CM)

FOUND 1/2"
IRON ROD BEARS
S 00°42'38"W 0.54'

S 89°46'52" E

PC 246+95.41

PT 248+08.23

N 86°59'13" E

APPROXIMATE CITY LIMIT LINE

PC 249+08.23

PT 250+21.04

250+00

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

S 89°46'41" E 1,202.31'

EXISTING R.O.W.

255+00

S 89°46'52" E

STATE OF TEXAS
VOLUME 484, PAGE 311
D.R.C.C.T.
CALLED 2.522 ACRES

RIGHT-OF-WAY DEDICATION
PROSPER, TEXAS
CABINET G, PAGE 245
P.R.C.C.T.

N 89°40'07" E 2,591.69'

STATE OF TEXAS
VOLUME 484, PAGE 269
D.R.C.C.T.
CALLED 1.321 ACRES

HM#E0430186
3-1/4"ALUMINUM
DISK SE △

STATE OF TEXAS
VOLUME 484, PAGE 340
D.R.C.C.T.
CALLED 0.116 ACRES

STATE OF TEXAS
VOLUME 484, PAGE 283
D.R.C.C.T.
CALLED 0.356 ACRES

FOUND 5/8" IRON ROD
WITH CAP STAMPED
"TX NO 3258" (CM)

RIGHT-OF-WAY DEDICATION
TOWN OF PROSPER
VOLUME 2010, PAGE 108
O.P.R.C.C.T.

FOUND 5/8" IRON ROD
WITH CAP ILLEGIBLE (CM)

P.O.B.
PARCEL 75
N=7,147,719.53
E=2,508,817.93
STATION 255+42.58
71.36' RT

PC 257+12.70

69

66

71

73

75

EXISTING R.O.W. N 89°43'48" E 500.02'

1,007.59'

N 89°43'48" E 157.45'

25.10'

L155

L156

L157

L158

L159

L160

L161

L162

L163

L164

L165

L166

227.08'

115.21'

112.65'

171.51'

464.72'

255.03'

EXISTING R.O.W.

S 89°46'41" E 946.83'

S 89°46'52" E 293.21'

S 89°49'01" E 269.72'

S 89°48'00" E 214.15'

N 89°40'30" E
500.02'

P.O.B.
PARCEL 68
N=7,147,711.62
E=2,507,648.49
STATION 243+72.23
70.00' RT

10' UTILITY EASEMENT
CABINET G, PAGE 245
P.R.C.C.T.

LOT 10, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

OWNER:
PHILLIP JOHNSON
DOCUMENT NO.
20170630000863510
O.P.R.C.C.T.

10' UTILITY EASEMENT
CABINET G, PAGE 245
P.R.C.C.T.

P.O.C.
PARCEL 68
FOUND 1/2"
IRON ROD (CM)

N 0°07'50" E 192.99'

MEADOW GREEN
(50' RIGHT-OF-WAY)
CABINET K, PAGE 515
P.R.C.C.T.

EXISTING R.O.W.

EXISTING R.O.W.

L147

10' UTILITY EASEMENT
CABINET G, PAGE 245
P.R.C.C.T.

STA 244+22.23
70.00' RT

STA 245+55.09
70.00' RT

FOUND 1/2"
IRON ROD (CM)

LOT 22, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

OWNER:
BRIAN ROBINSON AND
TINA ROBINSON
DOCUMENT NO.
20120813000992270
O.P.R.C.C.T.

P.O.C.
PARCEL 69
& PARCEL 71
FOUND 3/8"
IRON ROD (CM)

10' UTILITY EASEMENT
CABINET G, PAGE 245
P.R.C.C.T.

L169

N 01°09'29" W
136.31'

P.O.B.
PARCEL 69
& PARCEL 71
N=7,147,712.56
E=2,507,855.79
STATION 245+80.20
70.00' RT

S 89°46'52" E
140.31'

SET "X" CUT
IN CONCRETE
STA 246+95.41
70.00' RT

OWNER:
QSI PARTNERS LLC
DOCUMENT NO.
20190130000096120
O.P.R.C.C.T.
CALLED 1.172 ACRES

N 88°06'23" E
284.16'

N 00°46'00" W
201.20'

P.O.B.
PARCEL 73
N=7,147,715.84
E=2,508,083.59
STATION 248+04.29
68.91' RT

P.O.C.
PARCEL 73
FOUND
60D NAIL (CM)

SET MAG NAIL
WITH WASHER
STA 249+78.13
71.08' RT

OWNER:
NANCY ANN CASHON
DOCUMENT NO. PB1-0300-2012
PR.R.C.C.T.

DESCRIBED IN
DOCUMENT NO. 20090601000664970
O.P.R.C.C.T.
CALLED 2.60 ACRES

NEW R.O.W. LINE

STA 252+72.87
71.53' RT

STA 252+73.02
80.40' RT

75(E)

WATER
EASEMENT
VOLUME 2016,
PAGE 698
O.P.R.C.C.T.

STA 254+87.17
80.33' RT

STA 254+96.28
89.15' RT

STA 255+03.58
83.32' RT

P.O.B.
PARCEL 75(E)
N=7,147,808.54
E=2,508,829.91
STATION 255+54.61
83.31' RT

LOT 1, BLOCK A
PROSPER SELF STORAGE,
LOT 1, BLOCK A
VOLUME 2016, PAGE 698
O.P.R.C.C.T.

OWNER:
PROSPER SELF
STORAGE, LP,
DOCUMENT NO.
20090127000082580
O.P.R.C.C.T.
REMAINDER OF
CALLED 4.2662 ACRES

16' DRAINAGE EASEMENT
VOLUME 2016, PAGE 698
O.P.R.C.C.T.

STA 256+27.62
155.86' RT

P.O.C.
PARCEL 75
& PARCEL 75(E)
FOUND 5/8" IRON ROD
WITH CAP STAMPED
"TX NO 3258" (CM)

9' PEDESTRIAN
ACCESS EASEMENT
VOLUME 2016
PAGE 698
O.P.R.C.C.T.

CITY OF
MCKINNEY
COLLIN COUNTY

STATE OF
TEXAS
VOLUME 484,
PAGE 269
D.R.C.C.T.
CALLED
1.321 ACRES

STATE OF
TEXAS
VOLUME 484,
PAGE 277
D.R.C.C.T.
CALLED
3.689 ACRES

EXISTING R.O.W.

FM 2478 (CUSTER ROAD)
(90' RIGHT-OF-WAY)

APPROXIMATE CITY LIMIT LINE

LOT 9, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

40' BUILDING LINE
CABINET G, PAGE 245
P.R.C.C.T.

10' UTILITY EASEMENT
CABINET G, PAGE 245
P.R.C.C.T.

40' BUILDING LINE
CABINET G, PAGE 245
P.R.C.C.T.

LOT 21, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

GRID COORDINATE
N=7,146,215.7539
E=2,507,373.7077

FOUND 1/2"
IRON ROD (CM)

LOT 8, BLOCK B
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

LOT 16, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

LOT 15, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

TOWN OF PROSPER
COLLIN COUNTY
GEORGE HORN SURVEY
ABSTRACT NO. 412

LOT 14, BLOCK A
COLLIN GREEN
CABINET G, PAGE 245
P.R.C.C.T.

25' FIRE LANE, ACCESS
& UTILITY EASEMENT
VOLUME 2010, PAGE 108
O.P.R.C.C.T.

GRID COORDINATE
N=7,146,330.4064
E=2,508,121.0149

DRAINAGE &
DETENTION EASEMENT
VOLUME 2010, PAGE 108
O.P.R.C.C.T.

25' FIRE LANE, ACCESS
& UTILITY EASEMENT
VOLUME 2010, PAGE 108
O.P.R.C.C.T.

WATER LINE EASEMENT
TOWN OF PROSPER
DOCUMENT NO.
20071203001611560
O.P.R.C.C.T.

OWNER:
NAZNAT LP
DOCUMENT NO. 20141007001097150
O.P.R.C.C.T.
CALLED 34.62 ACRES

NOTE: SEE SHEET 12 FOR THE REMAINDER OF PARCELS 64 & 68

NOTE: SEE SHEET 14 FOR THE REMAINDER OF PARCEL 74

NOTE: THE P.O.C. AND P.O.B. FOR PARCEL 64 IS LOCATED ON SHEET 12

NOTE: THE P.O.C. AND P.O.B. FOR PARCEL 74 IS LOCATED ON SHEET 14

EXISTING R.O.W.
NEW R.O.W. LINE
68
P.O.B.
EXISTING R.O.W.
P.O.B.
PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.
NEW R.O.W. LINE
72
P.O.C.
P.O.B.
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

NEW R.O.W. LINE
74
P.O.C.
P.O.B.
EXISTING R.O.W.
PARENT TRACT INSERT
(NOT TO SCALE)

N

GRAPHIC SCALE
50' 25' 0' 50' 100'
22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.			HIGHWAY NO.
6	TEXAS	N/A			FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

CITY/TOWN LIMIT

ROADWAY CENTERLINE

PROPOSED ROW LIMIT

CITY OF CELINA
COLLIN COUNTY

OWNER:
YOUNG LEI KIM
DOCUMENT NO. 20121219001618900
O.P.R.C.C.T.
CALLED 34.62 ACRES

P.O.C.
PARCEL 74
& PARCEL 77
FOUND 1/2"
IRON ROD (CM)

15' PERMANENT
WATER LINE EASEMENT
CITY OF CELINA, TEXAS
(NO EASEMENT OF RECORD FOUND)

FOUND 5/8" IRON ROD
WITH CAP STAMPED
"TEXAS DEPARTMENT OF
TRANSPORTATION ROW
MONUMENT" (CM)

FOUND 5/8" IRON ROD
WITH CAP STAMPED
"TEXAS DEPARTMENT OF
TRANSPORTATION ROW
MONUMENT" BEARS
S 45°25'32" W 0.72'

STATE OF TEXAS
PARCEL 49A
DOCUMENT NO.
20181114001407210
O.P.R.C.C.T.

P.O.B.
PARCEL 74
& PARCEL 77
N=7,147,859.01
E=2,509,310.43
STATION 260+33.35
84.44' LT

S 00°08'06" E 157.84'

OWNER:
THE NICID LIMITED PARTNERSHIP
DOCUMENT NO. 20130125000113620
O.P.R.C.C.T.
REMAINDER OF 1.752 ACRES

STATE OF TEXAS
VOLUME 760, PAGE 577
D.R.C.C.T.
CALLED
2.920 ACRES

OWNER:
MWE HOLDINGS, L.L.C.
TRACT 4
DOCUMENT NO.
20170607000738910
O.P.R.C.C.T.
REMAINDER OF
0.500 ACRES

STATE OF TEXAS
PARCEL 51
DOCUMENT NO.
20180413000449590
O.P.R.C.C.T.
CALLED 6,297 SQ. FT.

EXISTING R.O.W.

FOUND 1/2"
IRON ROD (CM)

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT" (CM)

APPROXIMATE CITY LIMIT LINE

FM 2478 (CUSTER ROAD)
(VARIABLE WIDTH RIGHT-OF-WAY)

EASEMENT TO
STATE OF TEXAS
VOLUME 760, PAGE 574
D.R.C.C.T.

STA 263+58.97
82.95' LT

25' PERMANENT ACCESS EASEMENT
& TEMPORARYCONSTRUCTION EASEMENT
CITY OF CELINA, TEXAS
VOLUME 5893, PAGE 9
O.P.R.C.C.T.

15' PERMANENT
WATER LINE EASEMENT
CITY OF CELINA, TEXAS
VOLUME 5893, PAGE 9
O.P.R.C.C.T.

N 44°51'22" E
80.68'

S 89°46'52" E 749.40'

NEW R.O.W. LINE

425.92'
237.24'
323.48'
305.52'

N 89°50'47" E 542.76'

EXISTING R.O.W.

L170 L171 L172

74 77

825.77'
S 89°46'41" E
1,202.31'
S 89°46'52" E

PT 258+41.80

S 86°04'57" E

PC 259+41.80

260+00

PC 257+12.70

PT 260+83.91

APPROXIMATE CITY LIMIT LINE

FOUND TXDOT WOOD
MONUMENT BEARS
N 57°44'17" E 1.17'

EXISTING R.O.W.

N 89°50'47" E 561.41'

76 PART 1

S 84°54'26" E 219.09'

N 89°50'47" E 363.26'

NEW R.O.W. LINE

N 45°03'56" E
65.05'

STA 257+94.99
79.98' RT

STA 257+48.05
127.43' RT

STA 260+12.86
86.32' RT

TOWN OF PROSPER
COLLIN COUNTY

OWNER:
HAGGARD RHEA MILLS, LLC
DOCUMENT NO. 20100610000588740
O.P.R.C.C.T.
REMAINDER OF 134.44 ACRES

P.O.B.
PARCEL 76 PART 1
N=7,147,689.86
E=2,509,648.47
STATION 263+73.07
85.00' RT

N 45°08'35" W
73.47'

P.O.C.
PARCEL 76 PART 1
FOUND 5/8" IRON ROD
WITH CAP STAMPED "TEXAS
DEPARTMENT OF TRANSPORTATION
ROW MONUMENT" (CM)

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT" (CM)

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT" (CM)

L177

EXISTING R.O.W.

FM 2478 (CUSTER ROAD)
(90' RIGHT-OF-WAY)

APPROXIMATE CITY LIMIT LINE

GRID COORDINATE
N=7,146,315.8804
E=2,508,656.9648

GEORGE HORN SURVEY
ABSTRACT NO. 412

FM 2478 (CUSTER ROAD)
(VARIABLE WIDTH RIGHT-OF-WAY)

STATE OF TEXAS
PARCEL 47
DOCUMENT NO. 20180424000490140
O.P.R.C.C.T.
CALLED 402,489 SQ. FT.

LIS PENDENS
STATE OF TEXAS
PARCEL 50
DOCUMENT NO.
20180813001009980
O.P.R.C.C.T.
CALLED 11,571 SQ. FT.

STATE OF TEXAS
VOLUME 484, PAGE 311
D.R.C.C.T.
CALLED 2.522 ACRES

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT" (CM)

EXISTING R.O.W.

FOUND 1/2"
IRON ROD (CM)

S 45°08'32" E
75.41'

FOUND 5/8" IRON ROD
WITH CAP STAMPED
"TEXAS DEPARTMENT OF
TRANSPORTATION ROW
MONUMENT" (CM)

STATE OF TEXAS
VOLUME 484, PAGE 273
D.R.C.C.T.
CALLED 2.376 ACRES

L173

N 89°50'53" E 423.87'

EXISTING R.O.W.

78

N 89°46'19" E 1,457.23'

P.O.C.
PARCEL 78
FOUND 5/8" IRON ROD
WITH CAP STAMPED "TEXAS
DEPARTMENT OF TRANSPORTATION
ROW MONUMENT" (CM)

P.O.B.
PARCEL 78
N=7,147,857.20
E=2,509,896.28
STATION 266+21.33
81.68' LT

STATE OF TEXAS
PARCEL 48
DOCUMENT NO. 20180419000461970
O.P.R.C.C.T.
CALLED 23,449 SQ. FT.

NEW R.O.W. LINE

FOUND 5/8"
IRON ROD (CM)

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT"
BEARS S 48°39'45" E 0.59'

L174

818.37'

EXISTING R.O.W.

N 89°44'56" E 3,813.00'

FM 1461
(VARIABLE WIDTH RIGHT-OF-WAY)

N 89°50'47" E

270+00

STATE OF TEXAS
VOLUME 484, PAGE 277
D.R.C.C.T.
CALLED 3.689 ACRES

FOUND 5/8"
IRON ROD (CM)

EXISTING R.O.W.

N 89°44'56" E 3,810.57'

1,472.51

L179

76 PART 2

N 89°46'19" E 1,434.03'

NEW R.O.W. LINE

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT" (CM)

EXISTING R.O.W.

N 89°50'47" E 408.91'

L178

N 44°51'22" E
87.23'

P.O.B.
PARCEL 76 PART 2
N=7,147,702.30
E=2,509,920.09
STATION 266+44.73
73.29' RT

P.O.C.
PARCEL 76 PART 2
FOUND 5/8" IRON ROD
WITH CAP STAMPED "TEXAS
DEPARTMENT OF TRANSPORTATION
ROW MONUMENT" (CM)

NATURAL GAS DISTRIBUTION
SYSTEM EASEMENT AND RIGHT-OF-WAY
COSERV GAS, LTD.
DOCUMENT NO 20180918001170760
O.P.R.C.C.T.

FOUND 5/8"
IRON ROD (CM)

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT" (CM)

FOUND 5/8" IRON ROD WITH CAP
STAMPED "TEXAS DEPARTMENT OF
TRANSPORTATION ROW MONUMENT" (CM)

OWNER:
HAGGARD RHEA MILLS, LLC
DOCUMENT NO. 20100610000588740
O.P.R.C.C.T.
REMAINDER OF 134.44 ACRES

CITY OF MCKINNEY
COLLIN COUNTY

LANGDON C. SEARCY SURVEY
ABSTRACT NO. 816

GRID COORDINATE
N=7,146,304.1251
E=2,510,004.1602

CITY OF MCKINNEY
COLLIN COUNTY

OWNER:
BILLINGSLY CORNELL CAPITAL, L.P.
DOCUMENT NO. 20190624000727970
O.P.R.C.C.T.
CALLED 35.544 ACRES

GRID COORDINATE
N=7,146,970.3868
E=2,510,017.0794

NEW R.O.W. LINE

P.O.C.

P.O.B.

EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

NEW R.O.W. LINE

P.O.C.

P.O.B.

EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

PART 1 EXISTING R.O.W.

P.O.B.

P.O.C.

NEW R.O.W. LINE

EXISTING R.O.W.

EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

EXISTING R.O.W.

P.O.B.

P.O.C.

PART 2

NEW R.O.W. LINE

EXISTING R.O.W.

PARENT TRACT INSERT
(NOT TO SCALE)

CENTERLINE CURVE DATA	
PI STATION	= 257+77.28
PI NORTHING	= 7,147,789.99
PI EASTING	= 2,509,052.89
DELTA	= 03°41'55"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 64.58'
LENGTH	= 129.11'
RADIUS	= 2,000.00'
CHORD BEARING	= S 87°55'55" E
CHORD DISTANCE	= 129.09'

CENTERLINE CURVE DATA	
PI STATION	= 260+12.89
PI NORTHING	= 7,147,773.89
PI EASTING	= 2,509,288.00
DELTA	= 04°04'16"
DEGREE OF CURVE	= 02°51'53"
TANGENT	= 71.08'
LENGTH	= 142.11'
RADIUS	= 2,000.00'
CHORD BEARING	= S 88°07'05" E
CHORD DISTANCE	= 142.08'

LINE TABLE		
L170	N 44°50'47" E	20.98'
L171	S 00°08'06" E	20.06'
L172	N 44°51'22" E	25.40'
L173	S 45°08'32" E	30.64'
L174	S 45°09'07" E	18.76'
L177	S 45°08'38" E	28.33'
L178	N 44°51'22" E	18.85'
L179	N 44°50'47" E	23.62'

NOTE: SEE SHEET 13 FOR THE REMAINDER OF PARCEL 74

NOTE: SEE SHEET 15 FOR THE REMAINDER OF PARCELS 76 PART 2 AND 78

N

GRAPHIC SCALE
50' 25' 0' 50' 100'

22"x34" SCALE: 1" = 50'
11"x17" SCALE: 1" = 100'

FED. RD. DIV. NO.	STATE	FEDERAL AID PROJECT NO.			HIGHWAY NO.
6	TEXAS	N/A			FM 1461
STATE DISTRICT NO.	COUNTY	CONTROL NO.	SECTION NO.	JOB NO.	SHEET NO.
18	COLLIN	1973	01	018	

TOWN OF PROSPER

Prosper is a place where everyone matters.

FIRE DEPARTMENT

To: **Mayor and Town Council**

From: **Stuart Blasingame, Fire Chief**

Through: **Harlan Jefferson, Town Manager**

Re: **Town Council Meeting – April 27, 2021**

Agenda Item:

Consider and act upon awarding RFP No. 2021-35-B Construction Manager-At-Risk for Public Safety Complex Phase 2 (Central Fire Station and Fire Administration) to Pogue Construction Co., LP; and authorizing the Town Manager to execute documents for the same

Description of Agenda Item:

On February 23, 2021, the Town Council approved an agreement with Brown Reynolds Watford Architects (BRW) for the architectural and engineering design services for the Public Safety Complex Phase 2 (Central Fire Station and Fire Administration). BRW requested that the Town select a Construction Manager-At-Risk (CMAR) no later than May 2021, in order to maximize the benefits of pre-construction services early in the design process.

On March 22, 2021, at 2:00 PM, seven proposals were received for the Construction Manager-At-Risk for Public Safety Complex Phase 2 (Central Fire Station and Fire Administration). The project was advertised using the Construction Manager-At-Risk alternative construction method to award the project to the contractor that offers the best value proposal based on the following criteria:

- Overall Ability to Meet Town Objectives (10%)
- Experience with Similar Facility Construction (20%)
- Qualifications of Project Personnel (20%)
- References (10%)
- Cost Proposal (40%)

Utilizing the construction budget of $14,300,000.00 for evaluation purposes, the cost proposals ranged between $862,944.56 and $1,190,284.10. The Pre-Construction Services fee and the General Conditions Cost fee are hard costs. The CMAR fee is a percentage of the construction cost, so the actual amount is unknown until design is complete, the CMAR bids out the trades, and a Guaranteed Maximum Price is negotiated.

One proposal was deemed non-responsive due to submission of an incomplete General Conditions Cost Worksheet. The remaining proposals were evaluated by the evaluation committee. The evaluation committee was comprised of 11 members representing Fire, Police, Development Services, Administrative Services, Building Inspections, Information Technology, and the Town's contracted architect for this project. Upon completion of the evaluation, Pogue Construction Co., LP, was the top-ranked contractor.

Pogue Construction Co., LP, was previously selected as the Town's CMAR for the construction of Fire Station No. 2, Town Hall, and the Police Department and Dispatch Facility. They have extensive fire administration/station construction experience, and staff received favorable responses from references.

Budget Impact:

The entire project budget is $18,000,000.00. The professional services budget for this project is $1,605,000.00. The Pre-Construction Services fee is $20,000.00 and will be funded from Professional Services Account No. 750-5410-10-00-2109-FC in FY 21.

The construction budget for this project is $14,300,000.00. The General Conditions Cost fee is $629,874.56 and the CMAR Fee is 1.49% of construction costs. These fees will be included as part of the Guaranteed Maximum Price Amendment funded from Construction Account No. 750-6610-10-00-2112-FC in FY 22 when the Amendment is negotiated.

Legal Obligations and Review:

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

Attached Documents:

1. Evaluation Matrix
2. AIA Document A133-2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor
3. Addendum to AIA Document A133-2009
4. AIA Document A201-2007 General Conditions of the Contract for Construction
5. Addendum to AIA Document A201-2007

Town Staff Recommendation:

Town staff recommends awarding RFP No. 2021-35-B Construction Manager-At-Risk for Public Safety Complex Phase 2 (Central Fire Station and Fire Administration) to Pogue Construction Co., LP; and authorizing the Town Manager to execute documents for the same.

Proposed Motion:

I move to award RFP No. 2021-35-B Construction Manager-At-Risk for Public Safety Complex Phase 2 (Central Fire Station and Fire Administration) to Pogue Construction Co., LP; and authorize the Town Manager to execute documents for the same.

RFP NO. 2021-35-B
CONSTRUCTION MANAGER-AT-RISK FOR PUBLIC SAFETY COMPLES PHASE 2 (CENTRAL FIRE STATION AND FIRE ADMINISTRATION)

EVALUATION MATRIX		AUI PARTNERS, LLC		CORE CONSTRUCTION SERVICES OF TEXAS, INC.		CROSSLAND CONSTRUCTION COMPANY, INC.		KEY CONSTRUCTION		POGUE CONSTRUCTION CO., LP		TEGRITY CONTRACTORS	
EVALUATION CRITERIA	**WEIGHTING**	**POINTS**	**WEIGHTED SCORE**	**POINTS**	**WEIGHTED SCORE**	**POINTS**	**WEIGHTED SCORE**	**POINTS**	**WEIGHTED SCORE**	**POINTS**	**WEIGHTED SCORE**	**POINTS**	**WEIGHTED SCORE**
Overall Ability to Meet Town's Objectives	**10%**	5.73	0.57	9.05	0.90	7.32	0.73	6.64	0.66	9.18	0.92	4.82	0.48
Experience with Similar Facility Construction	**20%**	5.64	1.13	9.00	1.80	7.09	1.42	5.55	1.11	9.00	1.80	3.64	0.73
Qualifications of Project Personnel	**20%**	6.36	1.27	8.91	1.78	7.18	1.44	6.09	1.22	8.77	1.75	4.09	0.82
References	**10%**	1.00	0.10	9.00	0.90	8.00	0.80	9.00	0.90	9.50	0.95	5.00	0.50
Cost Proposal	**40%**	7.62	3.05	7.25	2.90	8.31	3.33	7.80	3.12	10.00	4.00	7.84	3.14
TOTAL	**100%**		**6.12**		**8.29**		**7.71**		**7.01**		**9.42**		**5.66**

AIA® Document A133™ – 2009

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 27th day of April in the year 2021
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status and address)

Town of Prosper
250 W. First Street
Prosper, TX 75078

and the Construction Manager:
(Name, legal status and address)

Pogue Construction Co., L.P.
1512 Bray Central Dr., Suite 300
McKinney, TX 75069

for the following Project:
(Name and address or location)

Town of Prosper
Public Safety Complex Phase 2 (Central Fire Station and Fire Administration
911 Safety Way
Prosper, TX 75078

The Architect:
(Name, legal status and address)

Brown Reynolds Watford Architects, Inc. (BRW) 3535 Travis Street, Suite 250
Dallas, TX 75204

The Owner's Designated Representative:
(Name, address and other information)

Harlan Jefferson
Town Manager
Physical Address
250 W. First Street
Prosper, TX 75078
Mailing Address
PO Box 307
Prosper, TX 75078

Telephone Number (972) 569-1010
Email: hjefferson@prospertx.gov

The Construction Manager's Designated Representative:

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes: (3B9ADA57)

(Name, address and other information)

Sam Adams
Director of Construction

1512 Bray Central Dr., Suite 300
McKinney, TX 75069
Phone: 972-529-9401
Email: sam@pogueconstruction.com

The Architect's Designated Representative:
(Name, address and other information)

Fred Clifford, AIA
Senior Director
Brown Reynolds Watford Architects, Inc. (BRW)
3535 Travis Street, Suite 250
Dallas, TX 75204
Phone: 214-528-8704
Email: fclifford@brwarch.com

The Owner and Construction Manager agree as follows.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

(Section amended)
See Paragraph No. 1 of Addendum to A133.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§

(Section amended)
See Paragraph No. 2 of Addendum to A133.

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ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

(New Section added 2.1.2.1)
See Paragraph No. 3 of Addendum to A133.

(New Section added 2.1.2.2)
See Paragraph No. 4 of Addendum to A133.

§

(Section amended)
See Paragraph No. 5 of Addendum to A133.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

(Section amended)
See Paragraph No. 6 of Addendum to A133).

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§ 2.1.6 Subcontractors and Suppliers
The Construction Manager shall develop bidders' interest in the Project.

(Section amended)
See Paragraph No. 7 of Addendum to A133).

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility
The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

(Section amended)
See Paragraph No. 8 of Addendum to A133).

§ 2.1.9 Notices and Compliance with Laws
The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time
§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

(Section amended)
See Paragraph No. 9 of Addendum to A133).

§(Section amended)
See Paragraph No. 10 of Addendum to A133).

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

.2

(Section amended)
See Paragraph No. 11 of Addendum to A133).

.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;

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.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and

.5

(Section amended)
See Paragraph No. 12 of Addendum to A133).

(New Sub Section added 2.2.3.6)
See Paragraph No. 13 of Addendum to A133).

(New Sub Section added 2.2.3.7)
See Paragraph No. 14 of Addendum to A133).

§

(Section deleted)
See Paragraph No. 15 of Addendum to A133).

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

(Section amended)
See Paragraph No. 16 of Addendum to A133).

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§

(Section amended)
See Paragraph No. 17 of Addendum to A133).

§ 2.3 Construction Phase
§ 2.3.1 General
§(Section amended)
See Paragraph No. 18 of Addendum to A133).

§(Section amended)
See Paragraph No. 19 of Addendum to A133).

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(Section amended)
See Paragraph No. 20 of Addendum to A133).

§ 2.3.2 Administration
§(Section amended)
See Paragraph No. 21 of Addendum to A133.

§(Section amended)
See Paragraph No. 22 of Addendum to A133.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost plus fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

(Section amended)
See Paragraph No. 23 of Addendum to A133.

§

(Section amended)
See Paragraph No. 24 of Addendum to A133.

§

(Section amended)
See Paragraph No. 25 of Addendum to A133.

(New Section Added 2.6)
See Paragraph No. 26 of Addendum to A133.

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ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§(Section amended)
See Paragraph No. 27 of Addendum to A133.

§(Section amended)
See Paragraph No. 28 of Addendum to A133.

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§

(Section amended)
See Paragraph No. 29 of Addendum to A133.

§
(Section amended)
See Paragraph No. 30 of Addendum to A133.

§
(Section amended)
See Paragraph No. 31 of Addendum to A133.

(New Section added 3.4 Inspection and Testing)
See Paragraph No. 32 of Addendum to A133.

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ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

TwentyThousand Dollars and No/One Hundredths Dollars ($20,000.00)

(Section amended)
See Paragraph No. 33 of Addendum to A133.

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Twelve ((12) calendar) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

(Section amended)
See Paragraph No. 34 of Addendum to A133.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§

(Paragraph Deleted)

(Section amended)
See Paragraph No. 35 of Addendum to A133.

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§

(Paragraph Deleted)

(Section amended)
See Paragraph No. 36 of Addendum to A133.

§

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(Section amended)
See Paragraph No. 37 of Addendum to A133.

§

(Section amended)
See Paragraph No. 38 of Addendum to A133.

§ (Section amended)
See Paragraph No. 39 of Addendum to A133.

§ 5.1.5 Unit prices, if any:
(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 5.2 Guaranteed Maximum Price
§

(Paragraph Deleted)

(Section amended)
See Paragraph No. 40 of Addendum to A133.

§ 5.2.2 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work
§(Section amended)
See Paragraph No. 41 of Addendum to A133.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of.

(Section amended)
See Paragraph No. 42 of Addendum to A133.

§(Section amended)
See Paragraph No. 43 of Addendum to A133.

§(Section amended)
See Paragraph No. 44 of Addendum to A133.

§(Section amended)
See Paragraph No. 45 of Addendum to A133.

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ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 6.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.
(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§(Section amended)
See Paragraph No. 46 of Addendum to A133.

§(Section amended)
See Paragraph No. 47 of Addendum to A133.

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the.

(Section amended)
See Paragraph No. 48 of Addendum to A133.

§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§(Section amended)
See Paragraph No. 49 of Addendum to A133.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item

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may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§(Section deleted)
See Paragraph No. 50 of Addendum to A133.

(Section deleted)
See Paragraph No. 50 of Addendum to A133.

(Section deleted)
See Paragraph No. 50 of Addendum to A133.

§ 6.6 Miscellaneous Costs
§(Section amended)
See Paragraph No. 51 of Addendum to A133.

§(Section deleted)
See Paragraph No. 52 of Addendum to A133.

§ 6.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

(Section amended)
See Paragraph No. 53 of Addendum to A133.

§(Section deleted)
See Paragraph No. 54 of Addendum to A133.

(Section deleted)
See Paragraph No. 54 of Addendum to A133.

(Section deleted)
See Paragraph No. 54 of Addendum to A133.

(Section deleted)
See Paragraph No. 54 of Addendum to A133.

(Section deleted)
See Paragraph No. 54 of Addendum to A133.

§ 6.7 Other Costs and Emergencies
§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

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§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of.

(Section amended)
See Paragraph No. 55 of Addendum to A133.

§(Section deleted)
See Paragraph No. 56 of Addendum to A133.

(Section deleted)
See Paragraph No. 56 of Addendum to A133.

§ 6.8 Costs Not To Be Reimbursed
§ 6.8.1:

(Section amended)
See Paragraph No. 57 of Addendum to A133.

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
.2 Expenses of the Construction Manager's principal office and offices other than the site office;
.3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
.4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;

(Section amended)
See Paragraph No. 58 of Addendum to A133.

.6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
.7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
.8 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds
§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

(New Section Added 6.9.3)
See Paragraph No. 59 of Addendum to A133.

§ 6.10 Related Party Transactions
§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

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§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§

(Section amended)

See Paragraph No. 60 of Addendum to A133.

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

(Section amended)

See Paragraph No. 61 of Addendum to A133.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by

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dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007;

.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 Add the Construction Manager's Fee, less retainage of Five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

(Section amended)
See Paragraph No. 62 of Addendum to A133.

.4 Subtract retainage of Five percent (5 %) from that portion of the Work that the Construction Manager self-performs;

(Section amended)
See Paragraph No. 63 of Addendum to A133.

.5 Subtract the aggregate of previous payments made by the Owner;

.6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

(New Section added 7.1.11)
See Paragraph No. 64 of Addendum to A133

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§ 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

.1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

(Section amended)
See Paragraph No. 65 of Addendum to A133

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201–2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

(Section amended)
See Paragraph No. 66 of Addendum to A133

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

(Section amended)
See Paragraph No. 67 of Addendum to A133

ARTICLE 8 INSURANCE AND BONDS

(Paragraph Deleted)

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(Section amended)
See Paragraph No. 68 of Addendum to A133

(Table Deleted)

ARTICLE 9 DISPUTE RESOLUTION

§(Section amended)
See Paragraph No. 69 of Addendum to A133

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:
(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2007

[ ] Litigation in a court of competent jurisdiction

[ ] Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

(Paragraphs Deleted)

(Section amended)
See Paragraph No. 70 of Addendum to A133

(Section amended)
See Paragraph No. 70 of Addendum to A133

(Section amended)
See Paragraph No. 70 of Addendum to A133

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(Section amended)
See Paragraph No. 70 of Addendum to A133

(Paragraphs Deleted)

(Section amended)
See Paragraph No. 70 of Addendum to A133

(Section amended)
See Paragraph No. 70 of Addendum to A133

(Paragraph Deleted)

(Section amended)
See Paragraph No. 70 of Addendum to A133

(Paragraphs Deleted)

(Section amended)
See Paragraph No. 70 of Addendum to A133

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in.

(Section amended)
See Paragraph No. 71 of Addendum to A133

§ 11.2 Ownership and Use of Documents

Section 1.5 of shall apply to both the Preconstruction and Construction Phases.

(Section amended)
See Paragraph No. 72 of Addendum to A133

§ 11.3 Governing Law

Section 13.1 of shall apply to both the Preconstruction and Construction Phases.

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(Paragraph Deleted)

(Section amended)
See Paragraph No. 73 of Addendum to A133

§

(Section Deleted)
See Paragraph No. 74 of Addendum to A133

(Paragraph Deleted)

(Section Deleted)
See Paragraph No. 74 of Addendum to A133

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

(Section amended)
See Paragraph No. 75 of Addendum to A133

§ 12.2 The following documents comprise the Agreement:

.1 AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

.2 AIA Document A201–2007, General Conditions of the Contract for Construction

.3 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed, or the following:

.4 AIA Document E202™–2008, Building Information Modeling Protocol Exhibit, if completed, or the following:

.5 Other documents:
(List other documents, if any, forming part of the Agreement.)

This Agreement is entered into as of the day and year first written above.

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Town of Prosper

OWNER *(Signature)*

(Printed name and title)

Pogue Construction Co., L.P., a Texas Limited Partnership, acting by and through Ben Pogue, LC, a Texas limited liability company, General Partner

CONSTRUCTION MANAGER*(Signature)*

By: Benjamin P. Pogue, Sole Member of Ben Pogue, LC, a Texas limited liability company

(Printed name and title)

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Additions and Deletions Report for
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AGREEMENT made as of the 27th day of April in the year 2021

...

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Prosper, TX 75078

...

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McKinney, TX 75069

...

Town of Prosper
Public Safety Complex Phase 2 (Central Fire Station and Fire Administration
911 Safety Way
Prosper, TX 75078

...

Brown Reynolds Watford Architects, Inc. (BRW) 3535 Travis Street, Suite 250
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Harlan Jefferson
Town Manager
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...

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Senior Director
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Phone: 214-528-8704
Email: fclifford@brwarch.com

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TABLE OF ARTICLES

...

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. ~~If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.~~

...

(Section amended)

...

See Paragraph No. 1 of Addendum to A133.

...

~~§1.3 General Conditions~~

...

(Section amended)

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~~For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.~~See Paragraph No. 2 of Addendum to A133.

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~~§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion~~ (New Section added 2.1.2.1)

...

~~of the Project schedule relating to the performance~~ See Paragraph No. 3 of Addendum to A133.

...

(New Section added 2.1.2.2)

...

~~of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission~~ See Paragraph No. 4 of Addendum to A133.

...

§

...

(Section amended)

...

~~of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.~~ See Paragraph No. 5 of Addendum to A133.

...

(Section amended)

...

See Paragraph No. 6 of Addendum to A133).

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(Section amended)

...

See Paragraph No. 7 of Addendum to A133).

...

(Section amended)

...

See Paragraph No. 8 of Addendum to A133).

...

(Section amended)

...

See Paragraph No. 9 of Addendum to A133).

...

~~§2.2.2 To the extent that the Drawings and Specifications are anticipated~~ (Section amended)

...

~~to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.~~See Paragraph No. 10 of Addendum to A133).

...

.2 ~~A list~~

...

(Section amended)

...

~~of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;~~See Paragraph No. 11 of Addendum to A133).

PAGE 6

.5 ~~A date by which the Owner must accept the Guaranteed Maximum Price.~~

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...

(Section amended)

...

See Paragraph No. 12 of Addendum to A133).

...

~~§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use~~ (New Sub Section added 2.2.3.6)

...

~~to cover those costs considered reimbursable as the Cost~~ See Paragraph No. 13 of Addendum to A133).

...

(New Sub Section added 2.2.3.7)

...

~~of the Work but not included in a Change Order.~~See Paragraph No. 14 of Addendum to A133).

...

~~§~~

...

(Section deleted)

...

See Paragraph No. 15 of Addendum to A133).

...

(Section amended)

...

See Paragraph No. 16 of Addendum to A133).

...

~~§2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.~~

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...

(Section amended)

...

See Paragraph No. 17 of Addendum to A133).

...

~~§2.3.1.1 For purposes~~ (Section amended)

...

~~of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.~~See Paragraph No. 18 of Addendum to A133).

...

~~§2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance~~ (Section amended)

...

~~of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance~~ See Paragraph No. 19 of Addendum to A133).

PAGE 7

(Section amended)

...

~~of a Notice to Proceed, whichever occurs earlier.~~See Paragraph No. 20 of Addendum to A133).

...

~~§2.3.2.1 Those portions~~ (Section amended)

...

~~of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.~~See Paragraph No. 21 of Addendum to A133.

...

~~§2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion~~ (Section amended)

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...

~~of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.~~See Paragraph No. 22 of Addendum to A133.

...

(Section amended)

...

See Paragraph No. 23 of Addendum to A133.

...

~~§2.4 Professional Services~~

...

(Section amended)

...

~~Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.~~See Paragraph No. 24 of Addendum to A133.

...

~~§2.5 Hazardous Materials~~

...

(Section amended)

...

See Paragraph No. 25 of Addendum to A133.

...

~~Section 10.3~~ (New Section Added 2.6)

...

~~of A201–2007 shall apply to both the Preconstruction and Construction Phases.~~See Paragraph No. 26 of Addendum to A133.

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~~§3.1.2 Prior to the execution~~ (Section amended)

...

~~of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.~~See Paragraph No. 27 of Addendum to A133.

...

~~§3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost~~ (Section amended)

...

~~of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.~~See Paragraph No. 28 of Addendum to A133.

...

~~§3.2 Owner's Designated Representative~~

...

(Section amended)

...

~~The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.~~See Paragraph No. 29 of Addendum to A133.

...

~~§3.2.1 Legal Requirements.~~ ~~The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project~~

...

(Section amended)

...

~~to meet the Owner's needs and interests.~~ See Paragraph No. 30 of Addendum to A133.

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...

~~§3.3 Architect~~

...

~~The Owner shall retain an Architect~~ (Section amended)

...

~~to provide services, duties~~ See Paragraph No. 31 of Addendum to A133.

...

~~and responsibilities as described in AIA Document B133™ 2014, Standard Form~~ (New Section added 3.4 Inspection and Testing)

...

~~of Agreement Between Owner and Architect, Construction Manager as Constructor Edition. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.~~See Paragraph No. 32 of Addendum to A133.

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TwentyThousand Dollars and No/One Hundredths Dollars ($20,000.00)

...

(Section amended)

...

See Paragraph No. 33 of Addendum to A133.

...

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Twelve ((12) calendar) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

(Section amended)

...

See Paragraph No. 34 of Addendum to A133.

...

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~~§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.~~

...

~~*(Insert rate of monthly or annual interest agreed upon.)*~~

...

~~%~~

...

(Section amended)

...

See Paragraph No. 35 of Addendum to A133.

...

~~§5.1.1 The Construction Manager's Fee:~~

...

~~*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*~~

...

(Section amended)

...

See Paragraph No. 36 of Addendum to A133.

...

~~§5.1.2 The method of adjustment of the Construction Manager's Fee for changes in the Work:~~

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(Section amended)

...

See Paragraph No. 37 of Addendum to A133.

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...

~~§5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:~~

...

(Section amended)

...

See Paragraph No. 38 of Addendum to A133.

...

~~§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed percent (%)~~ (Section amended)

...

~~of the standard rate paid at the place of the Project.~~See Paragraph No. 39 of Addendum to A133.

...

~~§5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.~~

...

~~*(Insert specific provisions if the Construction Manager is to participate in any savings.)*~~

...

(Section amended)

...

See Paragraph No. 40 of Addendum to A133.

...

~~§5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope~~ (Section amended)

...

~~of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.~~See Paragraph No. 41 of Addendum to A133.

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...

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of.

...

(Section amended)

...

~~of AIA Document A201–2007, General Conditions of the Contract for Construction.~~See Paragraph No. 42 of Addendum to A133.

...

~~**§5.3.3** In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis~~ (Section amended)

...

~~of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.~~See Paragraph No. 43 of Addendum to A133.

...

~~**§5.3.4** In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions~~ (Section amended)

...

~~of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.~~See Paragraph No. 44 of Addendum to A133.

...

~~**§5.3.5** If no specific provision is made in Section 5.1.2 for adjustment~~ (Section amended)

...

~~of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.~~See Paragraph No. 45 of Addendum to A133.

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~~**§6.2.4** Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements,~~

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~~customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost~~ (Section amended)

...

~~of the Work under Sections 6.2.1 through 6.2.3.~~See Paragraph No. 46 of Addendum to A133.

...

~~§6.2.5~~ ~~Bonuses, profit sharing, incentive compensation and any other discretionary payments paid~~ (Section amended)

...

~~to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.~~See Paragraph No. 47 of Addendum to A133.

...

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of ~~the subcontracts.~~the.

...

(Section amended)

...

See Paragraph No. 48 of Addendum to A133.

...

~~§6.4.2~~ ~~Costs~~ (Section amended)

...

~~of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.~~See Paragraph No. 49 of Addendum to A133.

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~~§6.5.4~~ ~~Costs~~ (Section deleted)

...

~~of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.~~See Paragraph No. 50 of Addendum to A133.

...

~~§ 6.5.5~~ ~~That portion~~ (Section deleted)

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...

~~of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.~~See Paragraph No. 50 of Addendum to A133.

...

~~§ 6.5.6~~ ~~Costs~~ (Section deleted)

...

~~of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.~~See Paragraph No. 50 of Addendum to A133.

...

~~§6.6.1~~ ~~Premiums for that portion~~ (Section amended)

...

~~of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.~~See Paragraph No. 51 of Addendum to A133.

...

~~§6.6.2~~ ~~Sales, use or similar taxes imposed by a governmental authority that are related~~ (Section deleted)

...

~~to the Work and for which the Construction Manager is liable.~~See Paragraph No. 52 of Addendum to A133.

...

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of ~~AIA Document A201–2007~~ or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

...

~~§ 6.6.5~~ ~~Royalties and license fees paid for the use~~ (Section amended)

...

~~of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.~~See Paragraph No. 53 of Addendum to A133.

...

~~§6.6.6~~ ~~Costs for electronic equipment and software, directly related~~ (Section deleted)

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...

~~to the Work with the Owner's prior approval.~~See Paragraph No. 54 of Addendum to A133.

...

~~§ 6.6.7 Deposits lost for causes other than the Construction Manager's negligence or failure~~ (Section deleted)

...

~~to fulfill a specific responsibility in the Contract Documents.~~See Paragraph No. 54 of Addendum to A133.

...

~~§ 6.6.8 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution~~ (Section deleted)

...

~~of this Agreement in the performance~~ See Paragraph No. 54 of Addendum to A133.

...

(Section deleted)

...

~~of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.~~See Paragraph No. 54 of Addendum to A133.

...

~~§ 6.6.9 Subject~~ (Section deleted)

...

~~to the Owner's prior approval, expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.~~See Paragraph No. 54 of Addendum to A133.

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§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of.

...

(Section amended)

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...

~~of AIA Document A201–2007.~~See Paragraph No. 55 of Addendum to A133.

...

~~§6.7.3 Costs~~ (Section deleted)

...

~~of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.~~See Paragraph No. 56 of Addendum to A133.

...

~~§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost~~ (Section deleted)

...

~~of the Work, notwithstanding any provision of AIA Document A201–2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.~~See Paragraph No. 56 of Addendum to A133.

...

§ 6.8.1 ~~The Cost~~ :

...

(Section amended)

...

~~of the Work shall not include the items listed below:~~See Paragraph No. 57 of Addendum to A133.

...

~~.5 Except as provided in Section 6.7.3.~~

...

(Section amended)

...

~~of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;~~See Paragraph No. 58 of Addendum to A133.

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...

(New Section Added 6.9.3)

...

See Paragraph No. 59 of Addendum to A133.

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~~§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ( ) days after the Architect receives the Application for Payment.~~

...

~~*(Federal, state or local laws may require payment within a certain period*~~ *(Section amended)*

...

~~of time.)~~See Paragraph No. 60 of Addendum to A133.

...

(Section amended)

...

See Paragraph No. 61 of Addendum to A133.

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.3 Add the Construction Manager's Fee, less retainage of Five percent (5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

...

(Section amended)

...

See Paragraph No. 62 of Addendum to A133.

...

.4 Subtract retainage of Five percent (5 %) from that portion of the Work that the Construction Manager self-performs;

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...

(Section amended)

...

See Paragraph No. 63 of Addendum to A133.

...

(New Section added 7.1.11)

...

See Paragraph No. 64 of Addendum to A133

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(Section amended)

...

See Paragraph No. 65 of Addendum to A133

...

(Section amended)

...

See Paragraph No. 66 of Addendum to A133

...

(Section amended)

...

See Paragraph No. 67 of Addendum to A133

...

~~For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2007.~~

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(Section amended)

...

*(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA DocumentA201–2007.)*See Paragraph No. 68 of Addendum to A133

...

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)

...

§9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 (Section amended)

...

of A201–2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.See Paragraph No. 69 of Addendum to A133

...

ARTICLE 10 TERMINATION OR SUSPENSION

...

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

...

(Section amended)

...

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201–2007.See Paragraph No. 70 of Addendum to A133

...

§ 10.1.2 In the event (Section amended)

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~~of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.~~See Paragraph No. 70 of Addendum to A133

...

~~§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement~~ (Section amended)

...

~~of the Construction Phase but prior to the execution~~ See Paragraph No. 70 of Addendum to A133

PAGE 18

(Section amended)

...

~~of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:~~See Paragraph No. 70 of Addendum to A133

...

~~.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;~~

...

~~.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and~~

...

~~.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.~~

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...

~~The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election~~ (Section amended)

...

~~of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.~~See Paragraph No. 70 of Addendum to A133

...

~~If the Owner accepts assignment~~ (Section amended)

...

~~of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.~~See Paragraph No. 70 of Addendum to A133

...

~~§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price~~

...

(Section amended)

...

~~Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201–2007.~~See Paragraph No. 70 of Addendum to A133

...

~~§ 10.2.1~~ ~~If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.~~

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~~§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201–2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.~~

...

~~§ 10.3 Suspension~~

...

(Section amended)

...

~~The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.~~See Paragraph No. 70 of Addendum to A133

...

§ 11.1 Terms in this Agreement shall have the same meaning as those ~~in A201–2007.~~in.

...

(Section amended)

...

See Paragraph No. 71 of Addendum to A133

...

Section 1.5 of ~~A201–2007~~ shall apply to both the Preconstruction and Construction Phases.

...

(Section amended)

...

See Paragraph No. 72 of Addendum to A133

...

Section 13.1 of ~~A201–2007~~ shall apply to both the Preconstruction and Construction Phases.

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~~§ 11.4 Assignment~~

...

(Section amended)

...

~~The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2~~ See Paragraph No. 73 of Addendum to A133

...

~~§~~

...

(Section Deleted)

...

~~of A201–2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.~~See Paragraph No. 74 of Addendum to A133

...

~~§ 11.5 Other provisions:~~

...

(Section Deleted)

...

See Paragraph No. 74 of Addendum to A133

...

§ 12.1 ~~This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral.~~ This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

...

(Section amended)

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See Paragraph No. 75 of Addendum to A133

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Town of Prosper	Pogue Construction Co., L.P., a Texas Limited Partnership, acting by and through Ben Pogue, LC, a Texas limited liability company, General Partner
...	By: Benjamin P. Pogue, Sole Member of Ben Pogue, LC, a Texas limited liability company

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Benjamin P. Pogue, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:50:17 ET on 04/20/2021 under Order No. 6365976674 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ - 2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

Sole Member

(Title)

4.20.2021

(Dated)

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ADDENDUM to
The Standard Form of Agreement Between Owner and Construction Manager as Constructor Where the Basis of Payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price AIA Document A133 - 2009

This Addendum to the *Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price,* AIA Document A133 - 2009 ("Addendum") is entered into this 27th day of April, 2021, by and between Pogue Construction Co., L.P., (the "Construction Manager") and the Town of Prosper, Texas, (the "Owner"). This Addendum is entered into to delete from, amend, replace, modify, add to, and/or supplement the *Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price,* AIA Document A133 - 2009 (the "Agreement"), as set forth herein below.

WITNESSETH:

WHEREAS, the Owner and Construction Manager desire to enter into the Agreement for the construction of the Town of Prosper Public Safety Complex Phase 2 (Central Fire Station and Fire Administration), RFP No. 2021-35-B; and

WHEREAS, the Owner and Construction Manager desire to clarify and revise certain of the terms and provisions contained in the Agreement; and

WHEREAS, the Owner and Construction Manager would not enter into the Agreement save and except for the clarifications and revisions contained herein; NOW THEREFORE,

FOR AND IN CONSIDERATION of the covenants, duties and obligations herein contained together with the covenants, duties and obligations contained in the Agreement, the parties do mutually agree that except as provided for below, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event of any conflict or inconsistency between the provisions set forth in this Addendum and the Agreement, this Addendum shall govern and control. In consideration of the foregoing, and for other good and valuable consideration, the parties agree to modify the Agreement as follows:

The following amendments, modifications, replacements, additions, and/or deletions are hereby made to those Sections and Articles of the Agreement identified herein below as follows:

1. Section 1.1 is hereby amended by deleting the last sentence of this section.

2. Section 1.3 is hereby amended by deleting said provision in its entirety and replacing such provision with the following provision:

> § 1.3 General Conditions
>
> For the Preconstruction Phase, AIA Document A201 TMS 2007, General *Conditions of the Contract for Construction,* as modified by the Addendum to the *General Conditions of the Contract for Construction,* AIA Document A201-2007 (referred to collectively as the "A201-2007 Documents") shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in the A201—2007 Documents, which documents are incorporated herein by reference. The term "Contractor" as used in the A201—2007 Documents shall mean the Construction Manager

3. Section 2.1.2 is hereby amended by adding a new section 2.1.2.1 to read as follows:

> § 2.1.2.1 During the Preconstruction Phase the Construction Manager shall review the Contract Documents to ascertain whether the components of the mechanical, electrical, and plumbing systems may be constructed without interference with each other, or with the structural or architectural components of the Project. In the event conflicts between such systems are discovered, the Construction Manager shall promptly notify the Owner and the Architect in writing.

4. Section 2.1.2 is hereby amended by adding a new section 2.1.2.2 to read as follows:

> § 2.1.2.2 Notwithstanding any provision of this Agreement or the A201—2007 Documents to the contrary, the Construction Manager shall not be entitled to additional compensation for any delay or disruption to the Work arising from any conflict between the mechanical, electrical, and plumbing systems with each other, or with the structural or architectural components of the Project if such conflicts could have been discovered by the Construction Manager through the exercise of reasonable diligence and the Owner and Architect were not informed of such conflicts as required by

Section 2.1.2.1. Provided, however, that this provision shall apply only with respect to conflicts appearing in the Drawings and Specifications provided for the Construction Manager's review prior to proposal of a Guaranteed Maximum Price.

5. Section 2.1.3 is hereby amended by deleting said provision in its entirety and replacing such provision with the following provision:

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall coordinate with the Project schedule already developed by the Architect. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

6. Section 2.1.5.2 is hereby amended in part by adding the phrase "to reduce the cost and/or maintain the budget" at the end of the final sentence of that section.

7. Section 2.1.6 is hereby amended by deleting section 2.1.6 in its entirety and replacing it with a new section 2.1.6 to read as follows:

§ 2.1.6 The Construction Manager shall seek to develop subcontractor and supplier interest in the Project. All subcontracts shall be awarded pursuant to the procedures set forth in Section 2.3.2.1.

8. Section 2.1.8 is hereby amended in part by adding the following language to the end of that section:

The Construction Manager shall certify to the Owner that the facility, to the best of his knowledge, has been constructed in accordance with the Architect's construction documents. The certification shall be in a form which is acceptable to the Owner and Architect.

9. Section 2.2.1 is hereby amended by deleting section 2.2.1 in its entirety and replacing it with a new section 2.2.1 to read as follows:

> § 2.2.1 When the Construction Drawings and Specifications are between seventy-five percent (75%) and one hundred percent (100%) complete, the Construction Manager shall propose a Guaranteed Maximum Price, including contingencies as described in Section 2.2.4, which shall be the sum of the estimated Cost of the Work and the Construction Manager's fee. The Guaranteed Maximum Price shall be proposed no later than 30 days after requested by the Owner.

10. Section 2.2.2 is hereby deleted in its entirety.

11. Subsection .2 of section 2.2.3 is hereby amended by deleting said subsection in its entirety and replacing it with a new subsection .2 to read as follows:

> .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal.

12. Subsection .5 of section 2.2.3 is hereby amended by deleting said subsection in its entirety and replacing it with a new subsection .5 to read as follows:

> .5 A date by which the Owner must accept the Guaranteed Maximum Price, but in any event not less than sixty (60) days after submission of the Guaranteed Maximum Price;

13. Section 2.2.3 is hereby amended by adding a new subsection .6 to read as follows:

> .6 A statement that the proposed Guaranteed Maximum Price is not based in any part on any subcontract or material supply contract which would require the Owner to compensate the Construction Manager on other than a fixed fee basis; and

14. Section 2.2.3 is hereby amended by adding a new subsection .7 to read as follows:

> .7 If Owner requests, Construction Manager shall make available for inspection the background documents and

information that form the basis of the Construction Manager's Guaranteed Maximum Price proposal.

15. Section 2.2.4 is hereby deleted in its entirety.

16. Section 2.2.5 is hereby amended by adding the following sentence at the end of section 2.2.5 to read as follows:

> The Owner shall be allowed not less than sixty (60) days after receipt to review and take action on the Construction Manager's Guaranteed Maximum Price proposal.

17. Section 2.2.9 is hereby amended by deleting section 2.2.9 in its entirety and replacing it with a new Section 2.2.9 to read as follows:

> § 2.2.9 The Guaranteed Maximum Price shall include no amount for sales or use taxes for which Texas municipal corporations are exempt and for which the Owner has timely provided to the Construction Manager an appropriate tax exemption certificate or other required verification of the Owner's tax-exempt status. Such taxes shall not be reimbursable costs under Article 6.

18. Section 2.3.1.1 is hereby amended by deleting section 2.3.1.1 in its entirety and replacing it with a new section 2.3.1.1 to read as follows:

> § 2.3.1.1 The Construction Phase shall commence upon the issuance to the Construction Manager of the Notice to Proceed for all or a portion of the Work.

19. Section 2.3.1.2 is hereby amended by deleting section 2.3.1.2 in its entirety and replacing it with a new section 2.3.1.2 to read as follows:

> § 2.3.1.2 The Contract Time shall be measured from the date of commencement of the Construction Phase.

20. Section 2.3.1 is hereby amended by adding a new section 2.3.1.3 and a new section 2.3.1.4 to read as follows:

> § 2.3.1.3 The Construction Manager shall achieve Substantial Completion of the entire Work not later than the date set out in the Agreement, subject to adjustment of this Contract Time as provided in the Contract Documents.

§ 2.3.1.4 The Construction Manager and the Construction Manager's surety shall be liable for and shall pay to the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the Work is substantially complete: Five Hundred and No/One Hundredths Dollars ($ 500.00) per day or part of a day.

21. Section 2.3.2.1 is hereby amended by deleting section 2.3.2.1 in its entirety and replacing it with a new section 2.3.2.1 to read as follows:

§ 2.3.2.1 All portions of the Work, other than minor work, site clean-up, etc. ("General Conditions"), shall be performed by trade contractors or subcontractors, including the Construction Manager, who have been selected using competitive bids or competitive sealed proposals. With the Owner's approval, the Construction Manager shall publicly advertise and solicit either competitive bids or competitive sealed proposals in accordance with the policies and procedures approved by Owner. The Construction Manager shall include specific notices of the following statutory requirements in the information to bidders:

.1 The successful bidder's responsibility to provide workers' compensation insurance in accordance with Texas Labor Code Chapter 406;

.2 The successful bidder's responsibility to pay prevailing wages pursuant to Texas Government Code Chapter 2258; and,

.3 A notice of the sales tax exemption for the Project and the procedure for obtaining any required exemption verification or certificates.

Nothing herein shall prevent the Construction Manager from including other notices required or allowed by law. On all portions of the Work for which the Construction Manager does not submit a bid or proposal, the Construction Manager and the Owner shall receive and open all trade contractor and subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process. On any portion of the Work for which the Construction Manager submits a bid or proposal, the Owner shall receive and open the trade contractors',

subcontractors' and Construction Manager's bids or proposals, but shall not disclose the contents of the bids or proposals until the selection process therefore is completed. All bids or proposals shall be made public within seven (7) days after the date of final selection.

22. Section 2.3.2.2 is hereby amended by deleting section 2.3.2.2 in its entirety and replacing it with a new section 2.3.2.2 to read as follows:

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, and (4) offers the best value to the Owner, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

23. Section 2.3.2 is hereby amended by adding a new section 2.3.2.9 a new section 2.3.2.10, and a new section 2.3.2.11 to read as follows:

§2.3.2.9 Liquidated Damages for Failure to Complete on Time.

North Central Texas Council of Governments ("NCTCOG") Specifications Item 108.8, Delays; Extension of Time; Liquidated Damages shall apply, except to the extent it is conflict with, or is otherwise amended by, this Section 2.3.2. The Construction Manager understands and agrees that time is of the essence in performing and completing the Work. The Owner and Construction Manager acknowledge that the actual damages the Owner may sustain if the Construction Manager fails to complete the Work on time are uncertain and will be difficult to ascertain. Consequently, the Construction Manager agrees to pay to the Owner the sum of Five Hundred and No/One Hundredths Dollars ($ 500.00) for each calendar day or part of a calendar day that

completion of any Work required under the Contract Documents is overdue. This amount is payable as reasonable and just compensation for failure to complete the Work on time. This amount is payable as liquidated damages and not as a penalty.

§2.3.2.10 Delays: Extension of Time: Liquidated Damages

In addition to the requirements of NCTCOG Specifications Item 108.8 Delays; Extension of Time; Liquidated Damages, the following provisions shall be applied to Item 108.8 and be incorporated in to the NCTCOG Specifications as Item 108.8.2:

108.8.2 Unforeseeable Cause

The term "unforeseeable cause" as it is used in Item 108.8 shall mean:

1. An act of God in the form of unusually severe weather conditions, including storms, flood, fire or similar event, that could not have been anticipated or guarded against and which materially affects the Work site, including access or egress thereto;

2. A riot or war situation actually involving the site or actually preventing the Construction Manager from working on the site, but not including any situation involving suppliers off-site other than those essential suppliers as supplied to OWNER;* or

3. An unanticipated strike involving the forces actually working on the Project or involving the employees of those essential suppliers,* but no other labor stoppage.

" The Construction Manager must identify its essential suppliers in writing within five (5) business days of the Notice to Proceed. Any suppler that is not so identified shall not be considered an essential supplier justifying an extension of time for a delay caused by an Unforeseeable Cause.

No event shall be deemed an Unforeseeable Cause for the purposes of this Agreement unless it actually and directly necessitates a delay in the Work which could not be otherwise remedied by taking reasonably prudent steps, and the Construction Manager could not reasonably adjust the schedule of the remaining Work to deal with, make up for, or otherwise work around the delays resulting from the Unforeseeable Cause(s).

§2.3.2.11 Claims for Additional Time.

The Construction Manager shall be entitled to an extension of the contract time for delays or disruptions due to unusually severe weather in excess of that normally experienced at the job site only as determined from climatological data set forth in this subsection. Rainy days shall not be considered an abnormal or adverse weather condition for which an extension of time will be granted unless and except in those months during which the actual cumulative number of rainy days within the month exceed the historical average cumulative number of rainy days for said month, provided that the rainfall prevented the execution of major items of work on normal working days. A rain day is defined as a day when rainfall exceeds one-tenth (.25) inch during a twenty-four (24) hour period. The historical number of Weather Days per calendar month is as follows, based upon regional weather data from the National Oceanic & Atmospheric Administration (Dallas FAA Airport, TX Weather Forecast Station):

Average Weather Days per Month

Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.
3	2	3	2	4	3	3	2	3	3	2	2

The number of rain days shown in the Rainfall Table for the first and last months of this Agreement will be prorated in determining the total number of rain days expected during the period of this Agreement. Time extensions may also be granted for any day following a period of precipitation during which muddy conditions exist and prevent performance of major items of work conducted on normal working days, which muddy conditions are subject to confirmation by the Owner.

Requests for an extension of time pursuant to this subsection shall be promptly submitted to the Owner and no later than fourteen (14) days after the event(s) giving rise to such claim. The notice shall, in writing, specify the nature and duration of the delays or disruptions and the anticipated effect such weather days will have on the Construction Manager's abilities to perform its obligations along with a plan to deal with the effects of such

weather days and proposed amendments to all affected schedules and the Gantt Chart necessarily resulting therefrom. Failure to timely submit a complete notice of claim for delays and extension of time for completion due to abnormal or adverse weather conditions or rainy days pursuant to this subsection shall result in the denial of a request for extra time for performance under the Contract Documents. In the event of such failure, no adjustment shall be made to the Guaranteed Maximum Price, and the Construction Manager shall not be entitled to claim or receive any additional compensation as a result of or arising out of any delay resulting in the adjustment of the working time, due to any of the factors outlined within this subsection.

Construction Manager shall be compensated for additional general conditions associated with time extensions. Additional cost to be submitted with request for time extension.

24. Section 2.4 is hereby amended by deleting section 2.4 in its entirety and replacing it with a new section 2.4 to read as follows:

§ 2.4 Professional Services

Section 3.12.10 of the A201—2007 Documents shall apply to both the Preconstruction and Construction Phases.

25. Section 2.5 is hereby amended by deleting section 2.5 in its entirety and replacing it with a new section 2.5 to read as follows:

§ 2.5 Hazardous Materials

The Construction Manager shall have no responsibility for the handling, removal, or disposal or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB), lead paint, or other

hazardous materials. The Construction Manager shall have no responsibility to initially discover the presence of such hazardous materials on the Project site, but shall have an affirmative duty to immediately report to the Owner the existence of such materials actually known by the Construction Manager or the Construction Manager's consultants to be present on the Project site. Provided, however, that these limitations shall not apply if the Construction Manager places or allows such hazardous materials to be placed on the Project site.

26. A new section 2.6 is hereby added following section 2.5 to read as follows:

§2.6 The Construction Manager shall be responsible for all construction surveys and staking. Dimensions of Work shall not be determined by scale or rule, but figured dimensions shall be followed at all times. The Construction Manager shall compare all drawings and verify all dimensions, and shall take any and all measurements necessary to verify the Drawing dimensions in relation to conditions already established at the Project site before laying out the Work. Any discrepancy will be immediately called to the attention of the Architect and Owner by the Construction Manager. The Construction Manager will be held responsible for subsequent errors which could have been avoided.

27. Section 3.1.2 is hereby deleted in its entirety.

28. Section 3.1.3 is hereby deleted in its entirety.

29. Section 3.2 is hereby amended by deleting section 3.2 in its entirety and replacing it with a new section 3.2 to read as follows:

> § 3.2 Owner's Designated Representative
>
> The Owner is the Town of Prosper, Texas, acting by and through its Town Council, and is referred to throughout the Contract Documents as if singular in number. The Owner may designate in writing one or more persons to represent the Owner; however, such representatives shall have the authority to bind the Owner only to the extent expressly authorized by the Owner and shall have no implied authority.

30. Section 3.2.1 is hereby deleted in its entirety.

31. Section 3.3 is hereby amended by deleting section 3.3 in its entirety and replacing it with a new section 3.3 to read as follows:

> § 3.3 Architect
>
> The Construction Manager's services shall be provided in conjunction with the services of an Architect retained by the Owner. The terms of the agreement between the Owner and the Architect shall be available for inspection by the Construction Manager upon request.

32. A new section 3.4 is hereby added following section 3.3 to read as follows:

> §3.4 Inspection and Testing
>
> The Owner shall provide or contract for, independently of the Construction Manager, the inspection services, the testing of construction materials engineering and the verification testing services necessary for acceptance of the Work by the Owner.

33. Section 4.1.2 is hereby amended by inserting the following language in the space, provided for such purpose, following the parenthetical at the end of section 4.1.2:

> Compensation for the services described in Sections 2.1 and 2.2 shall be included in the compensation described in Section 5.1, provided however, if the Construction Phase does not commence for any reason, the Construction

Manager's compensation for the services described in Sections 2.1 and 2.2 shall be a total amount not to exceed Twenty Thousand And No/One Hundredths Dollars ($20,000.00).

34. Section 4.1.3 is hereby amended by inserting the following phrase in the corresponding spaces provided for such purpose between the phrase "extend beyond" and the phrase "months of' in section 4.1.3:

"Twelve (12) calendar"

35. Section 4.2.2 is hereby amended by deleting section 4.2.2 in its entirety and replacing it with a new section 4.2.2 to read as follows:

§ 4.2.2 Payments are due and payable 30 days from the date the Construction Manager's application for payment, approved by the Architect, is received by the Owner. Past due payments shall bear interest in accordance with the Texas Prompt Payment Act. No interest shall ever be due on any disputed amounts.

36. Section 5.1.1 is hereby amended by deleting section 5.1.1 in its entirety and replacing it with a new section 5.1.1 to read as follows:

The Construction Manager's fee shall be based on One and Forty-Nine/One Hundredths (1.49%) of the actual Cost of the Work as defined in Article 6 and less any applicable discounts, rebates, refunds and other amounts received from the sale of surplus materials and equipment.

37. Section 5.1.2 is hereby amended by deleting section 5.1.2 in its entirety and replacing it with a new section 5.1.2 to read as follows:

§ 5.1.2 The method of adjustment of the Construction Manager's Fee for changes in the Work shall be by formal written Change Order approved by the Owner.

38. Section 5.1.3 is hereby amended by deleting section 5.1.3 in its entirety and replacing it with a new section 5.1.3 to read as follows:

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work shall be no more than ten percent (10%) of the

subcontractor's cost, for overhead, and shall be no more than five percent (5%) of the subcontractor's cost, for profit:

39. Section 5.1.4 is hereby amended by deleting section 5.1.4 in its entirety and replacing it with a new section 5.1.4 to read as follows:

§ 5.1.4 Rental rates for Construction Manager-owned equipment, save and except the Construction Manager's equipment costs identified in the Worksheet for the "Not-to-Exceed General Conditions Costs", shall not exceed a cumulative total of Twenty-Five Thousand and No/100 Dollars ($25,000.00).

40. Section 5.2.1 is hereby amended by deleting section 5.2.1 in its entirety and replacing it with a new section 5.2.1 to read as follows:

§ 5.2.1 The Construction Manager guarantees that the Contract Sum for the entire Work shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner. However, the price for any line item in the Scope of Work may exceed the amount stated at no additional cost to the Construction Manager, so long as the Cost of Work for the entire Work does not exceed the Guaranteed Maximum Price for the entire Work. In case of any "buy out" transaction or agreement by the Construction Manager with a subcontractor for the subcontractor's cost of its portion of the Work, then such savings shall be shared with the Owner in the following percentages: one hundred percent (100%) to Owner, zero percent (0%) to Construction Manager. Said savings shall be memorialized by appropriate change order. Documentation regarding such "buy out" transactions/agreements shall be subject to the Owner's audit and inspection rights set forth in §6.11. Buy out agreements do not include agreements between Contractor and its subcontractors by which Contractor advances fees to Subcontractors (for, among other reasons, expediting performance of work and delivery of waivers of lien) prior to payment for the services by the Owner.

41. Section 5.3.1 is hereby amended by deleting section 5.3.1 in its entirety and replacing it with a new section 5.3.1 to read as follows:

> § 5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of the A201—2007 Documents. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

42. Section 5.3.2 is hereby amended by replacing the phrase "AIA Document A201—2007, General Conditions of the Contract for Construction" with the phrase "the A201—2007 Documents."

43. Section 5.3.3 is hereby amended by deleting section 5.3.3 in its entirety and replacing it with a new section 5.3.3 to read as follows:

> § 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of the AIA A201—2007 Documents and the term "costs" as used in Section 7.3.7 of the AIA A201—2007 Documents shall have the meanings assigned to them in the AIA A201—2007 Documents and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts subject to the written approval of the Owner.

44. Section 5.3.4 is hereby amended by deleting Section 5.3.4 in its entirety and replacing it with a new Section 5.3.4 to read as follows:

> § 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of the AIA A201-2007 Documents shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

45. Section 5.3.5 is hereby amended by deleting Section 5.3.5 in its entirety and replacing it with a new Section 5.3.5 to read as follows:

> § 5.3.5 In the case of changes in the Work, the fee will be adjusted as provided for in Section 5.1.1, if both parties agree that the scope of services has changed significantly. No change in the Work, whether by way of alteration or addition to the Work, shall be the basis of an addition to the Guaranteed Maximum Price or a change in the Contract Time unless and until such alteration or addition has been authorized by a change order executed and issued in accordance with and in strict compliance with the requirements of the Contract Documents. This requirement is of the essence of the Contract Documents. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that the Owner has been unjustly enriched by any alteration or addition to the Work, whether or not there is in fact any such unjust enrichment, shall be the basis for any claim to an increase in the Guaranteed Maximum Price or change in the Contract Time.

46. Section 6.2.4 is hereby amended by deleting Section 6.2.4 in its entirety and replacing it with a new Section 6.2.4 to read as follows:

> § 6.2.4 Costs paid or incurred by the Construction Manager for payroll taxes, insurance, and customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3, and provided that such costs are directly attributable to work performed on this Project only and provided further that such costs do not exceed thirty percent (30%) of such wages and salaries.

47. Section 6.2.5 is hereby deleted in its entirety.

48. Section 6.3 is hereby amended by deleting the last word "subcontracts" and replacing it with the phrase "Guaranteed Maximum Price Amendment."

49. Section 6.4.2 is hereby amended by deleting Section 6.4.2 in its entirety and replacing it with a new Section 6.4.2 to read as follows:

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Construction Manager's property at the completion of the Work and the actual cost of such excess materials as was originally billed to Owner shall be credited to the Owner as a deduction from the Cost of the Work.

50. Section 6.5 is hereby amended by deleting Sections 6.5.4, 6.5.5 and 6.5.6 in their entirety.

51. Section 6.6.1 is hereby amended by deleting Section 6.6.1 in its entirety and replacing it with a new Section 6.6.1 to read as follows:

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

52. Section 6.6.2 is hereby deleted in its entirety.

53. Section 6.6.4 is hereby amended by deleting the phrase "AIA Document A201—2007" at the end of the second line of said provision and replacing it with the phrase "A201-2007 Documents."

53.5 Section 6.6.5 is stricken after the first semicolon and a period is inserted in place of the semicolon. Section 6.6.5 now reads "Royalties and license fees paid for the use of the particular design, process or product required by the Contract Documents."

54. Sections 6.6.6 through 6.6.9 are hereby deleted in their entirety.

55. Section 6.7.2 is hereby amended by deleting the phrase "AIA Document A201—2007" at the end of the second line of said provision and replacing it with the phrase "A201-2007 Documents."

56. Sections 6.7.3 and 6.7.4 are hereby deleted in their entirety.

57. Section 6.8.1 is hereby amended by deleting the phrase "The Cost of the Work shall not include the items listed below" and replacing it with the phrase "The Cost of the Work shall exclude items including, but not limited to, those items listed below."

58. Section 6.8.1 is hereby amended, in part, by deleting Section 6.8.1.5 in its entirety and replacing it with a new Section 6.8.1.5 to read as follows:

§ 6.8.1.5 Costs due to the negligence of the Construction Manager, the Construction Manager's Subcontractors or suppliers, or the failure of the Construction Manager, the Construction Manager's Subcontractors or suppliers to fulfill a specific responsibility to the Owner set forth in this Agreement.

59. Section 6.9 is hereby amended, in part, by inserting the following provision as a new Section 6.9.3:

§ 6.9.3 Costs of inspections and testing of work ordered by the Contractor where the work was not performed or completed in accordance with the scheduling of such inspections and testing and the inspection or testing lab is not notified shall be credited to the Owner as a deduction from the Cost of the Work.

60. Section 7.1.3 is hereby amended by deleting Section 7.1.3 in its entirety and replacing it with a new Section 7.1.3 to read as follows:

§ 7.1.3 The Owner will pay an approved Application for Payment within thirty (30) days after the date such approved Application for Payment is received by the Owner from the Architect. Not withstanding the foregoing the Owner shall not be required to pay any disputed amounts that the Owner believes were erroneously approved by the Architect. Past due payments and any disputed amounts shall bear interest in accordance with the Texas Prompt Payment Act.

61. Section 7.1.5 is hereby amended by adding the following sentence to the end of this section to read as follows:

§7.1.5 Add the following at the end of this section: "Construction Manager shall use AIA Document G702 for Application and Certificate for Payments, and shall use AIA Document G703 for necessary continuation sheets related to AIA Document G702, or shall use such documents in a similar format approved by the Owner."

62. Section 7.1.7.3 is hereby amended by inserting the following phrase in the corresponding spaces, provided for such purpose, immediately after the phrase "less retainage of" in the first sentence of Section 7.1.7.3:

"Five percent (5%)."

63. Section 7.1.7.4 is hereby amended by inserting the following phrase in the corresponding spaces, provided for such purpose, immediately after the phrase "Subtract retainage of" in the first sentence of Section 7.1.7.4:

"Five percent (5%)."

64. A new section 7.1.11 is hereby added following section 7.1.10 to read as follows:

§7.1.11 In conjunction with any application for payment submitted by the Construction Manager, the Construction Manager shall comply with the release, lien waiver and other documentation requirements set forth in, but not limited to, AIA Document A201-2007, as amended, §9.3.3 and §9.10.2.

65. Section 7.2.2 is hereby amended by inserting the phrase ", as amended" immediately following the phrase "AIA Document A201—2007" found at the end of the second and third sentences of said section.

66. Section 7.2.3 is hereby amended by inserting the phrase ", as amended" immediately following the phrase "AIA Document A201—2007" found at the end of the first sentence of said section.

67. A new Section 7.2.6 is hereby added following Section 7.2.5 to read as follows:

§ 7.2.6 The Contract shall not have been fully performed until all work required by the Construction Documents including but not limited to the following have been performed:

.1 provision of record or as-built drawings executed or complete in ".tiff" format;

.2 provision of executed or complete certificates of documents evidencing warranties and owner-operators manuals;

.3 provision of all documents evidencing required testing, inspection, verification and other engineering or consulting services required under the construction contract;

.4 insuring agreements and bonds covering all periods of construction and any subsequent periods required under the contract.

68. Article 8, entitled "Insurance and Bonds, including all Sections thereof is hereby deleted in its entirety and replaced with a new Article 8 also entitled "Insurance and Bonds to read as follows:

For all phases of the Project, the Construction Manager shall purchase and maintain insurance and shall provide bonds in accordance with the Contract Documents and the Request for Proposals.

69. Article 9, entitled "Dispute Resolution," including all Sections thereof is hereby deleted in its entirety and replaced with a new Article 9 also entitled "Dispute Resolution" to read as follows:

All disputes arising out of this Agreement shall be resolved in accordance with the provisions of Article 15 of the A201-2007 Documents.

70. Article 10, entitled "Termination or Suspension," including all Sections and Subsections thereof is hereby deleted in its entirety and replaced with a new Article 10 also entitled "Termination or Suspension" to read as follows:

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Prior to execution by both parties of the Guaranteed Maximum Price Amendment, the Owner may terminate this agreement, with or without cause, at any time upon twenty-four hours notice. In the event such termination is for the convenience of the Owner, the Construction Manager shall be compensated for all Preconstruction Phase services actually performed prior to receipt of notice of termination, not to exceed the compensation set forth in Section 4.1.1.

§ 10.2 Following execution by both parties of the Guaranteed Maximum Price Amendment, the Owner may terminate this agreement, with or without cause, at any time. In the event such termination is for the convenience of the Owner, the Construction Manager shall be compensated for reasonable costs incurred prior to notice of termination, profits on only that portion of the work actually performed prior to termination, and reasonable demobilization costs.

9 10.3 Following execution by both parties of the Guaranteed Maximum Price Amendment, if the Project work is stopped for a period of ninety (90) days through no act or fault of the Construction Manager, then the Construction Manager may, upon ten additional days written notice to the Owner, terminate this agreement and recover from the Owner payment for all work actually performed, for any loss sustained upon any materials, equipment, tools, equipment, and machinery, and profits on only that portion of the work actually performed prior to termination. If the cause of the work stoppage is removed prior to the end of the ten day notice period, the Construction Manager may not terminate this agreement.

§ 10.4 The Owner or the Construction Manager may terminate this agreement for cause as provided in Article 14 of the A201-2007 Documents.

71. Section 11.1 is hereby amended, in part, by replacing the phrase "A201—2007" at the end of the sentence with the phrase "the A201-2007 Documents."

72. Section 11.2 is hereby amended, in part, by replacing the phrase "A201—2007" at the beginning of the sentence with the phrase "the A201-2007 Documents."

73. Section 11.3 is hereby amended, in part, by replacing the phrase "A201—2007" at the beginning of the sentence with the phrase "the A201-2007 Documents."

74. Sections 11.4 and 11.5 are hereby deleted in their entirety.

75. Section 12.1 is hereby amended, in part, by deleting the first sentence of said Section in its entirety.

II.

In the event of conflict in the language of the Agreement and this Addendum, the terms of this Addendum shall be final, controlling and binding upon the parties. Where a portion of the Agreement is not amended, replaced, modified and/or supplemented by this Addendum, the unaltered portions of the Agreement shall remain in full force and effect.

III.

This Addendum, when combined with the Agreement contains the entire agreement between Owner and Construction Manager with respect to the subject matter hereof, and except as otherwise provided herein cannot be modified without written agreement of the parties. Said Agreement shall be fully effective as written except that it shall be read as if the foregoing deletions, modifications and additions were incorporated therein word for word.

IV.

This Addendum and the Agreement are entered into subject to the Prosper Town Charter and ordinances of Town, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. Construction Manager will make any and all reports required per federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with Construction Manager's income. Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution.

V.

If any of the terms, provisions, covenants, conditions or any other part of this Addendum are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Addendum shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

VI.

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Addendum may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Addendum.

VII.

For purposes of this Addendum, including its intended operation and effect, the parties (Owner and Construction Manager) specifically agree and contract that: (1) the Addendum only affects matters/disputes between the parties to this Addendum, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with Owner or Construction Manager or both; and (2) the terms of this Addendum are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either Owner or Construction Manager.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

OWNER:

TOWN OF PROSPER, TEXAS

By: _____
Harlan Jefferson, Town Manager

Date Signed: _____

ATTEST:

_____
Melissa Lee, Town Secretary

APPROVED AS TO FORM:

_____
Terrence S. Welch, Town Attorney

CONSTRUCTION MANAGER:

POGUE CONSTRUCTION CO., LP
a Texas Limited Partnership, acting by and through Ben Pogue, its President/Chief Executive Officer

By: _____
Ben Pogue, President/Chief Executive Officer

Date Signed: 4.20.2021

THE STATE OF TEXAS,
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared Harlan Jefferson, Town Manager of the **TOWN OF PROSPER**, a Texas Municipal Corporation, known to me to be the person who's name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on the Town's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____
DAY OF _____, 20_____.

_____
Notary Public Denton County, Texas
My commission expires _____

THE STATE OF TEXAS,
COUNTY OF COLLIN

This instrument was acknowledged before me on the 25th day of April, 2021, by Ben Pogue, in his capacity as President/Chief Executive Officer of **Pogue Construction Co., LP**, a Texas Limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that Ben Pogue is the President/Chief Executive Officer of **Pogue Construction Co., LP**, a Texas Limited Partnership, and that he executed the same on behalf of and as the act of **Pogue Construction Co., LP.**

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 26th
DAY OF April, 2021.

DeAnna R Castaldo
Notary Public Collin County, TX
My commission expires 8.31.2024

AIA® Document A201® – 2007

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)
Town of Prosper
Public Safety Complex Phase 2 (Central Fire Station and Fire Administration)
911 Safety Way
Prosper, TX 75078

THE OWNER:
(Name, legal status and address)
Town of Prosper
250 W. First Street
Prosper, TX 75078

THE ARCHITECT:
(Name, legal status and address)
Brown Reynolds Watford Architects, INc. (BRW)
3535 Travis Street, Suite 250
Dallas, TX 75204

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

(Section amended)
See Paragraph No. 2 of Addendum to A201.

§ 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

(New Section added 1.1.9)
See Paragraph No. 1 of Addendum to A201.

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§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3

(Section amended)
See Paragraph No. 3 of Addendum to A201.

(New Section added 1.2.4)
See Paragraph No. 4 of Addendum to A201.

(New Section added 1.2.5)
See Paragraph No. 5 of Addendum to A201.

(New Section added 1.2.6)
See Paragraph No. 6 of Addendum to A201.

(New Section added 1.2.7)
See Paragraph No. 7 of Addendum to A201.

(New Section added 1.2.8)
See Paragraph No. 8 of Addendum to A201.

§ 1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.5.1 The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

(Section amended)
See Paragraph No. 9 of Addendum to A201.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

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(New Section added 1.5.3)
See Paragraph No. 10 of Addendum to A201.

§

(Section deleted)
See Paragraph No. 11 of Addendum to A201.

ARTICLE 2 OWNER
§ 2.1 GENERAL
§(Section amended)
See Paragraph No. 12 of Addendum to A201.

§(Section amended)
See Paragraph No. 13 of Addendum to A201.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER
§(Section deleted)
See Paragraph No. 14 of Addendum to A201.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.(Section amended)
See Paragraph No. 15 of Addendum to A201.

§(Section amended)
See Paragraph No. 16 of Addendum to A201.

§(Section amended)
See Paragraph No. 17 of Addendum to A201.

(New Section added 2.2.6)
See Paragraph No. 18 of Addendum to A201.

§

(Section amended)
See Paragraph No. 19 of Addendum to A201.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK
If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

(Section amended)
See Paragraph No. 20 of Addendum to A201.

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ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§

(Section amended)
See Paragraph No. 21 of Addendum to A201.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

(New Section added 3.1.4)
See Paragraph No. 22 of Addendum to A201.

(New Section added 3.1.5)
See Paragraph No. 23 of Addendum to A201.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

(Section amended)
See Paragraph No. 24 of Addendum to A201.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

(Section amended)
See Paragraphs No. 25 and No. 26 of Addendum to A201.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.(Section amended)
See Paragraph No. 27 of Addendum to A201.

(New Section added 3.2.5)
See Paragraph No. 28 of Addendum to A201.

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§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect.(Section amended)
See Paragraph No. 29 of Addendum to A201.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

(New Section added 3.3.4)
See Paragraph No. 30 of Addendum to A201.

(New Section added 3.3.5)
See Paragraph No. 31 of Addendum to A201.

(New Section added 3.3.6)
See Paragraph No. 32 of Addendum to A201.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

(New Section added 3.4.1.1)
See Paragraph No. 33 of Addendum to A201.

(New Section added 3.4.1.2)
See Paragraph No. 34 of Addendum to A201.

(New Section added 3.4.1.3)
See Paragraph No. 35 of Addendum to A201.

§(Section amended)
See Paragraph No. 36 of Addendum to A201.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

(Paragraph Deleted)

(Section amended)
See Paragraph No. 37 of Addendum to A201.

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(New Section added 3.4.4)
See Paragraph No. 38 of Addendum to A201.

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(Section amended)
See Paragraph No. 39 of Addendum to A201.

§

(Section amended)
See Paragraph No. 40 of Addendum to A201.

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS
§(Section amended)
See Paragraph No. 41 of Addendum to A201.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

(Section amended)
See Paragraph No. 42 of Addendum to A201.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.
(Section amended)
See Paragraph No. 43 of Addendum to A201.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

(New Section added 3.7.6)
See Paragraph No. 44 of Addendum to A201.

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§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

(Section amended)
See Paragraph No. 45 of Addendum to A201.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review.(Section amended)
See Paragraph No. 46 of Addendum to A201.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection.
(Section amended)
See Paragraph No. 47 of Addendum to A201.

(New Section added 3.9.4)
See Paragraph No. 48 of Addendum to A201.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§(Section amended)
See Paragraph No. 49 of Addendum to A201.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

(New Section added 3.10.4)
See Paragraph No. 50 of Addendum to A201.

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(New Section added 3.10.5)
See Paragraph No. 51 of Addendum to A201.

(New Section added 3.10.6)
See Paragraph No. 52 of Addendum to A201.

(New Section added 3.10.7)
See Paragraph No. 53 of Addendum to A201.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

(Section amended)
See Paragraph No. 54 of Addendum to A201.

(New Section added 3.11.2)
See Paragraph No. 55 of Addendum to A201.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

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§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

(Section amended)
See Paragraph No. 56 of Addendum to A201.

(New Section added 3.13.2)
See Paragraph No. 57 of Addendum to A201.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

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§ 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

(Section amended)
See Paragraph No. 58 of Addendum to A201.

§(Section amended)
See Paragraph No. 59 of Addendum to A201.

(New Section added 3.15.3)
See Paragraph No. 60 of Addendum to A201.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§(Section amended)
See Paragraph No. 61 of Addendum to A201.

§

(Section amended)
See Paragraph No. 62 of Addendum to A201.

(New Section added 3.18.3)
See Paragraph No. 63 of Addendum to A201.

(New Section added 3.18.4)
See Paragraph No. 64 of Addendum to A201.

(New Section added 3.18.5)
See Paragraph No. 65 of Addendum to A201.

ARTICLE 4 ARCHITECT

§ 4.1 GENERAL

§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

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§(Section amended)
See Paragraph No. 66 of Addendum to A201.

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

(Section amended)
See Paragraph No. 67 of Addendum to A201.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless

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otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(Section amended)
See Paragraph No. 68 of Addendum to A201.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§(Section amended)
See Paragraph No. 69 of Addendum to A201.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

(Section amended)
See Paragraph No. 70 of Addendum to A201.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings.(Section amended)
See Paragraph No. 71 of Addendum to A201.

§(Section amended)
See Paragraph No. 72 of Addendum to A201.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review.(Section amended)
See Paragraph No. 73 of Addendum to A201.

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§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and

(Section amended)
See Paragraph No. 74 of Addendum to A201.

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§

(Section amended)
See Paragraph No. 75 of Addendum to A201.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity,

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the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

(Section amended)
See Paragraph No. 76 of Addendum to A201.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§(Section deleted)
See Paragraph No. 77 of Addendum to A201.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

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ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

(New Section added 7.2.2)
See Paragraph No. 78 of Addendum to A201.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

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§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

.1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

(Section amended)
See Paragraph No. 79 of Addendum to A201.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the in accordance with Section 9.8.

(Section amended)
See Paragraph No. 80 of Addendum to A201.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

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§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§(Section amended)
See Paragraph No. 81 of Addendum to A201.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§(Section amended)
See Paragraph No. 82 of Addendum to A201.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest,.

(Section amended)

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See Paragraphs No. 83 and No. 84 of Addendum to A201.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

(Section amended)
See Paragraph No. 85 of Addendum to A201.

(New Section added 9.3.4)
See Paragraph No. 86 of Addendum to A201.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a separate contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- **.7** repeated failure to carry out the Work in accordance with the Contract Documents.

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§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

(Section amended)
See Paragraph No. 87 of Addendum to A201.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§(Section amended)
See Paragraph No. 88 of Addendum to A201.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§(Section amended)
See Paragraph No. 89 of Addendum to A201.

§ 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

(Section amended)
See Paragraph No. 90 of Addendum to A201.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

(Section amended)
See Paragraph No. 91 of Addendum to A201.

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(3B9ADA52)

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

(Section amended)
See Paragraph No. 92 of Addendum to A201.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

(Section amended)
See Paragraph No. 93 of Addendum to A201.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.(Section amended)
See Paragraph No. 94 of Addendum to A201.

(New Section added 9.8.6)
See Paragraph No. 95 of Addendum to A201.

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§(Section amended)
See Paragraph No. 96 of Addendum to A201.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§(Section amended)

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See Paragraph No. 97 of Addendum to A201.

§(Section amended)
See Paragraph No. 98 of Addendum to A201.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§

(Paragraph Deleted)

(Section amended)
See Paragraph No. 99 of Addendum to A201.

(Paragraph Deleted)

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

(New Section added 9.11)
See Paragraph No. 100 of Addendum to A201.

(New Section added 9.12)
See Paragraph No. 101 of Addendum to A201.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

(Section amended)
See Paragraph No. 102 of Addendum to A201.

(New Section added 10.1.2)
See Paragraph No. 103 of Addendum to A201.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

.1 employees on the Work and other persons who may be affected thereby;

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and

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.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§(Section amended)
See Paragraph No. 104 of Addendum to A201.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 HAZARDOUS MATERIALS
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§(Section amended)
See Paragraph No. 105 of Addendum to A201.

§

(Section deleted)
See Paragraph No. 106 of Addendum to A201.

§(Section amended)
See Paragraph No. 107 of Addendum to A201.

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(Section amended)
See Paragraph No. 108 of Addendum to A201.

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§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents,.

(Section amended)
See Paragraph No. 109 of Addendum to A201.

§ 10.4 EMERGENCIES
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS
§ 11.1 CONTRACTOR'S LIABILITY INSURANCE
§

(Paragraphs Deleted)

(Section amended)
See Paragraph No. 111 of

(Paragraph Deleted)

Addendum to A201.

(Paragraphs Deleted)

§

(Paragraph Deleted)

(Section amended)
See Paragraph No. 112 of Addendum to A201.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

(Section amended)
See Paragraph No. 113 of Addendum to A201.

§

(Section amended)

See Paragraph No. 114 of Addendum to A201.

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(Paragraphs Deleted)

(New Section added 11.1.5)
See Paragraph No. 115 of Addendum to A201.

(New Section added 11.1.6)
See Paragraph No. 116 of Addendum to A201.

§

(Section deleted)
See Paragraph No. 117 of Addendum to A201.

(Paragraphs Deleted)

(Section deleted)
See Paragraph No. 118 of Addendum to A201.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND
§

(Section amended)
See Paragraph No. 119 of Addendum to A201.

§

(Section amended)
See Paragraph No. 120 of Addendum to A201.

(New Section added 11.4.3)
See Paragraph No. 121 of Addendum to A201.

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(New Section added 11.4.4)
See Paragraph No. 122 of Addendum to A201.

(Paragraph Deleted)

(New Section added 11.4.5)

See Paragraph No. 123 of Addendum to A201.

(Paragraph Deleted)

(New Section added 11.4.6)
See Paragraph No. 124 of Addendum to A201.

(New Section added 11.4.7)
See Paragraph No. 125 of Addendum to A201.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

(Section amended)
See Paragraphs No. 126 and No. 127 of Addendum to A201.

§ 12.2.2.2 The for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

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(Section amended)
See Paragraph No. 128 of Addendum to A201.

§(Section amended)
See Paragraph No. 129 of Addendum to A201.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

(Section amended)
See Paragraph No. 130 of Addendum to A201.

(New Section added 12.2.6)
See Paragraph No. 131 of Addendum to A201.

(New Section added 12.2.7)
See Paragraph No. 132 of Addendum to A201.

(New Section added 12.2.8)
See Paragraph No. 133 of Addendum to A201.

(New Section added 12.2.9)
See Paragraph No. 134 of Addendum to A201.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§

(Section amended)
See Paragraph No. 135 of Addendum to A201.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

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(Section amended)
See Paragraph No. 136 of Addendum to A201.

§ 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§(Section amended)
See Paragraph No. 137 of Addendum to A201.

§(Section amended)
See Paragraph No. 138 of Addendum to A201.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§

(Section amended)
See Paragraph No. 139 of Addendum to A201.

§

(Section deleted)
See Paragraph No. 140 of Addendum to A201.

(New Section added 13.8)
See Paragraph No. 141 of Addendum to A201.

(New Section added 13.9)
See Paragraph No. 142 of Addendum to A201.

(New Section added 13.10)
See Paragraph No. 143 of Addendum to A201.

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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

(Section amended)
See Paragraph No. 144 of Addendum to A201.

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

(Section amended)
See Paragraph No. 145of Addendum to A201.

(Section deleted)
See Paragraph No. 146 of Addendum to A201.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§(Section amended)
See Paragraph No. 147 of Addendum to A201.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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(Paragraphs Deleted)

(Section amended)
See Paragraph No. 148 of Addendum to A201.

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§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- **.1** that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- **.2** that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- **.1** cease operations as directed by the Owner in the notice;
- **.2** take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- **.3** except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§(Section amended)
See Paragraph No. 149 of Addendum to A201.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§

(Section amended)
See Paragraph No. 150 of Addendum to A201.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

(Section amended)

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See Paragraph No. 151 of Addendum to A201.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work.(Section amended)
See Paragraph No. 152 of Addendum to A201.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

(Section amended)
See Paragraph No. 153 of Addendum to A201.

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§(Section amended)
See Paragraph No. 154 of Addendum to A201.

§(Section amended)
See Paragraph No. 155 of Addendum to A201.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished.

(Section amended)
See Paragraph No. 156 of Addendum to A201.

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(Section amended)
See Paragraph No. 157 of Addendum to A201.

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(Section deleted)
See Paragraph No. 158 of Addendum to A201.

(Paragraph Deleted)

(Section deleted)
See Paragraph No. 159 of Addendum to A201.

(Section deleted)
See Paragraph No. 160 of Addendum to A201.

(Section deleted)
See Paragraph No. 161 of Addendum to A201.

(New Section added 15.2.9)
See Paragraph No. 162 of Addendum to A201.

§

(Paragraph Deleted)

(Section amended)
See Paragraph No. 163 of Addendum to A201.

(New Sections added 15.3.4 and 15.3.5)
See Paragraph No. 164 of Addendum to A201.

§

(Paragraphs Deleted)

(Section deleted)
See Paragraph No. 165 of Addendum to A201.

§
(Paragraph Deleted)

(Section deleted)
See Paragraph No. 166of Addendum to A201.

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PAGE 1

Town of Prosper
Public Safety Complex Phase 2 (Central Fire Station and Fire Administration)
911 Safety Way
Prosper, TX 75078

...

Town of Prosper
250 W. First Street
Prosper, TX 75078

...

Brown Reynolds Watford Architects, INc. (BRW)
3535 Travis Street, Suite 250
Dallas, TX 75204

PAGE 9

ARTICLE 1 GENERAL PROVISIONS

...

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. ~~The Contract may be amended or modified only by a Modification.~~ The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

...

(Section amended)

...

See Paragraph No. 2 of Addendum to A201.

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...

(New Section added 1.1.9)

...

See Paragraph No. 1 of Addendum to A201.

PAGE 10

§ 1.2.3 ~~Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.~~

...

(Section amended)

...

See Paragraph No. 3 of Addendum to A201.

...

(New Section added 1.2.4)

...

See Paragraph No. 4 of Addendum to A201.

...

(New Section added 1.2.5)

...

See Paragraph No. 5 of Addendum to A201.

...

(New Section added 1.2.6)

...

See Paragraph No. 6 of Addendum to A201.

...

(New Section added 1.2.7)

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See Paragraph No. 7 of Addendum to A201.

...

(New Section added 1.2.8)

...

See Paragraph No. 8 of Addendum to A201.

...

§ 1.5.1 ~~The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights.~~ The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

...

(Section amended)

...

See Paragraph No. 9 of Addendum to A201.

PAGE 11

(New Section added 1.5.3)

...

See Paragraph No. 10 of Addendum to A201.

...

~~**§1.6 TRANSMISSION OF DATA IN DIGITAL FORM**~~

...

(Section deleted)

...

~~If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.~~See Paragraph No. 11 of Addendum to A201.

...

~~**§2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred~~ (Section amended)

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~~to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.~~See Paragraph No. 12 of Addendum to A201.

...

~~§2.1.2~~ ~~The Owner shall furnish to the Contractor within fifteen days after receipt~~ (Section amended)

...

~~of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.~~See Paragraph No. 13 of Addendum to A201.

...

~~§2.2.1~~ ~~Prior to commencement~~ (Section deleted)

...

~~of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.~~ See Paragraph No. 14 of Addendum to A201.

...

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site.~~The Contractor shall be entitled to rely on the accuracy~~ (Section amended)

...

~~of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.~~See Paragraph No. 15 of Addendum to A201.

...

~~§2.2.4~~ ~~The Owner shall furnish information or services required~~ (Section amended)

...

~~of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.~~See Paragraph No. 16 of Addendum to A201.

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~~§2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish~~ (Section amended)

...

~~to the Contractor one copy~~ See Paragraph No. 17 of Addendum to A201.

...

(New Section added 2.2.6)

...

~~of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.~~See Paragraph No. 18 of Addendum to A201.

...

~~§2.3 OWNER'S RIGHT TO STOP THE WORK~~

...

(Section amended)

...

~~If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.~~See Paragraph No. 19 of Addendum to A201.

...

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~ten-day period~~ after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. ~~Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect.~~ If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

...

(Section amended)

...

See Paragraph No. 20 of Addendum to A201.

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~~**§3.1.2** The Contractor shall perform the Work in accordance with the Contract Documents.~~

...

(Section amended)

...

See Paragraph No. 21 of Addendum to A201.

...

(New Section added 3.1.4)

...

See Paragraph No. 22 of Addendum to A201.

...

(New Section added 3.1.5)

...

See Paragraph No. 23 of Addendum to A201.

...

(Section amended)

...

See Paragraph No. 24 of Addendum to A201.

...

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. ~~These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require.~~ It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

...

(Section amended)

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See Paragraphs No. 25 and No. 26 of Addendum to A201.

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§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. ~~If the Contractor performs those obligations, the Contractor shall not be liable~~ (Section amended)

...

~~to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities~~ See Paragraph No. 27 of Addendum to A201.

...

(New Section added 3.2.5)

...

~~of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.~~ See Paragraph No. 28 of Addendum to A201.

PAGE 13

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. ~~If the Contractor is then instructed~~ (Section amended)

...

~~to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.~~ See Paragraph No. 29 of Addendum to A201.

...

(New Section added 3.3.4)

...

See Paragraph No. 30 of Addendum to A201.

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(New Section added 3.3.5)

...

See Paragraph No. 31 of Addendum to A201.

...

(New Section added 3.3.6)

...

See Paragraph No. 32 of Addendum to A201.

...

(New Section added 3.4.1.1)

...

See Paragraph No. 33 of Addendum to A201.

...

(New Section added 3.4.1.2)

...

See Paragraph No. 34 of Addendum to A201.

...

(New Section added 3.4.1.3)

...

See Paragraph No. 35 of Addendum to A201.

...

~~§3.4.2 Except in the case~~ (Section amended)

...

~~of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.~~See Paragraph No. 36 of Addendum to A201.

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~~§ 3.5 WARRANTY~~

...

(Section amended)

...

~~The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be~~ See Paragraph No. 37 of Addendum to A201.

PAGE 14

(New Section added 3.4.4)

...

~~of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements~~ See Paragraph No. 38 of Addendum to A201.

...

~~§~~

...

(Section amended)

...

~~of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.~~See Paragraph No. 39 of Addendum to A201.

...

~~§3.6 TAXES~~

...

(Section amended)

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~~The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.~~See Paragraph No. 40 of Addendum to A201.

...

~~§3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion~~ (Section amended)

...

~~of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.~~See Paragraph No. 41 of Addendum to A201.

...

(Section amended)

...

See Paragraph No. 42 of Addendum to A201.

...

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in ~~no event later than 21 days after first observance~~ of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

...

(Section amended)

...

See Paragraph No. 43 of Addendum to A201.

...

(New Section added 3.7.6)

...

See Paragraph No. 44 of Addendum to A201.

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PAGE 15

(Section amended)

...

See Paragraph No. 45 of Addendum to A201.

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§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. ~~Failure~~ (Section amended)

...

~~of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.~~ See Paragraph No. 46 of Addendum to A201.

...

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. ~~The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.~~

...

(Section amended)

...

See Paragraph No. 47 of Addendum to A201.

...

(New Section added 3.9.4)

...

See Paragraph No. 48 of Addendum to A201.

...

~~**§3.10.1** The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions~~ (Section amended)

...

~~of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.~~ See Paragraph No. 49 of Addendum to A201.

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...

(New Section added 3.10.4)

...

See Paragraph No. 50 of Addendum to A201.

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(New Section added 3.10.5)

...

See Paragraph No. 51 of Addendum to A201.

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(New Section added 3.10.6)

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See Paragraph No. 52 of Addendum to A201.

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(New Section added 3.10.7)

...

See Paragraph No. 53 of Addendum to A201.

...

(Section amended)

...

See Paragraph No. 54 of Addendum to A201.

...

(New Section added 3.11.2)

...

See Paragraph No. 55 of Addendum to A201.

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(Section amended)

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See Paragraph No. 56 of Addendum to A201.

...

(New Section added 3.13.2)

...

See Paragraph No. 57 of Addendum to A201.

PAGE 18

(Section amended)

...

See Paragraph No. 58 of Addendum to A201.

...

~~**§3.15.2** If the Contractor fails~~ (Section amended)

...

~~to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled~~ See Paragraph No. 59 of Addendum to A201.

...

(New Section added 3.15.3)

...

~~to reimbursement from the Contractor.~~See Paragraph No. 60 of Addendum to A201.

...

~~**§3.18.1** To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees~~ (Section amended)

...

~~of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out~~ See Paragraph No. 61 of Addendum to A201.

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(Section amended)

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~~of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction~~ See Paragraph No. 62 of Addendum to A201.

...

(New Section added 3.18.3)

...

~~of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions~~ See Paragraph No. 63 of Addendum to A201.

...

(New Section added 3.18.4)

...

~~of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.~~See Paragraph No. 64 of Addendum to A201.

...

~~**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee~~ (New Section added 3.18.5)

...

~~of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.~~See Paragraph No. 65 of Addendum to A201.

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~~**§4.1.3** If the employment~~ (Section amended)

...

~~of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.~~See Paragraph No. 66 of Addendum to A201.

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(Section amended)

...

See Paragraph No. 67 of Addendum to A201.

PAGE 20

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, ~~but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.~~ The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

...

(Section amended)

...

See Paragraph No. 68 of Addendum to A201.

...

~~**§4.2.9** The Architect will conduct inspections to determine the date or dates~~ (Section amended)

...

~~of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.~~See Paragraph No. 69 of Addendum to A201.

...

§ 4.2.11 ~~The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor.~~ The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

...

(Section amended)

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...

See Paragraph No. 70 of Addendum to A201.

...

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. ~~When making such interpretations and decisions, the Architect will endeavor~~ (Section amended)

...

~~to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.~~See Paragraph No. 71 of Addendum to A201.

...

~~**§4.2.13** The Architect's decisions on matters relating~~ (Section amended)

...

~~to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.~~See Paragraph No. 72 of Addendum to A201.

...

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. ~~Failure~~ (Section amended)

...

~~of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.~~See Paragraph No. 73 of Addendum to A201.

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.1 assignment is effective only after termination of the Contract by the Owner ~~for cause pursuant to Section 14.2~~ and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and

...

(Section amended)

...

See Paragraph No. 74 of Addendum to A201.

...

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~~§5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.~~

...

(Section amended)

...

See Paragraph No. 75 of Addendum to A201.

PAGE 22

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to ~~these including those portions related to insurance and waiver of subrogation.~~ these. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

...

(Section amended)

...

See Paragraph No. 76 of Addendum to A201.

...

~~§6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related~~ (Section deleted)

...

~~to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.~~See Paragraph No. 77 of Addendum to A201.

PAGE 23

(New Section added 7.2.2)

...

See Paragraph No. 78 of Addendum to A201.

PAGE 24

§ 7.3.8 ~~The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect.~~ When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

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...

(Section amended)

...

See Paragraph No. 79 of Addendum to A201.

...

§ 8.1.3 The date of Substantial Completion is the date certified by the ~~Architect~~ in accordance with Section 9.8.

...

(Section amended)

...

See Paragraph No. 80 of Addendum to A201.

PAGE 25

~~**§8.3.1** If the Contractor is delayed at any time in the commencement or progress~~ (Section amended)

...

~~of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.~~ See Paragraph No. 81 of Addendum to A201.

...

~~**§8.3.3** This Section 8.3 does not preclude recovery~~ (Section amended)

...

~~of damages for delay by either party under other provisions of the Contract Documents.~~See Paragraph No. 82 of Addendum to A201.

...

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's ~~interest,~~ interest,.

...

(Section amended)

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~~and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.~~See Paragraphs No. 83 and No. 84 of Addendum to A201.

...

(Section amended)

...

See Paragraph No. 85 of Addendum to A201.

...

(New Section added 9.3.4)

...

See Paragraph No. 86 of Addendum to A201.

PAGE 27

(Section amended)

...

See Paragraph No. 87 of Addendum to A201.

...

~~**§9.6.2** The Contractor shall pay each Subcontractor no later than seven days after receipt~~ (Section amended)

...

~~of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.~~See Paragraph No. 88 of Addendum to A201.

...

~~**§9.6.7** Unless the Contractor provides the Owner with a payment bond in the full penal sum~~ (Section amended)

...

~~of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall~~

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~~entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.~~See Paragraph No. 89 of Addendum to A201.

...

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the ~~Architect or awarded by binding dispute resolution,~~ Architect, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

...

(Section amended)

...

See Paragraph No. 90 of Addendum to A201.

...

(Section amended)

...

See Paragraph No. 91 of Addendum to A201.

PAGE 28

(Section amended)

...

See Paragraph No. 92 of Addendum to A201.

...

(Section amended)

...

See Paragraph No. 93 of Addendum to A201.

...

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate.~~Upon such acceptance and consent~~ (Section amended)

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~~of surety, if any, the Owner shall make payment~~ See Paragraph No. 94 of Addendum to A201.

...

(New Section added 9.8.6)

...

~~of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.~~See Paragraph No. 95 of Addendum to A201.

...

~~**§9.9.3** Unless otherwise agreed upon, partial occupancy or use~~ (Section amended)

...

~~of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.~~See Paragraph No. 96 of Addendum to A201.

...

~~**§9.10.1** Upon receipt~~ (Section amended)

PAGE 29

~~of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.~~See Paragraph No. 97 of Addendum to A201.

...

~~**§9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows~~ (Section amended)

...

~~of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond~~

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~~satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.~~See Paragraph No. 98 of Addendum to A201.

...

~~**§9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from~~

...

~~.1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;~~

...

(Section amended)

...

~~.2 failure of the Work to comply with the requirements of the Contract Documents; or~~See Paragraph No. 99 of Addendum to A201.

...

~~.3 terms of special warranties required by the Contract Documents.~~

...

(New Section added 9.11)

...

See Paragraph No. 100 of Addendum to A201.

...

(New Section added 9.12)

...

See Paragraph No. 101 of Addendum to A201.

...

(Section amended)

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See Paragraph No. 102 of Addendum to A201.

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(New Section added 10.1.2)

...

See Paragraph No. 103 of Addendum to A201.

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~~**§10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any~~ (Section amended)

...

~~of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.~~See Paragraph No. 104 of Addendum to A201.

...

~~**§10.3.2** Upon receipt~~ (Section amended)

...

~~of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence~~ See Paragraph No. 105 of Addendum to A201.

...

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...

(Section deleted)

...

~~of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be~~

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~~increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.~~See Paragraph No. 106 of Addendum to A201.

...

~~**§10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees~~ (Section amended)

...

~~of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.~~See Paragraph No. 107 of Addendum to A201.

...

~~**§10.3.4** The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.~~

...

~~**§ 10.3.5** The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation~~ (Section amended)

...

~~of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.~~See Paragraph No. 108 of Addendum to A201.

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§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract ~~Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.~~Documents,.

...

(Section amended)

...

See Paragraph No. 109 of Addendum to A201.

...

~~**§11.1.1** The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under~~

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~~the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:~~

...

~~.1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;~~

...

~~.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;~~

...

(Section amended)

...

~~.3 Claims for damages because ofbodily injury, sickness or disease, or death of any person other than the Contractor's employees;~~See Paragraph No. 111 of

...

~~.4 Claims for damages insured by usual personal injury liability coverage;~~

...

~~.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;~~Addendum to A201.

...

~~.6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;~~

...

~~.7 Claims for bodily injury or property damage arising out of completed operations; and~~

...

§

...

~~.8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.~~

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...

~~§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits~~ (Section amended)

...

~~of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.~~See Paragraph No. 112 of Addendum to A201.

...

~~§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents~~ (Section amended)

...

~~to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.~~See Paragraph No. 113 of Addendum to A201.

...

~~§11.2 OWNER'S LIABILITY INSURANCE~~

...

(Section amended)

...

See Paragraph No. 114 of Addendum to A201.

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~~The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.~~

...

~~§ 11.3 PROPERTY INSURANCE~~

...

(New Section added 11.1.5)

...

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~~§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount~~ See Paragraph No. 115 of Addendum to A201.

...

(New Section added 11.1.6)

...

~~of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.~~See Paragraph No. 116 of Addendum to A201.

...

~~§11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.~~

...

~~§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all~~ (Section deleted)

...

~~of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.~~See Paragraph No. 117 of Addendum to A201.

...

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~~§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.~~

...

~~§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.~~

...

~~§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.~~

...

~~§ 11.3.2 BOILER AND MACHINERY INSURANCE~~

...

~~The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.~~

...

~~§ 11.3.3 LOSS OF USE INSURANCE~~

...

~~The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.~~

...

~~§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes~~ (Section deleted)

...

~~of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.~~See Paragraph No. 118 of Addendum to A201.

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...

~~§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.~~11.4 PERFORMANCE BOND AND PAYMENT BOND

...

~~§~~

...

~~§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy~~ (Section amended)

...

~~of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.~~See Paragraph No. 119 of Addendum to A201.

...

~~§11.3.7 WAIVERS OF SUBROGATION~~

...

(Section amended)

...

~~The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this~~ See Paragraph No. 120 of Addendum to A201.

...

~~Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds~~ (New Section added 11.4.3)

...

~~of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay~~

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~~the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.~~See Paragraph No. 121 of Addendum to A201.

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~~§ 11.3.8~~ ~~A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares~~ (New Section added 11.4.4)

...

~~of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.~~See Paragraph No. 122 of Addendum to A201.

...

~~§ 11.3.9~~ ~~If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.~~

...

(New Section added 11.4.5)

...

~~§ 11.3.10~~ ~~The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.~~See Paragraph No. 123 of Addendum to A201.

...

~~§ 11.4 PERFORMANCE BOND AND PAYMENT BOND~~

...

(New Section added 11.4.6)

...

~~§ 11.4.1~~ ~~The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.~~See Paragraph No. 124 of Addendum to A201.

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...

~~§ 11.4.2 Upon the request~~ (New Section added 11.4.7)

...

~~of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.~~See Paragraph No. 125 of Addendum to A201.

...

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, ~~within one year~~ after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the ~~one-year period~~ for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

...

(Section amended)

...

See Paragraphs No. 126 and No. 127 of Addendum to A201.

...

§ 12.2.2.2 The ~~one-year period~~ for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

PAGE 34

(Section amended)

...

See Paragraph No. 128 of Addendum to A201.

...

~~§12.2.2.3 The one-year period for correction~~ (Section amended)

...

~~of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.~~See Paragraph No. 129 of Addendum to A201.

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...

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the ~~one-year period~~ for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

...

(Section amended)

...

See Paragraph No. 130 of Addendum to A201.

...

(New Section added 12.2.6)

...

See Paragraph No. 131 of Addendum to A201.

...

(New Section added 12.2.7)

...

See Paragraph No. 132 of Addendum to A201.

...

(New Section added 12.2.8)

...

See Paragraph No. 133 of Addendum to A201.

...

(New Section added 12.2.9)

...

See Paragraph No. 134 of Addendum to A201.

...

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~~§13.1 GOVERNING LAW~~

...

(Section amended)

...

~~The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.~~See Paragraph No. 135 of Addendum to A201.

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~~§13.3 WRITTEN NOTICE~~

...

(Section amended)

...

~~Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.~~ See Paragraph No. 136 of Addendum to A201.

...

~~§13.5.1 Tests, inspections and approvals~~ (Section amended)

...

~~of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.~~See Paragraph No. 137 of Addendum to A201.

...

~~§13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions~~ (Section amended)

...

~~of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such~~

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~~procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.~~See Paragraph No. 138 of Addendum to A201.

...

~~§13.6 INTEREST~~

...

(Section amended)

...

~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~See Paragraph No. 139 of Addendum to A201.

...

~~§13.7 TIME LIMITS ON CLAIMS~~

...

(Section deleted)

...

~~The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach~~ See Paragraph No. 140 of Addendum to A201.

...

(New Section added 13.8)

...

~~of warranty or otherwise, against the other arising out~~ See Paragraph No. 141 of Addendum to A201.

...

(New Section added 13.9)

...

~~of or related to the Contract in accordance with the requirements~~ See Paragraph No. 142 of Addendum to A201.

...

(New Section added 13.10)

...

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~~of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.~~See Paragraph No. 143 of Addendum to A201.

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(Section amended)

...

See Paragraph No. 144 of Addendum to A201.

...

~~.4 The Owner has failed~~ (Section amended)

...

~~to furnish~~ See Paragraph No. 145of Addendum to A201.

...

(Section deleted)

...

~~to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.~~See Paragraph No. 146 of Addendum to A201.

...

~~§14.1.3 If one~~ (Section amended)

...

~~of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.~~ See Paragraph No. 147 of Addendum to A201.

...

~~§14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:~~

...

~~.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;~~

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...

~~.2 Accept assignment of subcontracts pursuant to Section 5.4; and~~

...

(Section amended)

...

~~.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.~~See Paragraph No. 148 of Addendum to A201.

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~~§14.4.3 In case~~ (Section amended)

...

~~of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.~~See Paragraph No. 149 of Addendum to A201.

...

~~**§15.1.2 NOTICE OF CLAIMS**~~

...

(Section amended)

...

~~Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.~~ See Paragraph No. 150 of Addendum to A201.

...

(Section amended)

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See Paragraph No. 151 of Addendum to A201.

...

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work.~~Prior notice is not required for Claims relating~~ (Section amended)

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~~to an emergency endangering life or property arising under Section 10.4.~~See Paragraph No. 152 of Addendum to A201.

...

(Section amended)

...

See Paragraph No. 153 of Addendum to A201.

...

~~**§15.2.1** Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation~~ (Section amended)

...

~~of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.~~See Paragraph No. 154 of Addendum to A201.

...

~~**§15.2.2** The Initial Decision Maker will review Claims and within ten days~~ (Section amended)

...

~~of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.~~ See Paragraph No. 155 of Addendum to A201.

...

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished.~~Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.~~

...

~~**§ 15.2.5** The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker,~~ (Section amended)

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~~of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.~~See Paragraph No. 156 of Addendum to A201.

...

~~**§15.2.6** Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.~~

...

~~**§ 15.2.6.1** Either party may, within 30 days from the date~~ (Section amended)

...

~~of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~ See Paragraph No. 157 of Addendum to A201.

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~~**§15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.~~

...

~~**§ 15.2.8** If a Claim relates to or is the subject~~ (Section deleted)

...

~~of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.~~See Paragraph No. 158 of Addendum to A201.

...

~~**§ 15.3 MEDIATION**~~

...

(Section deleted)

...

~~**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.~~See Paragraph No. 159 of Addendum to A201.

...

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~~§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date~~ (Section deleted)

...

~~of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing~~ See Paragraph No. 160 of Addendum to A201.

...

(Section deleted)

...

~~of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this~~ See Paragraph No. 161 of Addendum to A201.

...

~~Section 15.3.2, the parties may nonetheless proceed~~ (New Section added 15.2.9)

...

~~to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~See Paragraph No. 162 of Addendum to A201.

...

~~§15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

...

~~§ 15.4 ARBITRATION~~

...

(Section amended)

...

~~§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract,~~ See Paragraph No. 163 of Addendum to A201.

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...

~~and filed with the person or entity administering the arbitration. The party filing a notice~~ (New Sections added 15.3.4 and 15.3.5)

...

~~of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.~~See Paragraph No. 164 of Addendum to A201.

...

~~§~~

...

~~§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.~~

...

~~§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

...

~~§ 15.4.3 The foregoing agreement~~ (Section deleted)

...

~~to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.~~See Paragraph No. 165 of Addendum to A201.

...

~~§15.4.4 CONSOLIDATION OR JOINDER~~

...

~~§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

...

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~~§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is~~ (Section deleted)

...

~~to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~See Paragraph No. 166of Addendum to A201.

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~~§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.~~

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I, Benjamin P. Pogue, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:36:14 ET on 04/19/2021 under Order No. 6365976674 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

Executive Director

(Title)

4/19/2021

(Dated)

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ADDENDUM to
The General Conditions of the Contract for
Construction AIA Document A201-2007

This Addendum to the General *Conditions of the Contract for Construction,* AIA Document A201-2007 ("Addendum"), is entered into this 27th day of April 2021, by and between Pogue Construction Co., LP, ("Construction Manager") and the Town of Prosper, Texas, (the "Owner"). This Addendum is entered into to delete from, amend, replace, modify, add to, and/or supplement the *General Conditions of the Contract for Construction,* AIA Document A201-2007 (the "Agreement"), as set forth herein below.

WITNESSETH:

WHEREAS, the Owner and Construction Manager desire to enter into the Agreement for the construction of the Town of Prosper Public Safety Complex Phase 2 (Central Fire Station and Fire Administration), RFP No. 2021-35-B; and

WHEREAS, the Owner and Construction Manager desire to clarify and revise certain of the terms and provisions contained in the Agreement; and

WHEREAS, the Owner and Construction Manager would not enter into the Agreement save and except for the clarifications and revisions contained herein; NOW THEREFORE,

FOR AND IN CONSIDERATION of the covenants, duties and obligations herein contained together with the covenants, duties and obligations contained in the Agreement, the parties do mutually agree that except as provided for below, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event of any conflict or inconsistency between the provisions set forth in this Addendum and the Agreement, this Addendum shall govern and control. In consideration of the foregoing, and for other good and valuable consideration, the parties agree to modify the Agreement as follows:

The following amendments, modifications, replacements, additions, and/or deletions are hereby made to those Sections and Articles of the Agreement identified herein below as follows:

1. Section 1.1 is hereby amended by adding a new Section 1.1.9 to read as follows:

> § 1.1.9 General Reference Note. Where the term "Contractor" is used throughout the Agreement and this Addendum it shall be replaced with the phrase "Construction Manager at Risk ("CMAR")."

2. Section 1.1.2 is hereby amended by deleting the third sentence of such provision and replacing it with the following sentence:

> After execution of the original Contract Documents, the Contract may thereafter be amended or modified only by a written Modification signed by the parties.

3. Section 1.2.3 is hereby amended by deleting Section 1.2.3 in its entirety and replacing it with a new Section 1.2.3 to read as follows:

> § 1.2.3 Technical terms not specifically defined in the Contract Documents shall have the meanings given in AIA Document "Glossary of Construction Industry Terms", July 1982 edition. Technical terms not defined as above and used to describe items of the Work and which so applied have a well-known technical or trade meaning, shall be held to have such recognized meaning.

4. Section 1.2 is hereby amended by adding a new Section 1.2.4 to read as follows:

> § 1.2.4 Precedence of the Contract Documents.
>
> The Contract Documents shall consist of the following documents:
>
> .1 Contract Modifications signed by Construction Manager and Owner.
>
> .2 Addenda, with those of later date having precedence over those of earlier date.
>
> .3 Addendum to the General *Conditions of the Contract for Construction,* AIA Document A201-2007.
>
> .4 General Conditions - AIA A201-2007.
>
> .5 Specifications and Drawings.
>
> .6 Addendum to the *Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price,* AIA Document A133 - 2009.
>
> .7 Agreement -- *Standard Form of Agreement Between Owner and Construction Manager as Constructor where*

the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, AIA Document A133 - 2009.

These Contract Documents are incorporated by reference into this Addendum and the Agreement as if set out here in their entirety. The Contract Documents are intended to be complementary; what is called for by one document shall be as binding as if called for by all Contract Documents. It is specifically provided, however, that in the event of any inconsistency in the Contract Documents the inconsistency shall be resolved by giving precedence to the Contract Documents in the order in which they are listed herein above, with the most recently issued document taking precedence over previous issues of the same document.

5. Section 1.2 is hereby amended by adding a new Section 1.2.5 to read as follows

§ 1.2.5 Relation of Specifications and Drawings:

To be equivalent in authority and priority. Should they disagree in themselves, or with each other, prices shall be based on the better quality and greater quantity of work indicated. In the event of the above mentioned disagreements, the resolution shall be determined by the Initial Decision Maker.

6. Section 1.2 is hereby amended by adding a new Section 1.2.6 to read as follows:

§ 1.2.6 Where the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are given, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design, in harmony with the Work, and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless such substitution has been specifically accepted for use on this Project by the Architect.

7. Section 1.2 is hereby amended by adding a new Section 1.2.7 to read as follows:

§ 1.2.7 When the work is governed by reference to standards, building codes, manufacturer's instructions, or other documents, unless otherwise specified, the current edition as of the Agreement date shall apply.

8. Section 1.2 is hereby amended by adding a new Section 1.2.8 to read as follows:

> § 1.2.8 Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

9. Section 1.5.1 is hereby amended by deleting the first sentence of such provision and replacing it with the following sentence:

> The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights as against the Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers.

10. Section 1.5 is hereby amended by adding a new Section 1.5.3 to read as follows:

> § 1.5.3 The Owner and Construction Manager agree that the Contract Documents may not be free from errors, inconsistencies, or omissions, and further agree that the Owner makes no warranty as to the completeness or accuracy of the Contract Documents, either express or implied. Execution of the Agreement by the Construction Manager is a representation that the Construction Manager has thoroughly reviewed and become familiar with the Contract Documents and that the Construction Manager is not aware of any errors, inconsistencies or omissions in the Contract Documents which would delay the Construction Manager in the performance of the Contract Work. The Construction Manager shall not be entitled to any damages or increase in the Contract Amount due to delays or disruptions to the Work arising out of any errors, inconsistencies or omissions impacting the completeness or accuracy of the Contract Documents. This limitation on damages is further subject to the limitations set forth in the Contract Documents.

11. Section 1.6 is hereby deleted in its entirety.

12. Section 2.1.1 is hereby amended by deleting Section 2.1.1 in its entirety and replacing it with a new Section 2.1.1 to read as follows:

> § 2.1.1 The Owner is the Town of Prosper, Texas, and is referred to throughout the Contract Documents as if singular

in number. The Owner may designate in writing one or more persons to represent the Owner; however, such representatives shall have the authority to bind the Owner only to the extent expressly authorized by the Owner and shall have no implied authority. Except as otherwise provided in Section 4.2.1, the Architect does not have the authority to bind the Owner.

13. Section 2.1.2 is hereby amended by deleting Section 2.1.2 in its entirety and replacing it with a new Section 2.1.2 to read as follows:

> § 2.1.2 Construction Manager acknowledges that no lien rights exist with respect to public property.

14. Section 2.2.1 is hereby deleted in its entirety.

15. Section 2.1.2 is hereby amended by deleting the last sentence of Section 2.2.3 in its entirety.

16. Section 2.2.4 is hereby amended by deleting Section 2.2.4 in its entirety and replacing it with a new Section 2.2.4 to read as follows:

> § 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents and such other information or services that are within the Owner's control and relevant to Construction Manager's performance of the Work within a reasonable time following actual receipt of a written request for such information or services.

17. Section 2.2.5 is hereby amended by deleting Section 2.2.5 in its entirety and replacing it with a new Section 2.2.5 to read as follows:

> § 2.2.5 The Owner shall furnish one copy of the Contract Documents free of charge. The Construction Manager will be responsible for the cost of any additional copies of the Contract Documents as well as any and all Drawings and Project Manuals it needs or desires for the Project.

18. Section 2.2 is hereby amended by adding a new Section 2.2.6 to read as follows:

> § 2.2.6 Owner's personnel may, but are not required to be present at the construction site during progress of the Work to assist the Architect in the performance of his duties, and to verify the Construction Manager's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, and the

equipment used in the performance of the Work for purpose of verification of Construction Manager's Applications for Payment.

19. Section 2.3 is hereby amended by deleting Section 2.3 in its entirety and replacing it with a new Section 2.3 to read as follows:

§2.3 If the Construction Manager fails to correct nonconforming or defective Work as required by Paragraph 12.2, or fails to complete the Work on time as required by the Contract Documents or is in default of any of its material obligations hereunder, the Owner, by a written order signed by an agent specifically so empowered by the Owner, may order the Construction Manager to stop the Work or any portion thereof, until the cause for such order has been eliminated. However, the right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Construction Manager or any other person or entity. This right shall be in addition to, and not in restriction of, the Owner's rights under paragraph 12.2.

20. Section 2.4 is hereby amended by replacing the phrase "ten-day period" in the first sentence with the phrase "seven-day period" and by deleting the third sentence of Section 2.4 in its entirety.

21. Section 3.1.2 is hereby amended by deleting Section 3.1.2 in its entirety and replacing it with a new Section 3.1.2 to read as follows:

§ 3.1.2 The Construction Manager shall perform the Work in a good and workmanlike manner in accordance with the Contract Documents save and except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which event the Construction Manager shall perform the Work to such higher degree of finish or workmanship.

22. Section 3.1 is hereby further amended by adding a new Section 3.1.4 to read as follows:

§ 3.1.4 It is understood and agreed that the relationship of Construction Manager to Owner shall be that of an independent contractor. Nothing contained herein or inferable here from shall be deemed or construed to (1) make Construction Manager the agent, servant, or employee of the Owner, or (2) create any partnership, joint venture, or other

association between Owner and Construction Manager. Any direction or instruction by Owner in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Construction Manager's independent contractor status as described herein.

23. Section 3.1 is also hereby amended by adding a new Section 3.1.5 to read as follows:

§ 3.1.5 REPRESENTATIONS AND WARRANTIES.

§ 3.1.5 The Construction Manager represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the final completion of the Work:

.1 that it is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

.2 that it is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental and public quasi-public authorities having jurisdiction over it and over the Work and the site of the Project;

.4 that the execution of the Contract and its performance thereof is within its duly authorized powers; and

.5 that its duly authorized representative has visited the site of the Work, familiarized itself with the local conditions under which the Work is to be performed and correlated its observations with the requirements of the Contract Documents.

24. Section 3.2.1 is hereby amended by adding the following sentence to the end of Section 3.2.1 to read as follows:

> Signing any one of the Contract Documents shall be considered as signing all of the Contract Documents.

25. Section 3.2.2 is hereby amended by deleting the second sentence of such provision and replacing it with the following sentence:

> Any errors, omissions, or inconsistencies discovered by the Construction Manager shall be reported promptly to the Architect as a request for information in such form as the Architect may require.

26. Section 3.2.2 is hereby further amended by adding the following clauses to the end of Section 3.2.2 to read as follows:

> .1 The exactness of grades, elevations, dimensions, or locations given on any Drawings issued by the Architect, or the work installed by other contractors, is not guaranteed by the Architect or the Owner.
>
> .2 The Construction Manager shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations. In all cases of interconnection of its Work with existing or other work, Construction Manager shall verify at the site all dimensions relating to such existing or other work. Any errors due to the Construction Manager's failure to so verify all such grades, elevations, dimensions, or locations shall be promptly rectified by the Construction Manager without any additional cost to the Owner.

27. Section 3.2.4 is hereby amended by deleting the third sentence of such provision and replacing it with the following sentence:

> If the Construction Manager performs the obligations of Sections 3.2.2 or 3.2.3, the Construction Manager shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

28. Section 3.2 is hereby further amended by adding a new Section 3.2.5 to read as follows:

> § 3.2.5 Notwithstanding the delivery of a survey or other documents by the Owner, Construction Manager is responsible for contacting all private and public utilities to determine the location of existing facilities and compliance with the State of Texas' "call before you dig" program mandated by Texas Utility Code Chapter 251 prior to any digging or excavation. Construction Manager shall use reasonable efforts to perform all work in such a manner so as to avoid damaging any utility lines, cables, pipes, or pipelines on the Property. Construction Manager shall be responsible for, and shall repair at Construction Manager's own expense, any damage done to lines, cables, pipes, and pipelines by Construction Manager.

29. Section 3.3.1 is hereby amended by deleting the last sentence of such provision and replacing it with the following sentence

> If the Construction Manager is then instructed in writing by the Architect to proceed with the required construction means, methods, techniques, sequences or procedures set out in the Construction Documents without acceptance of the changes proposed by the Construction Manager, the Architect shall be responsible for any loss or damage arising solely from those required means, methods, techniques, sequences or procedures.

30. Section 3.3 is hereby further amended by adding a new Section 3.3.4 to read as follows:

> § 3.3.4 Construction Manager shall bear responsibility for design and execution of acceptable trenching and shoring procedures, in accordance with Texas Government Code, Section 2166.303 and Texas Health and Safety Code, Subchapter C, Sections 756.021, *et seq.*

31. Section 3.3 is hereby further amended by adding a new Section 3.3.5 to read as follows:

> § 3.3.5 Trench safety systems shall be provided by the Construction Manager in accordance with the applicable subpart related to Excavation, Trenching, and Shoring of the OSHA Standards as published in Federal Register, Volume 54, No. 209 dated October 31, 1989, and revised effective

January 2, 1990. These standards describe safety and health regulations as administered by the U.S. Department of Labor Occupational Safety and health Administration (OSHA). The standards specified by the OSHA Regulations shall be the minimum allowed on this Project. It shall be the responsibility of the Construction Manager to provide a design and install adequate trench safety systems for all trenches excavated on this Project.

32. Section 3.3 is also hereby amended by adding a new Section 3.3.6 to read as follows:

§ 3.3.6 The Construction Manager shall review subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Construction Manager's duties shall not relieve any subcontractor(s) or any other person or entity (e.g. a supplier) including any person or entity with whom the Construction Manager does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this paragraph are not intended to impose upon the Construction Manager any additional obligations that the Construction Manager would not have under any applicable state or federal laws including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

33. Section 3.4.1 is hereby amended by adding a new Section 3.4.1.1 to read as follows:

§ 3.4.1.1 Prevailing Wages. Attention is called to Texas Government Code Chapter 2258, entitled "Prevailing Wage Rates." Among other things, this Chapter provides that it shall be mandatory upon the Construction Manager and upon any Subcontractor under the Construction Manager to pay not less than the prevailing rates of per diem wages in the locality at the time of construction to all laborers, workmen, and mechanics employed by them in the execution of the Contract.

34. Section 3.4.1 is hereby amended by adding a new Section 3.4.1.2 to read as follows:

§ 3.4.1.2 In accordance with Texas Government Code Chapter 2258, the Owner has established a scale of prevailing wages which is incorporated in the project specifications, and not less than this established scale must be paid on the Project. Any workers not included in the schedule shall be properly classified and paid not less than the rate of wages prevailing in the locality of the work at the time of construction.

35. Section 3.4.1 is also hereby amended by adding a new Section 3.4.1.3 to read as follows:

§ 3.4.1.3 A Construction Manager or Subcontractor who violates the provisions of Sections 3.4.1.1. or 3.4.1.2 shall pay to Owner the sum of Sixty and No/100 Dollars ($60.00) for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rate stipulated in the scale of prevailing wages applicable to this Project, as required by Texas Government Code Section 2258.023(b).

36. Section 3.4.2 is hereby amended by deleting Section 3.4.2 in its entirety and replacing it with a new Section 3.4.2 to read as follows:

§ 3.4.2 The Construction Manager may make substitutions only under the following circumstances:

.1 Substitutions and alternates may be rejected without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Construction Manager; and, (iii) in the judgment of the Owner or the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

.2 The Construction Manager must submit to the Architect and the Owner: (i) a full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures,

and other like information necessary for a complete evaluation of the substitution; (ii) a written explanation of the reasons the substitution is necessary, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum related to the substitution; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule related to the substitution; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all the requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Construction Manager accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by the Architect.

.3 Proposals for substitutions shall be submitted in triplicate to the Architect in sufficient time to allow the Architect no less than twenty-one (21) working days for review. No substitutions will be considered or allowed without the Construction Manager's submittal of complete substantiating data and information as stated hereinbefore.

.4 Whether or not any proposed substitution is accepted by the Owner or the Architect, the Construction Manager shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitute.

37. Section 3.4.3 is hereby amended by adding the following provisions to the end of Section 3.4.3 to read as follows:

The Construction Manager shall be responsible for the actions of Construction Manager's forces, Subcontractor's forces and all tiers of Sub-subcontractor's forces. The Construction Manager recognizes that the Project Site is public municipal property, and will prohibit the possession or use of alcohol, controlled substances, tobacco, and any prohibited weapons on the Project Site and shall require adequate dress of the Construction Manager's forces consistent with the nature of the work being performed, including wearing shirts at all times. Sexual harassment of employees of the Construction Manager or employees or invitees of the Owner by employees of the Construction Manager is strictly forbidden. Any employee of the

Construction Manager who is found to have engaged in such conduct shall be subject to appropriate disciplinary action by the Construction Manager, including removal from the job site.

38. Section 3.4 is hereby amended by adding a new Section 3.4.4 to read as follows:

§ 3.4.4 The Construction Manager shall only employ or use labor in connection with the Work capable of working harmoniously with all trades, crafts, and any other individuals associated with the Project.

39. Section 3.5 is hereby amended by deleting Section 3.5 in its entirety and replacing it with a new Section 3.5 to read as follows:

§ 3.5 WARRANTY

§ 3.5.1 The Construction Manager warrants to the Owner and Architect that the materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Construction Manager further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements, including substitutions that are not properly approved and authorized, may be considered defective. The Construction Manager's warranty excludes remedy for damage or defect caused by abuse attributable to Owner; alterations or modifications to the Work not performed by Construction Manager; improper or insufficient maintenance and/or improper operation attributable to Owner; or, normal wear and tear and normal usage. If required by the Architect, the Construction Manager shall furnish satisfactory evidence as to the kind and quality of materials and equipment

§ 3.5.2 The Construction Manager agrees to assign to the Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties.

§ 3.5.3 Construction Manager's express warranty herein shall be in addition to, and not in lieu of, any other remedies Owner may have under this Agreement, at law, or in equity for defective Work.

§ 3.5.4 The warranty provided in Section 3.5.1 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents, and such warranty shall be interpreted to require Construction Manager to replace defective materials and equipment and re-execute defective Work which is disclosed to the Construction Manager by the Owner within a period of one (1) year after Substantial Completion of the entire Work or if latent defect, within one (1) year after discovery thereof by Owner.

§ 3.5.5 The Construction Manager shall issue in writing to the Owner as a condition precedent to final payment a "General Warranty" reflecting the terms and conditions of Sections 3.5.1 and 3.5.2 for all Work under the Contract Documents. This General Warranty shall be assignable. Submittal of all warranties and guarantees are required as a prerequisite to the final payment.

§ 3.5.6 Except when a longer warranty time is specifically called for in the Specification Sections or is otherwise provided by law, the General Warranty shall be for twelve (12) months and shall be in form and content otherwise satisfactory to the Owner. Owner acknowledges that the Project may involve construction work on more than one (1) building for the Owner. Each building, or approved phase of each building, shall have its own, separate, and independent date of Substantial Completion or Final Completion. Construction Manager shall maintain a complete and accurate schedule of the dates of Substantial Completion, dates upon which the one (1) year warranty on each phase or building which is substantially complete will expire, and dates of Final Completion. Construction Manager agrees to provide notice of the warranty expiration date to Owner and Architect at least one (1) month prior to the expiration of the one (1) year warranty period on each building or each phase of the building which has been substantially completed. Prior to termination of the one (1) year warranty period, Construction Manager shall accompany the Owner and Architect on re-inspection of the building and be responsible for correcting any reasonable additional deficiencies not

caused by the Owner or by the use of the building which are observed or reported during the re-inspection. For extended warranties required by various sections, i.e. roofing, compressors, mechanical equipment, Owner will notify the Construction Manager of deficiencies and Construction Manager shall start remedying these defects within three (3) days of initial notification from Owner. Construction Manager shall prosecute the work without interruption until accepted by the Owner and the Architect, even though such prosecution should extend beyond the limit of the warranty period. If Construction Manager fails to provide notice of the expiration of the one-year warranty period at least one (1) month prior to the expiration date, Construction Manager's warranty obligations described in this paragraph shall continue until such inspection is conducted and any deficiencies found in the inspection corrected.

§ 3.5.7 Warranties shall become effective on a date established by the Owner and Architect in accordance with the Contract Documents. This date shall be the Date of Substantial Completion of the entire Work, unless otherwise provided in any Certificate of Partial Substantial Completion approved by the parties, except for work to be completed or corrected after the date of Substantial Completion and prior to final payment. Warranties for work to be completed or corrected after the date of Substantial Completion and prior to final payment shall become effective on the later of the date the work is completed or corrected and accepted by the Owner and Architect or the date of final payment.

40. Section 3.6 is hereby amended by deleting Section 3.6 in its entirety and replacing it with a new Section 3.6 to read as follows:

§ 3.6 TAXES

The Construction Manager will not include in the Contract Price or any Modification any amount for sales, use, or similar taxes. Construction Manager understands and agrees that Owner is a Texas municipal corporation which is exempt from the payment of such taxes. Owner will provide the Construction Manager with a tax exemption certificate or other documentation necessary to establish the Owner's exemption from such taxes.

41. Section 3.7.1 is hereby amended by deleting Section 3.7.1 in its entirety and replacing it with a new Section 3.7.1 to read as follows:

> § 3.7.1 Unless otherwise specifically provided to the contrary in the Contract Documents, it shall be the full responsibility of the Construction Manager to acquire and comply with any and all permits as may be required to avoid delay of the Project, and which permits, fees, licenses and inspections are necessary for the proper execution, performance and completion of the Work. No separate payment will be made for this item and it will be considered subsidiary to the other items bid.

42. Section 3.7.2 is hereby amended by adding the following provisions to the end of Section 3.7.2 to read as follows:

> The Construction Manager shall be responsible for ensuring that it and any subcontractors performing any portion of the Work required under the Contract Documents comply with all applicable federal, state, county, and municipal laws, regulations, and rules that relate in any way to the performance and completion of the Work including, but not limited to, the work eligibility of individuals performing the Work. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

43. Section 3.7.4 is hereby amended by replacing the phrase "no later than 21 days after first observation" in the first sentence with the phrase "and within fourteen-days after first observation."

44. Section 3.7 is hereby amended by adding a new Section 3.7.6 to read as follows:

> § 3.7.6 The Construction Manager shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System ("NPDES") regulations administered by the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ") and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. Construction Manager's obligations under this paragraph do not require it to perform engineering services during the pre-construction phase, unless otherwise required by the Contract Documents, to prepare proper drainage for the construction sites. However,

any drainage alterations made by Construction Manager during the construction process which require the issuance of a permit shall be at Construction Manager's sole cost.

45. Section 3.9.1 is hereby amended by adding the following provisions to the end of Section 3.9.1 to read as follows:

The superintendent shall be capable of reading and thoroughly understanding the Plans and Specifications, and thoroughly experienced in the type of Work being performed. The superintendent shall have full authority to execute orders or directions and to promptly supply such materials, equipment, tools, labor and incidentals as may be required.

Such superintendent shall be furnished irrespective of the amount of Work subcontracted. The superintendent and the Construction Manager shall be responsible for all work performed by the Subcontractor at all times during construction.

46. Section 3.9.2 is hereby amended by deleting the last sentence of Section 3.9.2 and replacing it with the following provision to read as follows:

Failure of the Architect to reply within the 14-day period shall constitute notice that the Architect and Owner have no known objection to the proposed superintendent. Failure to reply or affirmative consent by the Architect to the proposed superintendent shall not be deemed to waive or otherwise deprive the Owner and Architect of the right to thereafter complain to the Construction Manager regarding or otherwise object to the continued assignment of the superintendent to the Work if a reasonable objection to the superintendent arises during the course of the Work.

47. Section 3.9.3 is hereby amended by deleting the last sentence of that provision and replacing it with the following provision to read as follows:

The Construction Manager shall not replace the superintendent prior to final completion of the Work unless (1) the superintendent shall cease to be employed by the Construction Manager or its subsidiaries or affiliated companies, or (2) the Owner agrees to such replacement. The superintendent may not be employed on any other project prior to final completion of the Work.

48. Section 3.9 is hereby amended by adding a new Section 3.9.4 to read as follows:

§ 3.9.4 The Construction Manager shall furnish a list to the Architect of all engineers, consultants, job-site superintendents, Subcontractors, Sub-subcontractors and *material* and equipment suppliers involved in construction of the Work. The Architect shall provide such information to the Owner.

3.9.4.1 The Owner may reject or require removal of any engineer, consultant, job superintendent, or employee of the Construction Manager, Subcontractor or Sub-subcontractor involved in the project.

§ 3.9.4.2 Construction Manager shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Construction Manager to dismiss from the work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-subcontractors and their employees.

§ 3.9.4.3 The Owner reserves the right to utilize one or more of its employees to function in the capacity of the Town's Inspector, whose primary function will be daily inspections, checking pay requests, construction timelines, and storage of supplies and materials.

49. Section 3.10.1 is hereby amended by deleting Section 3.10.1 in its entirety and replacing it with a new Section 3.10.1 to read as follows:

§ 3.10.1 The Construction Manager, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Construction Manager's initial construction schedule for the Work utilizing critical path method scheduling techniques. The initial schedule shall not exceed the time limits set forth in the Contract Documents. The initial schedule shall thereafter be updated on a monthly basis and submitted with each application for payment. The receipt of an updated schedule with each application for payment shall be a condition precedent to the Owner's duty to make any payment pursuant to Article 9.6.

.1 Each schedule shall break the Work into a sufficient number of activities to facilitate the efficient use of critical path method scheduling by the Construction Manager, Owner, and Architect. Each schedule activity shall be assigned a cost value consistent with the Schedule of Values so as to allow the Owner and Construction Manager to project cash flow for the Project.

.2 Each schedule shall include activities representing manufacturing, fabrication, or ordering lead time for materials, equipment, or other items for which the Architect is required to review submittals, shop drawings, product data, or samples.

.3 Each schedule, other than the initial schedule, shall indicate the activities, or portions thereof, which have been completed; shall reflect the actual time for completion of such activities; and shall reflect any changes to the sequence or planned duration of all activities.

.4 If any updated schedule exceeds the time limits set forth in the Contract Documents for completion of the Work, the Construction Manager shall include with the updated schedule a statement of the reasons for the anticipated delay in completion of the Work and the Construction Manager's planned course of action for completing the Work within the time limits set forth in the Contract Documents. If the Construction Manager asserts that the failure of the Owner or the Architect to provide information to the Construction Manager is the reason for anticipated delay in completion, the Construction Manager shall also specify what information is required from the Owner or Architect.

.5 Neither the Owner or the Construction Manager shall have exclusive ownership of float time in the schedule. All float time shall inure to the benefit of the Project. The Construction Manager agrees to use its best efforts not to sequence the Work or assign activity durations so as to produce a schedule in which more than one-fourth of the remaining activities have no float time.

.6 Submission of any schedule under this Contract constitutes a representation by the Construction Manager that: (1) the schedule represents the sequence in which

the Construction Manager intends to prosecute the remaining Work; (2) the schedule represents the actual sequence and durations used to prosecute the completed work; (3) that to the best of its knowledge and belief the Construction Manager is able to complete the remaining Work in the sequence and time indicated; and, (4) that the Construction Manager intends to complete the remaining work in the sequence and time indicated.

50. Section 3.10 is hereby amended by adding a new Section 3.10.4 to read as follows:

§ 3.10.4 The construction schedule shall be in a detailed precedence - style critical path method ("CPM") format for each major item of work and the time frame for the initiation, progress and completion of such major item of work satisfactory to the Owner and the Architect. The construction schedule shall also (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates"). Upon review and acceptance by the Owner and the Architect of the Milestone Dates, the construction schedule shall be deemed part of the Contract Documents and attached to the Agreement as Exhibit A. If not accepted, the construction schedule shall be promptly revised by the Construction Manager in accordance with the recommendations of the Owner and the Architect and resubmitted for acceptance. The Construction Manager shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner of any delays or potential delays. The accepted construction schedule shall be updated to reflect actual conditions. In the event any progress report indicates any delays, the Construction Manager shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, any Milestone Date, or the Contract Sum unless any such adjustment is agreed to by the Owner and authorized pursuant to Change Order.

51.

52. Section 3.10 is also hereby amended by adding a new Section 3.10.6 to read as follows:

> § 3.10.6 If reasonably required by Owner, Construction Manager shall also prepare and furnish project cash flow projections, manning data for critical activities, and schedules for the purchase and delivery of all critical equipment and material, together with periodic updating thereof.

53. Section 3.10 is also hereby amended by adding a new Section 3.10.7 to read as follows:

> § 3.10.7 The Construction Manager shall recommend to the Owner and to the Architect a schedule for procurement of long-lead time items which will constitute part of the Work as required to meet the project schedule. If such long-lead time items are procured by the Owner, they shall be procured on terms and conditions as recommended by the Construction Manager. Upon the Owner's acceptance of the Construction Manager's Stipulated Sum proposal, all contracts previously entered into by Owner shall be assigned by Owner to the Construction Manager who shall accept responsibility for such contracts as if it had initially entered into such contracts. Construction Manager shall expedite the delivery of long-lead time items.

54. Section 3.11 is hereby amended by numbering the paragraph immediately following the line "§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE" as Section 3.11.1.

55. Section 3.11 is also hereby amended by adding a new Section 3.11.2 to read as follows:

> § 3.11.2 Construction Manager shall at all times maintain job records, including, but not limited to, invoices, payment records, payroll records, daily reports, logs, diaries, and job meeting minutes, applicable to the project at the site. Construction Manager shall make such reports and records available to inspection by the Owner, Architect, or their respective agents, within five (5) working days of request by Owner, Architect, or their respective agents.

56. Section 3.13 is hereby amended by numbering the paragraph immediately following the line "§ 3.13 USE OF SITE" as Section 3.13.1.

57. Section 3.13 is also hereby amended by adding a new Section 3.13.2 to read as follows:

> § 3.13.2 The Construction Manager will abide by all applicable rules and regulations of the Owner with respect to conduct, including smoking, parking of vehicles and entry into adjacent facilities owned by Owner.

58. Section 3.15.1 is hereby amended by adding the following provisions to the end of Section 3.15.1 to read as follows:

> Construction Manager shall thoroughly wash and clean all glass and mirror surfaces, and shall leave the Work neat and clean. The Construction Manager shall, not less than two times each week, clean up after his operation, by removing rubbish, including old and surplus materials.

59. Section 3.15.2 is hereby amended by deleting Section 3.15.2 in its entirety and replacing it with a new Section 3.15.2 to read as follows:

> § 3.15.2 If the Construction Manager fails to clean up as required by the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Construction Manager.

60. Section 3.15 is hereby amended by adding a new Section 3.15.3 to read as follows:

> § 3.15.3 The Construction Manager shall be responsible for damaged or broken glass, and at completion of the Work, shall replace such damaged or broken glass.

61. Section 3.18.1 is hereby amended by deleting Section 3.18.1 in its entirety and replacing it with a new Section 3.18.1 to read as follows:

> § 3.18.1 TO THE FULLEST EXTENT ALLOWED BY LAW, CONSTRUCTION MANAGER DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE TOWN OF PROSPER (OWNER) AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEY FEES WHICH MAY ARISE BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGE

TO, OR LOSS OF USE OF ANY PROPERTY OCCASIONED BY THE WRONGFUL INTENTIONAL ACT, ERROR, OMISSION, OR NEGLIGENT ACT OF CONSTRUCTION MANAGER, HIS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUB-SUBCONTRACTORS, INVITEES OR ANY OTHER PERSONS, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT, SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904(A) AND TEXAS CIVIL PRACTICE & REMEDIES CODE, § 130.002(B), AND CONSTRUCTION MANAGER WILL AT HIS OR HER OWN COST AND EXPENSE DEFEND AND PROTECT TOWN OF PROSPER (OWNER) FROM ANY AND ALL SUCH CLAIMS AND DEMANDS.

TO THE FULLEST EXTENT ALLOWED BY LAW, CONSTRUCTION MANAGER DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS TOWN OF PROSPER (OWNER) AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION, AND LIABILITY OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS AND ATTORNEYS FEES FOR INJURY OR DEATH OF ANY PERSON OR FOR LOSS OF, DAMAGES TO, OR LOSS OF USE OF ANY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHETHER THE CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE TOWN OF PROSPER (OWNER), ITS OFFICERS, OFFICIALS, AGENTS OR EMPLOYEES. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONSTRUCTION MANAGER TO INDEMNIFY AND PROTECT TOWN OF PROSPER (OWNER) FROM THE CONSEQUENCES OF TOWN OF PROSPER'S (OWNER'S) OWN NEGLIGENCE, SUBJECT TO THE LIMITATIONS, IF SAME ARE APPLICABLE TO THIS CONTRACT, CONTAINED IN TEXAS LOCAL GOVERNMENT CODE § 271.904(A) AND TEXAS CIVIL PRACTICE & REMEDIES CODE § 130.002(B), WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

62. Section 3.18.2 is hereby amended by deleting Section 3.18.2 in its entirety and replacing it with a new Section 3.18.2 to read as follows:

§ 3.18.2 IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED UNDER THIS SECTION 3.18 BY ANY EMPLOYEE OF THE CONSTRUCTION MANAGER, ANY SUBCONTRACTOR, ANY SUB-SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION HEREIN PROVIDED SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONSTRUCTION MANAGER, ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR UNDER WORKMEN'S COMPENSATION OR ANY OTHER DISABILITY BENEFITS ACT OR EMPLOYEE BENEFIT ACTS.

63. Section 3.18 is hereby further amended by adding a new Section 3.18.3 to read as follows:

§ 3.18.3 CONSTRUCTION MANAGER SHALL BE RESPONSIBLE FOR AND SHALL HOLD OWNER FREE AND HARMLESS FROM LIABILITY RESULTING FROM LOSS OF OR DAMAGE TO CONSTRUCTION MANAGER'S OR ITS SUBCONTRACTOR'S OR ITS SUB-SUBCONTRACTOR'S CONSTRUCTION TOOLS AND EQUIPMENT AND RENTED ITEMS WHICH ARE USED OR INTENDED FOR USE IN PERFORMING THE WORK REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF OWNER, OWNER'S CONSULTANTS, ARCHITECT OR ARCHITECT'S CONSULTANTS. THIS PROVISION SHALL APPLY, WITHOUT LIMITATION, TO LOSS OR DAMAGE OCCURRING AT THE WORK SITE OR WHILE SUCH ITEMS ARE IN TRANSIT TO OR FROM THE WORK SITE AND IS IN ADDITION TO CONSTRUCTION MANAGER'S OBLIGATIONS UNDER PARAGRAPH 3.18.1 IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, BOTH CONSTRUCTION MANAGER AND OWNER, THAT THE INDEMNITY IS PROVIDED FOR IN THIS PARAGRAPH AS TO CONSTRUCTION MANAGER'S OR ITS SUBCONTRACTOR'S TOOLS AND EQUIPMENT AND RENTAL ITEMS, IS AN INDEMNITY BY CONSTRUCTION MANAGER TO INDEMNIFY AND PROTECT OWNER FROM THE CONSEQUENCES OF OWNER'S OWN NEGLIGENCE, AND THAT OF OWNER'S

CONSULTANTS, THE ARCHITECT AND ARCHITECT'S CONSULTANTS, SUBJECT TO THE LIMITATIONS, IF SAME ARE APPLICABLE TO THIS CONTRACT, CONTAINED IN TEXAS LOCAL GOVERNMENT CODE § 271.904(A) AND TEXAS CIVIL PRACTICE & REMEDIES CODE, § 130.002(B), WHETHER THAT NEGLIGENCE IS THE SOLE OR CONCURRING CAUSE OF THE LOSS OR DAMAGE. PROVIDED, THAT WHERE THE NEGLIGENCE OF OWNER OR ARCHITECT IS A CONCURRING CAUSE, CONSTRUCTION MANAGER'S OBLIGATION TO INDEMNIFY IS LIMITED TO THE AMOUNT NECESSARY TO CAUSE THE RELATIVE LIABILITY OF OWNER, ARCHITECT AND CONSTRUCTION MANAGER TO REFLECT THE COMPARATIVE NEGLIGENCE FINDINGS OF TRIER OF FACT (JUDGE OR JURY) OR AS AGREED IN A SETTLEMENT AGREEMENT TO WHICH OWNER, ARCHITECT AND CONSTRUCTION MANAGER ARE ALL PARTIES.

64. Section 3.18 is also hereby amended by adding a new Section 3.18.4 to read as follows:

§ 3.18.4 INDEMNIFICATION HEREUNDER SHALL INCLUDE, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LIABILITY WHICH COULD ARISE TO THE OWNER, ITS AGENTS, CONSULTANTS, AND REPRESENTATIVES PURSUANT TO STATE STATUTES FOR THE SAFETY OF WORKMEN AND IN ADDITION, ALL FEDERAL STATUTES AND RULES EXISTING THEREUNDER FOR PROTECTION, OCCUPATIONAL SAFETY AND HEALTH TO WORKMEN. IT BEING AGREED THAT THE PRIMARY OBLIGATION OF THE CONSTRUCTION MANAGER IS TO COMPLY WITH SAID STATUTES IN PERFORMANCE OF THE WORK BY CONSTRUCTION MANAGER AND THAT THE OBLIGATIONS OF THE OWNER, ITS AGENTS, CONSULTANTS, AND REPRESENTATIVES UNDER SAID STATUTES ARE SECONDARY TO THAT OF THE CONSTRUCTION MANAGER.

65. Section 3.19 is hereby created by adopting and adding the following Section 3.19 to read as follows:

§ 3.19 BUSINESS STANDARDS.

Construction Manager, in performing its obligations under this Contract, shall establish and maintain appropriate business standards, procedures, and controls, including those necessary to avoid any real or apparent impropriety or adverse impact on the interest of Owner or affiliates. Construction Manager shall review, with Owner, at a reasonable frequency during the performance of the Work hereunder, such business standards and procedures including, without limitation, those related to the activities of Construction Manager's employees and agents in their relations with Owner's employees, agents, and representatives, vendors, subcontractors, and other third parties, and those relating to the placement and administration of purchase orders and subcontracts.

66. Section 4.1.3 is hereby amended by deleting Section 4.1.3 in its entirety and replacing it with a new Section 4.1.3 to read as follows:

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a replacement Architect who shall assume the status of "Architect" under the Contract Documents.

67. Section 4.2.6 is hereby amended by changing all references to the term "Architect" throughout Section 4.2.6 from "Architect" to "Architect or Owner."

68. Section 4.2.7 is hereby amended by deleting the phrase ", but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents" from the first sentence of Section 4.2.7.

69. Section 4.2.9 is hereby amended by deleting Section 4.2.9 in its entirety and replacing it with a new Section 4.2.9 to read as follows:

§ 4.2.9 The Architect and the Owner will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion. The Architect will receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Construction Manager, and will issue a final Certificate for Payment upon full compliance with the requirements of the Contract Documents.

70. Section 4.2.11 is hereby amended by deleting the first sentence of Section 4.2.11 in its entirety and replacing it with a new sentence to read as follows:

> Upon written request of the Owner or Construction Manager the Architect will issue its interpretation regarding performance under and the requirements of the Contract Documents.

71.

72. Section 4.2.13 is hereby amended by deleting Section 4.2.13 in its entirety and replacing it with a new Section 4.2.13 to read as follows:

> § 4.2.13 The Architect's decision on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents and not expressly overruled in writing by the Owner.

73. Section 5.2.1 is hereby amended by deleting the last sentence of Section 5.2.1 and replacing it with the following provision to read as follows:

> Failure of the Architect to reply within the 14-day period shall constitute notice that the Architect and Owner have no known objection to the proposed persons and entities. Failure to reply or affirmative consent by the Architect to the proposed persons and entities shall not be deemed to waive or otherwise deprive the Owner and Architect of the right to thereafter complain to the Construction Manager regarding or otherwise object to the continued performance of the persons and entities on the Work if a reasonable objection to the persons and entities arises during the course of the Work.

74. Section 5.4.1 is hereby amended by deleting the phrase "for cause pursuant to Section 14.2" from Subsection 5.4.1.1.

75. Section 5.4.2 is hereby amended by deleting Section 5.4.2 in its entirety and replacing it with a new Section 5.4.2 to read as follows:

> § 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation may be equitably adjusted for increases in cost resulting from the suspension.

76. Section 6.1.1 is hereby amended by replacing the phrase "including those portions related to insurance and waiver of subrogation" with the phrase "Contract Documents" in the first sentence of Section 6.1.1.

77. Section 6.1.4 is hereby deleted in its entirety.

78. Section 7.2 is hereby amended by adding a new Section 7.2.2 to read as follows:

> §7.2.2 Acceptance of a Change Order by the Construction Manager shall constitute full accord and satisfaction for any and all claims, whether direct or indirect, including but not limited to impact, delay or acceleration damages, arising from the subject matter of the Change Order.

79. Section 7.3.8 is hereby amended by deleting the first sentence of Section 7.3.8 and replacing it with the following provision to read as follows:

> The amount of credit to be allowed by the Construction Manager to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost plus the Construction Manager's allocated percent for profit and overhead as confirmed by the Architect, subject to equitable adjustment recommended by the Architect and approved by the Owner.

80. Section 8.1.3 is hereby amended by deleting the phrase "Architect" and replacing it with the phrase "Architect and Owner."

81.

82. Section 8.3.3 is hereby amended by deleting Section 8.3.3 in its entirety and replacing it with a new Section 8.3.3 to read as follows:

> § 8.3.3 This Agreement does not permit the recovery of damages by the Construction Manager for delay, disruption or acceleration. Construction Manager agrees that Construction Manager shall be fully compensated for all delays solely by an extension of time.

83. Section 9.3.2 is hereby amended by deleting the phrase "and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site" from the last sentence of Section 9.3.2.

84. Section 9.3.2 is hereby further amended by adding the following sentence to the end of Section 9.3.2 to read as follows:

The Construction Manager shall be solely responsible for payment of all costs of applicable insurance, storage and transportation to the site for materials and equipment stored off the site.

85. Section 9.3.3 is hereby amended by adding the following sentence to the end of Section 9.3.3 to read as follows:

CONSTRUCTION MANAGER SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY THE CONSTRUCTION MANAGER, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH OR UNDER THE CONSTRUCTION MANAGER OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONSTRUCTION MANAGER.

86. Section 9.3 is hereby amended by adding a new Section 9.3.4 to read as follows:

§ 9.3.4 In each Request for Payment, Construction Manager shall certify that there are no known mechanics' or materialmens' liens outstanding at the date of the requisition, that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application and that except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmens' liens on the Work, and that releases from all subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Texas covering all Work theretofore performed and for which payment has been made by Owner to Construction Manager.

87. Section 9.5.2 is hereby amended by adding the following sentence to the end of Section 9.5.2 to read as follows:

The Owner shall not be deemed in default by reason of withholding payment as provided for herein and in Section 9.5.1.

88. Section 9.6.2 is hereby amended by deleting Section 9.6.2 in its entirety and replacing it with a new Section 9.6.2 to read as follows:

§ 9.6.2 The Construction Manager shall, within ten (10) days following receipt of payment from the Owner, pay all

bills for labor and materials performed and furnished by others in connection with the construction, furnished and equipping of the improvements and the performance of the Work, and shall, if requested, provide the Owner with evidence of such payment. Construction Manager's failure to make payments within such time shall constitute a material breach of this Contract. Construction Manager shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Construction Manager hereunder, and if the Owner so requests, shall provide copies of such subcontractor payments to the Owner. If the Construction Manager has failed to make payment promptly to the Construction Manager's Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Construction Manager, the Owner shall be entitled to withhold payment to the Construction Manager in part or in whole to the extent necessary to protect the Owner.

89. Section 9.6.7 is hereby amended by deleting Section 9.6.7 in its entirety and replacing it with a new Section 9.6.7 to read as follows:

§ 9.6.7 The Construction Manager shall, as a condition precedent to any obligation of the Owner under this agreement, provide to the Owner payment and performance bonds in a form approved by the Town Attorney in the full penal amount of the Contract in accordance with Texas Government Code Chapter 2253.

90. Section 9.7.1 is hereby amended by deleting the phrase "or awarded by binding dispute resolution" from Section 9.7.1.

91. Section 9.8.1 is hereby amended by adding the following provision to the end of Section 9.8.1 to read as follows:

In the event substantial completion is not achieved by the designated dated, or as it may be extended, Owner may withhold payment of any further sums due until substantial completion is achieved. Owner shall also be entitled to deduct out of any sums due to Construction Manager any or all liquidated damages due Owner in accordance with the Contract Documents.

92. Section 9.8.3 is hereby amended by changing all references to the term "Architect" throughout Section 9.8.3 from "Architect" to "Architect or Owner."

93. Section 9.8.4 is hereby amended by changing all references to the term "Architect" throughout Section 9.8.4 from "Architect" to "Architect or Owner."

94. Section 9.8.5 is hereby amended by deleting the second sentence of Section 9.8.5 in its entirety.

95. Section 9.8 is hereby amended by adding a new Section 9.8.6 to read as follows:

> § 9.8.6 Retainage is not due to the Construction Manager until 30 days after final completion of the Work as set out in Section 9.10. After the Certificate of Substantial Completion is accepted by the Owner, the Owner may, in its sole discretion and upon acceptance and consent of surety, make payment of retainage on all or a part of the Work accepted.

96. Section 9.9.3 is hereby amended by deleting Section 9.9.3 in its entirety and replacing it with a new Section 9.9.3 to read as follows:

> § 9.9.3 Unless expressly agreed upon in writing, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

97. Section 9.10.1 is hereby amended by deleting Section 9.10.1 in its entirety and replacing it with a new Section 9.10.1 to read as follows:

> § 9.10.1 When all of the Work is finally completed and the Construction Manager is ready for a final inspection it shall notify the Owner and the Architect thereof in writing. Thereupon, the Architect and Owner will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Architect will promptly issue a final Certificate for Payment certifying to the Owner that the Project is complete and the Construction Manager is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. If the Architect is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Construction Manager shall bear the cost of such repeat final inspection(s) which cost may be deducted by the Owner from the Construction Manager's final payment.

98. Section 9.10.2 is hereby amended by deleting Section 9.10.2 in its entirety and replacing it with a new Section 9.10.2 to read as follows:

§ 9.10.2 The Construction Manager shall not be entitled to final payment unless and until it submits to the Architect its affidavit that the payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the Owner, or the Owner's property, might be responsible have been fully paid or otherwise satisfied; releases and waivers of liens from all Subcontractors of the Construction Manager and of any and all other parties required by the Architect or the Owner; such other provisions as Owner may request; and consent of Surety to final payment. If any third party fails or refuses to provide a release of claims or waiver of lien as required by Owner, the Construction Manager shall furnish a bond satisfactory to the Owner to discharge any such lien or indemnify the Owner from liability.

99. Section 9.10.4 is hereby amended by deleting Section 9.10.4 in its entirety and replacing it with a new Section 9.10.4 to read as follows:

§ 9.10.4 The Owner shall make final payment of all sums due the Construction Manager not more than thirty (30) days after the Architect's execution of a final Certificate for Payment.

100. Section 9.11 is hereby created by adopting and adding the following Section 9.11 to read as follows:

§ 9.11 AUDIT.

Construction Manager agrees to maintain adequate books, payrolls and records satisfactory to the Owner in connection with any and all Work performed hereunder. Construction Manager agrees to retain all such books, payrolls and records (including data stored in computers) for a period of not less than three (3) years after completion of the Work. At all reasonable times during the performance of the Work, Owner and its duly authorized representatives shall have access to all personnel of Construction Manager and all such books, payrolls and records, and shall have the right to audit same. After completion of the Work, Owner shall continue to have the right to audit all such books, payrolls and records upon providing Construction Manager at least three (3) days written notice of Owner's intent to perform such an audit.

101. Section 9.12 is hereby created by adopting and adding the following Section 9.12 to read as follows:

> § 9.12 In addition to any liquidated damages payable to the Owner by the Construction Manager, if: (a) the Architect is required to make more than one (1) inspection for Substantial Completion; (b) the Architect is required to make more than one (1) inspection for Final Completion; or (c) the Work is not substantially complete within sixty (60) days after the date established for Substantial Completion in the Contract Documents; the Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for any additional inspections or services.

102. Section 10.1 is hereby amended by numbering the paragraph immediately following the line "§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS" as Section 10.1.1.

103. Section 10.1 is also hereby amended by adding a new Section 10.1.2 to read as follows:

> § 10.1.2 Construction Manager's employees, agents, and subcontractors shall not perform any service for Owner while under the influence of alcohol or any controlled substance. Construction Manager, its employees, agents, Subcontractors and Sub-subcontractors, and their respective employees and agents shall not use, possess, distribute, or sell illicit or unprescribed controlled drugs or drug paraphernalia, or misuse legitimate prescription drugs while performing the Work. Construction Manager, its employees, agents, Subcontractors and Sub-subcontractors, and their respective employees and agents shall not use, possess, distribute, or sell alcoholic beverages while performing the Work.
>
> Construction Manager has adopted or will adopt its own policy to assure a drug and alcohol free work place while performing the Work.
>
> Construction Manager will remove any of its employees from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such employee, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Construction Manager to remove employees from performing the Work any time cause exists

to suspect alcohol or drug use. In such cases, Construction Manager's employees may only be considered for return to work after the Construction Manager certifies as a result of a for-cause test, conducted immediately following removal, that said employee was in compliance with this Contract. Construction Manager will not use an employee to perform the Work who either refuses to take, or tests positive in, any alcohol or drug test.

Construction Manager will comply with all applicable federal, state, and local drug and alcohol related laws and regulations (e.g., Department of Transportation regulations, Department of Defense Drug-free Work-free Workforce Policy, Drug-Free Workplace Act of 1988). Owner has also banned the presence of all weapons on the Project site, whether the owner thereof has a permit for a concealed weapon or not.

104. Section 10.2.5 is hereby amended by deleting Section 10.2.5 in its entirety and replacing it with a new Section 10.2.5 to read as follows:

§10.2.5 CONSTRUCTION MANAGER SHALL BE RESPONSIBLE FOR AND SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY RESULTING FROM LOSS OF OR DAMAGE TO ANY PROPERTY THAT IS ON OR OFF THE SITE AND/OR IN TRANSIT AS REFERRED TO IN SECTION 10.2.1.2 EVEN IF SUCH LOSS OR DAMAGE RESULTS FROM OWNER'S OR OWNER'S OFFICERS', CONSULTANT'S, AGENT'S OR EMPLOYEES' NEGLIGENCE. AS TO PROPERTY REFERRED TO IN SECTION 10.2.1.3, CONSTRUCTION MANAGER SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY RESULTING FROM LOSS OF OR DAMAGE CAUSED IN WHOLE OR IN PART BY THE CONSTRUCTION MANAGER, ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENT ACTS OR OMISSIONS OF THE OWNER, OR OWNER'S OFFICERS', CONSULTANT'S, AGENT'S OR EMPLOYEES'. THE FOREGOING OBLIGATIONS OF THE CONSTRUCTION MANAGER ARE IN ADDITION TO HIS OBLIGATIONS

UNDER SECTION 3.18 OF THIS AGREEMENT SUBJECT TO THE LIMITATIONS, IF SAME ARE APPLICABLE TO THIS CONTRACT, CONTAINED IN TEXAS LOCAL GOVERNMENT CODE § 271.904(A) AND TEXAS CIVIL PRACTICE & REMEDIES CODE, § 130.002(B).

105. Section 10.3.2 is hereby amended by deleting Section 10.3.2 in its entirety and replacing it with a new Section 10.3.2 to read as follows:

§ 10.3.2 Upon receipt of the Construction Manager's written notice, the Owner shall obtain the services of a licensed laboratory, sanitarian or other professional to verify the presence or absence of the suspected hazardous material or substance reported by the Construction Manager. In the event a hazardous material or substance is found to be present the Owner may (1) terminate the Work without any penalty or liability to Construction Manager or (2) suspend the Work for such time period as may be required to retain and contract with one or more third-party consultants and Construction Managers to develop a plan to and perform all work necessary to contain, encase, remove or remediate the hazardous material or substance as may be appropriate and recommended by a licensed laboratory, sanitarian or other professional in conformity with state and federal law. When the hazardous material or substance has been contained, encased, removed or remediated in conformity with state and federal law, Work in the suspect area shall resume upon written agreement of the Owner and Construction Manager. By Change Order, the Contract Time shall be extended appropriately. The Contract Sum may be adjusted upon agreement of the parties to address Construction Manager's actual costs of shut-down and start-up provided that the Work is stopped or abated for more than twenty-one (21) days.

106. Section 10.3.3 is hereby deleted in its entirety.

107. Section 10.3.4 is hereby amended by deleting Section 10.3.4 in its entirety and replacing it with a new Section 10.3.4 to read as follows:

> § 10.3.4 The Owner shall not be liable under this Section 10.3 for potentially hazardous or hazardous materials or substances the Construction Manager brings to the site. The Owner shall not be liable for the Construction Manager's storage, use or handling of potentially hazardous or hazardous materials or substances.

108. Section 10.3.5 is hereby amended by deleting Section 10.3.5 in its entirety and replacing it with a new Section 10.3.5 to read as follows:

> § 10.3.5 THE CONSTRUCTION MANAGER SHALL INDEMNIFY THE OWNER FOR THE COST AND EXPENSE THE OWNER INCURS (1) FOR REMEDIATION OF A HAZARDOUS MATERIAL OR SUBSTANCE THE CONSTRUCTION MANAGER BRINGS TO THE SITE AND WRONGFULLY OR NEGLIGENTLY STORES, USES OR HANDLES, (2) FOR REMEDIATION OF A HAZARDOUS MATERIAL OR SUBSTANCE THE CONSTRUCTION MANAGER WRONGFULLY OR NEGLIGENTLY RELEASES INTO THE ENVIRONMENT, (3) WHERE THE CONSTRUCTION MANAGER FAILS TO PERFORM ITS OBLIGATIONS UNDER SECTION 10.3.1, (4) FOR THE COST OF ANY CITATIONS, COURT COASTS, ATTORNEY'S FEES AND EXPERT WITNESS FEES ARISING OUT OF ANY CLAIMS OR LITIGATION INVOLVING ANY SUCH HAZARDOUS MATERIAL OR SUBSTANCE, AND (5) FOR ANY CONTINUING COSTS ASSOCIATED WITH MONITORING AND REPORTING REQUIRED BY THE ENVIRONMENTAL POLLUTION AGENCY, TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND/OR THE TEXAS STATE DEPARTMENT OF HEALTH.

109. Section 10.3.6 is hereby deleted and the following is inserted as 10.3.6 "If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall pay (or reimburse the Contractor for) all cost and expense incurred in the remediation of the hazardous material or substance."

110. Section 10.6.1 is hereby amended by deleting the second sentence of Section 10.6.1.

111. Section 11.1.1 is hereby amended by deleting Section 11.1.1 in its entirety and replacing it with a new Section 11.1.1 to read as follows:

§ 11.1.1 Before commencing work, the Construction Manager shall, at its own expense, procure, pay for and maintain the following insurance coverage written by companies approved by the State of Texas and acceptable to the Town of Prosper. In the event of a conflict between the insurance requirements contained in this Article 11 and any other provision contained in the Contract Documents or the applicable request for bids or sealed proposals the more stringent requirements and higher policy limits shall control.

.1 Commercial General Liability insurance utilizing ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable. The policy shall include, coverage for Premises/Operations, Broad Form Contractual Liability, Personal & Advertising Injury, Products/Completed Operations, Broad Form Property Damage, Independent Contractors and Contractual Liability, and Explosion Collapse and Underground (XCU) Coverage with minimum combined single limits of $1,000,000 per-occurrence, $2,000,000 Products/Completed Operations Aggregate and $2,000,000 general aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

.2 Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability coverage with minimum limits for bodily injury: a) by accident, $100,000 each accident with $300,000 per occurrence, b) by disease, $100,000 per employee with a per policy aggregate of $500,000.

.3 Automobile Liability insurance as required by the State of Texas, covering all owned, hired and non-owned vehicles, with a minimum Combined Single Limit of $1,000,000 per occurrence. Limits can only be reduced if approved in writing in advance of any such reduction by the Town.

.4 Umbrella or Excess Liability insurance with minimum limits of $1,000,000 each occurrence and annual aggregate for bodily injury and property damage, that follows form and applies in excess of the above indicated primary coverage in subparagraphs .1, .2 and .3, above. The total limits required may be satisfied by any combination of primary, excess or umbrella liability insurance provided all policies comply with all requirements. The Construction Manager may maintain reasonable deductibles, subject to approval by the Owner. Any deductible or self-insured retention(s) in excess of $10,000 must be declared to and approved by the Town.

.5 Builder's Risk Insurance is required. It shall provide All-Risk coverage including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft in an amount equal to one hundred percent (100%) of the completed value of the project in question. Additionally, this coverage shall provide protection to the full replacement value for boiler and machinery equipment up to installation, during testing, and until acceptance by Owner. The policy shall be written on a Completed Value Form, including materials delivered and labor performed for the Project. The policy shall be written jointly in the names of the Owner, Construction Manager, Subcontractors and Sub-subcontractors as their interests may appear. The policy shall have endorsements as follows:

.1 This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.

.2 Loss, if any, shall be adjusted with and made payable to the Owner on behalf of all insureds as their interests may appear.

112. Section 11.1.2 is hereby amended by deleting Section 11.1.2 in its entirety and replacing it with a new Section 11.1.2 to read as follows:

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than the limits of liability specified in the Contract Documents or as required by law, whichever coverage is greater. All such insurance shall be purchased

from an insurance company that meets a financial rating of A- VI, or better as assigned by the A.M. BEST Company or equivalent. In the event that any of the coverages contained in Section 11.1.1 conflict with the insurance provisions contained in any other of the Contract Documents the more stringent of such provisions with respect to each type of required coverage shall control. All coverages required for this work shall be written on an occurrence basis and NOT a claims-made basis. Coverages required by this Section 11.1, other than Builder's Risk Coverage, shall be maintained without interruption from the date of commencement of the Work through the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Construction Manager's completed operations coverage until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. Builder's Risk Coverage shall be maintained without interruption from the date of commencement of the Work through the date of substantial completion. Until substantial completion, Owner shall not occupy the Work without prior express written consent of the Builder's Risk insurer.

The policy or policies so issued in the name of Construction Manager shall also name Subcontractors, Sub-subcontractors and the Owner as additional insureds, as their respective interests may appear. The insurance coverage provided under this Section 11.1 shall be primary coverage. If the coverages provided under this Section 11.1 are written with stipulated amounts deductible under the terms of the policy, the Construction Manager shall pay the difference attributable to deductions in any payment made by the insurance carrier on claims paid by and through such coverages.

If the Owner is damaged by the failure of the Construction Manager to maintain such insurance and to so notify the Owner then the Construction Manager shall bear all reasonable costs properly attributable thereto. Nothing contained herein shall limit or waive Construction Manager's legal or contractual responsibilities to Owner or others.

113. Section 11.1.3 is hereby amended by adding the following provision to the end of Section 11.1.3 to read as follows:

The Construction Manager shall furnish such certificates of insurance, executed by the insurer or its authorized agent, to the Town of Prosper Purchasing Manager. The certificates of insurance shall state the type of coverages, limits of each such coverage, expiration dates and compliance with all applicable required provisions. Certificates shall reference the project/contract number and be addressed as follows:

<Project Name and Project Number»
Town of Prosper
Attn: Purchasing Agent
PO Box 307
Prosper, Texas 75078

Construction Manager shall permit Owner to examine the insurance policies, or at Owner's option, Construction Manager shall furnish Owner with copies, certified by the carrier(s), of insurance policies required in Section 11.1. Failure to provide or maintain any of the coverages required by Section 11.1 shall be deemed a material breach of the Agreement and shall result in termination unless immediately cured by Construction Manager.

114. Section 11.1.4 is hereby amended by deleting Section 11.1.4 in its entirety and replacing it with a new Section 11.1.4 to read as follows:

§ 11.1.4With reference to the foregoing required insurance, the Construction Manager shall also endorse applicable insurance policies as follows:

.1 A waiver of subrogation shall be provided in favor of Town of Prosper, its officials, employees, boards, commissioners, volunteers, and officers for any and all losses arising from work performed by the Construction Manager for the Town shall be contained in the Workers' Compensation insurance policy.

.2 The Town of Prosper, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.

.3 The contractor's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

.4 Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.

.5 The contractor's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the limits of the insured's limits of liability.

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

115. Section 11.1 is hereby amended by adding a new Section 11.1.5 to read as follows:

§ 11.1.5 Construction Manager and its subcontractors shall not commence the shipment of equipment or materials or commence the Work at the site until all of the insurance coverage required of Construction Manager and its Subcontractors and Sub-subcontractors are in force and the necessary certificates and statements required by Section 11.1 have been received by Owner and the Architect has issued a written notice to proceed.

116. Section 11.1 is hereby further amended by adding a new Section 11.1.6 to read as follows:

§ 11.1.6. With respect to Workers' Compensation insurance, the Construction Manager agrees to comply with all applicable provisions of 28 Tex. Admin Code § 110.110, "Reporting Requirements for Building or Construction Projects for Governmental Entities," as such provision may be amended, and as follows:

Workers' Compensation Insurance Coverage

1. Definitions:

   Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

   Duration of the project - includes the time from the beginning of the work on the project until the Construction Manager's/person's work on the project has been completed and accepted by the governmental entity.

   Persons providing services on the project ("subcontractor" in § 406.096) - includes all persons or entities performing all or part of the services the Construction Manager has undertaken to perform on the project, regardless of whether that person contracted directly with the Construction Manager and regardless of whether that person has employees. This includes, without limitation, independent Construction Managers, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

2. The Construction Manager shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Construction Manager providing services on the project, for the duration of the project.

3. The Construction Manager must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

4. If the coverage period shown on the Construction Manager's current certificate of coverage ends during the duration of the project, the Construction Manager must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

5. The Construction Manager shall obtain from each person providing services on a project, and provide to the governmental entity:

   (a) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

   (b) no later than seven days after receipt by the Construction Manager, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

6. The Construction Manager shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

7. The Construction Manager shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the Construction Manager knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

8. The Construction Manager shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

9. The Construction Manager shall contractually require each person with whom it contracts to provide services on a project, to:

(a) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(b) provide to the Construction Manager, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(c) provide the Construction Manager, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(d) obtain from each other person with whom it contracts, and provide to the Construction Manager:

(1) a certificate of coverage, prior to the other person beginning work on the project; and

(2) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(e) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(f) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(g) contractually require each person with whom it contracts, to perform as required by paragraphs (1) -

(7), with the certificates of coverage to be provided to the person for whom they are providing services.

10. By signing this contract or providing or causing to be provided a certificate of coverage, the Construction Manager is representing to the governmental entity that all employees of the Construction Manager who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Construction Manager to administrative penalties, criminal penalties, civil penalties, or other civil actions.

11. The Construction Manager's failure to comply with any of these provisions is a breach of contract by the Construction Manager which entitles the governmental entity to declare the contract void if the Construction Manager does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

117. Section 11.2, including all subsections thereto, is hereby deleted in its entirety.

118. Section 11.3, including Sections 11.3.1 through 11.3.10 thereof, is hereby deleted and replaced with the following: "

11.3.1 The Owner shall be responsible for procuring insurance, including property insurance, to protect the Work at times when Contractor is not obligated to provide coverage, including insurance to provide coverage between the time Owner occupies the Work and final payment. The Owner represents that it has obtained or will obtain sufficient insurance, including property insurance, to protect its interests from insurable risks after the Contractor's obligation to provide insurance, including Builder's Risk insurance, terminates.

11.3.2 The Owner and Contractor waive all rights against each other and any of their Separate Contractors, subcontractors, sub-subcontractors, agents, and employees, each of the other, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement, property insurance the Owner represents it possesses or will acquire in Section 11.3.1, or other property insurance applicable to the Project, except such rights as they have to

proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.2 shall not prohibit this waiver of subrogation. The waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

119. Section 11.4.1 is hereby amended by deleting Section 11.4.1 in its entirety and replacing it with a new Section 11.4.1 to read as follows:

> § 11.4.1 The Construction Manager shall procure and pay for performance and payment bonds applicable to the work in an amount equal to one hundred percent (100%) of the Estimated Project Construction Budget. If and when the Owner and Construction Manager agree on a Guaranteed Maximum Price, the Construction Manager may obtain substitute Payment and Performance Bonds, each in the amount of one hundred percent (100%) of the Guaranteed Maximum Price, within 5 days after the Amendment to the Contract is signed that establishes the Guaranteed Maximum Price. The Construction Manager shall also procure and pay for a maintenance bond applicable to the work in the amount of one hundred percent (100%) of the Guaranteed Maximum Price. The period of the Maintenance Bond shall be two years from the date of acceptance of all work done under the contract, to cover the guarantee as set forth in the Special Conditions. The performance, payment and maintenance bonds shall be issued in the form attached to this Addendum as Exhibits A, B and C. Other performance, payment and maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in the Contract Documents.

120. Section 11.4.2 is hereby amended by deleting Section 11.4.2 in its entirety and replacing it with a new Section 11.4.2 to read as follows:

> § 11.4.2 The performance, payment and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Owner, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas

Government Code. Further, the Construction Manager shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment and maintenance bonds and proof to establish adequate financial capacity for this Project upon Owner's request. In addition to the foregoing requirements, if the amount of the bond exceeds One Hundred Thousand Dollars ($100,000) the bond must be issued by a surety that is qualified as a surety on obligations permitted or required under federal law as indicated by publication of the surety's name in the current U.S. Treasury Department Circular 570. In the alternative, an otherwise acceptable surety company (not qualified on federal obligations) that is authorized and admitted to write surety bonds in Texas must obtain reinsurance on any amounts in excess of One Hundred Thousand Dollars ($100,000) from a reinsurer that is authorized and admitted as a reinsurer in Texas who also qualifies as a surety or reinsurer on federal obligations as indicated by publication of the surety's or reinsurer's name in the current U.S. Treasury Department Circular 570.

121. Section 11.4 is hereby amended by adding a new Section 11.4.3 to read as follows:

§ 11.4.3 Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that the amount reinsured by an reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus.

122. Section 11.4 is hereby amended by adding a new Section 11.4.4 to read as follows:

§ 11.4.4All bonds will be reviewed by the Architect for compliance with the Contract Documents prior to execution of the Agreement. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's representative for review and decision.

123. Section 11.4 is hereby further amended by adding a new Section 11.4.5 to read as follows:

> § 11.4.5All bonds shall be originals. The Construction Manager shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the Power-of-Attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

124. Section 11.4 is also hereby amended by adding a new Section 11.4.6 to read as follows:

> § 11.4.6 Upon the request in writing of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the contract, the Construction Manager shall promptly furnish a copy of the bonds or shall permit a copy to be made.

125. Section 11.4 is hereby further amended by adding a new Section 11.4.7 to read as follows:

> § 11.4.7 Bonds shall be signed by an agent resident in the State of Texas and the date of the bond shall be the date of execution of the Contract. If at any time during the continuance of the Contract, the surety of the Construction Manager's bonds becomes insufficient, Owner shall have the right to require additional and sufficient sureties which the Construction Manager shall furnish to the satisfaction of the Owner within ten (10) business days after notice to do so. In default thereof, the Construction Manager may be suspended, and all payment or money due to the Construction Manager withheld.

126. Section 12.2.2.1 is hereby amended by replacing the phrase "within one year" in the first sentence of Section 12.2.2.1 with the phrase "within two years."

127. Section 12.2.2.1 is also hereby amended by replacing the phrase "one-year period" in the third sentence of Section 12.2.2.1 with the phrase "two-year period."

128. Section 12.2.2.2 is hereby amended by replacing the phrase "one-year period" with the phrase "two-year period."

129. Section 12.2.2.3 is hereby amended by deleting Section 12.2.2.3 in its entirety and replacing it with a new Section 12.2.2.3 to read as follows:

§ 12.2.2.3The two-year period for correction of Work shall be extended by corrective Work performed by the Construction Manager pursuant to this Section 12.2.

130. Section 12.2.2.5 is hereby amended by replacing the phrase "one-year period" with the phrase "two-year period."

131. Section 12.2 is hereby amended by adding a new Section 12.2.6 to read as follows:

§ 12.2.6 Construction Manager shall (i) re-execute any parts of the Work that fail to conform with the requirements of this Agreement that appear in the progress of the Work; (ii) remedy any defects in the Work due to faulty materials or workmanship which appear within a period of two (2) years from Substantial Completion of the Work hereunder, or within such longer period of time as may be set forth in the Drawings and Specifications or other Contract Documents; and (iii) replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are injured or damaged by any such parts of the Work that do not conform to the requirements of this Agreement or defects in the Work.

132. Section 12.2 is hereby further amended by adding a new Section 12.2.7 to read as follows:

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by subcontractors of the Construction Manager as well as work done directly by employees of the Construction Manager. The provisions of this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate Construction Manager of Owner (unless Construction Manager is acting in such capacities). The cost to Construction Manager of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Construction Manager.

133. Section 12.2 is also hereby amended by adding a new Section 12.2.8 to read as follows:

§ 12.2.8 If, however, Owner and Construction Manager deem it inexpedient to require the correction of work damaged or not done in accordance with the Contract Documents, an

equitable deduction from the Contract Sum and the Stipulated Sum shall be made by agreement between Construction Manager and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Construction Manager. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

134. Section 12.2 is hereby further amended by adding a new Section 12.2.9 to read as follows:

§ 12.2.9 Construction Manager's express warranty herein shall be in addition to, and not in lieu of, any other remedies Owner may have under this Agreement, at law, or in equity for defective Work.

135. Section 13.1 is hereby amended by deleting Section 13.1 in its entirety and replacing it with a new Section 13.1 to read as follows:

§ 13.1 The Contract Documents shall be governed by the laws of the State of Texas. The Contract is deemed performable entirely in Denton County, Texas. Any litigation to enforce or interpret any terms of the Contract Documents or any other litigation arising out of or as a result of the Work shall be brought in the State courts of Denton County, Texas.

136. Section 13.3 is hereby amended by deleting Section 13.3 in its entirety and replacing it with a new Section 13.3 to read as follows:

§ 13.3 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail or by courier service providing proof of delivery to the last business address known to the party giving notice. In addition, or in the alternative, such delivery may be by electronic facsimile transmission to the last facsimile (telephone) number known to the party giving such notice.

137. Section 13.5.1 is hereby amended by deleting Section 13.5.1 in its entirety and replacing it with a new Section 13.5.1 to read as follows:

§ 13.5.1 Test, inspections and approvals of portions of the Work shall be made as required by the Contract Documents

and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. The Construction Manager shall use only materials in the Work, which meet the requirements of the Specifications. The Owner will contract for, independently of the Construction Manager, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for the acceptance of the Work by the Owner. The Construction Manager shall give timely notice to the Architect and such other persons or entities selected by the Owner of the need for such services. The Construction Manager shall furnish, at his own expense, all necessary specimens for testing of the materials and when requested, shall furnish a complete written statement of the origin, composition, and/or manufacturer of any or all materials that are to be used in the Work. THIS QUALITY CONTROL SERVICE DOES NOT RELIEVE THE CONSTRUCTION MANAGER OF HIS RESPONSIBILITY WITH REGARD TO CONSTRUCTING THE WORK IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. All materials not conforming to the requirements of the Specifications will be rejected.

138. Section 13.5.2 is hereby amended by deleting Section 13.5.2 in its entirety and replacing it with a new Section 13.5.2 to read as follows:

§ 13.5.2 Owner shall pay for the initial testing performed by the engineering testing laboratory retained by the Owner on materials furnished and Work performed by Construction Manager. Retesting after failure to pass any test shall be at the sole expense of the Construction Manager. Payment for any and all Retests may be deducted and permanently withheld from the Construction Manager's total compensation unless the Construction Manager pays for such Retests within 20 days of the receipt of an invoice for such Retest.

Owner shall not be liable for or responsible to pay for tests or Retests performed by any person or entity other than the engineering testing laboratory retained by Owner for that purpose.

139. Section 13.6 is hereby amended by deleting Section 13.6 in its entirety and replacing it with a new Section 13.6 to read as follows:

§ 13.6 Payments due and unpaid under the Contract Documents shall bear interest in accordance with the Texas Prompt Payment Act, Texas Gov't Code Chapter 2251.

140. Section 13.7 is hereby deleted in its entirety.

141. Article 13 is hereby amended by adding a new Section 13.8 to read as follows:

§ 13.8 CONSTRUCTION MANAGER'S RECORDS

Construction Manager agrees to furnish Owner such information as may be available in Construction Manager's files and records for the Project for the purpose of aiding Owner in establishing a depreciation schedule for the Project or such portions thereof as Owner may determine.

142. Article 13 is hereby amended by adding a new Section 13.9 to read as follows:

§ 13.9 The Construction Manager shall certify in writing that no materials used in the work contain lead or asbestos materials in them in excess of amounts allowed by Local/State standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Construction Manager shall provide this written certification as part of submittals under the Section in the Contract Documents related to closing out the Project.

143. Article 13 is hereby amended by adding a new Section 13.10 to read as follows:

§ 13.10 The Architect may appoint an employee or other person to assist him during the construction. These representatives will be instructed to assist the Construction Manager in interpreting the Contract Documents; however, such assistance shall not relieve the Construction Manager from any responsibility as set forth by the Contract Documents. The fact that the Architect's Representative may have allowed work not in accordance with the Contract Documents shall not prevent the Architect from insisting that the faulty work be corrected to conform to the Contract Documents and the Construction Manager shall correct same.

144. Section 14.1.1.2 is hereby amended by inserting the word "or" at the end of the current line.

145. Section 14.1.1.3 is hereby amended by deleting ": or" at the end of the current line and inserting a period (.).

146. Section 14.1.1.4 is hereby deleted in its entirety.

147. Section 14.1.3 is hereby amended by deleting Section 14.1.3 in its entirety and replacing it with a new Section 14.1.3 to read as follows:

> § 14.1.3 If one of the reasons described in Subparagraph 14.1.1 or 14.1.2 exists, the Construction Manager may, upon 7 days written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment in an amount which would have been recoverable had the termination been for the Owner's convenience.

148. Section 14.2.2 is hereby amended by deleting Section 14.2.2 in its entirety and replacing it with a new Section 14.2.2 to read as follows:

> § 14.2.2 When any of the above reasons exist the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Construction Manager and the Construction Manager's Surety, if any, seven (7) days' written notice, terminate employment of the Construction Manager and may, subject to any prior rights of Surety:
>
> .1 Take possession of the site and of all materials, equipment, tools, and construction equipment, and machinery thereof owned by the Construction Manager.
>
> .2 Accept assignment of subcontracts pursuant to Paragraph 5.4.
>
> .3 Finish the Work by whatever reasonable method the Owner may deem expedient.

149. Section 14.4.3 is hereby amended by deleting Section 14.4.3 in its entirety and replacing it with a new Section 14.4.3 to read as follows:

> § 14.4.3 In the case of such termination for the Owner's convenience, the Construction Manager shall be entitled to receive payment for Work executed, for profits only on that portion of the Work executed, and for reasonable costs of demobilization.

150. Section 15.1.2 is hereby amended by deleting Section 15.1.2 in its entirety and replacing it with a new Section 15.1.2 to read as follows:

> § 15.1.2 Claims by the Construction Manager must be initiated within 21 days after occurrence of the event giving rise to such Claim. Claims by the Construction Manager must be initiated by written notice to the Owner and Initial Decision Maker with a copy to the Architect if the Architect is not serving as the Initial Decision Maker.

151. Section 15.1.3 is hereby amended by adding the phrase "and subject to the consent and agreement of the Owner" to the end of the second sentence of Section 15.1.3.

152. Section 15.1.4 is hereby amended by deleting the second sentence of Section 15.1.4 in its entirety.

153. Section 15.1.5.2 is hereby amended by adding the following provision to the end of Section 15.1.5.2 to read as follows:

> "**§ 15.1.5.2 Claims for Additional Time.**
>
> The Construction Manager shall be entitled to an extension of the contract time for delays or disruptions due to unusually severe weather in excess of that normally experienced at the job site only as determined from climatological data set forth in this subsection. Rainy days shall not be considered an abnormal or adverse weather condition for which an extension of time will be granted unless and except in those months during which the actual cumulative number of rainy days within the month exceed the historical average cumulative number of rainy days for said month, provided that the rainfall prevented the execution of major items of work on normal working days. A rain day is defined as a day when rainfall exceeds one-tenth (.25) inch during a twenty-four (24) hour period. The historical number of Weather Days per calendar month is as follows, based upon regional weather data from the National Oceanic & Atmospheric Administration (Dallas FAA Airport, TX Weather Forecast Station):

Average Weather Days per Month

Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
3	2	3	2	4	3	3	2	3	3	2	2

The number of rain days shown in the Rainfall Table for the first and last months of this Agreement will be prorated in determining the total number of rain days expected during the period of this Agreement. Time extensions may also be granted for any day following a period of precipitation during which muddy conditions exist and prevent performance of major items of work conducted on normal working days, which muddy conditions are subject to confirmation by the Owner.

Requests for an extension of time pursuant to this subsection shall be promptly submitted to the Owner and no later than fourteen (14) days after the event(s) giving rise to such claim. The notice shall, in writing, specify the nature and duration of the delays or disruptions and the anticipated effect such weather days will have on the Construction Manager's abilities to perform its obligations along with a plan to deal with the effects of such weather days and proposed amendments to all affected schedules and the Gantt Chart necessarily resulting therefrom. Failure to timely submit a complete notice of claim for delays and extension of time for completion due to abnormal or adverse weather conditions or rainy days pursuant to this subsection shall result in the denial of a request for extra time for performance under the Contract Documents. In the event of such failure, no adjustment shall be made to the Guaranteed Maximum Price, and the Construction Manager shall not be entitled to claim or receive any additional compensation as a result of or arising out of any delay resulting in the adjustment of the working time, due to any of the factors outlined within this subsection.

Construction Manager shall be compensated for additional general conditions associated with time extensions. Additional cost to be submitted with request for time extension.

154. Section 15.2.1 is hereby amended by deleting Section 15.2.1 in its entirety and replacing it with a new Section 15.2.1 to read as follows:

§ 15.2.1 Claims by the Construction Manager against the Owner, including those alleging an error or omission by the Architect but excluding those arising under Paragraphs 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred initially to the Initial Decision Maker for consideration and recommendation to the Owner. An initial recommendation by the Initial Decision Maker shall be required as a condition precedent to mediation or litigation of all Claims by the Construction Manager arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no recommendation having been rendered by the Initial Decision Maker. The Architect shall serve as the Initial Decision Maker, unless otherwise indicated in the Contract Documents.

155. Section 15.2.2 is hereby amended by deleting Section 15.2.2 in its entirety and replacing it with a new Section 15.2.2 to read as follows:

> § 15.2.2 The Initial Decision Maker will review Claims and within ten (10) days of receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the Construction Manager; (2) issue an initial recommendation; (3) suggest a compromise; or (4) advise the parties that the Initial Decision Maker is unable to issue an initial recommendation due to a lack of sufficient information or conflict of interest.

156. Section 15.2.4 is hereby amended by deleting the last sentence of Section 15.2.4 and replacing it with a new sentence to read as follows:

> Upon receipt of the response or supporting data, if any, the Initial Decision Maker shall make a recommendation to the Owner regarding the claim or any part of the claim.

157. Section 15.2.5 is hereby amended by deleting Section 15.2.5 in its entirety and replacing it with a new Section 15.2.5 to read as follows:

> § 15.2.5 The Initial Decision Maker will render an initial recommendation regarding the claim, or indicating that the Initial Decision Maker is unable to make a recommendation. This initial recommendation shall (1) be in writing; (2) state the reasons therefore; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any recommended change in the Contract Sum or Contract Time or both. Following receipt of the Initial

Decision Maker's initial recommendation regarding a claim, the Owner and Construction Manager shall attempt to reach agreement as to any adjustment to the Contract Price and/or Contract Time. If no agreement can be reached either party may request mediation of the dispute pursuant to Section 15.3.

158. Section 15.2.6 is hereby deleted in its entirety.

159. Section 15.2.6.1 is hereby deleted in its entirety.

160. Section 15.2.7 is hereby deleted in its entirety.

161. Section 15.2.8 is hereby deleted in its entirety.

162. Section 15.2 is hereby amended by adding a new Section 15.2.9 to read as follows:

§ 15.2.9 Waiver of Lien. It is distinctly understood that by virtue of this Contract, no mechanic, contractor, materialman, artisan, or laborer, whether skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the building, or any of the improvements of whatever nature or kind so erected or to be erected by virtue of this Contract nor upon any of the land upon which said building or any of the improvements are so erected, built, or situated.

163. Section 15.3 and all of its Subsections, including Sections 15.3.1 through 15.3.3, are hereby amended by deleting such Sections in their entirety and replacing such Sections with new Sections 15.3, 15.3.1, 15.3.2 and 15.3.3 to read as follows:

§ 15.3 MEDIATION

§ 15.3.1 In the event that the Owner or the Construction Manager shall contend that the other has committed a material breach of this Agreement, the party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute.

§ 15.3.2 Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties.

§ 15.3.3 In the event the Owner and the Construction Manager are unable to agree to a date for the mediation or

to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred.

164. Section 15.3 is hereby further amended by adding new Sections 15.3.4 and 15.3.5 to read as follows:

§ 15.3.4Venue for any mediation or lawsuit arising under this contract shall be in Denton County, Texas.

§ 15.3.5 The parties shall share the mediator's fee equally. The mediation shall be held in Denton County unless another location is mutually agreed upon by and between the parties. Agreements reached in or through mediation shall be enforceable in the state courts of Denton County, Texas.

165. Section 15.4 is hereby amended by deleting the entirety of Section 15.4 together with all of Sections 15.4.1, 15.4.1.1, 15.4.2, and 15.4.3 in their entirety.

166. Section 15.4.4 is hereby amended by deleting the entirety of Section 15.4.4.1 together with all of Sections 15.4.4.2, 15.4.4.3 in their entirety.

167. The *General Conditions of the Contract for Construction,* AIA Document A201-2007 is hereby further amended by deleting all references to arbitration from the Index and all other Sections, Subsections, paragraphs, provisions and/or phrases of such document.

II.

In the event of conflict in the language of the Agreement and this Addendum, the terms of this Addendum shall be final, controlling and binding upon the parties. Where a portion of the Agreement is not amended, replaced, modified and/or supplemented by this Addendum, the unaltered portions of the Agreement shall remain in full force and effect.

III.

This Addendum, when combined with the Agreement and the Contract Documents contains the entire agreement between Owner and Construction Manager with respect to the subject matter hereof, and except as otherwise provided herein cannot be modified without written agreement of the parties. Said Agreement shall be fully effective as written except that it shall be read as if the foregoing deletions, modifications and additions are incorporated therein word for word.

IV.

This Addendum and the Agreement are entered into subject to the Town Charter and ordinances of the Town of Prosper, as same may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable State of Texas and federal laws. Construction Manager will make any and all reports required pursuant to federal, state or local law including, but not limited to, proper reporting to the Internal Revenue Service, as required in accordance with Construction Manager's income. Situs of this Contract is agreed to be Denton County, Texas, for all purposes, including performance and execution.

V.

If any of the terms, provisions, covenants, conditions or any other part of this Addendum are for any reason held to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants, conditions or any other part of this Addendum shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

VI.

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each right or remedy shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Addendum may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Addendum.

VII.

For purposes of this Addendum, including its intended operation and effect, the parties (Owner and Construction Manager) specifically agree and contract that: (1) the Addendum only affects matters/disputes between the parties to this Addendum, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with Owner or Construction Manager or both; and (2) the terms of this Addendum are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either Owner or Construction Manager.

IN WITNESS WHEREOF, the parties hereto have set their hands by their representatives duly authorized on the day and year first written above.

OWNER:

TOWN OF PROSPER, TEXAS

By: _____
Harlan Jefferson, Town Manager

Date Signed: _____

ATTEST:

_____
Melissa Lee, Town Secretary

APPROVED AS TO FORM:

_____
Terrence S. Welch, Town Attorney

CONSTRUCTION MANAGER:

POGUE CONSTRUCTION CO., LP,
a Texas Limited Partnership, acting by and through Ben Pogue, its President/Chief Executive Officer.

By: _____
Ben Pogue, President/Chief Executive Officer

Date Signed: 4.19.2021

THE STATE OF TEXAS,
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared Harlan Jefferson, Town Manager of the **TOWN OF PROSPER**, a Texas Municipal Corporation, known to me to be the person who's name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on the Town's behalf.

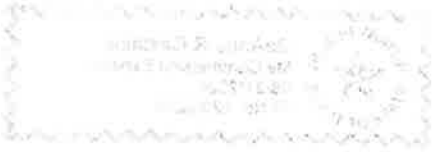
GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE
DAY OF _____, 20_____.

Notary Public Denton County, Texas
My commission expires

THE STATE OF TEXAS,
COUNTY OF COLLIN

This instrument was acknowledged before me on the 19th day of April, 2021 by Ben Pogues, in his capacity as President/Chief Executive Officer of **Pogue Construction Co., LP**, a Texas Limited Partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that Ben Pogue is the President/Chief Executive Officer of **Pogue Construction Co., L.P.,** a Texas Limited Partnership, and that he executed the same on behalf of and as the act of **Pogue Construction Co., LP.**

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 19th
DAY OF April, 20 21.

DeAnna Castaldo
Notary Public Collin County, TX
My commission expires 8-31-2024

NOTARY PUBLIC - STATE OF TEXAS
DeAnna R Castaldo
My Commission Expires
08/31/2024
ID No 12338268