

Agenda Prosper Town Council Meeting

Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, February 23, 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. Recognition of members of the Town of Prosper staff for outstanding service during the recent winter storm emergency. **(HJ)**

Discussion Items.

- 2. Community Picnic Update (DR)
- 3. Employee Survey Results (JE)

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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.

- 4. Consider and act upon the February 9, 2021, Town Council Minutes. (ML)
- 5. Consider and act upon approving the purchase of one Apex Officer Pro-Training Simulator from Govred Technology, Inc., a sole source provider. (DK)
- 6. Consider and act upon receiving the 2020 Annual Racial Profiling Report for the Prosper Police Department as required by state law. **(DK)**
- Consider and act upon an ordinance to amend Subdistrict 2 of Planned Development-67 (PD-67), on 217.8± acres, generally to modify the multifamily development standards for the Gates of Prosper, located on the southwest corner of Coleman Street and Lovers Lane. (Z20-0022). (AG)
- 8. Consider and act upon an ordinance rezoning 58.1± acres, from Planned Development-86 (PD-86) to Planned Development-Single Family-15 (PD-SF-15), to allow for a Funeral Home with Crematorium and Cemetery, located on the west side of Custer Road, north of US 380. (Z20-0020). (AG)
- Onsider and act to authorize the Town Manager to execute a Development Agreement between 310 Prosper, L.P., and the Town of Prosper, Texas, related to the Prosper Funeral Home development. (AG)
- 10. Consider and act upon an ordinance rezoning 55.8± acres, located on the west side of Good Hope Road, south of Parvin Road, from Agricultural (A) to Planned Development-40 (PD-40), generally to incorporate tracts of land into the Windsong Ranch development. (Z20-0023). (AG)
- 11. Consider and act upon authorizing the Town Manager to execute a Second Amended Development Agreement between VP Windsong Operation, LLC and VP Windsong Investments, LLC, and the Town of Prosper, Texas, related to the Windsong Ranch development. (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.

<u>Items for Individual Consideration:</u>

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

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- 13. Consider and act upon authorizing the Town Manager to execute an agreement between Brown Reynolds Watford Architects (BRW) and the Town of Prosper, Texas, related to architectural and engineering design services for the Public Safety Complex, Phase 2 (Central Fire Station and Fire Administration). (SB)
- 14. Consider and act upon awarding Bid No. 2021-30-B to Tiseo Paving Co., related to construction services for the Fishtrap Road Segment 4 Construction and Segment 1-4 Landscaping Architecture project; and authorizing the Town Manager to execute a construction agreement for same. (HW)
- Consider and act to authorize the Town Manager to execute a Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper, Texas, related to the Founders Classic Academy Charter School development on the southwest corner of First Street and Custer Road. (AG)
- 16. Consider and act upon awarding CSP No. 2021-02-A to Tyler Technologies, Inc. for a Community Development System; and authorizing the Town Manager to execute documents for the same. (RZ)
- 17. Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Sciens, LLC and the Town of Prosper, Texas, related to Phase II Project Implementation Support for the Tyler EnerGov Community Development System. (RZ)

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.

Section 551.074 - To discuss and review the Town Manager's performance evaluation.

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.

18. Water Bill Relief (HJ)

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, February 19, 2021, and remained so posted at least 72 hours before said meeting was convened.

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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.

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Minutes

Prosper Town Council Meeting

Council Chambers Prosper Town Hall 250 W. First Street, Prosper, Texas Tuesday, February 9, 2021

Call to Order/ Roll Call.

The meeting was called to order at 5:48 p.m.

Council Members Present:

Mayor Ray Smith
Mayor Pro-Tem Jason Dixon
Deputy Mayor Pro-Tem Craig Andres
Councilmember Marcus E. Ray
Councilmember Amy Bartley
Councilmember Jeff Hodges
Councilmember Meigs Miller

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 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 Jason McConnell of Prosper United Methodist 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 Town is requesting public input for the design of Pecan Grove Park located at 831 Del Carmen Drive. The Public Input Meeting will take place during the Regular Meeting of the Parks and Recreation Board on Thursday, February 11 in Council Chambers. A Zoom link will be provided on the Agenda for those who wish to attend virtually.

The Community Library is offering a new virtual Book Club for this year's One Book, One Town selection, "Here in the Real World," by Sara Pennypacker. Join the book club on the Prosper Community Library's Youtube channel.

The Prosper Fishing Derby will be held on February 20 at Frontier Park. Bring the family to the park for a day of fun, fishing, and prizes. More information is available on the Parks & Recreation Facebook page or the Town website.

Residents are encouraged to Join the annual Mayor's Fitness Challenge and walk or run at least 100 miles or bike at least 300 miles in 90 days. Turn in your completed tracking sheet for a free t-shirt and the opportunity to win a Fitbit. The Mayor's Fitness Challenge begins January 18 and continues through April 18, with tracking sheets due by April 23.

Presentations.

1. Presentation of a Proclamation to the family of former Councilmember Ane Casady in honor of her service to the Town of Prosper. (RB)

Mayor Smith presented a Proclamation to the family of former Councilmember Ane Casady in honor of her service to the community and to honor her memory as a beloved Prosper resident.

Discussion Items.

2. SmartSheet Demonstration (LH)

Hulon Webb, Engineering Services Director, provided an overview of the decision process for selecting SmartSheet, discussing costs and customized dashboards, and requesting feedback from the Town Council. Mr. Webb introduced Lindy Higginbotham, Town of Prosper CIP Senior Engineer, and she reviewed the functionality of SmartSheet by providing a demonstration of its automated workflows, pay applications, and payment tracking features among others.

The Town Council discussed the overall functionality of SmartSheet and its customized dashboards regarding weekly and monthly reporting functions. The feedback provided from the Town Council included adding a notes section for communication.

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.

- 3. Consider and act upon the minutes from the January 26, 2021, Town Council meeting. (ML)
- 4. Consider and act upon Ordinance No. 2021-07 ordering a General Election to be held on May 1, 2021, and authorizing the Town Manager to execute contracts with the Collin County Election Administration, the Denton County Election Administration, and the Prosper Independent School District for joint election services. (ML)

- 5. Consider and act upon Resolution No. 2021-08 designating *The Prosper Press* as the official newspaper of the Town of Prosper, and *The Dallas Morning News* and *The Frisco Enterprise* as alternative advertising sources, for Fiscal Year 2020-2021. (ML)
- 6. Receive the December Financial Report. (BP)
- 7. Receive the Quarterly Investment Report. (BP)
- 8. Consider and act upon Ordinance No. 2021-09 of the Town of Prosper, Texas amending Chapter 13, "Utilities," Section 13.07.009(a), Penalties or Disconnections During Coronavirus Public Health Emergency; and Creation of Coronavirus Disaster Economic Relief Fund" establishing an effective date to reinstate late payment fees or penalties and disconnection of services for non-payment of utility customer accounts. (BP)
- 9. Consider and act upon approving the purchase of a Multi Pro 5800 chemical spray unit from Professional Turf Products, through the Texas Local Government Purchasing Cooperative; and authorizing the Town Manager to execute documents for the same. (DR)
- 10. Consider and act upon authorizing the Town Manager to execute the First Amendment to the Wastewater Impact Fees Reimbursement Agreement between VP WINDSONG OPERATIONS LLC, and VP WINDSONG INVESTMENTS LLC, both as successors-in-interest to TVG Texas I, LLC, and the Town of Prosper, Texas, related to the extension of wastewater lines to serve the Windsong Ranch development. (HW)

Councilmember Ray made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to approve all items on the Consent agenda.

The motion passed by a vote of 7 - 0.

CITIZEN COMMENTS:

There were no citizen comments.

REGULAR AGENDA:

Items for Individual Consideration:

11. Conduct a Public Hearing, and consider and act upon a request to amend Subdistrict 2 of Planned Development-67 (PD-67), on 217.8± acres, generally to modify the multifamily development standards for the Gates of Prosper, located on the southwest corner of Coleman Street and Lovers Lane. (Z20-0022). (AG)

Alex Glushko, Planning Manager, provided an overview of the request that would remove the minimum density regulations and build-to line regulations, as well as allow for dead-end parking, related to the multifamily development within Subdistrict 2 (Lifestyle Center) of PD-67. The proposed amendment does not revise the location of the proposed multifamily within the development, nor does it increase the maximum allowable number of multifamily units.

Mayor Smith opened the public hearing.

With no one speaking Mayor Smith closed the public hearing.

Councilmember Hodges made a motion and Councilmember Miller seconded the motion to approve the request to amend Subdistrict 2 of Planned Development-67 (PD-67), on 217.8± acres, generally to modify the multifamily development standards for the Gates of Prosper, located on the southwest corner of Coleman Street and Lovers Lane.

The motion passed by a vote of 7 - 0.

12. Consider and act to authorize the Town Manager to execute a Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper, Texas, related to the Founders Classic Academy Charter School development on the southwest corner of First Street and Custer Road. (AG)

Councilmember Hodges made a motion and Deputy Mayor Pro-Tem Andres seconded the motion to table the Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper, Texas, related to the Founders Classic Academy Charter School development on the southwest corner of First Street and Custer Road until the February 23, 2021, Town Council Meeting.

The motion passed by a vote of 7 - 0.

Councilmember Ray made a motion, and Deputy Mayor Pro-Tem Andres seconded the motion to reopen Item 12 for discussion.

The motion passed by a vote of 7 - 0.

Alex Glushko, Planning Manager, discussed tabling this item until the February 23, 2021, Town Council meeting to allow the applicant additional time to consider revisions that would allow for enhancements to the north side building elevation, landscaping berming along First Street and Custer Road, and the future use of temporary/modular buildings.

The Town Council discussed the requested updates to the Development Agreement from the February 9, 2021, Town Council Meeting specifically, the landscaping along Custer Road. Lynn Tompkins, Vice President of Construction and Real Estate at Responsive Education Solutions, discussed the requested changes to the Development Agreement from the February 9, 2021, Town Council meeting.

After discussion, Mayor Pro-Tem Dixon made a motion and Councilmember Miller seconded the motion to table the Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper, Texas, related to the Founders Classic Academy Charter School development on the southwest corner of First Street and Custer Road until the February 23, 2021, Town Council Meeting.

The motion passed by a vote of 7 - 0.

13. Consider and act upon authorizing the Town Manager to execute the First Amendment to the Development Agreement between Cook Children's Health Care System and the Town of Prosper, Texas, related to the Cook Children's Medical Center. (AG)

Alex Glushko, Planning Manager, provided an overview of the amendment requesting to modify the building elevations for the Cook Children's Medical Center. As the elevations were included in the approved Development Agreement, modifications to the elevations require an amendment to the Development Agreement. The proposed modifications do not increase the number of floors nor does it increase the building square footage. The proposed building materials are the same as the approved materials.

The Town Council discussed the proposed south and west building elevations and the mechanical screening wall for the Cook Children's Medical Center. Jason Weeks of Dunaway and Associates discussed the building renderings as presented to the Town Council depicting the proposed modifications.

After discussion Deputy Mayor Pro-Tem Andres made a motion and Councilmember Hodges seconded the motion to approve the First Amendment to the Development Agreement between Cook Children's Health Care System and the Town of Prosper, Texas, related to the Cook Children's Medical Center.

The motion passed by a vote of 7 - 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:

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

Section 551.074 - To discuss and review the Town Manager's performance evaluation.

The Town Council recessed into Executive Session at 7:18 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 8:34 p.m.

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

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14. Discussion on honoring former Councilmembers. (RB)

Robyn Battle, Executive Director of Community Services, discussed with the Town Council a more permanent way to honor all Council members going forward. Staff recommended the placement of framed photos of all Councilmembers in the hallway leading to the Mayor's office at Town Hall. The Council favored the recommendation.

15. Discussion on Future Budget Amendment:

Public Safety and Veterans Honor Wall

Communications Manager Position (HJ)

Harlan Jefferson, Town Manager, discussed a future budget amendment regarding the Public Safety and Veterans Honor Wall, Bureau Veritas, Development and Permitting Software and the Communications Manager Position. The discussed budget amendment will be presented at the February 23, 2021, Town Council meeting for consideration.

Robyn Battle, Executive Director of Community Services, responded to questions about the upcoming Council Strategic Planning Session to be held on February 13, 2021.

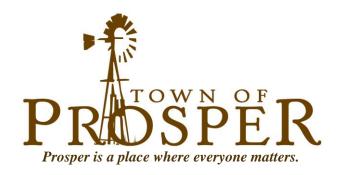
Adjourn.

The meeting was adjourned at 9:02 p.m. on Tuesday, February 9, 2021.

These minutes approved on the 23rd day of February 2021.

	APPROVED:
	Ray Smith, Mayor
ATTEST:	
Melissa Lee, Town Secretary	

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POLICE DEPARTMENT

To: Mayor and Town Council

From: Doug Kowalski, Chief of Police

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon approving the purchase of one Apex Officer Pro-Training Simulator from Govred Technology, Inc., a sole source provider.

Description of Agenda Item:

The Town Council previously accepted a DJ-Edward Byrne Memorial Justice Assistance Grant in the amount of \$100,000. The purpose of this equipment is to train our officers for the most difficult real-world situations, including ambushes, active shooters, and maintaining full situational awareness during extreme stress. Officer presence, communication skills, tactical de-escalation, Taser, and deadly force will be the focus of training.

The Police Department evaluated four separate virtual reality-based simulators. When compared to others, the Apex Officer-Pro Training Simulator has unique features that would be beneficial to the officers:

- backpack-based computer system is built-in to the headset, eliminating line-of-sight issues when implementing multiple user scenarios that were experienced with other similar systems;
- dedicated space to accommodate a screen-based system is not required, so this system
 can be utilized in areas such as the Police Department Multi-Purpose Room without
 interfering with various room set-ups;
- supports two users during a scenario, allowing officers to work together simultaneously;
 and
- this system has an environment-based scenario which allows almost unlimited ways for end-goals based on officer reactions vs. limited ends of scenarios in other systems that after repeated use would become redundant.

This simulator is offered at a low cost of ownership compared to other systems with similar warranty and support. Additionally, Govred Technologies, Inc. is extending a "First in Texas" discount to the Town for this purchase.

This purchase falls within the definition of a procurement that is available from only one source (Chapter 252 of the Local Government Code) and is exempt from competitive bidding requirements. Govred Technology, Inc. is the sole manufacturer and provider of Apex Officer.

Budget Impact:

The total purchase price is \$62,500 and will be funded from 100-6140-20-01 with grant funds previously accepted by Town Council.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P. has provided the Federal Laws and Regulations Governing Grant Funds to be included with this purchase; and approved the terms and conditions of the Proposal as to form and legality.

Attached Documents:

- 1. Statement of Grant Award
- 2. Sole Source Letter
- 3. Proposal
- 4. Federal Laws and Regulations Governing Grant Funds

Town Staff Recommendation:

Town staff recommends approving the purchase of one virtual reality training simulator from Govred Technology, Inc., a sole source provider.

Proposed Motion:

I move to approve the purchase of one virtual reality training simulator from Govred Technology, Inc., a sole source provider.

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Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the 'Narrative' and 'Budget/Details' tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

Award Amount:

Grantee In Kind

Total Project Cost:

Match:

Grantee Cash Match:

\$100,000.00

\$100,000.00

\$0.00

\$0.00

Grant Number: 4043001

PREVIEW - AWARD NOT ACTIVE

Grant Period: 10/01/2020 - 06/30/2021

Liquidation

Date Awarded:

Date: 09/28/2021

Program Fund:

DJ-Edward Byrne Memorial Justice Assistance Grant

Program

Grantee Name: Prosper, Town of

Project Title: Simulator Training Project

Grant Manager: Sylvia Garcia **DUNS Number:** 051326353

CFDA: 16.738 - Edward Byrne Memorial Justice Assistance Grant Program

Federal Awarding Agency:

U.S. Department of Justice, Office of Justice Programs, Bureau of Justice

Assistance

Federal Award Date: 10/1/2018

Federal/State Award ID Number: 2018-DJ-BX-0485

Total Federal Award/State Funds

\$13,448,181.00

Appropriated:

Pass Thru Entity Name: Texas Office of the Governor – Criminal Justice Division (CJD)

Is the Award R&D: No

Federal/State Award Description:

The purpose of this program is to reduce crime and improve the criminal

justice system.

Sole Source Letter

Govred Technology, Inc. 5006 Bond St, Las Vegas, NV 89118

Phone: 702-901-5344

https://www.apexofficer.com

RE: Sole Source Letter December 1st, 2020 To Whom It May Concern:

This letter is to confirm that the Apex Officer – Pro Training Simulator and Apex Officer X1, X2, X3, and X9 – Pro Training Simulator are all sole source products, manufactured, sold and distributed exclusively by Govred Technology, Inc. Currently, Govred Technology, Inc. is the sole manufacturer and provider of Apex Officer; nor any other company, makes a similar or competing product. This product must be purchased directly by institutions from Govred Technology, Inc. at the address provided below. There are no agents or dealers authorized to represent this product.

There are no other like item(s) or product(s) available for purchase that would serve the same purpose or function because of the proprietary and exclusive Apex Officer content library, training modules, dynamic scenario generator, and virtual reality training technology and accessories.

If you desire additional information, do not hesitate to contact me at 702-901-5344 at any time or visit our website at https://www.apexofficer.com. Thank you for your interest in our products.

Sincerely, Chase Dittmer Co-Founder

Govred Technology, Inc.

5006 Bond St, Las Vegas, NV 89118

Phone: 702-901-5344

Email: chase@apexofficer.com https://www.apexofficer.com/

Applicable Federal Laws and Regulations Governing Grant Funds

This Acknowledgment is entered into by Govred Technology, Inc. ("Govred"), located at 5006 Bond Street, Las Vegas, NV 89118, in which Govred agrees and acknowledges that funds received by it from the Town of Prosper, Texas, are subject to certain federal grant restrictions, as noted and as applicable:

- (a) All provisions related to Nondiscrimination and Equal Employment Opportunities, as referenced in 28 C.F.R. Part 38; 28 C.F.R. Part 42 and 28 C.F.R. Part 54.
- (b) Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in United States Department of Labor regulations in 41 C.F.R. Part 60;
- (c) Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d. Specifically, during the performance of this Contract, the contractor agrees as follows:
 - 1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, creed, color, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, creed, color, or national origin. Such action shall include but not be limited to employment, upgrading, demotion or transfer, recruitment or retirement, advertising, layoff or termination, rates of pay or other forms of compensation, and selection training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.
 - 2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, creed, color, sex, or national origin.
 - 3. The contractor will send to each labor union or representative of workers with whom he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order Number 11246, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - 4. The contractor will comply with all provisions of Executive Order Number 11246, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- 5. The contractor will furnish all information and reports required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 6. In the event of the contractor's non-compliance with the non-discrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order Number 11246, as amended or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.
- 7. The contractor will include the provisions of Paragraphs 1 and 6 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order Number 11246, as amended, so that such provisions will be binding upon each subcontractor or purchase order, as the contracting agency may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided however, that in the event the contractor becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interest of the United States.
- (d) No funds received by Govred shall be utilized, either directly or indirectly, to support or oppose the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, including paying any person to influence, or attempt to influence, a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract or loan, or with respect to actions such as renewing, extending or modifying any such award. See 31 U.S.C. § 1352.
- (e) Govred must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct. Govred acknowledges that any potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).

(f) Govred acknowledges that it may not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information. The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, Govred:

- A. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
- B. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
- 2. Govred represents that (1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and (2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and (3) certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
- (g) Govred agrees to must comply with, and is subject to, all applicable provisions of 41 U.S.C. § 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant. Govred also agrees that

it also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. § 4712.

- (h) Any other federal laws, regulations or guidelines related to the grant funds received by Govred, including any other applicable provisions contained in the Edward Byrne Memorial Justice Assistance Grant Program, Office of the Governor of the State of Texas, Public Safety Office, Criminal Justice Division, Fund Specific Grant Conditions.
- (i) Any other federal laws, regulations or guidelines related to this award, including but not limited to any requirement contained in 2 C.F.R. Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Appendix II to Part 200, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards."

ACKNOWLEDGED AND AGREED TO:

Chase Dittmer, Co-Founder Govred Technology, Inc.

5006 Bond Street

Las Vegas, NV 89118

Date Signed: $\frac{2}{3}/202$



Apex Officer Training Simulator

Interactive Crisis Intervention, De-Escalation, and Force Options Training Simulator

Proposal Prepared For:

Barrett Morris

Prosper Police Department

101 South Main Street, Prosper, Texas, 75078

Business Sensitive: This document is confidential information and contains proprietary information belonging to Govred Technology Inc., and further acknowledges its obligation to comply with the provisions of this notice.

January 25, 2021

Dear Barrett Morris,

Thank you for your interest in the interactive Apex Officer virtual reality training simulator from Govred Technology, Inc. This proposal and attached sole source letter will provide you with requested system information, specifications, pricing and details for the system and equipment you've inquired about.

The Apex Officer training system is a comprehensive solution that is designed to allow trainers the ability to give presentations and classes, conduct interactive testing and assessment and provide immersive hands-on scenario-based exercises with detailed debriefing and after-action review. Each Apex Officer system is designed to increase trainee knowledge, skills and confidence in a safe, challenging environment that is highly interactive and engaging.

Through our history of providing innovative interactive simulation training solutions, Apex Officer has become widely regarded as a low-risk, highly reliable contracting, and business partner. We have the industry's most dedicated and customer committed sales and support team on staff and all Apex Officer customers receive the best technical service in the business, including free software updates, newly developed and released scenarios with new exercises and environments to keep interest high and skills sharp.

On behalf of the entire Apex Officer team, I sincerely appreciate the consideration of our proposal for this requirement and also to have the opportunity to be of service to the men and women of Prosper Police Department.

Respectfully sent on January 25, 2021.

Chase Dittmer
Founder and CEO

GOVRED Technology, Inc. Direct: 702-901-5344 chase@apexofficer.com www.apexofficer.com

APEX OFFICER – PRO TRAINING SIMULATOR SUITE		
Description	Qty	Price
Apex Officer - Pro Training Simulator System Includes:	1	\$95,868.00
Apex Officer Content Library Every Apex Officer training system includes 24/7 access to Apex Officer's proprietary content library. Apex Officer's content library of virtual reality police and law enforcement training scenarios is the most extensive in the industry. With our unique blend of randomization, artificial intelligence and voice recognition Apex Officer provides police departments and law enforcement agencies an infinite number of training opportunities and scenarios.	Inc.	
High Performance VR-Ready Workstation Every Apex Officer simulator comes equipped with a High-Performance VR-Ready Workstation computer. Each computer is capable of delivering a truly immersive virtual reality experience at a smooth 90 frames per second to the headset. • Intel Quadcore Processor • Nvidia GeForce GTX Graphics Card • 16gb DDR4 RAM • Solid State Storage • Windows 10 Pro 64-Bit Operating System	Inc.	

	ı — —	_
Virtual Reality Head Mounted Display (HMD) Apex Officer utilizes a state-of-the-art virtual reality head mounted display to create the world's most realistic and immersive judgmental training simulator. With our HMD, we're capable of producing active engagements from a 360-degree environment surrounding the trainees. Our systems utilize Dolby Atmos multi-directional audio technology and seamless software simulations that simulate different environments and situations that will challenge trainees.	Inc.	
Virtual Training Weapons and Accessories Apex Officer proprietary Virtual Training Weapons and accessories are designed to look, weigh, and feel just like their real-life counterpart. We worked hand and hand with multiple engineers in designing the firearms and training equipment used in our simulations. VR-Training Weapons Included: • Apex-VTW-U1 (Universal Device) • Apex-VTW-G1 (Pistol) • Apex-VTW-T26 (Taser) • Apex-VTW-R1 (Rifle) Every Apex Officer Virtual Training Weapon is equipped with: • Up to 32 low power, ASIC sensors, for 360-degree coverage • Built-in 1000Hz IMU for low latency, high resolution tracking • Bluetooth and wireless connectivity • Rechargeable battery	Inc.	
Apex Wireless (AW) The Apex Wireless system is a proprietary combination of wireless networking systems working in harmony to delivery a fully-immersive wireless virtual reality experience. • 2x SteamVR Wireless Basestations • Bluetooth Transmitters and Receivers	Inc.	
Haptic Training Vest (HTV) The Apex Officer Haptic Training Vest allows the users to experience incredible real-world sensations like never before inside of a simulator. Our HTV return-fire-simulator delivers a safe and adjustable electrical impulse to simulate hostile fire and enhance realism during training. Every HTV is equipped with more than 14 motion capture sensors, on-board data processing, and integrated tracking technology. With our HTV, every officer using the Apex Officer simulator will be able to feel every time they have been hit, shot, knocked, touched, or brushed up against.	Inc.	

After Action Debriefing (AAD) Our After-Action Debriefing system provides real-time monitoring, recording, and playback during debriefing sessions of trainees. Includes software and hardware that integrates into the Apex Officer line of simulators.	Inc.	
Advanced Officer Analytics (AOA) Our Advanced Officer Analytics system provides law enforcement agencies with the opportunity to optimize their recent training activities and provides unprecedented learning opportunities for every officer using the simulator. With the AOA, police departments can track training results and behaviors for each individual officer that runs through the simulator. With this data, the departments have an unprecedented insight into the strengths and weaknesses of each individual officer; thus, allowing for follow up training exercises.	Inc.	
Apex Reporting and Monitoring Audio and picture in picture color video capture of trainee's actions in a scenario that can be used for immediate or later debriefing and review. All footage can be scheduled for permanent deletion at a specified time interval (i.e. 24 hours, 72 hours, etc.).	Inc.	
Apex Officer Training with Setup Instructor/Operator Master course covering the Apex Officer system, hardware setup, software updates, troubleshooting and more for up to 6 students.	Inc.	
Apex Officer - Pro Training Simula	ator:	\$95,868.00
First In Texas Disco	unt:	-\$48,368.00
T	otal:	\$47,500.00
OPTIONAL UPGRADES		
Apex Officer X2 - Hardware Upgrade:		\$22,000.00
First In Texas Discount:		-\$7,000.00
Total:		\$15,000.00
Grand Total W/ Upgrades:		\$62,500.00

-See Important Terms and Conditions Below-

Standard Terms and Conditions

- 1. Please make purchase order (PO) out to GOVRED Technology, Inc.
- 2. Payment Terms: Net 30 from date of invoice.
- 3. U.S. Delivery Lead Time:
 - a. Standard Production System: 30 Days ARO
 - b. Custom System Production: 120-180 ARO dependent on level of customization and component requirements.
- 4. Warranty: 12 Months from date of shipment.
- 5. If this sale is subject to Use Tax, then you are liable for the tax and should make payment direct to your taxing authority. However, we may collect Sales Tax for the following States: CA, FL, HI, IA, KY, MA, MI, NV, NY, UT, WA, WV.
- 6. Quote Valid: 30 days.
- 7. All prices quoted in US Dollars (\$USD).
- 8. Late Payment Penalties: Invoices not paid within 30 days of the invoice date will accrue interest at 2% per week.

Purchasing/Contracting Information

- 1. Company Name: GOVRED Technology, Inc.
- 2. Company Address: 5006 Bond St, Las Vegas, NV 89118
- 3. Order POC: Chase Dittmer
- 4. Order Email: chase@apexofficer.com
- Phone: 702-901-5344
 Cage Code: 7Z1H2
 Tax ID: 82-1742313
 DUNS: 080742556

Business Sensitive: This document is confidential information and contains proprietary information belonging to Govred Technology Inc., and further acknowledges its obligation to comply with the provisions of this notice.



POLICE DEPARTMENT

To: Mayor and Town Council

From: Doug Kowalski, Chief of Police

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon receiving the 2020 Annual Racial Profiling Report for the Prosper Police Department as required by state law.

Description of Agenda Item:

The Racial Profiling Report is a required annual report that must be submitted to the State of Texas through TCOLE-Texas Commission on Law Enforcement and the Police Department's governing body as required by Texas State law-Texas Code of Criminal Procedures Section 2.132.

Budget Impact:

None

Legal Obligations and Review:

Not required-statutory format designated by TCOLE.

Attached Documents:

- 1. 2020 Prosper Police Annual Racial Profile Report
- 2. Presentation accompanying the 2020 annual racial profile report

Town Staff Recommendation:

Staff recommends review of the document and acceptance as required by law.

Proposed Motion:

I make a motion to receive and accept the 2020 Annual Racial Profiling Report.

Item 6.

PROSPER POLICE DEPARTMENT

Racial Profile Report

01/01/2020 - 12/31/2020

Total stops: 6215

Street address or approximate location of the stop

City Street: 3494 US Highway: 1835 State Highway: 795 County road: 18

Private property or other: 73

Was race or ethnicity known prior to stop?

Yes: 229 No: 5986

Race or Ethnicity

Alaskan Native/American Indian: 6

Asian/Pacific Islander: 219

Black: 1044 White: 4012

Hispanic/Latino: 934

Gender

Female: 2302

Alaskan Native/American Indian: 4

Asian/Pacific Islander: 83

Black: 417 White: 1560

Hispanic/Latino: 238

Male: 3913

Alaskan Native/American Indian: 2

Asian/Pacific Islander: 136

Black: 627 White: 2452

Hispanic/Latino: 696

Violation of law: 696

Alaskan Native/American Indian: 2

Asian/Pacific Islander: 24

Black: 149 White: 371

Hispanic/Latino: 150

Pre existing knowledge: 106 Alaskan Native/American Indian: 0

Asian/Pacific Islander: 1

Black: 21 White: 67

Hispanic/Latino: 17

Moving traffic violation: 4300 Alaskan Native/American Indian: 2

Asian/Pacific Islander: 162

Black: 669 White: 2883

Hispanic/Latino: 584

Vehicle traffic violation: 1113 Alaskan Native/American Indian: 2

Asian/Pacific Islander: 32

Black: 205 White: 691

Hispanic/Latino: 183

Was a search conducted?

Yes: 142

Alaskan Native/American Indian: 1

Asian/Pacific Islander: 3

Black: 43 White: 71

Hispanic/Latino: 24

No: 6073

Alaskan Native/American Indian: 5

Asian/Pacific Islander: 216

Black: 1001 White: 3941

Hispanic/Latino: 910

Consent: 44

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 3

Black: 9 White: 26

Hispanic/Latino: 6

Contraband in plain view: 4
Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 0 White: 3

Hispanic/Latino: 1

Probable cause: 79

Alaskan Native/American Indian: 1

Asian/Pacific Islander: 0

Black: 30 White: 34

Hispanic/Latino: 14

Inventory: 8

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 2 White: 5

Hispanic/Latino: 1

Incident to arrest: 7

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 2 White: 3

Hispanic/Latino: 2

Was Contraband discovered

Yes: 76

Alaskan Native/American Indian: 1

Asian/Pacific Islander: 0

Black: 26 White: 37

Hispanic/Latino: 12

No: 66

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 3

Black: 17 White: 34

Hispanic/Latino: 12

Did the finding result in arrest (total should equal previous column)?

	Yes	No
Alaskan Native/American Indian:	0	1
Asian/Pacific Islander:	0	0
Black:	8	18
White:	9	28
Hispanic/Latino:	1	11

Description of contraband

Item 6.

Drugs: 64

Alaskan Native/American Indian: 1

Asian/Pacific Islander: 0

Black: 23 White: 32

Hispanic/Latino: 8

Currency: 0

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 0 White: 0

Hispanic/Latino: 0

Weapons: 2

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 2 White: 0

Hispanic/Latino: 0

Alcohol: 3

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 0 White: 1

Hispanic/Latino: 2

Stolen property: 2

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 1 White: 0

Hispanic/Latino: 1

Other: 5

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 0 White: 4

Hispanic/Latino: 1

Verbal warning: 1575

Alaskan Native/American Indian: 3

Asian/Pacific Islander: 68

Black: 290 White: 956

Hispanic/Latino: 258

Written warning: 2989

Alaskan Native/American Indian: 1

Asian/Pacific Islander: 97

Black: 524 White: 2011

Hispanic/Latino: 356

Citation: 1530

Alaskan Native/American Indian: 2

Asian/Pacific Islander: 51

Black: 200 White: 974

Hispanic/Latino: 303

Written Warning and Arrest: 4
Alaskan Native/American Indian: 0

Asian/Pacific Islander: 1

Black: 1 White: 2

Hispanic/Latino: 0

Citation and Arrest: 10

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 0

Black: 4 White: 4

Hispanic/Latino: 2

Arrest: 107

Alaskan Native/American Indian: 0

Asian/Pacific Islander: 2

Black: 25 White: 65

Hispanic/Latino: 15

Arrest based on	
Violation of Penal Code: 74 Alaskan Native/American Indian: Asian/Pacific Islander: 1 Black: 20 White: 45 Hispanic/Latino: 8	0
Violation of Traffic Law: 23 Alaskan Native/American Indian: Asian/Pacific Islander: 0 Black: 2 White: 17 Hispanic/Latino: 4	0
Violation of City Ordinance: 0 Alaskan Native/American Indian: Asian/Pacific Islander: 0 Black: 0 White: 0 Hispanic/Latino: 0	0
Outstanding Warrant: 22 Alaskan Native/American Indian: Asian/Pacific Islander: 1 Black: 8 White: 8 Hispanic/Latino: 5	0
Was physical force resulting in	bodily injury used during stop?
Yes: 1	
Alaskan Native/American Indian: Asian/Pacific Islander: 0 Black: 1 White: 0 Hispanic/Latino: 0	0
No: 6214	
Alaskan Native/American Indian: Asian/Pacific Islander: 219 Black: 1043 White: 4012 Hispanic/Latino: 934	6
Number of complaints of racial	profiling
Total	

Resulted in disciplinary action

Did not result in disciplinary action





Prosper Police Department

Racial Profiling Report 2020

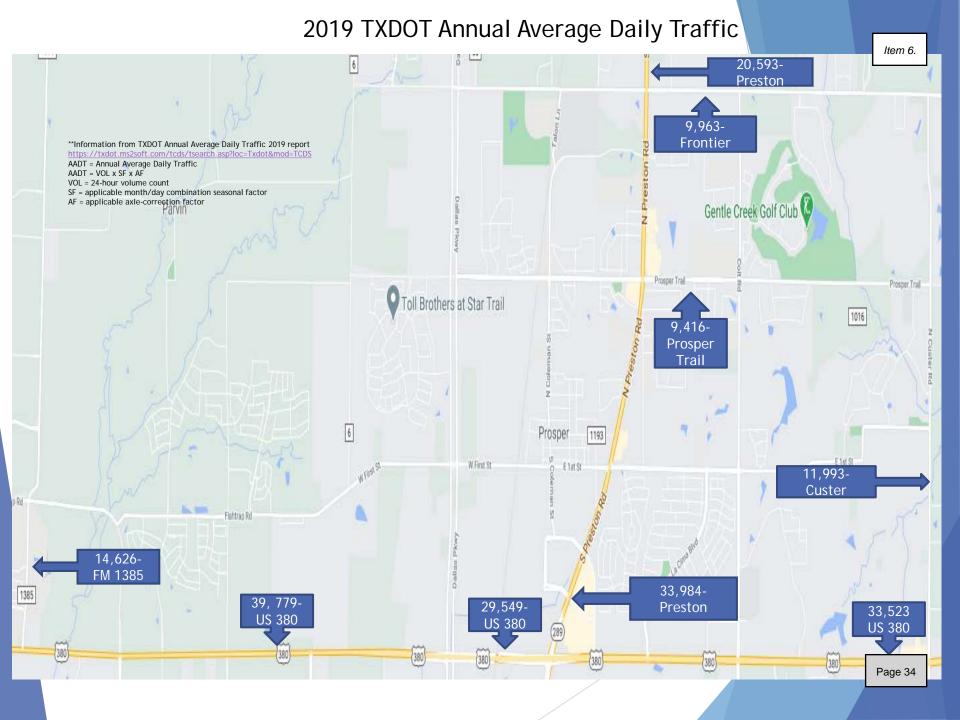
Chief Doug Kowalski

Prosper Police Traffic Encounter Estimate

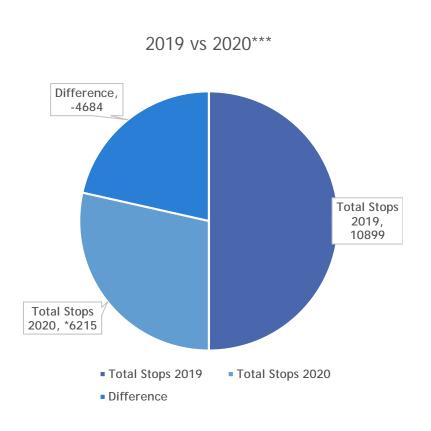
The uniformed and traffic divisions of the Prosper Police Department are presented with approximately 78,833 traffic stop opportunities or possible encounters on a daily basis-per the published average daily traffic count by **TXDOT.

This DOES NOT include traffic on North and South Dallas Parkway at this time.

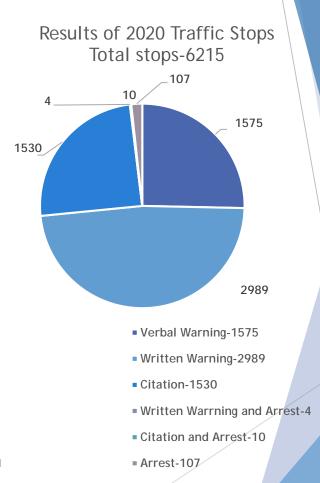
The most recent data published by TXDOT's website is 2019.



Traffic Stops 2019 versus 2020



***In 2020, the Covid-19 virus required a reduction in Officer-initiated contacts including traffic Stops to reduce exposures.



Prosper Police Traffic Stops by location:

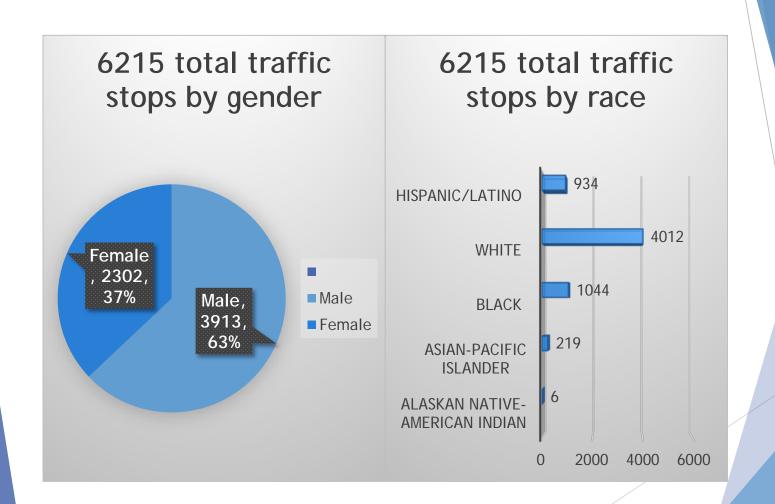


Town of Prosper Community Demographics.

Source-2019 American Community Survey estimates.

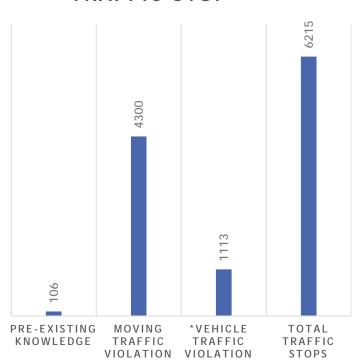


Traffic Stop Demographics

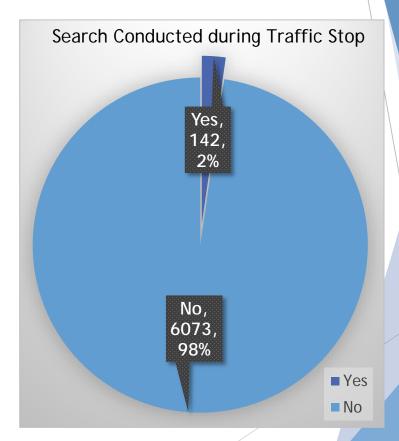


Basic Reasons for Traffic Stops

REASONS FOR THE TRAFFIC STOP



*Vehicle Traffic Violation are Regulatory in nature like equipment Violations.

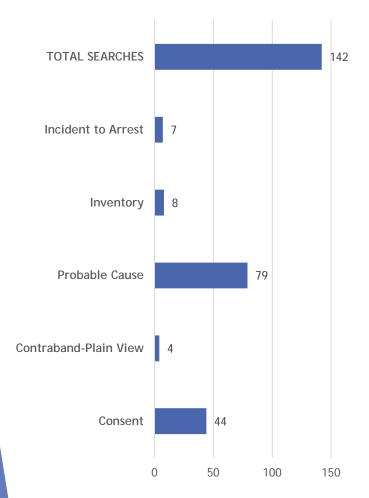


Total Traffic Stops-6215

Page 39

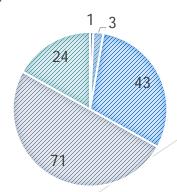
Searches conducted during the 6215 total traffic stops





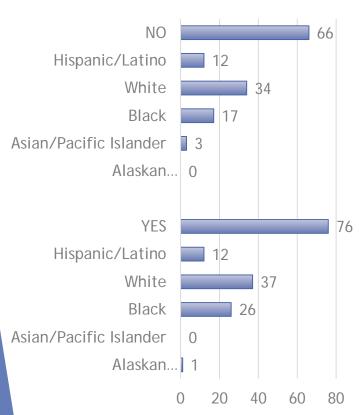
DEMOGRAPHICS OF 142 PERSONS SEARCHED RELATED TO THE TRAFFIC STOPS

- Alaskan Native/American Indian-1
- Asian/Pacific Islander-3
- Black-43
- White-71
- Hispanic/Latino-24

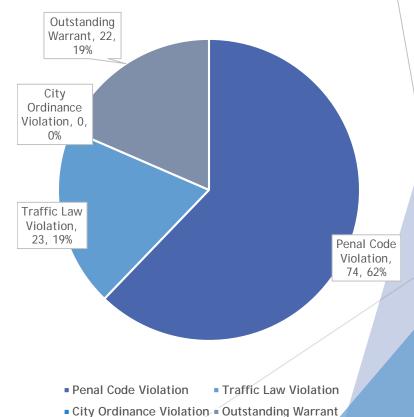


Additional Search Information from the 6215 total traffic stops

Contraband Found by Demographic during 142 searches



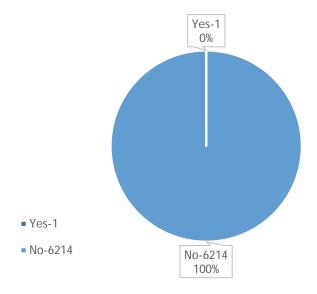
Basis for 119 arrests discovered as a result of the traffic stop.



-Use of Force during Arrests Profiling Complaints

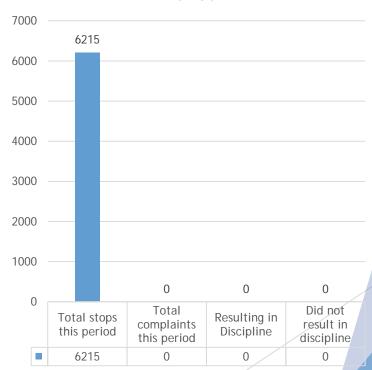
-Racial Profiling Complaints

Bodily injury occurred as the result of a Use of Force during arrest

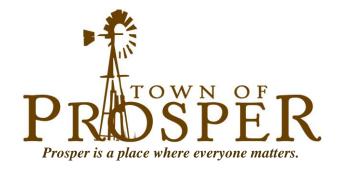


6215 Total Traffic Stops

Racial Profiling Complaints this Period



PLANNING



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

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon an ordinance to amend Subdistrict 2 of Planned Development-67 (PD-67), on 217.8± acres, generally to modify the multifamily development standards for the Gates of Prosper, located on the southwest corner of Coleman Street and Lovers Lane. (Z20-0022).

Description of Agenda Item:

On February 9, 2021, the Town Council approved the proposed rezoning request, by a vote of 7-0. 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:

- Ordinance
- 2. Ordinance Exhibits

Town Staff Recommendation:

Staff recommends the Town Council approve an ordinance to amend Subdistrict 2 of Planned Development-67 (PD-67), on 217.8± acres, generally to modify the multifamily development standards for the Gates of Prosper, located on the southwest corner of Coleman Street and Lovers Lane.

Proposed Motion:

I move to approve an ordinance to amend Subdistrict 2 of Planned Development-67 (PD-67), on 217.8± acres, generally to modify the multifamily development standards for the Gates of Prosper, located on the southwest corner of Coleman Street and Lovers Lane.

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20 AND ORDINANCE NO. 18-55; 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 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 18-55, 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

<u>Findings Incorporated.</u> 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. 18-55. Zoning Ordinance No. 05-20 is hereby amended and Ordinance No. 18-55 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

<u>No Vested Interest/Repeal.</u> 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

<u>Unlawful Use of Premises</u>. 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

<u>Penalty.</u> 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

<u>Severability.</u> 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

<u>Savings/Repealing Clause.</u> 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

<u>Effective Date.</u> 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 23RD DAY OF FEBRUARY 2021.

ATTEST:	Ray Smith, Mayor	
Melissa Lee, Town Secretary		
APPROVED AS TO FORM AND LEGALITY:		
Terrence S. Welch, Town Attorney		

GATES OF PROSPER

Planned Development Ordinance





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

Amended in its Entirety by Ordinace No. 18-_ July 10, 2018

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APPENDICES

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 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 with:

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°21'333" 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 33°37'47" 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 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.



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:

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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 $06^{\circ}58'57"$ 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:

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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

			Minimum	Maximum	
	Minimum	Minimum	Lot	Lot	Maximum
Land Use ⁽¹⁾	Lot Area	Lot Width	Depth ⁽²⁾	Coverage	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

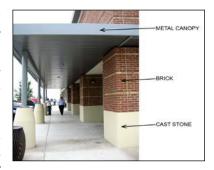
2.3.1 Maximum Building Height. All structures in Subdistrict 1 shall conform to the building height requirements set forth in Table 2-3 below. Building height shall be measured to the highest point of a roof surface.

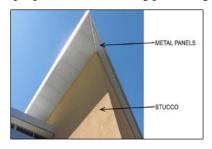
Table 2-3. Maximum Building Height

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

<u>Notes</u>

- 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 tiltwall. 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

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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.

2.4 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.



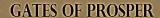
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2.5.1 The following conceptual renderings shall be representative of the architectural style, color and material selections in the location identified in Exhibit A-1.



WEST ELEVATION - REAR "I"



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

- Refer to Section 8.0 for definitions pertaining to Retail, Commercial, Office and Mixed-Use Land Uses.
- 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.

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

			Minimum	Maximum	
	Minimum	Minimum	Lot	Lot	Maximum
Land Use ⁽¹⁾	Lot Area	Lot Width	Depth	Coverage	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

- 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

			Minimum	Maximum	_
	Minimum	Minimum	Lot	Lot	Maximum
Housing Type	Lot Area	Lot Width	Depth	Coverage	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

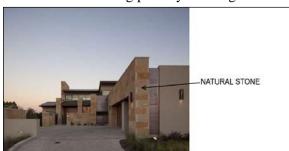
- 1. Non-habitable elements integral to the design of buildings shall be allowed to exceed the height limit in accordance with the Town's Zoning Ordinance Chapter 4, Section 9.5.
- 2. Includes all non-residential buildings except hotel, office buildings and mixed use. Hospitals will have an allowed height 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.

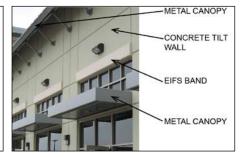


- **3.3.2 Maximum Building Length.** There shall be no maximum length for buildings located within Subdistrict 2. However, all buildings shall be required to conform to the Building Articulation standards set forth in Section 3.3.7.
- **3.3.3 Building Materials.** Exterior materials used in the construction of buildings shall comply with the following standards.
 - a. Non-Residential and Multifamily building types shall comply with the following standards:
 - 1. All building facades 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.



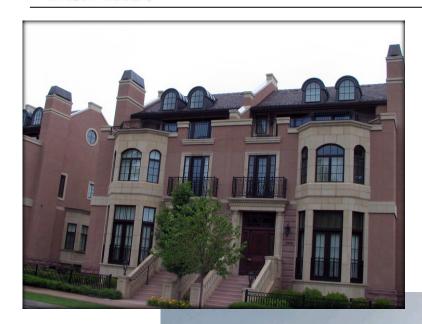


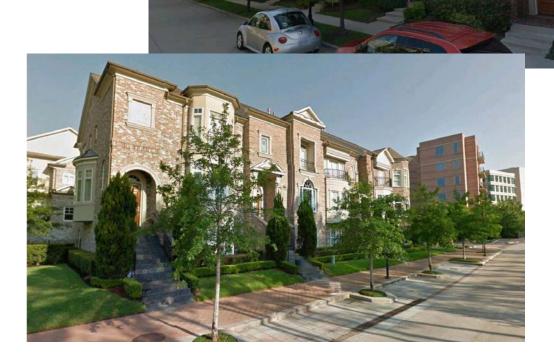


- b. Townhome building types shall comply with the following standards.
 - 1. The exterior facades shall be constructed at 100% masonry. Masonry finishes include clay fired brick, natural and manufactured stone, cast stone, stucco (second floor or above), and cementitious fiber board (not to exceed 50% 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.
- 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 nonresidential 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

I I II (II (1)	Minimum	Minimum	Minimum	Minimum
Land Use/Housing Type ⁽¹⁾	Front ⁽⁶⁾	Side ⁽⁴⁾	Corner ⁽⁶⁾	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.





 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)

			Minimum	Maximum	
	Minimum	Minimum	Lot	Lot	Maximum
Land Use ⁽¹⁾	Lot Area	Lot Width	Depth	Coverage	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.
- Structural parking facilities and surface parking lots shall not be included in lot coverage calculations.

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

	Minimum	Minimum	Minimum	Minimum
Land Use/Housing Type	Front	Side	Corner	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

			Minimum	Maximum	
	Minimum	Minimum	Lot	Lot	Maximum
Housing Type	Lot Area	Lot Width	Depth	Coverage	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.



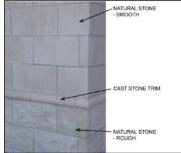
Table 4-5. Maximum Building Height (7)

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

<u>Notes</u>

- 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.







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- 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 purpose of providing a planned residential community to serve the needs of the Town by facilitating a range of housing opportunities. The development standards included in this Subdistrict are generally consistent with the Single-Family-10, zoning district in the existing Town of Prosper Zoning Ordinance. By providing additional housing opportunities in close proximity to the services included in the other Subdistricts as well as varied transit opportunities will allow for an overall development that will be more self-sufficient and ultimately more sustainable.

5.2 SITE CRITERIA

5.2.1 Property Development Regulations. The proposed housing types shall conform to the property development regulations in Tables 5-1 and 5-2.

Table 5-1. Size of Yards

	Minimum	Minimum	Minimum	
Housing Type	Front	Side	Corner	Minimum Rear
Single-Family	25 ft.	8 ft.	15 ft.	25 ft.

Table 5-2. Size of Lots and Lot Coverage

Building Type	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum Density
Single-Family	10,000 sq. ft.	80 ft. ⁽¹⁾	125 ft.	50%	200 lots

Notes

- 1. The minimum lot width is defined as the minimum width as measured along the platted building setback line.
- **5.2.2 Minimum Dwelling Area.** The minimum dwelling area for standard residential uses shall be as follows:
 - a. Single-Family. The minimum dwelling area shall be 2,100 square feet.
- **5.2.3** *Parking.* Refer to Section 6.3 of this Ordinance for the general requirements pertaining to parking standards.
- 5.2.4 Private Street Development. Restricted access or gated entrances may be permitted as
 - means of establishing a private street development or gated community within Subdistrict 4 via a specific use permit.
- **5.2.5** *Garage Entry*. Garages with 'L' or 'J' hook driveway entrances shall be permitted in Subdistrict 4.





5.3 PERMITTED USES

The permitted uses within Subdistrict 4 shall be in accordance with the Permitted Use Matrix in Section 6.6 of this Ordinance.

5.4 CONCEPTUAL ELEVATIONS

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











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

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.
- 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.





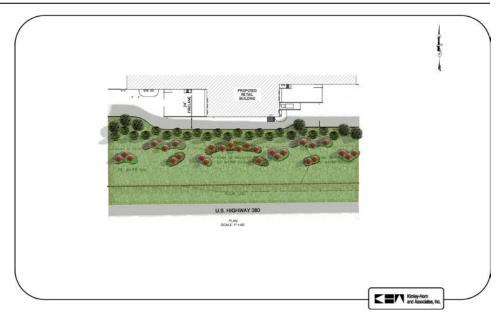
- **Medical or Dental Office:** One space per 250 square feet of floor area. Facilities over 20,000 square feet shall use the parking standards set forth for hospitals.
- Retail Store or Personal Service Establishment, Except as Otherwise Specified Herein: One space per 250 square feet of gross floor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

		SUBDISTRICT		
RESIDENTIAL USES	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)				

	SUBDISTRICT			
ACCESSORY & INCIDENTAL USES	1	2	3	4
Accessory Building	•	•	•	•
Caretaker's/Guard's Residence				
Construction Yard and Field Office, Temporary	TEMPORARY BUILDING PERMI 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





	SUBDISTRICT			
ACCESSORY & INCIDENTAL USES (continued)	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	SUBDISTRICT			
AND SPECIAL USES	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	SUBDISTRICT			
AND COMMUNICATIONS USES	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	SUBDISTRICT			
AND COMMUNICATIONS USES (continued)	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

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

	SUBDISTRICT			
RETAIL USES	1	2	3	4
Antique Shop and Used Furniture	•	•	•	
Alcohol Sales (Must comply with all the conditional standards in the zoning ordinance as it exists, or may be amended.)	•	•	•	
Building Material and Hardware Sales, Major	•	S		
Building Material and Hardware Sales, Minor	•	•	•	
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	•	•	•	
Farmer's Market	S	S	S	
Feed Store				
Flea Market, Inside				
Flea Market, Outside				
Furniture, Home Furnishings and Appliance Store	•	•	•	
Gas Pump as Accessory Use	13	13		
Nursery, Major	S	S		
Nursery, Minor	•	•	•	
Pawn Shop				
Retail Stores and Shops	•	•	•	





	SUBDISTRICT			
SERVICE USES	1	2	3	4
Artisan's Workshop		•	•	
Bank, Savings and Loan, or Credit Union	•	•	•	
Beauty Salon/Barber Shop	•	•	•	
Bed and Breakfast Inn				S
Body Art Studio				
Business Service	•	•	•	
Cabinet/Upholstery Shop	•	•	•	
Campground or Recreational Vehicle Park				
Catering Establishments	•	•	•	
Commercial Amusement, Indoor	•	•	•	
Commercial Amusement, Outdoor	S	S	S	
Computer Sales and Repairs	•	•	•	
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	•	•	•	
Fairgrounds/Exhibition Area		S	S	
Fortune Teller/Psychic				
Furniture Restoration			S	
Golf Course and/or Country Club	S	S	S	
Gunsmith				
Gymnastics/Dance Studio	•	•	•	
Health/Fitness Center	•	•	•	
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	•	•	•	





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

		SUBDISTRICT			
AUTOMOBILE AND RELATED USES	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					

	SUBDISTRICT			
WHOLESALE USES	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	





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

	SUBDISTRICT			
MANUFACTURING AND INDUSTRIAL USES	1	2	3	4
Bakery (Commercial)				
Concrete/Asphalt Batching Plant, Permanent				
Concrete/Asphalt Batching Plant, Temporary			JILDING P LDING OF	
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				

LEGEN	LEGEND						
•	Use permitted in district indicated						
	Use prohibited in district indicated						
S	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.
 - (1) 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').

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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/multifamily; 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.

GATES OF PROSPER



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.

GATES OF PROSPER



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 facade and the property line

ARCHITECTURAL ELEMENTS

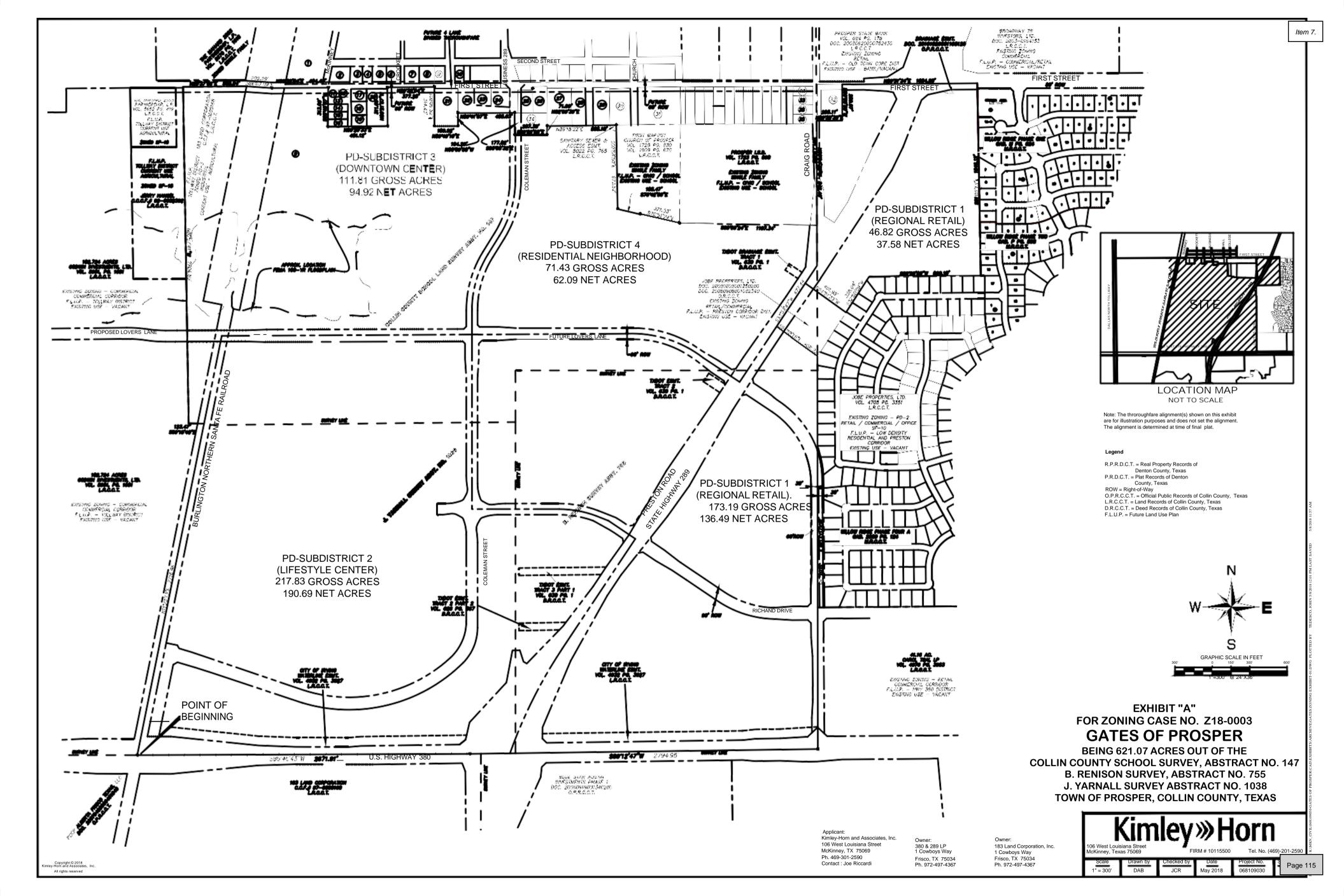
- Residential buildings shall have relatively little horizontal articulation and simple roofs, with
 most building wing articulations set at the rear of the structure. Window projections, stoops,
 porches, balconies and similar extensions are exempt from this standard.
- Gable roofs, if provided, shall 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"



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

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 Stree

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 corne

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 corn 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 comer in the east right-of-way line of Preston Road (State Highway 289 -

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°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.

> **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

Kimley »Horn

JCR May 2018

Kimlev-Horn and Associates, Inc. 106 West Louisiana Street McKinney, TX 75069 Ph. 469-301-2590

Owner: 380 & 289 LP Owner: 183 Land Corporation, Inc. 1 Cowboys Way Frisco, TX 75034 Ph. 972-497-4367

Property ID

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Owner

COSERV PROPERTY HOLDINGS LLC

RAY C. MCGEE

RAY C. MCGEE

RAY C. MCGEE

RUTILIO & YOLANDA AGUILAR

RICKIE WEEMS

TOWN OF PROSPER

M.S. DALTON ESTATE

TOWN OF PROSPER

RODOLFO SOTO

ABE & TOMOKO MANSOORI

DARIL R NIX REVOCABLE LVG TRUST

FRANCISCO IBARRA

SAYDA HERNANDEZ

JOSE & ISIDRA GRANADOS

JOSE & ISIDRA GRANADOS

JOSE & MARIA E. GONZALEZ JOSE

FLAVIO IBARRA LOZANO

SAYDA HERNANDEZ

BLUE STAR LAND LP

SHRADER SANDRA OMOHUNDRO

183 LAND CORPORATION INC

FIRST PRESBYTERIAN CHURCH

PRESBYTERIAN CHURCH

EDUARDO BELL

BLISS PET RESORT LLC

THOMAS L. & BOBBIE JAMES

MONTE & BARBARA KAUFFMAN

FIRST BAPTIST CHURCH PROSPER

ERNEST MAHARD, JR.

MAHARD EGG FARM INC

TOWN OF PROSPER

GRIFFIN 4 HOLDINGS LLC

BLUE MONKEY PROPERTIES LLC

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Future Land Use

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RESIDENTIAL OLD TOWN CORE DISTRICT



APPENDIX A-1—ZONING EXHIBIT & LEGAL DESCRIPTION

EXHIBIT "A-1"

621.07 ACRES

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

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

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 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

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

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 way 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 corr

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 comer;

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

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

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

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

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 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 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

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;

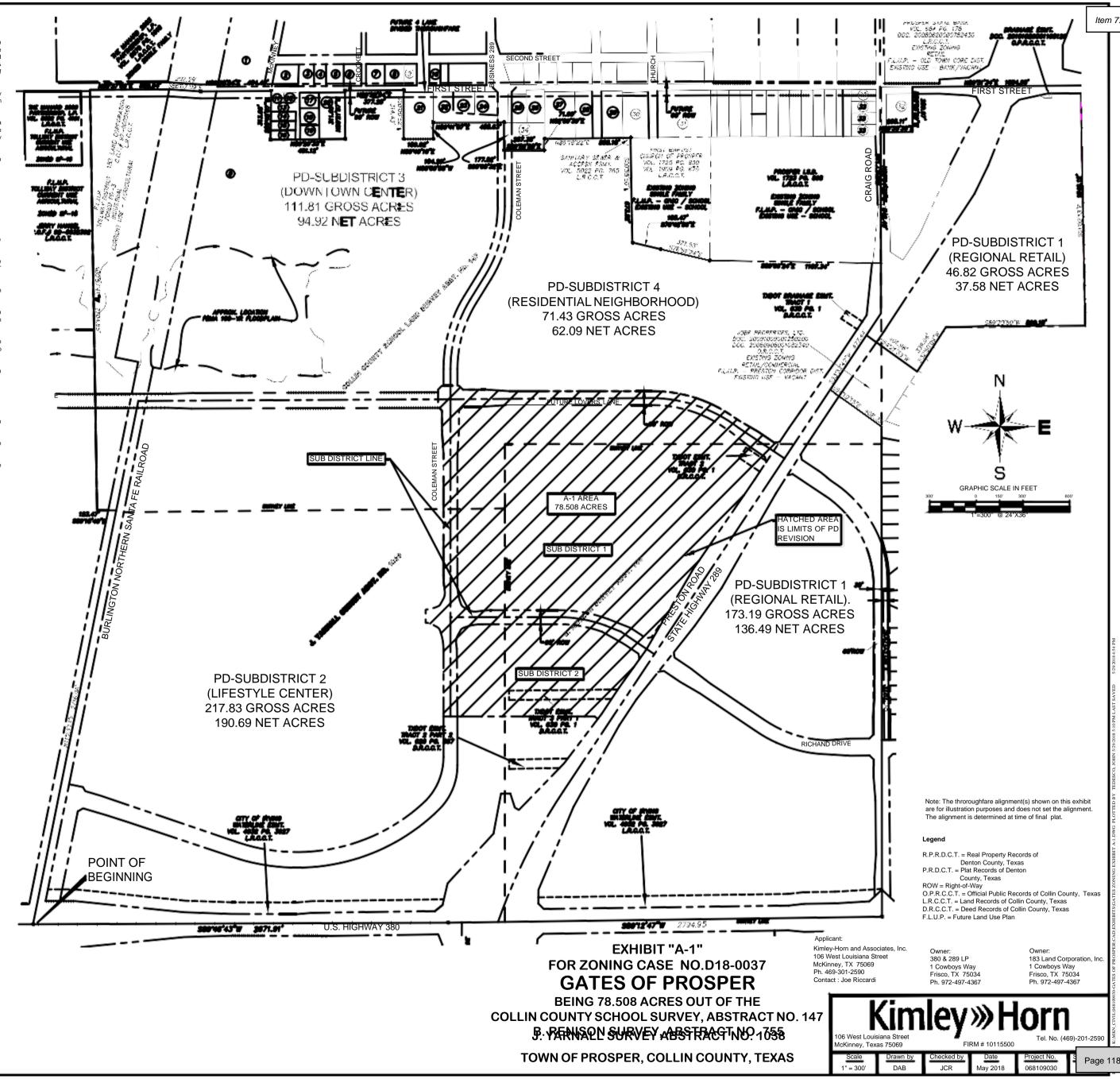
Along the arc of said curve to the right, through a central angle of 34°09'35", having a radius of 895.00 feet, a chord bearing of South 72°55'13" East, a chord distance of 525.73 feet and an arc length of 533.60 feet to the point of tangency of said curv

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



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

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 corne

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 corn 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 -

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.

> **EXHIBIT "A"** FOR ZONING CASE NO. 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

Kimley » Horn

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

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

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

Property ID

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Owner

COSERV PROPERTY HOLDINGS LLC

RAY C. MCGEE

RAY C. MCGEE

RAY C. MCGEE

RUTILIO & YOLANDA AGUILAR

RICKIE WEEMS

TOWN OF PROSPER

M.S. DALTON ESTATE

TOWN OF PROSPER

RODOLFO SOTO

ABE & TOMOKO MANSOORI

DARIL R NIX REVOCABLE LVG TRUST

FRANCISCO IBARRA

SAYDA HERNANDEZ

JOSE & ISIDRA GRANADOS

JOSE & ISIDRA GRANADOS

JOSE & MARIA E. GONZALEZ JOSE

FLAVIO IBARRA LOZANO

SAYDA HERNANDEZ

BLUE STAR LAND LP

SHRADER SANDRA OMOHUNDRO

183 LAND CORPORATION INC

FIRST PRESBYTERIAN CHURCH

PRESBYTERIAN CHURCH

EDUARDO BELL

BLISS PET RESORT LLC

THOMAS L. & BOBBIE JAMES

MONTE & BARBARA KAUFFMAN

FIRST BAPTIST CHURCH PROSPER

ERNEST MAHARD, JR.

MAHARD EGG FARM INC

TOWN OF PROSPER

GRIFFIN 4 HOLDINGS LLC

BLUE MONKEY PROPERTIES LLC

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Existing Zoning | Existing Land Use |

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Future Land Use

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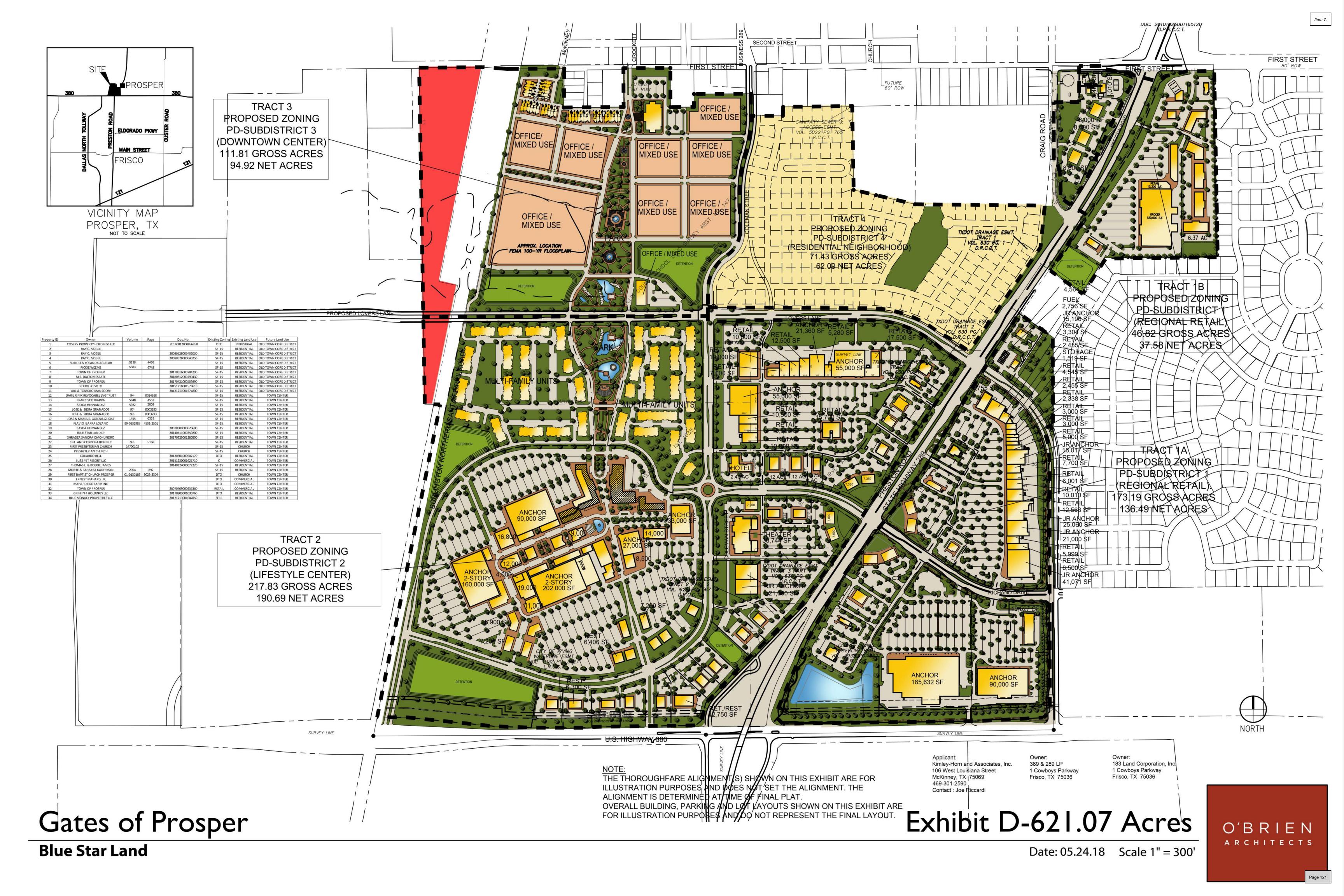
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RESIDENTIAL OLD TOWN CORE DISTRICT



APPENDIX B—CONCEPTUAL DEVELOPMENT PLAN EXHIBIT "D"



PLANNING



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

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon an ordinance rezoning 58.1± acres, from Planned Development-86 (PD-86) to Planned Development-Single Family-15 (PD-SF-15), to allow for a Funeral Home with Crematorium and Cemetery, located on the west side of Custer Road, north of US 380. (Z20-0020).

Description of Agenda Item:

On January 26, 2021, Town Council approved rezoning request (Z20-0020) related to the Prosper Funeral Home development. The zoning request was approved 6-1, subject to the addition of berms along Custer Road and a development agreement incorporating the proposed building materials for all structures on the property; the maintenance building shall have 4 feet of masonry on all sides except the west side which shall be 100% masonry. An ordinance has been prepared accordingly.

Legal Obligations and Review:

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

Attached Documents:

- 1. Ordinance
- 2. Ordinance Exhibits

Staff Recommendation:

Staff recommends the Town Council approve an ordinance rezoning 58.1± acres, from Planned Development-86 (PD-86) to Planned Development-Single Family-15 (PD-SF-15), to allow for a Funeral Home with Crematorium and Cemetery, located on the west side of Custer Road, north of US 380.

Proposed Motion:

I move to approve an ordinance rezoning 58.1± acres, from Planned Development-86 (PD-86) to Planned Development-Single Family-15 (PD-SF-15), to allow for a Funeral Home with Crematorium and Cemetery, located on the west side of Custer Road, north of US 380.

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING THE TOWN'S ZONING ORDINANCE AND ZONING ORDINANCE NO. 08-050, AS AMENDED, BY REZONING A TRACT OF LAND CONSISTING OF 58.135 ACRES, MORE OR LESS, SITUATED IN THE J. HORN SURVEY, ABSTRACT NO. 411, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-86 (PD-86) TO PLANNED DEVELOPMENT-SF-15 (PD-SF-15); 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 Town's Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request (Case Z20-0020) from SCI Texas Funeral Services, LLC ("Applicant") to rezone 58.135 acres of land, more or less, situated in the J. Horn Survey, Abstract No. 411, in the Town of Prosper, Collin County, Texas and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; 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

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

SECTION 2

Amendments to the Town's Zoning Ordinance. The Town's Zoning Ordinance is amended as follows: The zoning designation of the property containing 58.135 acres of land, more or less, situated in the J. Horn Survey, Abstract No. 411, 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-SF-15 (PD-SF-15) and being 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 Development Standards, attached hereto as Exhibit C; 3) the Site Plan, attached hereto as Exhibit D; 4) the Development Schedule, attached hereto as Exhibit E; 5) the Façade Plans, attached hereto as Exhibit F; and 6) the Landscape Plans, attached hereto as Exhibit G, which are incorporated herein for all purposes as if set forth verbatim, subject to the following conditions of approval by Town Council:

 The addition of berms along Custer Road and a development agreement incorporating the proposed building materials for all structures on the property; the maintenance building shall have 4 feet of masonry on all sides except the west side which shall be 100% masonry.

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.

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

<u>No Vested Interest/Repeal.</u> 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

<u>Unlawful Use of Premises</u>. 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

<u>Penalty</u>. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance, 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

<u>Severability</u>. 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

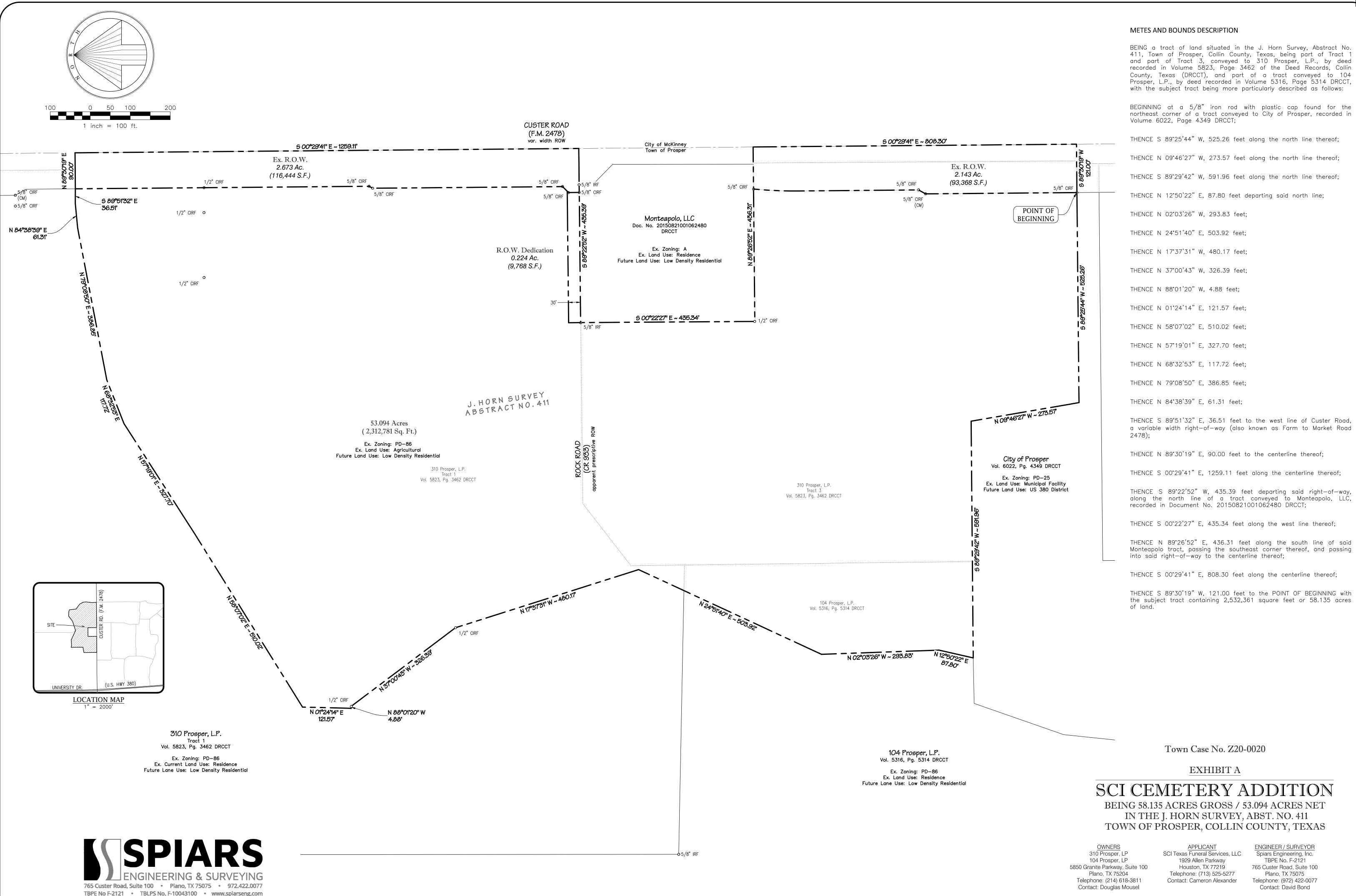
<u>Savings/Repealing Clause</u>. Prosper's Zoning Ordinance, as amended, shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal 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

<u>Effective Date</u>. 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 23RD DAY OF FEBRUARY, 2021.

Ray Smith, Mayor



Page 15

Scale: 1" = 100' November, 2020 SEI Job No. 20-167



Z20-0020

EXHIBIT "B"

STATEMENT OF INTENT AND PURPOSE

Service Corporation International acting under SCI Texas Funeral Services, LLC intends to own and operate a cemetery facility and funeral home with crematorium services on the above referenced property. SCI is an internationally recognized owner and operator within the funeral market and currently owns and manages approximately 1,500 funeral homes and nearly 500 cemeteries across North America.

SCI SHARED RESOURCES, LLC
1929 ALLEN PARKWAY • P.O. BOX 130548 • HOUSTON, TX 77219-0548
Office: (713) 525 5277 • Fax: (281-772-0283) • www.steve.webster@sci-us.com



Z20-0020

EXHIBIT "C"

DEVELOPMENT STANDARDS

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 (Ordinance No. 05-20), as it exists or may be amended, and the Subdivision Ordinance, as it exists or may be amended, shall apply.

- 1. Except as noted below, the Tract shall develop in accordance with the Single Family-15 (SF-15) District, as it exists or may be amended.
- 2. Uses. All of the permitted uses in the Single Family-15 (SF-15) District shall be allowed with the same provisions and restrictions, including uses permitted by a Specific Use Permit (SUP) and Conditional Uses (C), except as noted below:
 - a) Uses permitted by right:
 - i. Funeral Home, Cemetery, and Crematorium
- 3. Development Standards:
 - a) Berms
 - i. Shall be required along Custer Road.
 - b) Fencing/Walls/Screening
 - i. A masonry screening wall shall not be required where adjacent to residential property.
 - ii. A wooden trestle-style fence with stone columns spaced every 100 feet shall be permitted, as shown below:

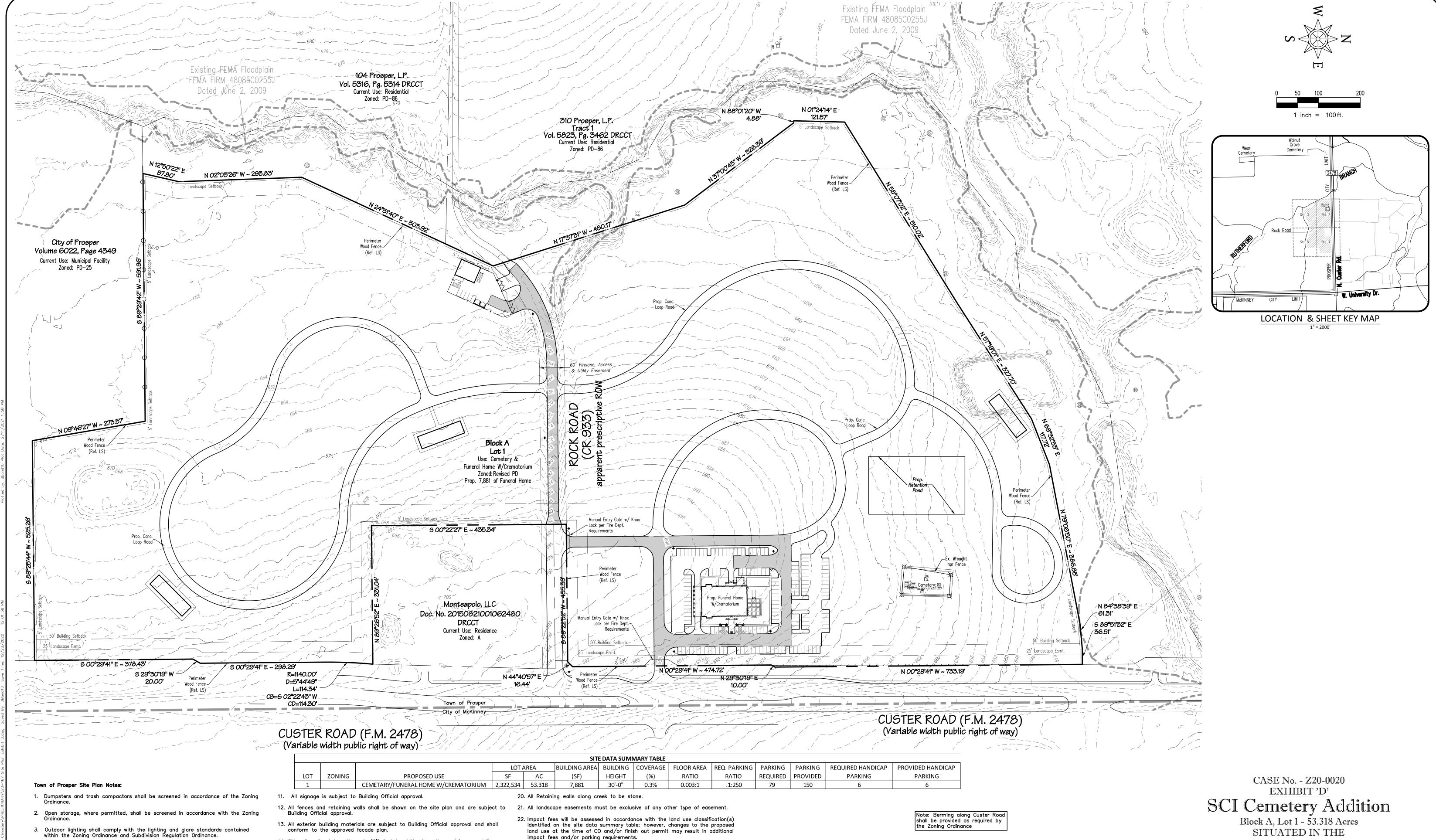
10 0 17 TYP. 10 10 17 TYP. 10 10 10 11 TYP. 10 10 10 11 TYP.

Fence Detail



Fence Column

- c) Architectural Standards
 - i. The proposed maintenance facility, as shown on Exhibit D, shall have 4 feet of masonry on all sides except the west side which shall be 100% masonry, in accordance with Exhibit F



- 4. Landscaping shall conform to landscape plans approved by the town.
- 5. All elevations shall comply with the standards contained within the Zoning
- 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. Speedbumps/humps are not permitted within a fire lane.

- Handicapped parking areas and building accessibility shall conform to the Americans with Disabilities Act (ADA) and with the requirements of the current, adopted uniform Building Code.
- 14. Sidewalks of not less than six (6') feet in width along thoroughfares and five (5') in width along collectors and 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

18. All mechanical equipment shall be screened from public view in accordance with

the Engineering Department.

16. Site plan approval is required prior to grading release.

the Zoning Ordinance.

- 17. All new electrical lines shall be installed and/or relocated underground.
- 19. Lots shall have frontage on a common access drive or a public street. The common access drive shall be dedicated public access, utility and fire lane easement.
- 23. Public Hike and Bike Trail is conceptual. Final alignment to be determined at the time of final site plan to be approved by the Town.
- 24. All environmental studies required to reclaim floodplain shall be submitted at time of final plat to develop each lot.
- 25. The approval of a preliminary site plan shall be effective for a period of two (2) years from the date that the preliminary site plan is approved by the Planning & Zoning Commission, at the end of which time the applicant must have submitted and received approval of a site plan by the Planning & Zoning Commission. If a site plan is not approved within such (2) year period the preliminary site plan approval is null and void. If site plan approval is only for a portion of the property, the approval of the preliminary site plan for the remaining property shall be null and void.

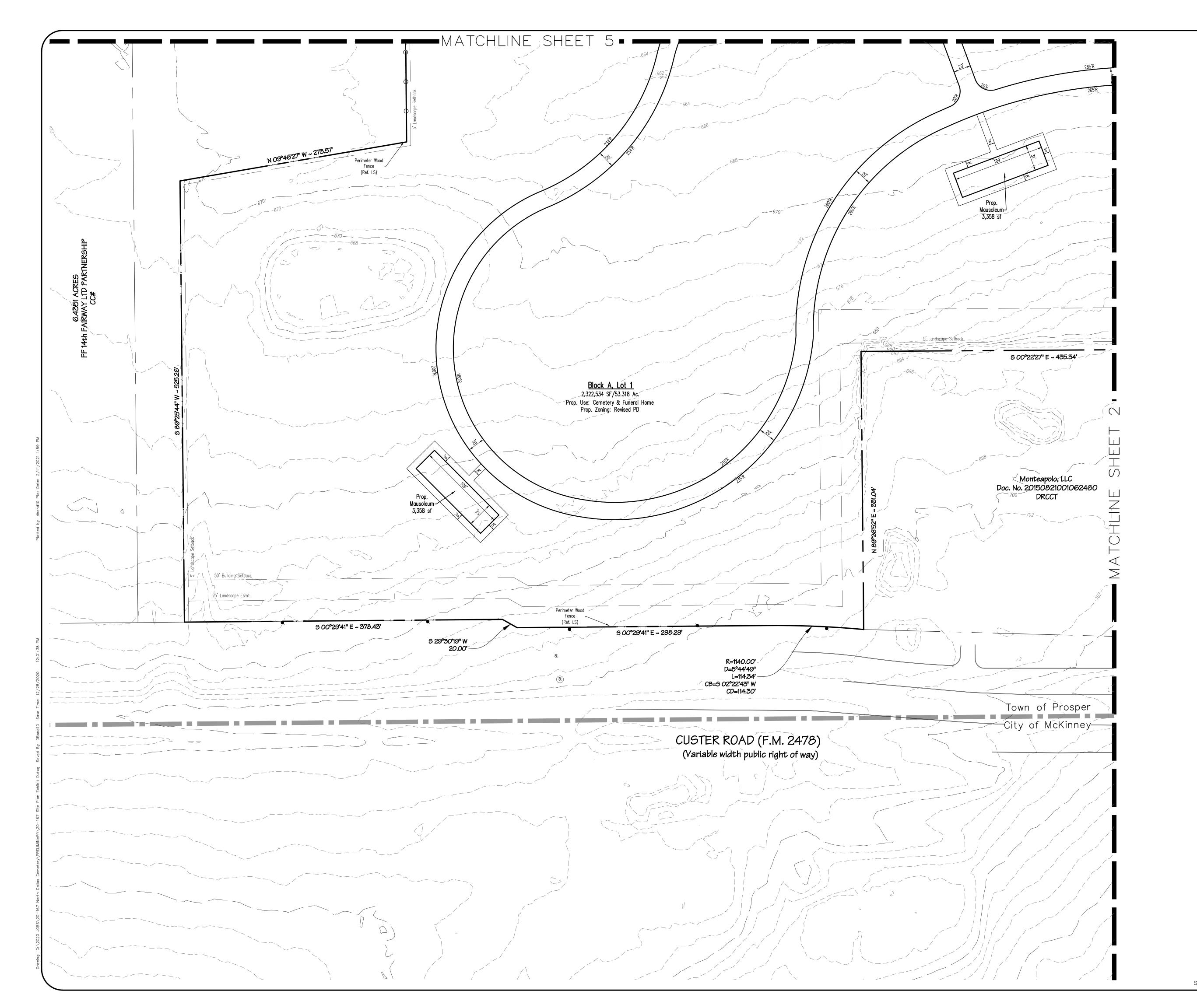
JEREMIAH HORN SURVEY, ABSTRACT NO. 787 IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS

OWNERS
310 Prosper, LP
104 Prosper, LP
5850 Granite Parkway, Suite 100
Plano, TX 75204
Telephone: (214) 618-3811
Contact: Douglas Mousel

APPLICANT
SCI Texas Funeral Services, LLC
1929 Allen Parkway
Houston, TX 77219
Telephone: (713) 525-5277
Contact: Cameron Alexander

ENGINEER / SURVEYOR
Spiars Engineering, Inc.
TBPE No. F-2121
765 Custer Road, Suite 100
Plano, TX 75075
Telephone: (972) 422-0077
Contact: David Bond

Existing FEMA Floodplain FEMA FIRM 48085C0255J N 01°24'14" E 121.57' 310 Prosper, L.P. Tract 1 Vol. 5823, Pg. 3462/DRCCT Perimeter Wood Fence – (Ref. LS) Block A, Lot 1
2,322,534 SF/53.318 Ac.
Prop. Use: Cemetery & Funeral Home
Prop. Zoning: Revised PD



JEREMIAH HORN SURVEY, ABSTRACT NO. 787 IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS

OWNERS
310 Prosper, LP
104 Prosper, LP
5850 Granite Parkway, Suite 100
Plano, TX 75204
Telephone: (214) 618-3811
Contact: Douglas Mousel

Z20-0020

EXHIBIT "E"

CONCEPTUAL DEVELOPMENT SCHEDULE

A conceptual development schedule for the North Dallas Cemetery tract is as follows:

- Due Diligence & Entitlement...July 2020 to February 2021
- Funeral Home & Cemetery Design...March 2021 to September 2021
- Construction Permit...September 2021
- Construction...October 2021 to July 2022
- Operations Startup...August 2022
- Open for business....September 2022

Phase 2 consists of minor roadways, landscaping and basic utility extensions. This phase will commence based on market needs and sales in the area. We anticipate phase two to begin in 2030 or later.

SOUTH ELEVATION

PROJECT NO.

PROGRESS
DESIGN

DESIGN
DOCUMENT

Not to be used for regulatory

SCI SHARED RESOURCES LLC

approval, permit or for construction

Nov. 24, 2020

per Funeral Home

REVISION

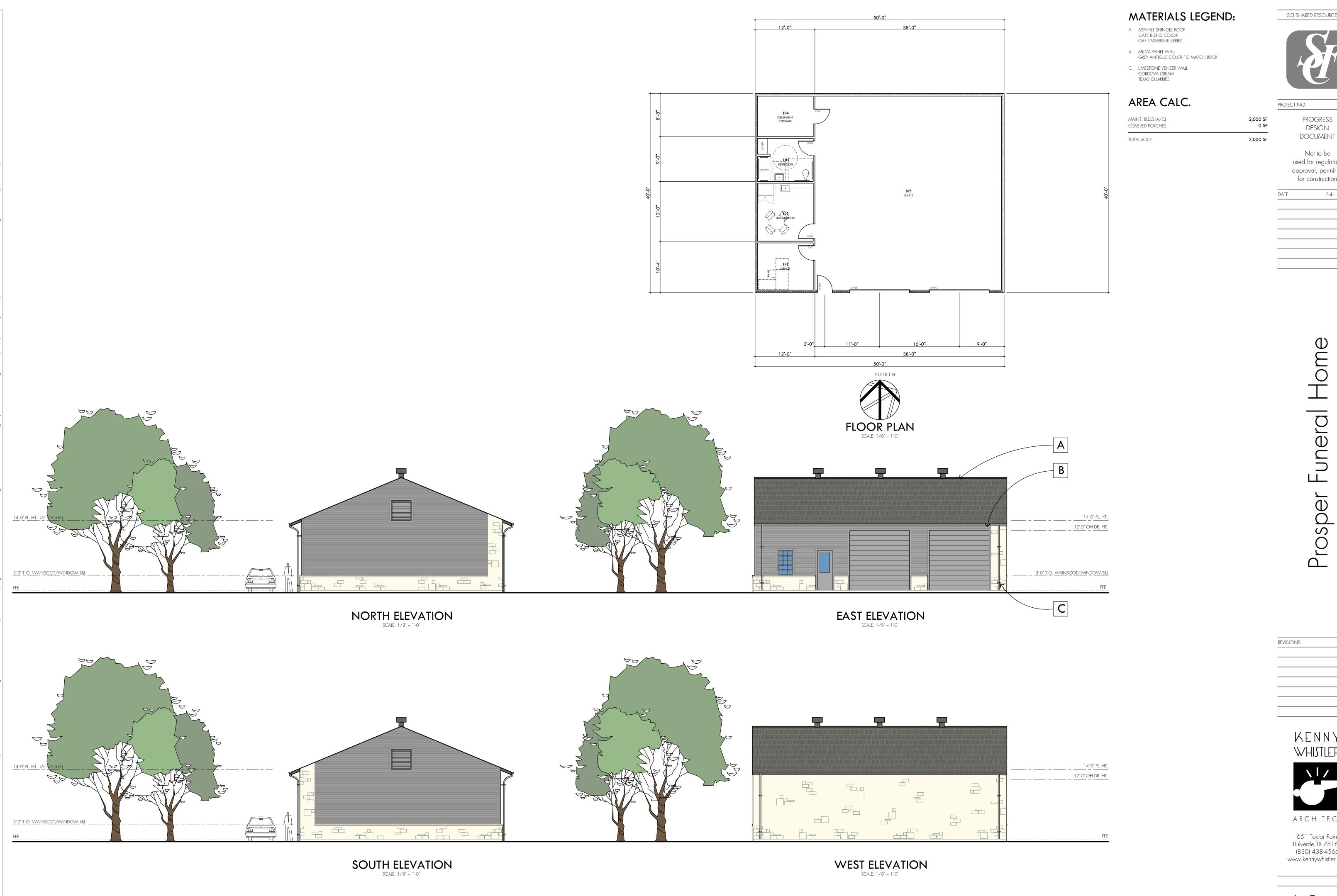
KENNY



ARCHITECT

651 Taylor Point Bulverde,TX 78163 (830) 438-4566 www.kennywhistler.com

Z20-0020 Exhibit F A2



Maintenance Building

SCI SHARED RESOURCES LLC



PROJECT NO. PROGRESS

DESIGN

Not to be used for regulatory approval, permit or for construction

Feb. 12, 2021

KENNY WHISTLER

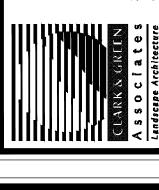


ARCHITECT

651 Taylor Point Bulverde,TX 78163 (830) 438-4566







Addition
35 Acres
THE
ABSTRACT NO. 78
LLIN COUNTY, T SCI Ceme JEREMIAH HOF IN THE TOWN OF F

CONCEPTUAL ANDSCAPE PLAN

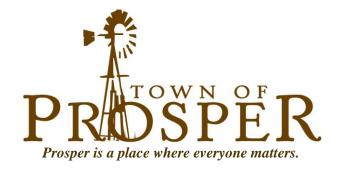
CHECKED 12/17/20 20-079

CONCEPTUAL ELEVATIONS



FRONT ELEVATION

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager

Rebecca Zook, P.E., Executive Director of Development and

Infrastructure Services

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act to authorize the Town Manager to execute a Development Agreement between 310 Prosper, L.P., and the Town of Prosper, Texas, related to the Prosper Funeral Home development.

Description of Agenda Item:

On January 26, 2021, the Town Council approved the rezoning request (Z20-0020) related to the Prosper Funeral Home development. The zoning request was approved 6-1, subject to approval of a development agreement incorporating building materials for all structures on the property and the maintenance building shall have four feet (4') of masonry on all sides except the west side, which shall be 100% masonry. 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. Development Agreement Exhibits

Town Staff Recommendation:

Staff recommends the Town Council authorize the Town Manager to execute a Development Agreement between 310 Prosper, L.P., and the Town of Prosper, Texas, related to the Prosper Funeral Home development.

Proposed Motion:

I move to authorize the Town Manager to execute a Development Agreement between 310 Prosper, L.P., and the Town of Prosper, Texas, related to the Prosper Funeral Home development.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the Town of Prosper, Texas ("Town"), and 310 Prosper, L.P. ("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 a funeral home with a cemetery and crematorium on an approximate 58.1-acre tract (the "Property"), a legal description 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 January 26, 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 construct on the Property structures in accordance with the provisions, standards, attachments and notes reflected in this 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. Architectural Standards and Building Materials. For any structure built in the Development following the Effective Date, it shall comply with the applicable requirements contained in Exhibit B, "Elevations and Exterior Materials," attached hereto and incorporated by reference, and Owner agrees to construct those structures in compliance therewith. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed 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.** 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. <u>Default</u>. 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.** <u>Venue</u>. 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.** <u>Notice</u>. 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: 310 Prosper, L.P.

5850 Grande Parkway, Suite 100

Plano, Texas 75204

Attention: Douglas Mousel

- 7. <u>Prevailing Party</u>. 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.** <u>Entire Agreement.</u> 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.** <u>Savings/Severability</u>. 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.** <u>Binding Agreement</u>. 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. <u>Authority to Execute</u>. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this Agreement on behalf of the Town has full authority to execute this Agreement and bind the Town to the same. 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.** <u>Filing in Deed Records</u>. This Agreement, and any and all subsequent amendments to this Agreement, shall be filed in the deed records of Denton County, Texas.
- **13.** <u>Mediation</u>. 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.** <u>Consideration</u>. 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. Exactions/Infrastructure Costs. Owner has been represented by legal counsel in the negotiation of this Agreement and been advised or has had the opportunity to have legal counsel review this Agreement and advise Owner, regarding Owner's rights under Texas and federal law. Owner hereby waives any requirement that the Town retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the Town are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Owner specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code; however, notwithstanding the foregoing, Owner hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.
- **20.** Rough Proportionality. Owner hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution with respect to roadway or infrastructure requirements imposed by this Agreement. Owner and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual

determination requirements mandated by the United States Supreme Court in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the projected impact of the terms of this Agreement, with respect to roadway or infrastructure requirements imposed by this Agreement.

- 21. <u>Waiver of Texas Government Code § 3000.001 et seq.</u> With respect to any structures or improvements constructed on the Property pursuant to this Agreement, Owner hereby waives any right, requirement or enforcement of Texas Government Code §§ 3000.001-3000.005, as amended.
- **22.** <u>Time</u>. Time is of the essence in the performance by the Parties of their respective obligations under this Agreement.
- **23.** Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.
- **24.** <u>Amendment</u>. 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 Land; however, the failure to provide such copies shall not affect the validity of any amendment.
- **25.** <u>Miscellaneous Drafting Provisions</u>. 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.
- **26.** Attorney's Fees. Owner agrees to pay, or cause to be paid, to Prosper any attorney's fees charged to Prosper by Prosper's legal counsel for, among other things, legal review and revision of this Agreement and all further agreements, ordinances or resolutions contemplated by this Agreement, negotiations and discussions with Developer's attorney and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$1,500.00 within ten (10) days upon receipt of an invoice of same from Prosper.

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)		
	wledged before me on the day of efferson, Town Manager of the Town of Prosper, er, Texas.	
	Notary Public, State of Texas My Commission Expires:	

	OWN	ER:		
		310 Prosper, L.P., a Texas limited partnership		
	Ву:	Texas Land Management, L.L.C. a Texas limited liability company, its General Partner		
		By: Name: Jim Williams, Jr., Title: Chairman		
STATE OF TEXAS)				
COUNTY OF COLLIN)				
, 2021, by Jim Williar	ms, Jr., erson v	d before me on the day of in his capacity as Chairman of Texas Land whose name is subscribed to the foregoing behalf of and as the act of Owner.		
		y Public, State of Texas ommission Expires:		

EXHIBIT A

(Property Description)

EXHIBIT B

(Elevations and Exterior Materials)



BEING a tract of land situated in the J. Horn Survey, Abstract No. 411, Town of Prosper, Collin County, Texas, being part of Tract 1 and part of Tract 3, conveyed to 310 Prosper, L.P., by deed recorded in Volume 5823, Page 3462 of the Deed Records, Collin County, Texas (DRCCT), and part of a tract conveyed to 104 Prosper, L.P., by deed recorded in Volume 5316, Page 5314 DRCCT, with the subject tract being more particularly described as follows:

BEGINNING at a 5/8" iron rod with plastic cap found for the northeast corner of a tract conveyed to City of Prosper, recorded in Volume 6022, Page 4349 DRCCT;

THENCE S 89°25'44" W, 525.26 feet along the north line thereof;

THENCE N 09°46'27" W, 273.57 feet along the north line thereof;

THENCE S $89^{\circ}29'42"$ W, 591.96 feet along the north line thereof;

THENCE N 12°50'22" E, 87.80 feet departing said north line;

THENCE N 02°03'26" W, 293.83 feet;

THENCE N 24*51'40" E, 503.92 feet:

THENCE N 17*37'31" W, 480.17 feet;

THENCE N 37*00'43" W, 326.39 feet;

THENCE N 88*01'20" W, 4.88 feet;

THENCE N 01°24'14" E, 121.57 feet;

THENCE N 58°07'02" E. 510.02 feet:

THENCE N 57*19'01" E, 327.70 feet:

THENCE N 79°08'50" E, 386.85 feet;

THENCE N 84*38'39" E, 61.31 feet;

THENCE S 89'51'32" E, 36.51 feet to the west line of Custer Road, a variable width right—of—way (also known as Farm to Market Road

THENCE N 89°30'19" E, 90.00 feet to the centerline thereof;

THENCE S 00°29'41" E, 1259.11 feet along the centerline thereof;

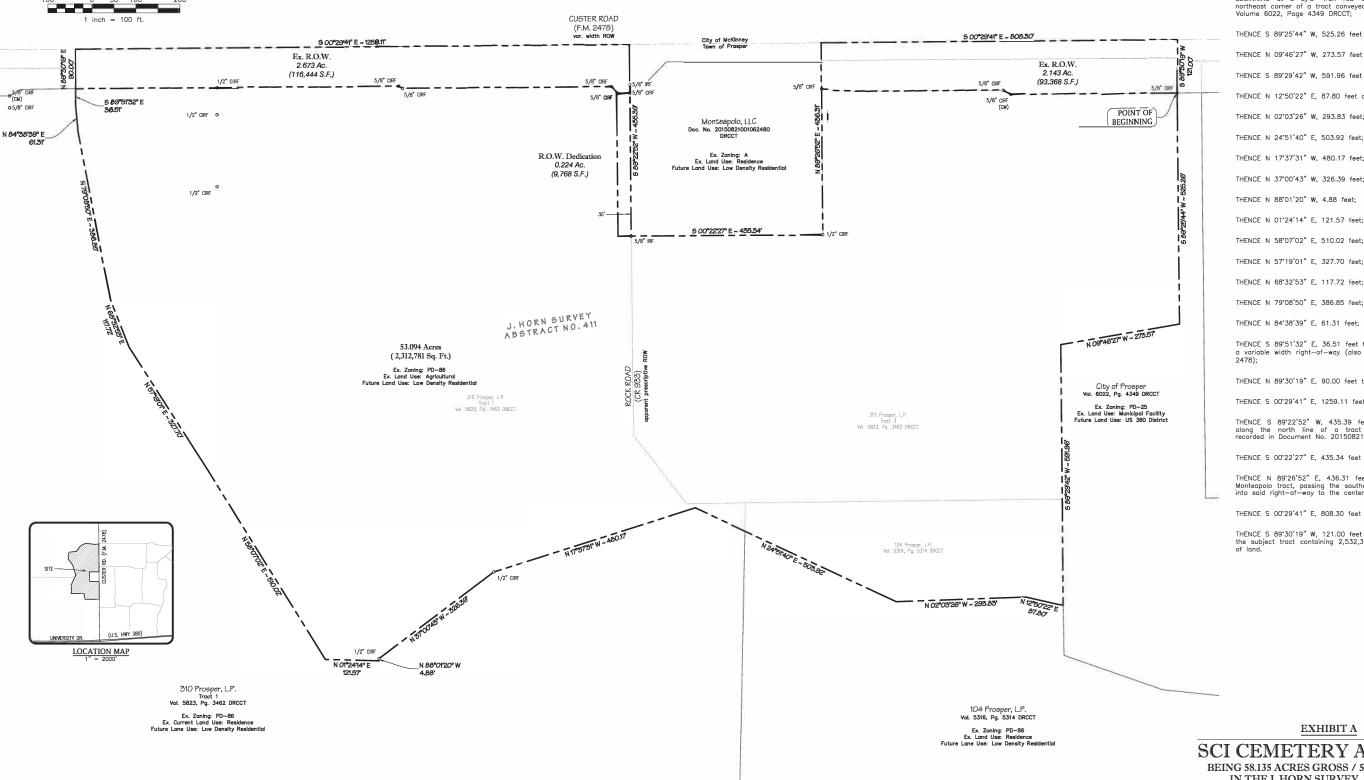
THENCE S 89'22'52" W, 435.39 feet departing said right—of-way, along the north line of a tract conveyed to Monteapolo, LLC, recorded in Document No. 20150821001062480 DRCCT;

THENCE S 00°22'27" E, 435.34 feet along the west line thereof;

THENCE N 89°26'52" E, 436.31 feet along the south line of said Monteapolo tract, passing the southeast corner thereof, and passing into said right-of-way to the centerline thereof;

THENCE S 00°29'41" E, 808.30 feet along the centerline thereof;

THENCE S 89'30'19" W, 121.00 feet to the POINT OF BEGINNING with the subject tract containing 2,532,361 square feet or 58.135 acres of land.



765 Custer Road, Suite 100 • Plano, TX 75075 • 972.422.0077 TBPE No F-2121 • TBLPS No. F-10043100 • www.spiarseng.com

EXHIBIT A

SCI CEMETERY ADDITION

BEING 58.135 ACRES GROSS / 53.094 ACRES NET IN THE J. HORN SURVEY, ABST. NO. 411 TOWN OF PROSPER, COLLIN COUNTY, TEXAS

OWNERS
310 Prosper, LP
104 Prosper, LP
5850 Granite Parkway, Suite 100 Plano, TX 75204
Telephone: (214) 618-3811
Contact: Douglas Mousel

APPLICANT SCI Texas Funeral Services, LLC 1929 Allen Parkway Houston, TX 77219 Telephone: (713) 525-5277 Contact: Cameron Alexander

ENGINEER / SURVEYOR Spiars Engineering, Inc. TBPE No. F-2121 765 Custer Road, Suite 100 Plano, TX 75075 Telephone: (972) 422-0077 Contact: David Bond

Scale: 1" = 100' November, 2020 SEI Job No. 20-167

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Item 9.

HODO NO

MATERIALS LEGEND:

PROGRESS DESIGN DOCUMENT

Not to be used for regulatory approuds, permit or for construction

No. 24, 202

789. 24, 202

Prosper Funeral Home

HVGCZ

KENNY WHITTLER



ARCHITECT 851 Taylor Form

551 Taylor Form Buherda TX 78163 (830) 438-4566 www.kennyy/hallar.com

A Page 151

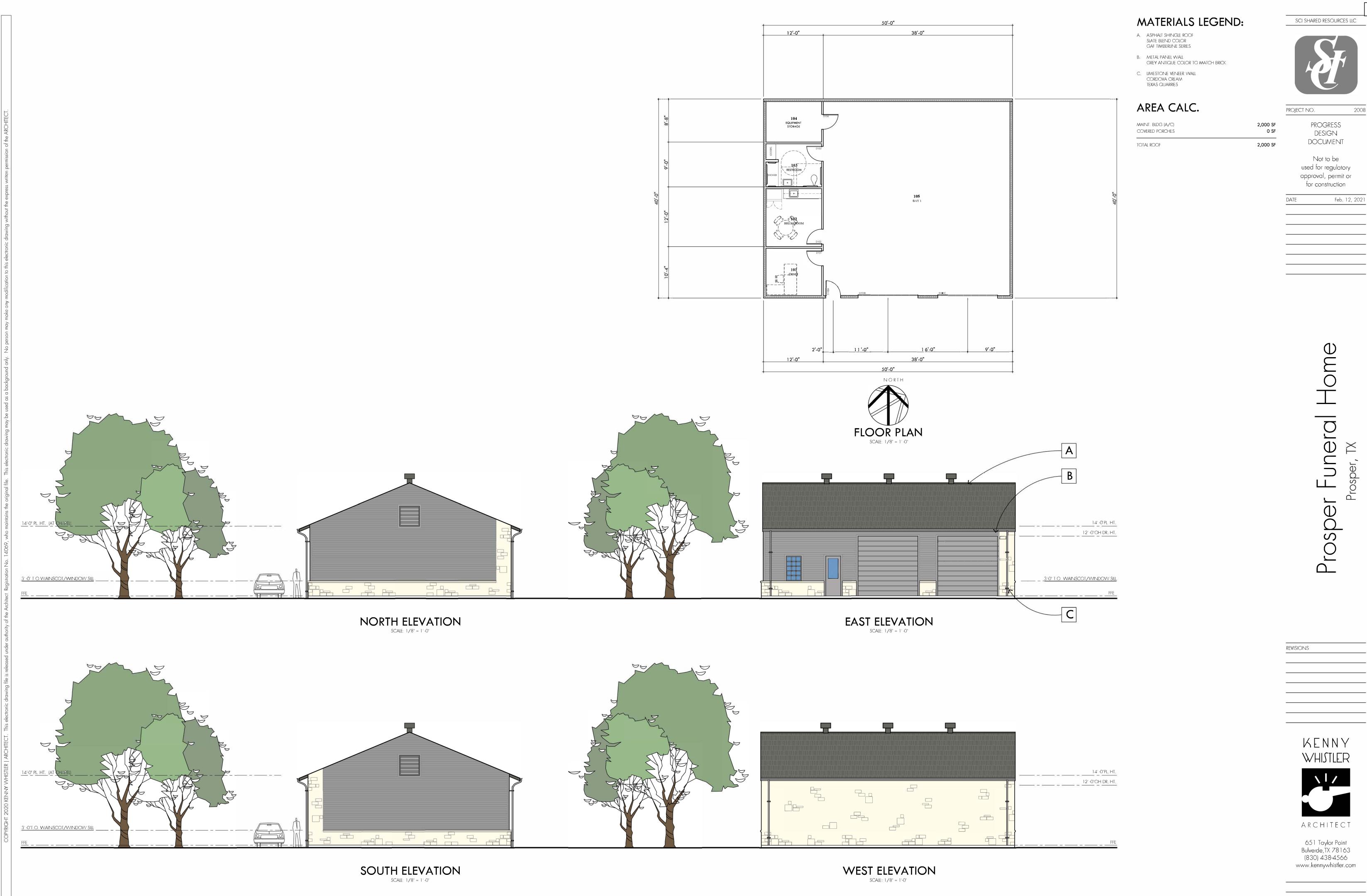


Exhibit B



PLANNING



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

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon an ordinance rezoning 55.8± acres, located on the west side of Good Hope Road, south of Parvin Road, from Agricultural (A) to Planned Development-40 (PD-40), generally to incorporate tracts of land into the Windsong Ranch development. (Z20-0023).

Description of Agenda Item:

On January 26, 2021, Town Council approved rezoning request (Z20-0023) generally to incorporate tracts of land into the Windsong Ranch development by a vote of 7-0. An ordinance has been prepared accordingly.

Legal Obligations and Review:

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

Attached Documents:

- 1. Ordinance
- 2. Ordinance Exhibits

Staff Recommendation:

Staff recommends the Town Council approve the request to rezone 55.8± acres, located on the west side of Good Hope Road, south of Parvin Road, from Agricultural (A) to Planned Development-40 (PD-40), generally to incorporate tracts of land into the Windsong Ranch development.

Proposed Motion:

I move to approve an ordinance rezoning 55.8± acres, located on the west side of Good Hope Road, south of Parvin Road, from Agricultural (A) to Planned Development-40 (PD-40), generally to incorporate tracts of land into the Windsong Ranch development.

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING THE TOWN'S ZONING ORDINANCE AND ZONING ORDINANCE NO. 08-030, AS AMENDED. BY REZONING A TRACT OF LAND CONSISTING OF 2175.998 ACRES, MORE OR LESS, SITUATED IN THE C. SMITH SURVEY, ABSTRACT NO. 1681, THE J. BATES SURVEY, ABSTRACT NO. 1620, THE L. SALING SURVEY, ABSTRACT NO. 1675, THE H.P. SALING SURVEY, ABSTRACT NO. 1628, THE M.E.P. & P. RR SURVEY, ABSTRACT NO. 1476, THE P. BARNES SURVEY, ABSTRACT NO. 79, THE B. HADGES SURVEY, ABSTRACT NO. 593, THE A.B. JAMISON SURVEY, ABSTRACT NO. 672, THE B.B. WALTON SURVEY, ABSTRACT NO. 1369, THE T. BUTTON SURVEY, ABSTRACT NO. 1369, THE P.R. RUE SURVEY, ABSTRACT NO. 1555, THE J. TETTER SURVEY, ABSTRACT NO. 1262, THE L. NETHERLY SURVEY, ABSTRACT NO. 962, THE B. RUE SURVEY, ABSTRACT NO. 1113, THE A. ROBERTS SURVEY, ABSTRACT NO. 1115, THE R. YATES SURVEY, ABSTRACT NO. 1538, THE L. RUE SURVEY, ABSTRACT 1110, THE H. RUE SURVEY, ABSTRACT NO. 1111, AND THE J. MORTON SURVEY, ABSTRACT NO. 793, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, FROM AGRICULTURAL (A) AND PLANNED DEVELOPMENT-40 (PD-40) TO PLANNED DEVELOPMENT-40 (PD-40): 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 Town's Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request (Case Z20-0023) from Tellus Group, LLC ("Applicant") to rezone 55.756 acres from Agricultural (A) to Planned Development-40 (PD-40), being a total of 2175.998 acres of land, more or less, situated in the C. Smith Survey, Abstract No. 1681, The J. Bates Survey, Abstract No. 1620, The L. Saling Survey, Abstract No. 1675, The H.P. Saling Survey, Abstract No. 1628, The M.E.P. & P. RR Survey, Abstract No. 1476, The P. Barnes Survey, Abstract No. 79, The B. Hadges Survey, Abstract No. 593, The A.B. Jamison Survey, Abstract No. 672, The B.B. Walton Survey, Abstract No. 1369, The T. Button Survey, Abstract No. 1369, The P.R. Rue Survey, Abstract No. 1555, The J. Tetter Survey, Abstract No. 1262, The L. Netherly Survey, Abstract No. 962, The B. Rue Survey, Abstract No. 1113, The A. Roberts Survey, Abstract No. 1115, The R. Yates Survey, Abstract No. 1538, The L. Rue Survey, Abstract 1110, The H. Rue Survey, Abstract No. 1111, and The J. Morton Survey, Abstract No. 793, in the Town of Prosper, Denton County, Texas and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; 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

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

SECTION 2

Amendments to the Town's Zoning Ordinance. The Town's Zoning Ordinance is amended as follows: The zoning designation of the property containing 2175.998 acres of land, more or less, situated in the C. Smith Survey, Abstract No. 1681, The J. Bates Survey, Abstract No. 1620, The L. Saling Survey, Abstract No. 1675, The H.P. Saling Survey, Abstract No. 1628, The M.E.P. & P. RR Survey, Abstract No. 1476, The P. Barnes Survey, Abstract No. 79, The B. Hadges Survey, Abstract No. 593, The A.B. Jamison Survey, Abstract No. 672, The B.B. Walton Survey, Abstract No. 1369, The T. Button Survey, Abstract No. 1369, The P.R. Rue Survey, Abstract No. 1555, The J. Tetter Survey, Abstract No. 1262, The L. Netherly Survey, Abstract No. 962, The B. Rue Survey, Abstract No. 1113, The A. Roberts Survey, Abstract No. 1115, The R. Yates Survey, Abstract No. 1538, The L. Rue Survey, Abstract 1110, The H. Rue Survey, Abstract No. 1111, and The J. Morton Survey, Abstract No. 793, in the Town of Prosper, Denton County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-40 (PD-40) and being 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 Development Standards, attached hereto as Exhibit C; 3) the Site Plan, attached hereto as Exhibit D; 4) the Development Schedule, attached hereto as Exhibit E; and 5) the Façade Plans, attached hereto as Exhibit F, which are 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.

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

<u>No Vested Interest/Repeal</u>. 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

<u>Unlawful Use of Premises</u>. 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

<u>Penalty</u>. Any person, firm, corporation or business entity violating this Ordinance or any provision of Prosper's Zoning Ordinance, 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

<u>Severability</u>. 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, as amended, 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

<u>Effective Date</u>. 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 23RD DAY OF FEBRUARY, 2021.

	Ray Smith, Mayor	
ATTEST:		
Robyn Battle, Town Secretary		
APPROVED AS TO FORM AND LEGALITY:		
Terrence S. Welch, Town Attorney		

EXHIBIT "A"

Legal Descriptions for Windsong Ranch, Town of Prosper, Texas

EXHIBIT "A-1"

Legal Description of the Windsong Property

BEING a tract of land out of the C. SMITH SURVEY, Abstract No. 1681, the J. BATES SURVEY, Abstract No. 1620, the L. SALING SURVEY, Abstract No. 1675, the H.P. SALING SURVEY, Abstract No. 1628, the M.E.P. & P. RR SURVEY, Abstract No. 1476, P. BARNES SURVEY, Abstract No. 79, the B. HADGES SURVEY, Abstract No. 593, the A.B. JAMISON SURVEY, Abstract No. 672, the B.B. WALTON SURVEY, Abstract No. 1369, the T. BUTTON SURVEY, Abstract No. 88, the P.R. RUE SURVEY, Abstract No. 1555, the J. TETTER SURVEY, Abstract No. 1262, the L. NETHERLY SURVEY, Abstract No. 962, the B. RUE SURVEY, Abstract No. 1113, the A. ROBERTS SURVEY, Abstract No. 1115, in Denton County, Texas, the R. YATES SURVEY, Abstract No. 1538, the L. RUE SURVEY, Abstract No. 1110, the H. RUE SURVEY, Abstract No. 1111, the J. MORTON SURVEY, Abstract No. 793, in Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2004-0063826 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 20041-0024459 of the Real Property Records of Denton County, Texas, being part of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2004-0014699 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2004-0014698 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2005-0014700 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2004-0046720 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2004-0024462 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2004-0024458 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard 2003 Partnership, L.P. recorded in Denton County Clerk's File No. 2004-0050900 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard Egg Farm, Inc. recorded in Volume 1936, Page 145 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard Egg Farm, Inc. recorded in Volume 1618, Page 329 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard Egg Farm, Inc. recorded in Volume 547, Page 394 of the Deed Records of Denton County, Texas, being part of the tract of land described in deed to Mahard Egg Farm, Inc. recorded in Volume 1332, Page 176 of the Real Property Records of Denton County, Texas, being all of the tract of land described in deed to Mahard Egg Farm, Inc. recorded in Volume 779, Page 665 of the Deed Records of Denton County, Texas, being all of the tract of land described in deed to Ernest Mahard recorded in Volume 1938, Page 931 of the Real Property Records of Denton County, Texas being all of the tract of land described in deed to Mahard Egg Farm, Inc. recorded in Volume 1149, Page 500 of the Deed Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a TXDOT monument found in the north right-of-way line of U.S. Highway No. 380, said monument being the northeast corner of a tract of land described in deed to the State of Texas recorded in Volume 4769, Page 1768 of the Real Property Records of Denton County, Texas:

THENCE with said north right-of-way line, the following courses and distances to wit:
South 88°35'51" West, a distance of 3483.13 feet to a TXDOT monument found;
North 46°16'16" West, a distance of 83.68 feet to a fence post in the east line of Good Hope Road (no dedication recordation found);

THENCE with said east line and along a fence, North 00°25'46" West, a distance of 1453.36 feet to a fence corner found in the south line of a 25.44 acre tract of land described in deed to Nathan Goodlet recorded in Volume 3329, Page 825 of the Real Property Records of Denton County, Texas;

THENCE with said south line, North 88°56'49" East, a distance of 1435.64 feet to a 3/8" iron rod found for corner;

THENCE with the east line of said 25.44 acre tract, North 00°30'13" West, a distance of 819.11 feet to a 1/2" iron rod found for corner;

THENCE with the north line of said 25.44 acre tract, South 89°35'17" West, a distance of 1430.32 feet to a 5/8" iron rod set with a plastic cap stamped "KHA" (hereinafter called 5/8" iron rod set) for corner in the east line of said Good Hope Road:

THENCE with said east line, North 00°08'13" West, a distance of 1236.96 feet to a fence corner in the south line of a tract of land described in deed to Judy Reeves;

THENCE with the south line of said Reeves tract, North 89°14'55" East, a distance of 940.90 feet to a 5/8" iron rod set for corner;

THENCE with the east line of said Reeves tract, North 00°40'52" West, a distance of 197.22 feet to a 1/2" iron rod found for corner in the south line of Fish Trap Road (no dedication recordation found);

THENCE with said south line, North 88°59'28" East, a distance of 815.80 feet to a 1/2" iron rod found for corner;

THENCE leaving said south line, North 00°06'59" West, a distance of 36.44 feet to a pk nail found in the centerline of said Fish Trap Road;

THENCE along the centerline of said Fish Trap Road, South 89°04'04" West, a distance of 1776.99 feet to a pk nail set for the intersection of the centerline of said Fish Trap Road and the centerline of said Good Hope Road;

THENCE along the centerline of said Good Hope Road, South 00°15'35" East, a distance of 3735.79 feet to a pk nail set in the north right-of-way line of said U.S. Highway No. 380;

THENCE with said north right-of-way line, the following courses and distances to wit:

South 44°02'02" West, a distance of 114.60 feet to a TXDOT monument found;

South 88°35'51" West, a distance of 2062.12 feet to a 5/8" iron rod set for corner;

South 88°50'58" West, a distance of 100.00 feet to a 5/8" iron rod set for corner; South 89°09'27" West, a distance of 22.39 feet to a 5/8" iron rod set for corner; North 45°50'38" West, a distance of 111.42 feet to a pk nail set in the centerline of Gee Road (no dedication recordation found);

THENCE with said centerline, North 00°01'02" West, a distance of 1114.87 feet to a pk nail set;

THENCE with the easterly most north line of a 106.26 acre tract of land described in deed to Judy Gee recorded in Volume 3130, Page 794 of the Real Property Records of Denton County, Texas, part of the way, South 89°33'35" West, a distance of 1098.63 feet to a fence corner found:

THENCE along a fence, North 12°40'03" East, a distance of 2150.51 feet to a fence corner found for the northwest corner of a 5.34 acre tract of land described in deed to Mahard Egg Farm, Inc. recorded in Volume 1936, Page 145 of the Real Property Records of Denton County, Texas;

THENCE the following courses and distances to wit:

North 88°30'03" West, a distance of 451.90 feet to a 5/8" iron rod set for corner; North 59°57'10" West, a distance of 66.21 feet to a 5/8" iron rod set for corner; North 27°15'28" West, a distance of 207.89 feet to a 5/8" iron rod set for corner; South 79°58'04" West, a distance of 116.69 feet to a 5/8" iron rod set for corner; South 17°11'21" West, a distance of 12.96 feet to a 5/8" iron rod set for corner; North 65°16'52" West, a distance of 66.04 feet to a 5/8" iron rod set for the northerly most corner of said 106.26 acre tract:

THENCE with the west lines of said 106.26 acre tract, the following courses and distances to wit:

South 31°55'38" West, a distance of 494.24 feet to a 5/8" iron rod set for corner; South 57°52'02" East, a distance of 601.93 feet to a Corp of Engineers monument found:

South 31°24'02" West, a distance of 1854.30 feet to a Corp of Engineers monument found:

South 31°27'22" West, a distance of 302.61 feet to a 5/8" iron rod set for the northeast corner of a 0.78 acre tract of land described in deed to the City of Irving recorded in Volume 4871, Page 5128 of the Real Property Records of Denton County, Texas;

THENCE the lines of said 0.78 acre tract, the following courses and distances to wit:

North 73°29'41" West, a distance of 241.29 feet to a 1/2" iron rod found for corner;

South 21°58'41" West, a distance of 181.00 feet to a 5/8" iron rod set for corner;

South 73°29'27" East, a distance of 67.00 feet to a 5/8" iron rod set for corner;

North 22°20'38" East, a distance of 41.52 feet to a 5/8" iron rod set for corner;

South 75°57'16" East, a distance of 152.12 feet to a 1/2" iron rod found in the west line of said 106.26 acre tract:

THENCE with said west line and along a fence part of the way, South 31°27'22" West, a distance of 877.59 feet to a 5/8" iron rod set for corner in the north right-of-way line of said U.S. Highway No. 380

THENCE with said north right-of-way line, North 88°48'55" West, a distance of 587.44 feet to a 5/8" iron rod set for the southeast corner of a 61.2 acre tract of land described in deed to M.

Taylor Hansel recorded in Denton County Clerk's File No. 94-R0091793 of the Real Property Records of Denton County, Texas;

THENCE with the east lines of said Hansel tract, the following courses and distances to wit:

North 08°56'01" East, a distance of 240.78 feet to a 5/8" iron rod set for corner; North 55°59'01" East, a distance of 132.20 feet to a 5/8" iron rod set for corner; South 20°18'01" West, a distance of 155.70 feet to a 5/8" iron rod set for corner; South 80°49'59" East, a distance of 88.40 feet to a 5/8" iron rod set for corner; North 45°13'01" East, a distance of 261.10 feet to a 5/8" iron rod set for corner; South 62°15'59" East, a distance of 216.20 feet to a 5/8" iron rod set for corner; North 15°04'01" East, a distance of 184.70 feet to a 5/8" iron rod set for corner; North 56°01'01" East, a distance of 183.40 feet to a 5/8" iron rod set for corner; North 18°07'01" East, a distance of 197.90 feet to a 5/8" iron rod set for corner; North 73°19'59" West, a distance of 688.80 feet to a Corp of Engineers monument found for the southeast corner of a 107.57 acre tract of land described in deed to Fish Trap Properties, Ltd., recorded in Volume 4626, Page 2922 of the Real Property Records of Denton County, Texas;

THENCE with the east lines of said 107.57 acre tract, the following courses and distances to wit:

North 29°02'03" East, a distance of 67.81 feet to a 5/8" iron rod set for comer; North 22°04'26" East, a distance of 710.31 feet to a Corp of Engineers monument found; North 33°00'31" East, a distance of 221.33 feet to a Corp of Engineers monument found; North 58°30'15" West, a distance of 249.63 feet to a Corp of Engineers monument found for the southeast corner of a 43.07 acre tract of land described in deed to Billy Jeter recorded in Volume 2125, Page 729 of the Real Property Records of Denton County, Texas;

THENCE with the east lines of said 43.07 acre tract, the following courses and distances to wit:

North 07°55'24" East, a distance of 669.72 feet to a 5/8" iron rod set for corner;

South 75°24'16" East, a distance of 402.59 feet to a Corp of Engineers monument found:

North 19°28'37" West, a distance of 739.75 feet to a Corp of Engineers monument found:

North 35°34'01" East, a distance of 531.05 feet to a Corp of Engineers monument found; North 02°04'22" West, a distance of 172.83 feet to a fence post found in the south line of a 57.55 acre tract of land described in deed to G&S Landscaping recorded in Volume 5114, Page 1398 of the Real Property Records of Denton County, Texas;

THENCE with said south line, South 77°28'43" East, a distance of 553.04 feet to a Corp of Engineers monument found;

THENCE with the east line of said 57.55 acre tract and the east line of two tracts of land described in deed to Mary Weber recorded in Denton County Clerk's File No. 94-R0031655 of the Real Property Records of Denton County, Texas, the following courses and distances to wit:

North 01°07'34" East, a distance of 278.92 feet to a 5/8" iron rod found:

North 01°04'49" East, a distance of 510.59 feet to a Corp of Engineers monument found; North 00°57'07" West, a distance of 149.86 feet to a Corp of Engineers monument found;

North 00°06'44" East, a distance of 1393.34 feet to a 1/2" iron rod found for corner;

North 89°49'12" West, a distance of 505.03 feet to a fence corner found in the east line of a 58.44 acre tract of land described in deed to Benny Nobles recorded in Volume 2299, Page 94 of the Real Property Records of Denton County, Texas;

THENCE with said east line, North 00°50'11" West, a distance of 810.75 feet to a fence corner found in the south line of a 99.5 acre tract of land described in deed to Rue Family Trust recorded in Volume 5032, Page 3961 of the Real Property Records of Denton County, **Texas**;

THENCE with the south and east lines of said 99.5 acre tract and the south line of a 90 acre tract of land described in deed to Rue Family Trust recorded in Volume 5032, Page 3961 of the Real Property Records of Denton County, Texas the following courses and distances to wit:

North 89°17'21" East, a distance of 1389.64 feet to a 5/8" iron rod set for corner; North 03°32'47" West, a distance of 929.90 feet to a 5/8" iron rod set for corner; South 85°47'35" West, a distance of 228.77 feet to a 1/2" iron rod found for corner; North 02°06'10" East, a distance of 1767.38 feet to a 3/8" iron rod found for corner; South 88°23'11" East, a distance of 1111.78 feet to a 5/8" iron rod set for in the west line of a 319.00 acre tract of land described in deed to Sammy Carey recorded in Volume 2336, Page 5411 of the Real Property Records of Denton County, Texas;

THENCE with said west line, South 00°10'32" West, a distance of 125.32 feet to a 5/8" iron rod set for corner:

THENCE with the south line of said 319.00 acre tract and the south line of a 5 acre tract of land described in deed to M.B. Allen recorded in Volume 375, Page 395 of the Deed Records of Denton County, Texas, North 88°58'42" East, a distance of 2644.03 feet to a 1/2" iron rod found in the centerline of said Good Hope Road;

THENCE along said centerline, North 00°48'31" West, a distance of 992.40 feet to a 1/2" iron rod found for corner:

THENCE with the south line of the tract of land described in deed to the Good Hope Church and continuing along Good Hope Road, South 89°38'27" East, a distance of 457.50 feet to a 5/8" iron rod set in the east line of said Good Hope Road;

THENCE with the east line of said Good Hope Road, the following courses and distances to wit: North 01°47'00" West, a distance of 935.34 feet to a 5/8" iron rod set for corner; North 00°15'22" West, a distance of 1726.79 feet to a 5/8" iron rod set for an ell corner in the south line of a 100 acre tract of land described in deed to Bruce Jackson recorded in Volume 4910, Page 2975 of the Real Property Records of Denton County, Texas;

THENCE with the south line of said 100 acre tract, the south line of a 134.58 acre tract of land described in deed to Little Elm Ranch Corporation recorded in Volume 5416, Page 3334 of the Real Property Records of Denton County, Texas, and the south line of a tract of land described in deed to Salvador Buentello recorded in Volume 2633, Page 648 of the Real Property Records of Denton County, Texas, North 89°42'25" East, a distance of 1545.14 feet to a 5/8" iron rod set in the centerline of a Parvin Road (no dedication recordation found);

THENCE along said centerline and with the south line of said Buentello tract, the following courses and distances to wit

North 70°58'34" East, a distance of 76.26 feet to a 5/8" iron rod set for corner; North 74°05'38" East, a distance of 206.69 feet to a 5/8" iron rod set for corner;

North 77°25'29" East, a distance of 112.34 feet to a 1/2" iron rod found for corner; North 01°25'12" East, a distance of 17.04 feet to a 5/8" iron rod set for corner;

THENCE continuing along said centerline, the south line of said Buentello tract, the south line of a 1.75 acre tract of land described in deed to Donna Jackson recorded in Denton County Clerk's File No. 2004-0086324 of the Real Property Records of Denton County, Texas, the south line of a 2.5 acre and 14.87 acre tracts of land described in deed to Jose Gutierrez recorded in Denton County Clerk's File No. 2004-0139581 of the Real Property Records of Denton County, Texas, and the south line of a 15 acre tract of land described in deed to William Kramer, the following courses and distances to wit:

North 89°08'54" East, a distance of 1300.08 feet to a 1/2" iron rod found for corner; North 89°07'58" East, a distance of 3455.35 feet to a 1/2" iron rod found for the northwest corner of a 100 acre tract of land described in deed to RH-TWO, LP recorded in Denton County Clerk's File No. 2004-0086307 of the Real Property Records of Denton County, Texas;

THENCE with the west line of said 100 acre tract, South 00°40'06" West, a distance of 2809.18 feet to a 1/2" iron rod found in the centerline of Prosper Road (no dedication recordation found);

THENCE with said centerline, South 89°24'09" West, a distance of 3412.04 feet to a 1/2" iron rod found for corner:

THENCE leaving said centerline, North 00°12'44" West, a distance of 16.61 feet to a 5/8" iron rod set in the north line of said Prosper Road;

THENCE with said north line, South 89°49'30" West, a distance of 298.97 feet to a 5/8" iron rod set in the east line of a 5 acre tract of land described in deed to Curtis McDaniel recorded in Volume 354, Page 271 of the Deed Records of Denton County, Texas;

THENCE with the lines of the remainder of said 5 acre tract, the following courses and distances to wit:

North 00°15'22" East, a distance of 214.38 feet to a 5/8" iron rod set for corner; South 89°47'16" West, a distance of 318.73 feet to a 5/8" iron rod set for corner; South 33°13'36" East, a distance of 218.94 feet to a 5/8" iron rod set for corner; South 72°26'17" East, a distance of 198.56 feet to a 5/8" iron rod set in the centerline of Fields Road (no dedication recordation found);

THENCE along said centerline, the following courses and distances to wit:

South 00°02'02" West, a distance of 1534.38 feet to a 5/8" iron rod set for corner; South 00°08'41" East, a distance of 1196.19 feet to a 1/2" iron rod found for corner; South 00°19'01" East, a distance of 1051.65 feet to a 1/2" iron rod found for corner; South 00°46'08" West, a distance of 705.12 feet to a 5/8" iron rod set for corner; South 20°37'31" East, a distance of 96.22 feet to a 5/8" iron rod set for corner; South 28°15'33" East, a distance of 189.49 feet to a 3/8" iron rod found for corner; South 02°06'04" East, a distance of 1803.07 feet to a 1" iron rod found for corner; South 00°06'17" East, a distance of 1284.69 feet to a 5/8" iron rod set for corner; South 00°06'37" West, a distance of 1042.41 feet to a 5/8" iron rod set for corner;

THENCE leaving the centerline of said Fields Road, South 89°11'26" West, a distance of 21.20 feet to a 5/8" iron rod set in the west line of said Field Road;

THENCE with said west line, the following courses and distances to wit:

South 00°00'27" West, a distance of 1396.62 feet to a fence corner;

South 41°23'46" West, a distance of 87.55 feet to the POINT OF BEGINNING and containing 2106.592 acres of land.

Bearing system based North Central Zone of the Texas State Plane Coordinate System.

SAVE AND EXCEPT

Being all of that certain lot, tract or parcel of land located in the B. Rue Survey, Abstract No. 1113, Denton County, Texas, and being a portion of a called 76 acre tract of land described as Tract Three in deed to Mahard 2003 Partnership, L.P., recorded in County Clerks File No. 2004-0050900, Real Property Records, Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod found at an ell corner in the south line of a called 100 acre tract of land described in deed to Bruce Jackson, et al, recorded in Volume 4910, Page 2975, Real Property Records, Denton County, Texas, same being the northwest corner of said Mahard 2003 Partnership, L.P. tract;

THENCE North 89°42'25" East, along the north line of said Mahard 2003 Partnership, L.P. tract and passing at a distance of 583.33 feet the common southern corner of said Bruce Jackson, et al tract and a called 134.58 acre tract of land described in deed to Little Elm Ranch Corporation, recorded in Volume 5416, Page 3334, Real Property Records, Denton County, Texas, passing again at a distance of 834.26 feet the common southern corner of said Little Elm Ranch Corporation tract, and a tract of land described in deed to Salvador Buentello, recorded in Volume 2633, Page 648, Real Property Records, Denton County, Texas, and continuing for a total distance of 1,545.14 feet to a 5/8" iron rod found for corner in the present centerline of Parvin Road (no record of dedication found) at the beginning of a non-tangent curve to the left, having a radius of 1,206.88 feet, a central angle of 19°32'21", and a chord bearing and distance of South 58°53'46" West, 409.58 feet;

THENCE in a southwesterly direction, along the present centerline of said Parvin Road and passing through said Mahard 2003 Partnership, L.P. tract the following five (5) courses and distances:

- 1) Along said non-tangent curve to the left, an arc length of 411.57 feet:
- 2) South 49°04'47" West, a distance of 322.13 feet to the beginning of a curve to the right, having a radius of 355.51 feet, a central angle of 34°57'47", and a chord bearing and distance of South 71°08'48" West, 213.59 feet:
- 3) Along said curve to the right, an arc length of 216.94 feet;
- 4) South 88°37'42" West, a distance of 557.23 feet to the beginning of a curve to the left, having a radius of 410.55 feet, a central angle of 27°36'35", and a chord bearing and distance of South 75°08'34" West, 195.93 feet;
- 5) Along said curve to the left, an arc length of 197.83 feet to the east line of Good Hope Road (no record of dedication found), same being the most southerly southeast corner of said Bruce Jackson, et al tract;

THENCE North 00°15'22" West, along the most southerly east line of said Bruce Jackson, et al tract, a distance of 547.29 feet to the Place of Beginning and containing 575,223 square feet or 13.205 acres of land.

EXHIBIT "A-2"

Legal Description of the FC Prosper Property

TRACT ONE

A tract of land situated within the J. Bates Survey, Abstract Number 1620, Denton County, Texas and being the same tract of land as conveyed to Nathan Goodlet, et ux by a deed filed for record in Volume 3329 at Page 820 of the Deed Records of Denton County, Texas. Said tract of land being more particularly described by metes and bounds as follows:

Beginning at a 5/8" rebar with a cap marked "KHA" found on the monumented East right-of-way line of Good Hope Road, for the common West corner of the tract of land herein described and a called 100.00 acre tract of land conveyed to E. Mahard, Jr. by a deed filed for record at County Clerk's instrument Number 93-R0049966 of the Deed Records of Denton County, Texas;

Thence N 00°20'14" W, along the aforementioned monumented East right-of-way line, 388.18 feet to a ½" rebar in concrete found for a common corner of the tract of land herein described and a called 0.507 acre tract of land and conveyed to N. J. Goodlet, et ux by a deed filed for record in Volume 1230 at Page 351 of the Deed Records of Denton County, Texas;

Thence N 86°19'09" E, along the common boundary line of the tract of land herein described and the aforementioned 0.507 acre tract, 162.36 feet to a ½" rebar with a cap marked "RPLS 4967" set for a common corner:

Thence N 04°22'35" W, continuing along the aforementioned common boundary line, 138.28 feet to a 1/2" rebar in concrete found for a common corner;

Thence S 89°00'42" W, continuing along the aforementioned common boundary line, 151.50 feet to a ½" rebar in concrete found for a common corner on the monumented East right-of-way line of Good Hope Road;

Thence N 00°02'39" W, along the aforementioned East right-of-way line, 176.63 feet to a ½" rebar in concrete found for a common corner of the tract of land herein described and a called 1.00 acre tract of land conveyed to N. J. Goodlet, et ux by a deed filed for record at County Clerk's Instrument Number 94-R0089059 of the Deed Records of Denton County, Texas;

Thence N 89°24'44" E, along the common boundary line of the tract of land herein described and the aforementioned 1.00 acre tract, 362.48 feet to a ½" rebar in concrete found for a common corner:

Thence N 00°05'33" W, continuing along the aforementioned common boundary line, 120.14 feet to a ½" rebar in concrete found for their common North corner on the South boundary line of a called 56.319 acre tract of land conveyed to E. Mahard, Jr. by a deed filed for record at County Clerk's Instrument Number 2004-24459 of the Deed Records of Denton County, Texas;

Thence N 89°24"44" E, along the common boundary line of the tract of land herein described and the aforementioned 56.319 acre tract 1068.57 feet to a 5/8" rebar with a cap marked "KHA" found for a common corner;

Thence S 00°28'43" E, continuing along the aforementioned common boundary line, 818.81 feet to a ½" rebar in concrete found for a common corner on the North boundary line of the above-mentioned 100.00 acre tract;

Thence S 88°55'33" W, along the common boundary line of the tract of land herein described and the aforementioned 100.00 acre tract, 1435.44 feet to the Point of Beginning.

Said tract of land containing 1,116,766 square feet or 25.637 acres, more or less.

TRACT TWO

A tract of land situated within the J. Bates Survey, Abstract Number 1620, Denton County, Texas and being the same tract of land as conveyed to Nathan Goodlet, et ux by a deed filed for record in Volume 1230 at Page 351 of the Deed Records of Denton County, Texas. Said tract of land being more particularly described by metes and bounds as follows:

Beginning at a ½" rebar in concrete found, on the monumented East right-of-way line of Good Hope Road, for the Southwest corner of the tract of land herein described and a corner of a called 25.6476 acre tract of land as conveyed to N. Goodlet, et ux by a deed filed for record in Volume 3329 at Page 820 of the Deed Records of Denton County, Texas;

Thence N 86°19'09" E, along the common boundary line of the tract of land herein described and the aforementioned 25.6476 acre tract, 92.56 feet to a ½" rebar in concrete found for a corner:

Thence N 04°18'50" W, 13.05 feet to a 3/8" rebar found for a corner;

Thence N 86°13'43" E, 13.06 feet to a ½" rebar with a cap marked "RPLS 4967" set for a corner:

Thence S 05°12'35" E, 13.07 feet to a ½" rebar in concrete found for a corner on the North boundary line of the above-mentioned 25.6576 acre tract of land;

Thence N 86°19'09" E, along the aforementioned common boundary line, 56.54 feet to a ½" rebar in concrete found for a common comer;

Thence N 04°22'35" W, continuing along the aforementioned common boundary line, 138.28 feet to a ½" rebar in concrete found for a common corner;

Thence S 89°00'42" W, continuing along the aforementioned common boundary line, 151.50 feet to a ½" rebar in concrete found for a common corner on the above-mentioned East right-of-way line;

Thence S 00°00'14" E, along the aforementioned East right-of-way line, 145.68 feet to the Point of Beginning.

Said tract of land containing 22,087 square feet or 0.507 acres, more or less.

TRACT THREE

A tract of land situated within the J. Bates Survey, Abstract Number 1620, Denton County, Texas and being the same tract of land as conveyed to Nathan Goodlet, et ux by a deed filed for record at County Clerk's Instrument Number 94-R0089059 of the Deed Records of Denton County, Texas. Said tract of land being more particularly described by metes and bounds as follows:

Beginning at a ½" rebar in concrete found, on the monumented East right-of-way line of Good Hope Road, for the Southwest corner of the tract of land herein described and a corner of a called 25.6476 acre tract of land as conveyed to N. Goodlet, et ux by a deed filed for record in Volume 3329 at Page 820 of the Deed Records of Denton County, Texas:

Thence N 89°21'12" E, along the common boundary line of the tract of land herein described and the aforementioned 25.6476 acre tract of land, 362.48 feet to a ½" rebar in concrete found for a common corner;

Thence N 00°05'33" W, continuing along the aforementioned common boundary line, 120.14 feet to a ½" rebar in concrete found for their common North corner on the South boundary line of a called 56.319 acre tract of land conveyed to E. Mahard, Jr. by a deed filed for record at County Clerk's Instrument Number 2004-24456 of the Deed Records of Denton County, Texas;

Thence S 89°24'44" W, along the common boundary line of the tract of land herein described and the aforementioned 56.319 acre tract, 362.29 feet to a ½" rebar with a cap marked "RPLS 4967" set for their common West corner on the above-mentioned East right-of-way line;

Thence S 00°00'19" E, along the aforementioned East right-of-way line, 120.52 feet to the Point of Beginning.

Said tract of land containing 43,604 square feet or 1.001 acre, more or less.

TRACT FOUR

A tract of land situated within the J. Bates Survey, Abstract Number 1620, Denton County, Texas and being a portion of a tract of land conveyed to Laura Jackson by a deed filed for record in Volume 291 at Page 80 of the Deed Records of Denton County, Texas and also being more particularly described by metes and bounds as follows:

Commencing, for a tie, at a 1/2" rebar in concrete, found on the monumented East right-of-way line of Good Hope Road, for the Southwest corner of a tract of land conveyed to Nathan Goodlet, et ux by a deed filed for record in Volume 1230 at Page 351 of the Deed Records of Denton County, Texas from which a 1/2" rebar in concrete found for it's Northwest corner bears N 00°00'14" W, 145.68 feet;

Thence N 86°19'09" E, 92.56 feet to a 1/2" rebar found in concrete found for the Southwest corner and Point of Beginning of the tract of land herein described, said corner also being an internal corner of the aforementioned Goodlet tract;

Thence N 04°18'50" W, along the common boundary line of the tract of land herein described and the aforementioned Goodlet tract, 13.05 feet to a 3/8" rebar found for a common comer;

Thence N 86°13'43" E, continuing along the aforementioned common boundary line, 13.06 feet to a 1/2" rebar with a cap marked "RPLS 4967" set for a common corner;

Thence S 05°12'35" E, continuing along the aforementioned common boundary line, 13.07 feet to a 1/2" rebar in concrete found for a common corner:

Thence S 86°19'09" W, 13.26 feet to the Point of Beginning.

Said tract of land containing 172 square feet or 0.004 acre, more or less.

SAVE AND EXCEPT

BEING a tract of land situated in the A. Roberts Survey, Abstract No. 1115, being a portion of a tract conveyed to VP Windsong Investments, LLC, according to the deed recorded in Document No. 2018—142926 of the Official Public Records, Denton County, Texas (OPRDCT), with the subject tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the southerly southwest corner of a tract conveyed to Prosper I.S.D., recorded in Document No. 2017—34540 OPRDCT;

THENCE S 64'00'25" W, 449.32 feet to a point;

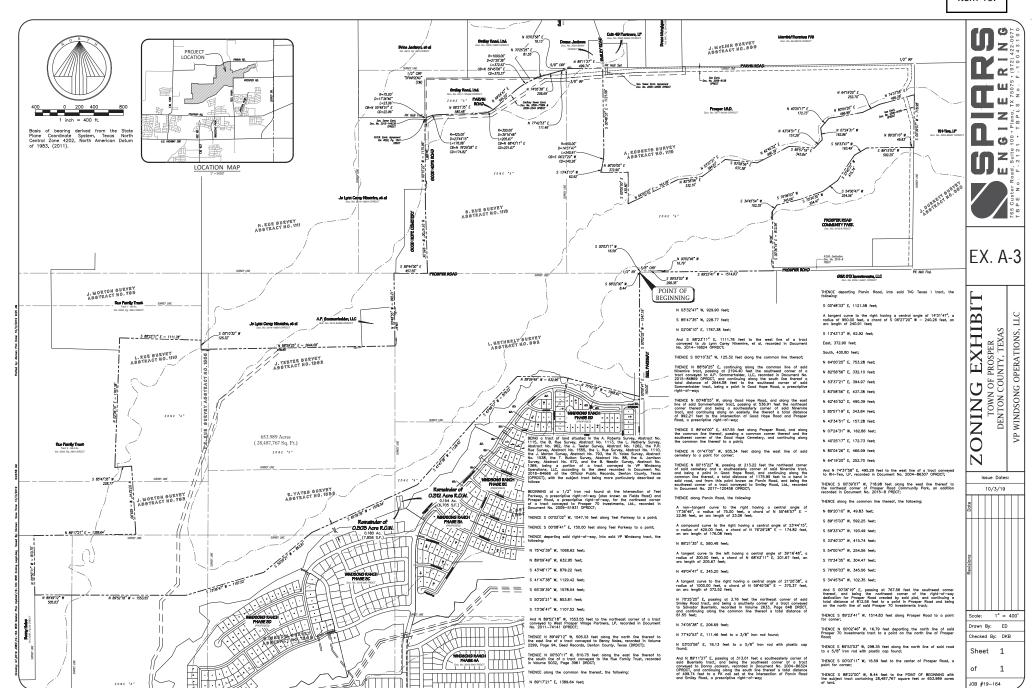
THENCE S 82'46'38" W, 60.00 feet to a point;

THENCE around a non-tangent curve to the right having a central angle of $20^{\circ}56^{\circ}35^{\circ}$, a radius of 950.00 feet, a chord of N $03^{\circ}14^{\circ}56^{\circ}$ E - 345.32 feet, an arc length of 347.25 feet;

THENCE N 13'43'13" E, 299.02 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the northerly southwest corner of said Prosper I.S.D. tract;

THENCE East, along the south line thereof, 372.90 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the inset southwest corner of said Prosper I.S.D. tract;

THENCE South, along the west line thereof, 430.80 feet, to the POINT OF BEGINNING with the subject tract containing 235,625 square feet or 5.409 acres of land.



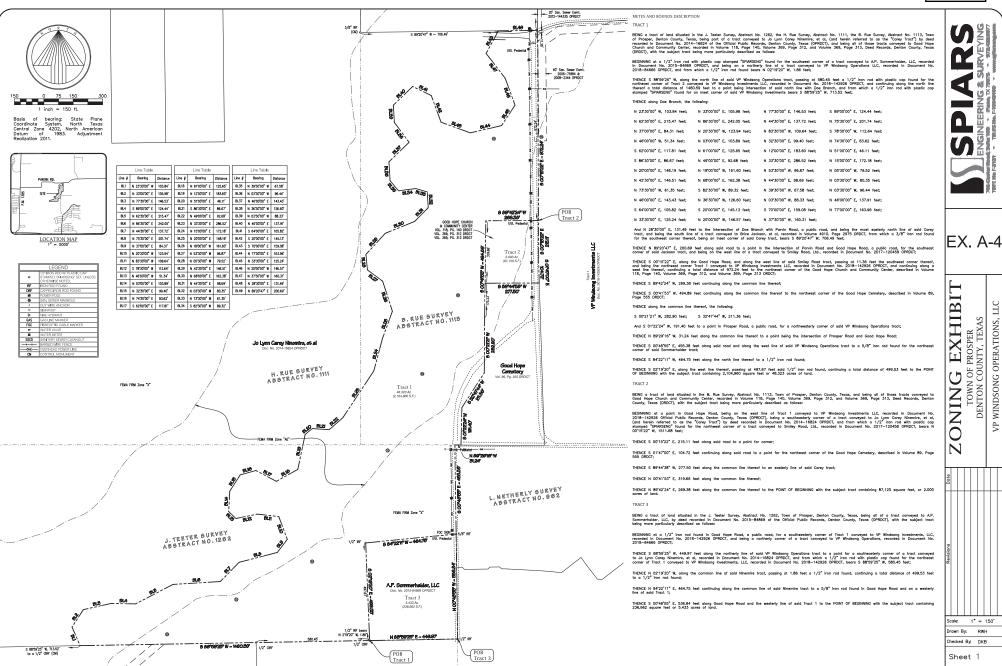


EXHIBIT "B"

Statement of Intent and Purpose for Windsong Ranch, Town of Prosper, <u>Texas</u>

Windsong Ranch is a planned community consisting of a variety of residential, local and community retail and employment uses integrated within an open space system oriented to the natural beauty of the property. Residential units consist of a range of lot sizes in the traditional residential neighborhood mode to attached, urban dwellings offering the residents diverse living styles. Retail and employment uses are provided along the U.S. Highway 380 corridor providing more intensive uses along the thoroughfare while also serving as a buffer between the residential neighborhoods and the main highway.

Integral throughout the Windsong Ranch is the open space system which consists of recreation open space, hike and bike trails and active parks for the residents of the community. A strategically designed trail system laces throughout the community providing pedestrian linkages among residential, retail, open space public uses, and neighborhoods outside of the Windsong Ranch. Parks are also provided at convenient locations which provide active recreation opportunities to the community. Creek areas and floodplains have been reserved for open space to provide trail settings along attractive waterways providing hikers and bikers an opportunity to enjoy the ecosystem.

Thoroughfares are designed to provide the necessary connection between this community and the Town. Major connectors provide linkages to surrounding significant roadways allowing efficient movement.

The following development standards describe the desired image and character necessary to ensure quality development throughout the Windsong Ranch property. The development standards have been carefully designed to allow sufficient flexibility for creative residential and mixed use building solutions while being prescriptive in areas necessary to preserve an overall cohesiveness.

EXHIBIT "C"

Development Standards for Windsong Ranch, Town of Prosper, Texas

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 (Ordinance No. 05-20 as it currently exists or may be amended) and Subdivision Ordinance (as it currently exists or may be amended) shall apply.

1. Amenity Program

- a. **General**. As a master planned community, Windsong Ranch will have a programmed and qualitatively controlled system of amenities throughout. These amenities combine to create an overall sense of place that would be difficult to achieve when considered as independent elements within smaller developments. The community amenities that are addressed within these Development Standards are:
 - Primary Community Entries
 - Secondary Community Entries
 - Neighborhood Entries
 - Thoroughfare Landscape Buffers
 - Community Park
 - Community Amenity Center
 - Floodplain / Greenway Parks
 - Neighborhood Parks
 - Pocket Parks

b. **Primary Community Entries**

- a. Major points of entry into Windsong Ranch (minimum two locations, including at least one entry along U.S. 380) will be defined with a combination of monument signage, landscape and lighting to create a sense of arrival commensurate in scale and character with a 2,120.54 acre master planned community (see representative examples below). These entries will include:
 - Community name / logo incorporated into monument signage element, to be constructed of masonry or similar material;
 - Enhanced landscape, including seasonal color, shrubs, groundcover, perennials and unique combinations of both canopy and ornamental trees;
 - Enhanced lighting on the monument / signage and the unique aspects of the landscape;
 - Water will be considered as an accent feature if land and topography permit, and if compatible with the overall physical design theme for the community.

b. Primary entries will be developed to incorporate both sides of the entry roadway when both are contained within Windsong Ranch, and will also include enhancements to the median in the immediate area (where / if applicable). Landscape easements will be provided to ensure adequate space to provide for visibility triangle(s) and adequate development of entry design.









c. **Secondary Community Entries**

- a. <u>Secondary community entries</u> will be similar to primary community entries in their use of compatible building and landscape materials, but will be smaller in scale and land area. They will occur at the outside edges of Windsong Ranch, at the entries for either arterials or collectors into the community. It is anticipated that a minimum of three secondary entries will be provided for the community, primarily along Teel Parkway (see representative examples below). Secondary community entries will include the following elements, scaled slightly smaller than the primary entries:
 - Community name / logo incorporated into monument signage element, to be constructed of masonry or similar material;
 - Enhanced landscape, including seasonal color, shrubs, groundcover, perennials and unique combinations of both canopy and ornamental trees;
 - Enhanced lighting on the monument / signage and the unique aspects of the landscape;
 - Center median to allow for more landscape density and also provide alternative location for neighborhood identification and way-finding graphics;
 - Landscape easements where required to accommodate enhanced landscape and monument construction.









b. <u>Neighborhood Entries</u>. Internal to Windsong Ranch and along both arterials and collectors, points of intersection will be enhanced to denote entries into individual 'villages' or neighborhoods. These entries will resemble primary and secondary entries in their use of materials and

landscape, but will also incorporate village or neighborhood names and will contribute to a unique, community-wide system of visual way finding.

- d. Thoroughfare Landscape Buffers (Arterial and Collector Roads) 25'Min.). Thoroughfares will provide a continuity of design from primary and secondary points of community entry throughout the entirety of Windsong Ranch. These thoroughfares and the adjacent landscape buffers are intended to include the following:
 - Screen walls composed primarily of ornamental metal fence with living screen or stone or stone veneer (allowing brick accent), ONLY if the Town determines that mitigating circumstances (land area / depth, topography, etc) will not allow natural landscape to buffer adjacent land uses (no builder fencing allowed);
 - Enhanced grading / berms combined with landscape (grass, trees, accent shrubs and groundcover at entry points) to provide design continuity and buffer adjacent land uses;
 - Street tree system throughout (formal and/or informal in arrangement design to be determined), to visually identify the hierarchy of streets and neighborhoods. A variety of tree species will be provided, including canopy / shade and smaller flowering, ornamentals of a minimum 3 inch caliper for every 30 lineal feet which with requested approval by the Town at the time of submission of a preliminary plat may be grouped and in no case shall there be less than the total number of street trees as required by this subsection:
 - Continuous 6' sidewalks on both sides of the thoroughfare (sidewalks interior to Residential may be 5'):
 - Integrated neighborhood / 'village' entries at points of intersection.
- e. <u>Community Park</u> Windsong Ranch will include one community park (of approximately 50 acres) that shall be dedicated to the Town in accordance with the Preannexation Agreement. Schedule for improvements and requirements for maintenance are described in Section 4 of the Development Standards. It is intended that this park include sports and athletic facilities, passive and natural spaces and associated parking all of a scope and type to be determined in coordination with Town staff. Following are parameters of design intended for this facility:
 - Location will be along one of the open space / greenway parks in order to facilitate pedestrian connectivity to the neighborhoods;
 - Facility design will utilize materials (masonry, pavements, landscape, lighting) that are compatible with other common area improvements within the Windsong Ranch community;
 - Specific facilities to be determined in coordination with Town staff, but may include some combination of the following:
 - √ 8' wide hike and bike trails
 - ✓ Softball / Baseball field(s) (lighted);
 - ✓ Soccer field(s) (lighted);

- √ Football field(s)
- ✓ Multipurpose field(s)
- ✓ Shade pavilion(s);
- ✓ Parking;
- ✓ Trailhead connections to adjacent floodplain / greenway parks;
- ✓ Site furnishings, including benches, water fountains, trash receptacles;
- ✓ Enhanced landscape at entries, and irrigated turf in all maintained (developed) areas.

f. Community Amenity Center

- a. At least one Community Amenity Center shall be developed within Windsong Ranch, providing a range of more active, family oriented activities in a 'resort' style environment (see representative examples above). This facility will be HOA maintained and provide the "centerpiece" recreational amenity for the entire community. Like the community park, this facility is intended to be located along the floodplain / greenway parks system to accommodate pedestrian and bicycle access from the neighborhoods of Windsong Ranch.
 - A. A Community Amenity Center will be completed along with the initial phase of residential development, within the Single-Family Residential Tract.
 - B. Three (3) additional Neighborhood Amenity Centers will be built upon completion of each successive phase of residential development, each phase to include approximately 750 homes, within the Single-Family Residential tract.
- b. The intended program for the Community Amenity Center facility shall include multiple elements from the following list:
 - Active adult and children's pools;
 - Water slides and water play features;
 - Paved and turf chaise areas:
 - Community building, with interior and exterior spaces programmed for resident and HOA uses, including possible inclusion of a kitchen, community room, meeting room(s), fitness room, and storage area(s);
 - Restrooms (in the community building and possibly additionally at the pool area(s);
 - Convenience parking (quantity to be determined based upon code compliance);
 - Children's playground facility(s);
 - Sport court(s):
 - Trailhead linkages to the floodplain / greenway parks.

















c. Floodplain / Greenway Parks

- A. Windsong Ranch includes over 550 acres of flood plain corridors through the property. Significant portions of these corridors are rich in native flora and fauna, and are intended to be preserved in a natural condition, with only minimal impact to allow hike / bike trail linkages. Other areas are more open and less valuable as a native resource, and these areas may be developed to include a golf course or ponds and fountains that contribute to the overall storm drainage system and provide enhanced value to the community. All of these corridors shall be interconnected with a series of paths and trails, with an overall hike / bike trail system throughout. Following are the key components of this system of open space through the community:
- Master hike / bike trail minimum 8' in width concrete or other material approved by the Town – linking all neighborhoods, schools and amenities:
- Secondary paths and trails minimum 8' in width concrete or 'soft' surface (decomposed granite, crushed fines) is permitted for HOA maintained trails – providing secondary linkages and 'spur' connections to the hike / bike trail system;
- Native preservation areas in locations of most desirable existing vegetation, including wetland, upland and forested environments;
- Trailhead locations at community amenity sites and at schools, to include trail maps, bike racks, and site furnishings (trash, seating);
- Ponds and water features in open areas where impacts to existing vegetation will not be an issue and storm drainage requirements can be enhanced – ponds to include predominantly native, soft edges, safety shelves, water circulation / aeration to ensure water quality.



















d. Neighborhood Parks

- A. Windsong Ranch will include a minimum of three, 7.5 acre (each) neighborhood parks, distributed throughout the community in areas that are linked by the floodplain / greenway parks system and that contribute to ensuring a maximum ¼ mile walk from any neighborhood to a park or open space amenity. Additional requirements for schedule of completion for these facilities, as well as maintenance, can be found in Section 4 of the Development Standards.
- B. Neighborhood parks shall be designed as a complementary component of the Windsong Ranch amenities program, including consideration of alternative uses, and the use of compatible materials (hardscape, landscape and, if included, lighting). These parks are to be integrated within the open space system as well as the neighborhoods that they serve. Neighborhood parks may include features and elements from the following list of amenities;
 - Open play fields (non-lit);
 - Sport courts:
 - Covered pavilion or shade structure;
 - Children's playgrounds segregated by age groups (i.e. 2-5 and 5-12);
 - Parking for +/- 10 spaces;
 - Grading around perimeter to provide safety for playfields and street frontages;
 - 8' sidewalks around site linking facilities and providing connections to adjacent floodplain / greenway parks;
 - Town's Park signage approved by the Parks Board consistent with community theme.









- e. **Pocket Parks** Additional components of the Windsong Ranch amenities program are smaller pocket parks within individual neighborhoods. These parks will be an HOA maintained component of the open space system, and allow for:
 - Providing valuable open space in adjacency to smaller homes;
 - integration of existing tree rows and other natural features that warrant preservation;
 - ensuring one-quarter mile resident walks to a component of the open space system;
 - additional passive and moderately active recreational opportunities, including:
 - √ open play areas;
 - ✓ natural interpretive areas;
 - √ neighborhood playgrounds;
 - ✓ children's water play area;
 - ✓ small neighborhood gathering spaces.

2. Single-Family Residential Tract

- a. <u>General Description</u>: Residential uses shall be permitted throughout the Property as set forth herein.
- b. <u>Allowed Uses</u>: Land uses allowed within the Single-Family Residential Tract are as follows: Uses followed by an **S** are permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to conditional development standards. Conditional development standards are set forth in Chapter 3, Section 1 of the Town's Zoning Ordinance.
 - Accessory buildings incidental to the allowed use and constructed of the same materials as the main structure.
 - Churches / rectories
 - Civic facilities
 - Community Landscape Maintenance Facility (as outlined in Section 2.g.)
 - Electronic security facilities, including gatehouses and control counter
 - Fire stations and public safety facilities
 - Guest House
 - Home Occupation C
 - Model Home
 - Park or Playground
 - Private Recreation Center
 - Private Street Development and gated communities S

- Public or Private Parks, playgrounds and neighborhood recreation facilities including, but not limited to, swimming pools, clubhouse facilities and tennis courts, to be stated on plat
- Single family residential uses as described herein
- Schools public or private
- Golf Course for Country Club (including clubhouse, maintenance facilities, on-course food and beverage structure, and on course restroom facilities.)
- Temporary real estate sales offices for each builder during the development and marketing of the Planned Development which shall be removed no later than 30 days following the final issuance of the last Certificate of Occupancy (CO) on the last lot owned by that builder.
- Temporary buildings of the builders and uses incidental to construction work on the premises, which shall be removed upon completion of such work.
- Townhouses (only as a buffer use as set forth herein)
- Utility distribution lines and facilities. Electric substations shall be allowed at the sole discretion of the Developer.
- c. <u>Density</u>: The maximum number of single family detached units for the Properties is 3,324, of which 1,758 lots shall be in Phases 6 through 9 (as depicted on Exhibits A-3 and A-4).
- d. **Lot Types**: The single family detached lots developed within the Properties shall be in accordance with the following Lot Types:
 - Type A Lots: Minimum 8,000 square foot lots
 - Type B Lots: Minimum 9,000 square foot lots
 - Type C Lots: Minimum 10,500 square foot lots
 - Type D Lots: Minimum 12,500 square foot lots
 - Type E Lots: Minimum 6,000 square foot lots
 - Type F Lots: Minimum 20,000 square foot lots

e. **Lot Type Development Threshold**:

A. Planning and Zoning Commission can approve up to three hundred (300) Type E final platted Lots prior to the final acceptance by Town of twenty (20) Type F Lots.

f. Area and building regulations:

- a. <u>Type A Lots</u>: 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 8,000 square feet. A typical lot will be 60' x 133', but may vary as long as requirements in Table 1 are accommodated.
 - B. <u>Minimum Lot Width</u>. The minimum lot width for Type A Lots shall be sixty (60) feet.

C. <u>Minimum Yard Setbacks</u>.

i. Minimum Front yard Setback: The minimum Front yard setback for Type A Lots shall be twenty-five (25) feet. The minimum front yard and rear yard requirements for staggering the front yards, as set forth in Section 9.3.F of the Town's Zoning Ordinance, as amended shall apply to Type A Lots.

ii. <u>Minimum Side yard Setback</u>:

- (a) The minimum Side yard setback for Type A Lots shall be eight (8) feet.
- (b) For courtyard homes, as defined herein, the minimum side yard setback shall be either fourteen (14) feet for one side and two (2) feet for the other side yard or thirteen (13) feet for one side and three (3) feet for the other side yard. Windows on the 2' or 3' side of the courtyard home will not be allowed unless they are opaque or consist of glass block.
- (c) For corner lots, the minimum Side yard setback shall be fifteen (15) feet.

iii. Minimum Rear yard Setback:

- (a) The minimum Rear yard setback shall be twenty-five (25) feet.
- (b) For Courtyard Homes, as defined herein, the minimum Rear yard setback is ten (10) feet for a maximum number of lots not to exceed one hundred and forty (140) Type A lots.
- iv. 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. 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. <u>Minimum Floor Space</u>. Each dwelling constructed on a Type A Lot shall contain a minimum of one thousand, nine hundred (1,900) 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. <u>Height</u>. The maximum height for structures on Type A Lots shall be forty (40) feet.
- F. <u>Courtyard Home Option</u>. Courtyard Homes, which are defined as homes having an open-air courtyard surrounded on three sides by the home, are permitted.
- G. <u>Driveways</u>. Driveways fronting on a street on Type A Lots shall be constructed of the following materials: concrete, brick pavers, stone, interlocking pavers, stamped concrete, or concrete with stone or brick border.

H. <u>Exterior Surfaces</u>.

- i. 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 fifty (50) 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.
- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. Address Plaque. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type A Lot.
- iv. <u>Chimneys.</u> On Type A Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.

- v. <u>Stucco</u>. Stucco on structures on Type A Lots shall be traditional 3-coat process cement plaster stucco.
- vi. <u>EIFS</u>. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type A Lots.
- Windows. All window framing on structures on Type A Lots shall be bronzed, cream, sand or white anodized aluminum, vinyl or wood.
 - Window shutters may be used on structures on Type A Lots. Window shutters shall be painted, stained wood, or fiberglass.
 - ii. No reflective window coverings or treatments shall be permitted.

J. Roofing.

- Structures constructed on the Type A Lots shall have a composition, slate, clay tile or cement/concrete tile roof.
- ii. The color of the composition roof must appear to be weathered wood shingles, black or slate, unless such other color is approved by the Director of Development Services.
- iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12". Clay tile and cement/concrete tile roofs shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

K. Garages.

- i. Homes shall have a minimum of two (2) car garages but no more than three (3). No carports shall be permitted.
- ii. Homes with three (3) garages shall not have more than two (2) garage doors facing the street.
- iii. Garage doors shall be constructed of either metal or wood.

- L. <u>Plate Height</u>. Each structure on a Type A Lot shall have a minimum principal plate height of 9' on the first floor.
- M. <u>Fencing</u>. No fence, wall or hedge on a Type A Lot shall exceed eight (8) feet in height or be less than four (4) feet in height unless otherwise specifically required by the Town of Prosper.
 - i. All Type A Lots backing or siding to Open Space shall have a decorative metal fence abutting to said open space.
 - ii. All other fencing shall be constructed of cedar, board on board with a top rail, and shall be supported with galvanized steel posts. A common fence stain color as well as fence detail shall be established for the community by the developer.
 - iii. No fencing shall extend beyond a point ten feet (10') behind the front wall plane of the structure into the front yard.

N. <u>Landscaping</u>.

- i. A minimum of six (6) caliper inches of trees shall be planted on all Type A Lots.
- ii. A minimum of one (1) tree shall be located in the front yard.
- iii. Corner lots adjacent to a street shall plant (1) additional tree in the side yard.
- iv. Trees shall be a minimum of three caliper inches (3") as measured at 1 foot above grade.
- v. The front, side and rear yard must be irrigated by a programmable irrigation system and sodded with grass.
- O. <u>Mailboxes</u>. Mailboxes on a Type A Lot shall be consistent with the theme for the street and with the materials of the home on the respective lot, unless otherwise required by USPS (United States Postal Service).
- P. <u>Satellite Dishes</u>. Satellite dishes, limited to eighteen inches (18") in diameter or smaller, mounted below the ridgeline on the roof, and not in public view from the front of the home are permitted on Type A Lots.

- Q. <u>Air Conditioners</u>. No window or wall air conditioning units will be permitted on structures on Type A Lots. Outside condensing units (compressors) which are not located within a privacy fenced area shall be screened by shrubbery save and except access and service space to the condensing units which may not be visible from the street.
- R. <u>Plan Elevations</u>. On Type A Lots, plan elevations shall alternate every four (4) homes on the same side of a street and every three (3) homes on opposite sides of the street. Illustrative examples of the elevations and floor plans for Type A Lots are attached hereto as <u>Exhibit "F-1"</u>.
- S. <u>Accessory Structures</u>. Accessory structures used as a garage, a garage apartment, or guest house, will be allowed.
 - Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
 - ii. Accessory structures shall be separate from the main dwelling by a minimum of ten (10) feet, have a minimum Rear yard setback of ten (10) feet, and a minimum Side yard setback of eight (8) feet.
- b. **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 (9,000) square feet. A typical lot will be 70' x 128', but may vary as long as requirements in Table 1 are accommodated.
 - B. <u>Minimum Lot Width</u>. The minimum lot width for Type B Lots shall be seventy (70) feet.
 - C. Minimum Yard Setbacks.
 - i. Minimum Front yard Setback: The minimum Front yard setback for Type B Lots shall be twenty-five (25) feet. The minimum front yard and rear yard requirements for staggering the front yards, as set forth in Section 9.3.F of the Town's Zoning Ordinance, as amended shall apply to Type B Lots.
 - ii. Minimum Side yard Setback:
 - (a) The minimum Side yard setback for Type B Lots shall be eight (8) feet.

- (b) For courtyard homes, as defined herein, the minimum side yard setback shall be either fourteen (14) feet for one side and two (2) feet for the other side yard or thirteen (13) feet for one side and three (3) feet for the other side yard. Windows on the 2' or 3' side of the courtyard home will not be allowed unless they are opaque or consist of glass block.
- (c) For corner lots, the minimum Side yard setback shall be fifteen (15) feet.

iii. Minimum Rear yard Setback:

- (a) The minimum Rear yard setback shall be twenty-five (25) feet.
- (b) For Courtyard Homes, as defined herein, the minimum Rear yard setback is ten (10) feet for a maximum number of lots not to exceed one hundred and ten (110) Type B lots.
- iv. 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. 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 dwelling constructed on a Type B Lot shall contain a minimum of two thousand, one hundred (2,100) square feet of floor space. Floor space shall include airconditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling
- E. <u>Height.</u> The maximum height for structures on Type B Lots shall be forty (40) feet.
- F. <u>Courtyard Home Option</u>. Courtyard Homes, which are defined as homes having an open-air courtyard surrounded on three sides by the home, are permitted.
- G. <u>Driveways</u>. Driveways fronting on a street on Type B Lots shall be constructed of the following materials: concrete, brick pavers, stone, interlocking pavers, stamped concrete, or concrete with stone or brick border.

H. Exterior Surfaces.

i.

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 fifty (50) 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, windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Director of Development Services.

- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. Address Plaque. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type B Lot.
- iv. <u>Chimneys</u>. On Type B Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
- v. <u>Stucco</u>. Stucco on structures on Type B Lots shall be traditional 3-coat process cement plaster stucco.
- vi. <u>EIFS</u>. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type B Lots.
- I. <u>Windows</u>. All window framing on structures on Type B Lots shall be bronzed, cream, sand or white anodized aluminum, vinyl or wood.
 - Window shutters may be used on structures on Type B Lots. Window shutters shall be painted, stained wood, or fiberglass.

ii. No reflective window coverings or treatments shall be permitted.

J. Roofing.

- Structures constructed on the Type B Lots shall have a composition, slate, clay tile or cement/concrete tile roof.
- ii. The color of the composition roof must appear to be weathered wood shingles, black or slate, unless such other color is approved by the Director of Development Services.
- iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12". Clay tile and cement/concrete tile roofs shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

K. **Garages**.

- i. Homes shall have a minimum of two (2) car garages but no more than four (4). No carports shall be permitted.
- ii. Homes with three (3) or four (4) garages shall not have more than two (2) garage doors facing the street.
- iii. Garage doors shall be constructed of either metal or wood.
- L. <u>Plate Height</u>. Each structure on a Type B Lot shall have a minimum principal plate height of 9' on the first floor.
- M. <u>Fencing</u>. No fence, wall or hedge on a Type B Lot shall exceed eight (8) feet in height or be less than four (4) feet in height unless otherwise specifically required by the Town of Prosper.
 - i. All Type B Lots backing or siding to Open Space shall have a decorative metal fence abutting to said open space.
 - ii. All other fencing shall be constructed of cedar, board on board with a top rail, and shall be supported with galvanized steel posts. A common fence stain color as well as fence detail

shall be established for the community by the developer.

iii. No fencing shall extend beyond a point ten feet (10') behind the front wall plane of the structure into the front yard.

N. Landscaping.

- i. A minimum of nine (9) caliper inches of trees shall be planted on all Type B Lots.
- ii. A minimum of two (2) three inch (3") caliper trees shall be located in the front yard.
- iii. Corner lots adjacent to a street shall plant (1) additional tree in the side yard.
- iv. Trees shall be a minimum of three caliper inches (3") as measured at 1 foot above grade.
- v. The front, side and rear yard must be irrigated by a programmable irrigation system and sodded with grass.
- O. <u>Mailboxes</u>. Mailboxes on a Type B Lot shall be consistent with the theme for the street and with the materials of the home on the respective lot, unless otherwise required by USPS (United States Postal Service).
- P. <u>Satellite Dishes</u>. Satellite dishes, limited to eighteen inches (18") in diameter or smaller, mounted below the ridgeline on the roof, and not in public view from the front of the home are permitted on Type B Lots.
- Q. <u>Air Conditioners</u>. No window or wall air conditioning units will be permitted on structures on Type B Lots. Outside condensing units (compressors) which are not located within a privacy fenced area shall be screened by shrubbery save and except access and service space to the condensing units which may not be visible from the street.
- R. <u>Plan Elevations</u>. On Type B Lots, plan elevations shall alternate every four (4) homes on the same side of a street and every three (3) homes on opposite sides of the street. Illustrative examples of the elevations and floor plans for Type B Lots are attached hereto as <u>Exhibit "F-2"</u>.
- S. <u>Accessory Structures</u>. Accessory structures used as a garage, a garage apartment, or guest house, will be allowed.

- Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
- ii. Accessory structures shall be separate from the main dwelling by a minimum of ten (10) feet, have a minimum Rear yard setback of ten (10) feet, and a minimum Side yard setback of eight (8) feet.
- c. <u>Type C Lots</u>: The area and building standards for Type C Lots are as follows and as set forth in Table 1:
 - A. Minimum Lot Size. The minimum lot size for Type C Lots shall be ten thousand, five hundred (10,500) square feet. A typical lot will be 80' x 131', but may vary as long as the requirements of Table 1 are accommodated.
 - B. <u>Minimum Lot Width</u>. The minimum lot width for Type C Lots shall be eighty (80) feet.
 - C. <u>Minimum Yard Setbacks</u>.
 - i. Minimum Front yard Setback: The minimum Front yard setback for Type C Lots shall be twenty-five (25) feet. The minimum front yard and rear yard requirements for staggering the front yards, as set forth in Section 9.3.F of the Town's Zoning Ordinance, as amended shall apply to Type C Lots.

ii. <u>Minimum Side yard Setback</u>:

- (a) The minimum Side yard setback for Type C Lots shall be eight (8) feet.
- (b) For courtyard homes, as defined herein, the minimum side yard setback shall be either fourteen (14) feet for one side and two (2) feet for the other side yard or thirteen (13) feet for one side and three (3) feet for the other side yard. Windows on the 2' or 3' side of the courtyard home will not be allowed unless they are opaque or consist of glass block.
- (c) For corner lots, the minimum Side yard setback shall be fifteen (15) feet.

iii. Minimum Rear yard Setback:

- (a) The minimum Rear yard setback shall be twenty-five (25) feet.
- (b) For Courtyard Homes, as defined herein, the minimum Rear yard setback is ten (10) feet for a maximum number of lots not to exceed forty five (45) Type C lots.
- iv. Permitted Encroachment. Architectural features and porches may encroach into required front and rear yards up to five (5) feet. On corner lots, architectural features and porches may encroach into required side yards up to five (5) feet on the road side. Swing-in garages may encroach into required front yards up to ten (10) feet. 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 dwelling constructed on a Type C Lot shall contain a minimum of two thousand, three hundred (2,300) square feet of floor space. Floor space shall include airconditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling
- E. <u>Height</u>. The maximum height for structures on Type C Lots shall be forty-five (45) feet.
- F. <u>Courtyard Home Option</u>. Courtyard Homes, which are defined as homes having an open-air courtyard surrounded on three sides by the home, are permitted.
- G. <u>Driveways</u>. Driveways fronting on a street on Type C Lots shall be constructed of the following materials: concrete, brick pavers, stone, interlocking pavers, stamped concrete, or concrete with stone or brick border.

H. <u>Exterior Surfaces</u>.

i. 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 and siding is considered masonry. However, cementitious fiber board and siding may only be used as the primary exterior façade material in a limited number of homes as specified in Table 1.

- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. <u>Address Plaque</u>. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type C Lot.
- iv. <u>Chimneys</u>. On Type C Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
- v. <u>Stucco</u>. Stucco on structures on Type C Lots shall be traditional 3-coat process cement plaster stucco.
- vi. <u>EIFS</u>. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type C Lots.
- I. <u>Windows</u>. All window framing on structures on Type C Lots shall be bronzed, cream, sand, white or other commercially available colors in anodized aluminum, vinyl or wood.
 - Window shutters may be used on structures on Type C Lots. Window shutters shall be painted, stained wood, or fiberglass.
 - ii. No reflective window coverings or treatments shall be permitted.

J. Roofing.

- i. Structures constructed on the Type C Lots shall have a composition, slate, synthetic slate, standing seam metal, clay tile or cement/concrete tile roof.
- ii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iii. The main roof pitch of any structure shall have a minimum slope of 8" in 12" for at least 75% of all Type C Lots. Up to 25% of Type C Lots may have roof pitches anywhere in the range

between 3" in 12" and 8" in 12". Pitch ends shall be 100% guttered.

K. **Garages**.

- i. Homes shall have a minimum of two (2) car garages but no more than four (4). No carports shall be permitted.
- ii. Homes with three (3) or four (4) garages shall not have more than two (2) garage doors facing the street.
- iii. Garage doors shall be constructed of metal or wood.
- L. <u>Plate Height</u>. Each structure on a Type C Lot shall have a minimum principal plate height of 10' on the first floor.
- M. <u>Fencing</u>. No fence, wall or hedge on a Type C Lot shall exceed eight (8) feet in height or be less than four (4) feet in height unless otherwise specifically required by the Town of Prosper.
 - i. All Type C Lots backing or siding to Open Space shall have a decorative metal fence abutting to said open space.
 - ii. All other fencing shall be constructed of cedar, board on board with a top rail, and shall be supported with galvanized steel posts. A common fence stain color as well as fence detail shall be established for the community by the developer.
 - iii. No fencing shall extend beyond a point ten feet (10') behind the front wall plane of the structure into the front yard.

N. Landscaping.

- i. A minimum of nine (9) caliper inches of trees shall be planted on all Type C Lots.
- ii. A minimum of two (2) three inch (3") caliper trees shall be located in the front yard.
- iii. Corner lots adjacent to a street shall plant (1) additional tree in the side yard.
- iv. Trees shall be a minimum of three caliper inches (3") as measured at 1 foot above grade.

- v. The front, side and rear yard must be irrigated by a programmable irrigation system and sodded with grass.
- O. <u>Mailboxes</u>. Mailboxes on a Type C Lot shall be consistent with the theme for the street and with the materials of the home on the respective lot, unless otherwise required by USPS (United States Postal Service).
- P. <u>Satellite Dishes</u>. Satellite dishes, limited to eighteen inches (18") in diameter or smaller, mounted below the ridgeline on the roof, and not in public view from the front of the home are permitted on Type C Lots.
- Q. <u>Air Conditioners</u>. No window or wall air conditioning units will be permitted on structures on Type C Lots. Outside condensing units (compressors) which are not located within a privacy fenced area shall be screened by shrubbery save and except access and service space to the condensing units which may not be visible from the street.
- R. <u>Plan Elevations</u>. On Type C Lots, plan elevations shall alternate every four (4) homes on the same side of a street and every three (3) homes on opposite sides of the street. Illustrative examples of the elevations and floor plans for Type C Lots are attached hereto as <u>Exhibit</u> "F-3".
- S. <u>Accessory Structures</u>. Accessory structures used as a garage, a garage apartment, or guest house, will be allowed.
 - Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
 - ii. Accessory structures shall be separate from the main dwelling by a minimum of ten (10) feet, have a minimum Rear yard setback of ten (10) feet, and a minimum Side yard setback of eight (8) feet.
- d. <u>Type D Lots</u>: The area and building standards for Type D Lots are as follows and as set forth in Table 1:
 - A. Minimum Lot Size. The minimum lot size for Type D Lots shall be twelve thousand, five hundred (12,500) square feet. A typical lot will be 90' x 138', but may vary as long as requirements Table 1 are accommodated.
 - B. <u>Minimum Lot Width</u>. The minimum lot width for Type D Lots shall be ninety (90) feet.

C. Minimum Yard Setbacks.

i. Minimum Front yard Setback: The minimum Front yard setback for Type D Lots shall be twenty-five (25) feet. The minimum front yard and rear yard requirements for staggering the front yards, as set forth in Section 9.3.F of the Town's Zoning Ordinance, as amended shall apply to Type D Lots.

ii. Minimum Side yard Setback:

- (a) The minimum Side yard setback for Type D Lots shall be eight (8) feet.
- (b) For corner lots, the minimum Side yard setback shall be fifteen (15) feet.
- iii. <u>Minimum Rear yard Setback</u>: The minimum Rear yard setback shall be twenty-five (25) feet.
- iv. Permitted Encroachment. Architectural features and porches may encroach into required front and rear yards up to five (5) feet. On corner lots, architectural features and porches may encroach into required side yards up to five (5) feet on the road side. Swing-in garages may encroach into required front yards up to ten (10) feet. 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 dwelling constructed on a Type D Lot shall contain a minimum of two thousand, six hundred (2,600) square feet of floor space. Floor space shall include airconditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling
- E. <u>Height</u>. The maximum height for structures on Type D Lots shall be forty-five (45) feet.
- F. <u>Driveways</u>. Driveways fronting on a street on Type D Lots shall be constructed of the following materials: concrete, brick pavers, stone, interlocking pavers, stamped concrete, or concrete with stone or brick border.

G. Exterior Surfaces.

i. 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 and siding is considered masonry. However, cementitious fiber board and siding may only be used as the primary exterior façade material in a limited number of homes as specified in Table 1.

- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. Address Plaque. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type D Lot.
- iv. <u>Chimneys</u>. On Type D Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
- v. <u>Stucco</u>. Stucco on structures on Type D Lots shall be traditional 3-coat process cement plaster stucco.
- vi. <u>EIFS</u>. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type D
- H. <u>Windows</u>. All window framing on structures on Type D Lots shall be bronzed, cream, sand, white or other commercially available colors in anodized aluminum, vinyl or wood.
 - Window shutters may be used on structures on Type D Lots. Window shutters shall be painted, stained wood, or fiberglass.
 - ii. No reflective window coverings or treatments shall be permitted.

I. Roofing.

 Structures constructed on the Type D Lots shall have a composition, slate, synthetic slate, standing seam metal, clay tile or cement/concrete tile roof.

- ii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iii. The main roof pitch of any structure shall have a minimum slope of 8" in 12" for at least 50% of all Type D Lots. Up to 50% of Type D Lots may have roof pitches anywhere in the range between 3" in 12" and 8" in 12". Pitch ends shall be 100% guttered.

J. **Garages**.

- i. Homes shall have a minimum of two (2) car garages but no more than four (4). No carports shall be permitted.
- ii. Homes with three (3) or four (4) garages shall not have more than two (2) garage doors facing the street.
- iii. Garage doors shall be constructed of metal or wood.
- K. <u>Plate Height</u>. Each structure on a Type D Lot shall have a minimum principal plate height of 10' on the first floor.
- L. <u>Fencing</u>. No fence, wall or hedge on a Type D Lot shall exceed eight (8) feet in height or be less than four (4) feet in height unless otherwise specifically required by the Town of Prosper.
 - All Type D Lots backing or siding to Open Space shall have a decorative metal fence abutting to said open space.
 - ii. All other fencing shall be constructed of cedar, board on board with a top rail, and shall be supported with galvanized steel posts. A common fence stain color as well as fence detail shall be established for the community by the developer.
 - iii. No fencing shall extend beyond a point ten feet (10') behind the front wall plane of the structure into the front yard.

M. <u>Landscaping</u>.

i. A minimum of nine (9) caliper inches of trees shall be planted on all Type D Lots.

- ii. A minimum of two (2) three inch (3") caliper trees shall be located in the front yard.
- iii. Corner lots adjacent to a street shall plant (1) additional tree in the side yard.
- iv. Trees shall be a minimum of three caliper inches (3") as measured at 1 foot above grade.
- v. The front, side and rear yard must be irrigated by a programmable irrigation system and sodded with grass.
- N. <u>Mailboxes</u>. Mailboxes on a Type D Lot shall be consistent with the theme for the street and with the materials of the home on the respective lot, unless otherwise required by USPS (United States Postal Service).
- O. <u>Satellite Dishes</u>. Satellite dishes, limited to eighteen inches (18") in diameter or smaller, mounted below the ridgeline on the roof, and not in public view from the front of the home are permitted on Type D Lots.
- P. <u>Air Conditioners</u>. No window or wall air conditioning units will be permitted on structures on Type D Lots. Outside condensing units (compressors) which are not located within a privacy fenced area shall be screened by shrubbery save and except access and service space to the condensing units which may not be visible from the street.
- Q. <u>Plan Elevations</u>. On Type D Lots, plan elevations shall alternate every four (4) homes on the same side of a street and every three (3) homes on opposite sides of the street. Illustrative examples of the elevations and floor plans for Type D. Lots are attached hereto as <u>Exhibit</u> "F-4".
- R. <u>Accessory Structures</u>. Accessory structures used as a garage, a garage apartment, or guest house, will be allowed.
 - Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
 - ii. Accessory structures shall be separate from the main dwelling by a minimum of ten (10) feet, have a minimum Rear yard setback of ten (10) feet, and a minimum Side yard setback of eight (8) feet.
- e. <u>Type E Lots</u>: The area and building standards for Type E Lots are as follows and as set forth in Table 1:

- A. <u>Minimum Lot Size</u>. The minimum lot size for Type E Lots shall be 6,000 square feet. A typical lot will be 50' x 130', but may vary as long as requirements in Table 1 are accommodated.
- B. <u>Minimum Lot Width</u>. The minimum lot width for Type E Lots shall be fifty feet (50').

C. Minimum Yard Setbacks.

i. Minimum Front yard Setback: The minimum Front yard setback for Type E Lots shall be twenty-five feet (25'). The minimum front yard and rear yard requirements for staggering the front yards, as set forth in Section 9.3.F of the Town's Zoning Ordinance, as it currently exists, shall apply to Type E Lots.

ii. Minimum Side yard Setback:

- (a) The minimum Side yard setback for Type E Lots shall be five feet (5').
- (b) For corner lots, the minimum Side yard setback shall be fifteen feet (15').

iii. Minimum Rear yard Setback:

- (a) The minimum Rear yard setback shall be twenty-five feet (25'), with a twenty-foot (20') Rear yard setback allowed on lots that have a thirty foot (30') Front yard setback.
- iv. Permitted Encroachment. Architectural features and porches may encroach into required front and rear yards up to ten feet (10'). Swing-in garages may encroach into required front yards up to ten feet (10'). 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. <u>Minimum Floor Space</u>. Each dwelling constructed on a Type E Lot shall contain a minimum of one thousand seven hundred (1,700) square feet of floor space. Floor space shall include airconditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling
- E. <u>Height</u>. The maximum height for structures on Type E Lots shall be forty feet (40').

- F. <u>Courtyard Home Option</u>. Courtyard Homes, which are defined as homes having an open-air courtyard surrounded on three sides by the home, are not permitted.
- G. <u>Driveways</u>. Driveways fronting on a street on Type E Lots shall be constructed of the following materials: concrete, brick pavers, stone, interlocking pavers, stamped concrete, or concrete with stone or brick border.

H. Exterior Surfaces.

- i. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred percent (100%) masonry. Cementitious fiber board may 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 Director of Development Services.
- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. <u>Address Plaque</u>. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type E Lot.
- iv. <u>Chimneys</u>. On Type E Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be one hundred percent (100%) brick or stone.
- v. <u>Stucco</u>. Stucco on structures on Type E Lots shall be traditional 3-coat process cement plaster stucco.
- vi. <u>EIFS</u>. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type E Lots.
- I. <u>Windows</u>. All window framing on structures on Type E Lots shall be bronzed, cream, sand or white anodized aluminum, vinyl or wood.

- Window shutters may be used on structures on Type E Lots. Window shutters shall be painted, stained wood, or fiberglass.
- ii. No reflective window coverings or treatments shall be permitted.

J. Roofing.

- Structures constructed on the Type E Lots shall have a composition, slate clay tile or cement/concrete tile roof.
- ii. The color of the composition roof must appear to be weathered wood shingles, black or slate, unless such other color is approved by the Director of Development Services.
- iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12". Clay tile roofs and cement/concrete tile shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.
- v. A minimum of twenty-five percent (25%) of Type E Lots, shall have a main roof pitch greater than 8:12.

K. Garages.

- i. Homes shall have a garage sized for a maximum of two (2) cars in width. Three (3) car garages are acceptable by incorporating a tandem spot. Carports or three (3) car front facing garages shall not be permitted.
- ii. Homes with two (2) single car width garage doors facing the street shall have such garage doors separated by a masonry column of no less than twelve inches (12') in width.
- iii. Garage doors shall have a minimum Front yard setback of twenty-five feet (25').
- iv. A minimum of fifty percent (50%) shall have two (2) single garage doors split by a masonry column.

- v. A maximum two (2) garage spaces shall face the street.
- vi. Garage doors shall be constructed of wood, or a material that gives the appearance of a real wood door. 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.
- vii. Two of the following garage door upgrades shall be incorporated:
 - (a) Carriage style door designs giving the appearance of a classic swing-open design with the flexibility of an overhead door operation
 - (b) Doors incorporating decorative hardware
 - (c) Doors with windows
- L. <u>Plate Height</u>. Each structure on a Type E Lot shall have a minimum principal plate height of nine feet (9') on the first floor.
- M. <u>Fencing</u>. No fence, wall or hedge on a Type E Lot shall exceed eight feet (8') in height or be less than four feet (4') in height unless otherwise specifically required by the Town of Prosper.
 - i. All Type E Lots backing or siding to Open Space shall have a decorative metal fence abutting to said open space.
 - ii. All other fencing shall be constructed of cedar, board on board with a top rail, and shall be supported with galvanized steel posts. A common fence stain color as well as fence detail shall be established for the community by the developer.
 - iii. No fencing shall extend beyond a point ten feet (10') behind the front wall plane of the structure into the front yard.

N. Landscaping.

i. A minimum of six caliper inches (6") of trees shall be planted on all Type E Lots (inclusive of street trees).

- ii. Corner lots adjacent to a street shall plant (1) additional tree in the side yard.
- iii. Trees shall be a minimum of three caliper inches (3") as measured at 1 foot above grade.
- iv. The front, side and rear yard must be irrigated by a programmable irrigation system and sodded with grass.
- v. A minimum of one (1) tree shall be located in the front yard.
- O. <u>Mailboxes</u>. Mailboxes on a Type E Lot shall be consistent with the theme for the street and with the materials of the home on the respective lot, unless otherwise required by USPS (United States Postal Service).
- P. <u>Satellite Dishes</u>. Satellite dishes, limited to eighteen inches (18") in diameter or smaller, mounted below the ridgeline on the roof, and not in public view from the front of the home are permitted on Type E Lots.
- Q. <u>Air Conditioners</u>. No window or wall air conditioning units will be permitted on structures on Type E Lots. Outside condensing units (compressors) which are not located within a privacy fenced area shall be screened by shrubbery save and except access and service space to the condensing units which may not be visible from the street.
- R. <u>Plan Elevations</u>. On Type E Lots, plan elevations shall alternate every fourth (4th) homes on the same side of a street and every third (3rd) homes on opposite sides of the street. Illustrative examples of the elevations and floor plans for Type G Lots are attached hereto as <u>Exhibit "F-5"</u>.
- S. <u>Accessory Structures</u>. Accessory structures used as a garage, a garage apartment, or guest house, will be allowed.
 - Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
 - ii. Accessory structures shall be separate from the main dwelling by a minimum of ten feet (10'), have a minimum Rear yard setback of ten feet (10'), and a minimum Side yard setback of eight feet (8').

- T. **Porches**. A minimum of twenty-five percent (25%) of Type E Lots shall have a front porch, subject to the following regulations.
 - i. A minimum of fifteen percent (15%) of homes along a block face shall have a porch.
 - ii. The minimum porch depth shall be seven feet (7').
 - iii. The minimum porch width for a house with a split garage door shall be seven feet (7').
 - iv. The minimum porch width for a house without a split garage door shall be ten feet (10').
- U. **House Pad Width.** Type E lots shall have a minimum pad width of thirty-nine feet, six inches (39' 6").
- f. <u>Type F Lots</u>: The area and building standards for Type F Lots are as follows and as set forth in Table 1:
 - A. Minimum Lot Size. The minimum lot size for Type F Lots shall be 20,000 square feet. A typical lot will be 120' x 170', but may vary as long as requirements in Table 1 are accommodated.
 - B. <u>Minimum Lot Width</u>. The minimum lot width for Type F Lots shall be one hundred twenty feet (120').
 - C. <u>Minimum Yard Setbacks</u>.
 - i. Minimum Front yard Setback: The minimum Front yard setback for Type F Lots shall be thirty feet (30'). The minimum front yard and rear yard requirements for staggering the front yards, as set forth in Section 9.3.F of the Town's Zoning Ordinance, as amended shall apply to Type F Lots.
 - ii. <u>Minimum Side yard Setback</u>:
 - (a) The minimum Side yard setback for Type F Lots shall be twenty feet (20').
 - (b) For courtyard homes, as defined herein, the minimum Side yard setback shall be twenty-six feet (26') for one side and fourteen feet (14') for the other side yard. Windows on the 14' side of the courtyard home will not be allowed unless they are opaque or consist of glass block.

(c) For corner lots, the minimum Side yard setback shall be twenty-five feet (25').

iii. Minimum Rear yard Setback:

- (a) The minimum Rear yard setback shall be thirty feet (30').
- (b) For Courtyard Homes, as defined herein, the minimum Rear yard setback is twenty feet (20').
- iv. Permitted Encroachment. Architectural features and porches may encroach into required front and rear yards up to ten feet (10'). On corner lots, architectural features and porches may encroach into required side yards up to ten (10) feet on the road side. Swing-in garages may encroach into required front yards up to fifteen feet (15'). 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 dwelling constructed on a Type F Lot shall contain a minimum of three thousand (3,000) square feet of floor space if constructed as a single story structure and three thousand five hundred (3,500) if constructed as a two story structure. Floor space shall include air-conditioned floor areas, exclusive of porches, garages, patios, terraces or breezeways attached to the main dwelling
- E. <u>Height</u>. The maximum height for structures on Type F Lots shall be forty-five feet (45').
- F. <u>Courtyard Home Option</u>. Courtyard Homes, which are defined as homes having an open-air courtyard surrounded on three sides by the home, are permitted.
- G. <u>Driveways</u>. Driveways fronting on a street on Type F Lots shall be constructed of the following materials: concrete, brick pavers, stone, interlocking pavers, stamped concrete, or concrete with stone or brick border.

H. <u>Exterior Surfaces</u>.

 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 and siding is considered masonry. However, cementitious fiber board and siding may only be used as the primary exterior façade material in a limited number of homes as specified in Table 1.

- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. <u>Address Plaque</u>. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type F Lot.
- iv. <u>Chimneys</u>. On Type F Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be one hundred percent (100%) brick or stone.
- v. <u>Stucco</u>. Stucco on structures on Type F Lots shall be traditional 3-coat process cement plaster stucco.
- vi. <u>EIFS</u>. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type F Lots.
- I. <u>Windows</u>. All window framing on structures on Type F Lots shall be bronzed, cream, sand, white or other commercially available colors in anodized aluminum, vinyl or wood.
 - Window shutters may be used on structures on Type F Lots. Window shutters shall be painted, stained wood, or fiberglass.
 - ii. No reflective window coverings or treatments shall be permitted.

J. Roofing.

- i. Structures constructed on the Type F Lots shall have a composition, metal, slate, synthetic slate, standing seam metal, or tile roof.
- ii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.

iii. The main roof pitch of any structure shall have a minimum slope of 8" in 12" for at least 25% of all Type F Lots. Up to 75% of Type F Lots may have roof pitches anywhere in the range between 3" in 12" and 8" in 12". Pitch ends shall be 100% guttered.

K. Garages.

- i. Homes shall have a minimum of two (2) car garages but no more than five (5). Rear located carports shall be permitted.
- ii. The maximum width of garage doors allowed to face the street shall be limited to three (3) car widths.
- iii. Garage doors shall be constructed of either metal or wood.
- L. <u>Plate Height</u>. Each structure on a Type F Lot shall have a minimum principal plate height of ten feet (10') on the first floor.
- M. <u>Fencing</u>. No fence, wall or hedge on a Type F Lot shall exceed eight feet (8') in height or be less than four feet (4') in height unless otherwise specifically required by the Town of Prosper.
 - i. All Type F Lots backing or siding to Open Space shall have a decorative metal fence abutting to said open space.
 - ii. All other fencing shall be constructed of cedar, board on board with a top rail, and shall be supported with galvanized steel posts. A common fence stain color as well as fence detail shall be established for the community by the developer.
 - iii. No fencing shall extend beyond a point ten feet (10') behind the front wall plane of the structure into the front yard.

N. Landscaping.

- A minimum of twelve caliper inches (12") of trees shall be planted on all Type F Lots (inclusive of street trees).
- ii. A minimum of one (1) tree shall be located in the front yard.

- iii. Corner lots adjacent to a street shall plant (1) additional tree in the side yard.
- iv. Trees shall be a minimum of three caliper inches (3") as measured at 1 foot above grade.
- v. The front, side and rear yard must be irrigated by a programmable irrigation system and sodded with grass.
- O. <u>Mailboxes</u>. Mailboxes on a Type F Lot shall be consistent with the theme for the street and with the materials of the home on the respective lot, unless otherwise required by USPS (United States Postal Service).
- P. <u>Satellite Dishes</u>. Satellite dishes, limited to eighteen inches (18") in diameter or smaller, mounted below the ridgeline on the roof, and not in public view from the front of the home are permitted on Type F Lots.
- Q. <u>Air Conditioners</u>. No window or wall air conditioning units will be permitted on structures on Type F Lots. Outside condensing units (compressors) which are not located within a privacy fenced area shall be screened by shrubbery save and except access and service space to the condensing units which may not be visible from the street.
- R. <u>Plan Elevations</u>. On Type F Lots, specific plan elevations shall not be repeated within a given platted phase.
- S. <u>Accessory Structures</u>. Accessory structures used as a garage, a garage apartment, or guest house, will be allowed.
 - Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
 - ii. Accessory structures shall be separate from the main dwelling by a minimum of ten feet (10'), have a minimum Rear yard setback of ten feet (10'), and a minimum Side yard setback of eight feet (8').

g. Community Landscape Maintenance Facility:

A. <u>Permitted Use.</u> A Community Landscape Maintenance Facility shall be a permitted primary use and may consist of equipment maintenance, open storage, and associated management offices, providing for the establishment and maintenance of landscaping and related services for common areas and open

spaces owned by the Windsong Ranch Homeowners Association (HOA).

- B. <u>Location.</u> A Landscape Maintenance Facility shall be permitted in a location as identified on Exhibit D-2.
- C. <u>Development Standards.</u> A Landscape Maintenance Facility shall develop in accordance with Mixed-Use Development Standards (Traditional Retail), as outlined in Section 3., d., except as follows:
 - i. Minimum Front Yard: Sixty Feet (60')
 - ii. Front Façade: Shall consist of a minimum of ninety percent (90%) brick and/or stone exterior building material.
 - iii. Side and Rear Facades: Shall consist of a minimum of ten percent (10%) brick and/or stone, and the use of metal as an exterior building material shall be permitted.
 - iv. Bay Doors: Shall not be permitted to directly face right-of-way.
 - v. Perimeter landscaping shall consist of the following:
 - (a) Large trees (as defined by the Zoning Ordinance), a minimum 3-inch caliper at the time of planting, planted 30-foot on center, in addition to evergreen shrubs, a minimum 45-gallon and eight-feet in height at the time of planting, planted 6-foot on center.

TABLE 1								
	Lot Type A	Lot Type B	Lot Type C	Lot Type D	Lot Type E	Lot Type F		
Min. permitted lot sizes	8,000 sq. ft	9,000 sq. ft.	10,500 sq. ft	12,500 sq. ft.	6,000 sq.ft	20,000 sq.ft.		
Max. permitted number of lots ¹	950 (maximum of 361 lot permitted in Phases 6 through 9 as indicated on Exhibit A-1)	1,074 (maximum of 511 lots permitted in Phases 6 through 9 as indicated on Exhibit A-1)	600 (maximum of 344 lots permitted in Phases 6 through 9 as indicated on Exhibit A-1)	160 (maximum of 2 lots permitted in Phases 6 through 9 as indicated on Exhibit A-1)	500 (shall be permitted in Phases 6 through 9 as indicated on Exhibit A-1)	40 ²		
Max. percentage of lots with 100% Cementitious Fiber Board and Siding	0%	0%	30%	30%	0%	30%		
¹ Max. permitted number of lots are transferrable from smaller Lot Type classifications to larger Lot Type classifications								
² 40 lots is also the mi	nimum number	f Type F lots requ	ired					
Min. Front Yard	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	30 ft.		
Min. Side Yard	8 ft. (14'/2' or 13'/3' on courtyard option)	8 ft. (14'/2' or 13'/3' on courtyard option)	8 ft. (14'/2' or 13'/3' on courtyard option)	8 ft.	5 ft.	20 ft. (26'/14' on courtyard option)		
Corner Lot	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	25 ft.		
Min. Rear Yard	25 ft. (10' on courtyard option for no more than 140 Type A lots)	25 ft. (10' on courtyard option for no more than 110 Type B lots)	25 ft. (10' on courtyard option for no more than 45 Type C lots)	25 ft.	25 ft. (Thirty-foot (30') front setback, where a twenty-foot (20') rear setback is allowed)	30 ft.		
Max. Building Height	40 ft.	40 ft.	45 ft.	45 ft.	40 ft.	45 ft.		
Max. Lot Coverage	55%	50%	60%	55%	60%	50%		
Min. Lot Width	60 ft.	70 ft.	80 ft.	90 ft.	50 ft.	120 ft.		
Min. Lot Depth	100 ft.	100 ft.	110 ft.	125 ft.	100 ft.	150 ft.		
Min. Dwelling Area	1,900 sq. ft.	2,100 sq. ft.	2,300 sq. ft.	2,600 sq. ft.	1,700 sq. ft.	3,000 sq. ft. (Single Story)		
						3,500 sq. ft. (Two Story)		
Min. Pad Width	N/A	N/A	N/A	N/A	39 ft., 6 in.	N/A		

3. Mixed-Use Tract

- a. **Definition**: The term 'Mixed-Use' as applied to the Windsong Ranch Development shall include residential and non-residential land uses integrated vertically or horizontally along the property facing U.S. Highway 380 in a walkable, vibrant market driven neighborhood, giving residents the opportunity to live, work and shop in the same community. The architecture of the mixed-use portion of the development will blend with the surrounding residential neighborhood's style. Nonresidential uses include retail, restaurants and office. Retail uses are primarily intended to supply the community with everyday convenience goods and services and shall occur on the ground level of stand alone or integrated buildings. Office shall include neighborhood service oriented professional, financial, and medical uses and may occupy ground and/ or upper level building space. Residential land uses are intended to supply attached housing product helping act as a buffer between the more intense retail and office uses along U.S. Highway 380 and the less intense suburban single-family residential product to the north. Principal uses may include town homes and multi-family (condominiums, live/ work loft residential, and luxury apartments). However, it is acknowledged that all or a portion designated as the Mixed Use Tract may develop solely for retail or office uses. It is intended in these standards to provide the flexibility to develop either a multiple use project or traditional retail development.
- b. <u>Alternative Development Standards</u>. Property within the Mixed Use Tract may be developed solely for retail uses. The Mixed Use Tract development standards provide two sets of standards that allow for a pedestrian-oriented multiple use development (Section 3.c.) or, in the alternative, traditional retail development (Section 3.d.).
- c. <u>Mixed-Use Development Standards (pedestrian-oriented)</u>: A maximum of 250 acres of mixed-use development is permitted on the Properties generally located between U.S. Highway 380 and the collector street (see <u>Exhibit "D"</u>). Development standards for a mixed-use development for this area within the development are described below.
 - a. Permitted Uses. The following uses are permitted within the "Mixed Use" area: Uses followed by an **S** are permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to conditional development standards. Conditional development standards are set forth in Chapter 3, Section 1 of the Town's Zoning Ordinance.
 - Accessory Building
 - Administrative, Medical, or Professional Office
 - Antenna and/or Antenna Support Structure, Commercial S
 - Antenna and/or Antenna Non-Commercial, attached to buildings or water towers (stand-above towers are prohibited) C
 - Antique Shop and Used Furniture
 - Artisan's Workshop
 - Assisted Care or Living Facility S
 - Athletic Stadium or Field, Private S

- Athletic Stadium or Field, Public
- Bank, Savings and Loan, or Credit Union
- Beauty Salon/Barber Shop
- Bed and Breakfast Inn
- Beer & Wine Package Sales C
- Building Material and Hardware Sales, Minor
- Building Material and Hardware Sales, Major
- Business Service
- Caretaker's/Guard's Residence
- Civic/Convention Center
- Commercial Amusement, Indoor
- Community Center
- Convenience Store with Gas Pump C
- Convenience Store without Gas Pump
- Day Care Center, Adult S
- Day Care Center, Child S
- Drug Stores/Pharmacies
- Duplicating Centers, Mailing Services, Etc
- Dry Cleaning, Minor
- Farmer's Market
- Financial Institutions
- Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority
- Furniture, Home Furnishings and Appliance Store
- Garage Apartment
- Gas Pumps C
- Golf Course and/or Country Club
- Governmental Office
- Gymnastics/Dance Studio
- Health/Fitness Center
- Helistop S
- Home Occupation C
- Homebuilder Marketing Center
- Hospital
- Hotel C
- House of Worship
- Independent Living Facilities
- Laboratory, Medical and Dental.
- Insurance Office
- Locksmith/Security System Company
- Massage Therapy, Licensed
- Mini-Warehouse/Public Storage S
- Motel S
- Multifamily Dwelling (only within the Mixed Use pedestrian alternative)
- Municipal Uses
- Museum/Art Gallery
- Nursery, Major S

- Nursery, Minor
- Optical Stores Sales and Services
- Office/Showroom
- Park or Playground
- Pet Day Care
- Post Office Facilities
- Print Shop, Minor
- Private Club S
- Private Recreation Center
- Private Street Development S
- Private Utility, Other Than Listed
- Retirement Housing
- Research and Development Center
- Recycling Collection Point
- Residence Hotel C
- Restaurant or Cafeteria C
- Restaurant, Drive In/ Drive-Thru
- Retail Stores and Shops
- Retail/Service Incidental Use
- Retirement Housing
- School, Private or Parochial
- School, Public
- Single Family Dwelling, Attached(Townhome)
- Stealth Antenna, Commercial
- Studio Dwelling
- Temporary Building C
- Theater, Neighborhood
- Theater, Regional
- Veterinarian Clinic and/or Kennel, Indoor
- Winery
- b. <u>Multifamily Uses</u>: Multi-family units shall be allowed within the mixed use area. A maximum of three hundred, (300) multifamily units shall be allowed within the Mixed Use Tract. If portions of the designated Mixed Use Tract are developed with multi-family residential housing types, they shall be developed in accordance with the following criteria:
 - A. Required Parking: Parking requirements for multi-family development shall be two spaces per one-bedroom unit, two spaces per two-bedroom unit, two and one-half spaces per three-bedroom unit and one-half space per each additional bedroom per unit. One (1) enclosed parking space per unit will be provided as part of the multi-family unit configuration. Enclosed parking will consist of an attached or detached garage or parking structure screened from public view.
 - B. <u>Exterior Facade Building Materials</u>: All buildings within a multifamily development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass or similar materials or any

combination thereof. The use of cementitious fiber board as a primary exterior building material shall be limited to a maximum of fifteen percent of the total exterior wall surfaces. All exterior finishes of buildings within a multifamily development shall have a minimum of ten percent (10%) stone accents.

- C. <u>Controlled Access</u>: All multi-family developments that contain limited gated access shall locate all gate controls, card pads and intercom boxes in driveway islands in a manner that provides a minimum of one hundred (100) feet of stacking distance from the gate. Such driveway islands shall also contain a break that allows for vehicular u-turn movements back onto a public street.
- c. <u>Townhouse Uses</u>: Townhouse units shall be allowed within the mixed use area or single family area as a buffer between non-residential and single family development. A maximum of three hundred (300) townhouse units shall be allowed. Townhouse units constructed in Single Family Residential Tract do not count against the maximum lot count of 3,500 single family lots. If portions of the designated mixed-use area are developed with townhouse residential housing types, they shall be developed in accordance with the following criteria:
 - A. Required Parking: Parking requirements for townhouse development shall be two spaces per one-bedroom unit, two spaces per two-bedroom unit, two and one-half spaces per three-bedroom unit and one-half space per each additional bedroom per unit. Two (2) enclosed parking spaces per unit will be provided as part of the townhouse unit configuration. Enclosed parking will consist of an attached or detached garage or parking structure screened from public view.
 - B. Exterior Facade Building Materials: All buildings within a townhouse development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass or similar materials or any combination thereof. The use of cementitious fiber board as a primary exterior building material shall be limited to a maximum of fifteen percent of the total exterior wall surfaces. All exterior finishes of buildings within a townhouse development shall have a minimum of ten percent (10%) stone accents.
 - C. <u>Controlled Access</u>: All townhouse developments that contain limited gated access shall locate all gate controls, card pads and intercom boxes in driveway islands in a manner that provides a minimum of one hundred (100) feet of stacking distance from the gate. Such driveway islands shall also contain a break that allows for vehicular u-turn movements back onto a public street.
- d. <u>Residential development standards</u>: Development shall be in accordance with the following table:

	Residential Product Type		
		Multi-family not on	
Development Requirement	Townhouse	the second story of	
		other uses	
Max. Gross Density	10.0 du/ac	15.0 du/ac	
Min. Lot Area	1,000 sq. ft.	1 acre.	
Min. Lot Width	20'	100'	
Min. Lot Depth	50'	150'	
Min. Front Setback	0'	20'1	
Min. Rear Setback	20'	20'1	
Min. Side Setback (interior lot)	0'	20'1	
Min. Side Setback (corner lot)	15'	25'¹	
Max. Lot Coverage	80%	70%	
Min. Floor Area / Dwelling Unit	1,200 sq. ft.	650 sq. ft.	
Max. Building Height / No. of	48' / 32	48' / 3	
stories'			
Min. Open Space	20%	30%	

¹ Multifamily setbacks include:

- a. Fifty (50) feet for one (1) or two (2) story structures adjacent to property lines with a single family residential use.
- b. One hundred and fifty (150) feet for three (3) story structures adjacent to property lines with a single family residential use.

e. Non-residential uses

- A. <u>Required Parking</u>: The total parking required shall be the sum of the specific parking space requirement for each use included within the Mixed Use Tract as required by Zoning Ordinance No. 05-20 as it currently exists or as amended.
- B. Exterior Facade Building Materials: All main buildings shall have an exterior finish of stone, stucco, brick, tile, concrete, glass or similar materials or any combination thereof. Cementitious fiber board may only be used as an accent material subject to 10% of a façade.
- C. Commercial and Retail Development Standards: Development regulations for development within the Mixed Use Tract are intended to allow mixed use development consisting of vertically and horizontally integrated retail, office, service and residential uses. Typically referred to as "new urbanism"-style development, this type of development is characterized by pedestrian-scaled development offering multiple services and amenities with unique landscape and streetscape design. Development for non-residential land uses shall conform to the following:

² The maximum height of any building within 60 feet of a property line with a single family residential use shall be 36 feet or 2 stories.

i. <u>Floor Area</u>: The allowable floor area of buildings within the mixed-use area shall be unlimited, provided that all conditions described herein are met.

ii. <u>Lot Area</u>: There is no minimum lot area.

iii. <u>Lot Coverage</u>: In no case shall the combined areas of the main buildings and accessory buildings cover more than 90% of the total lot area. Parking facilities shall be excluded from lot coverage computation.

iv. Lot Width: There is no minimum lot width.

v. <u>Lot Depth</u>: There is no minimum lot depth.

vi. <u>Front Yard</u>: The minimum depth of the front yard shall be ten (10) feet

vii. <u>Side Yard</u>: No side yard is required unless vehicular access is provided/required, in which case the side yard shall have a depth of not less than twelve feet.

A twenty-four-foot minimum side yard shall be provided where fire lane access is required and wherever a vehicular access/fire lane easement is not available on the adjoining property.

viii. Rear Yard: No rear yard is required unless vehicular access is provided/required, in which case the rear yard shall have a depth of not less than twelve feet.

A twenty-four-foot minimum rear yard shall be provided where fire lane access is required and wherever a vehicular access/fire lane easement is not available on the adjoining property.

ix. <u>Building Height</u>: Buildings shall be a maximum of five (5) stories, not to exceed seventy (70) feet in height. Architectural features, parapets, mechanical equipment, chimneys, antennas and other such architectural projections may extend above this height limit.

x. <u>Pad Sites.</u> There is no limit on the number of pad sites within the Mixed Use Tract for retail uses provided each pad site must satisfy the Area Requirements.

f. **Architectural**.

- A. <u>Maximum Building Length</u> -- Buildings shall not be longer than 550 feet without an unconnected physical separation of 25 feet between another building.
- B. <u>Building Articulation</u> -- All buildings should be designed to emphasize a "base, mid-section, and top." Facades facing public and private streets and extending greater than one hundred (100) feet in length shall incorporate wall plane recesses having a minimum depth of at least three (3) percent of the length of the façade. Recesses shall comprise at least twenty-five percent (25%) of the length of the facade. No uninterrupted length of a façade shall exceed fifty (50) feet in length.
- C. Roof Line Articulation -- Variations in roof lines shall be used to add interest and reduce the scale of large buildings. Roof features shall complement the character of the overall development and shall have at least one of the following features:
 - Parapets concealing flat roofs and rooftop equipment from public view. The average height shall not exceed 15% of the height of the supporting wall. Parapets shall feature three dimensional cornice treatment.
 - Overhanging eaves, extending no less than three (3) feet past the supporting walls
 - Supporting roofs that do not exceed the average height of the supporting walls with an average slope no greater than 3:1 slope.
 - Roof dormers interrupting the eave line.

D. <u>Exterior of Buildings</u>

- Façades -- All façades oriented toward rights-ofways, drives or public spaces shall have no less than three of the following elements:
 - Overhangs
 - Canopies or Porticos
 - Recesses/Projections
 - Arcades
 - Raised corniced parapets over the entrance
 - Peaked roof forms
 - Arches
 - Outdoor patios
 - Display windows
 - Integral planters that incorporate landscaped areas or seating areas

g. Parking Areas

- A. Surface parking lots shall be screened from streets through the use of screening or liner development such as townhome, livework, and loft office units. Parking garages may not be visible from streets on more than 2 sides of each block. Beyond these two sides, a development liner (such as loft residential, office, etc.) shall be constructed to shield the garage from view.
- B. Surface Parking Perimeter Screening All surface parking lots shall be screened from street view. Such screening shall take the form of 3 foot, 7-gallon plantings of dense evergreen hedge at time of installation measured above the grade of the parking lot.
- C. Landscape Medians All surface parking lots shall have a landscape median strip with a minimum width of 6 feet incorporated into the parking lot design to separate the parking area and drive aisle with direct connection to the street. 1 tree shall be planted for every 35 linear feet of median.
- h. <u>Service and Equipment Areas</u>. Service areas are zones and loading docks where servicing of the site takes place and include wall-, ground- or roof-mounted mechanical or equipment areas.
 - A. Placement of Service Areas Service areas shall (i) not front or be visible from a street, and shall be placed within the building envelope they serve; or (ii) follow the screening requirements below. Dumpsters and trash enclosures be placed within a building's envelope, and no service areas be placed where they are visible from US Highway 380, Gee Road or Fields Road. Loading areas must not be located closer than fifty (50) feet to any single-family lot or public right-of-way, unless wholly within an enclosed building.
 - B. Service Area Screening Off-street loading and service areas must be placed at the side or rear of buildings and shall be screened in conformity with the requirements of the Zoning Ordinance.
 - C. Service Area Screening Design In general, the design of all service area screening shall be complementary to the design of the building it serves in terms of its material and color.
 - D. Roof-Mounted Equipment Screening All roof-mounted equipment shall be screened from public view through the use of design features that complement the building they serve in terms of material and color.

i. Fencing

- A. Fencing Length and Height The maximum length of a fence shall be fifty (50) feet without a break of thirty (30) feet. No fencing shall be above three (3) feet in height.
- B. Fencing Material All fencing must be wrought iron or decorative steel.

j. Site Landscaping

- A. Street Trees Street trees shall be planted at an average of thirty (30) feet on-center across each block face and three and one-half (3 ½) feet from the back of curb. These trees shall have a minimum caliper of four (4) inches at installation, and shall not be closer than ten (10) feet from a street lamppost. Street tree material shall follow the recommendation of the Director of Development Services, and shall generally follow the type of canopy line created by red oak, live oak, etc. Street trees shall use a consistent species along both sides of each block.
- B. Tree Planters Street trees shall be centered within five (5) foot by ten (10) foot planters as leave-outs within the sidewalk and screened with either a twelve (12) inch high ornamental steel fence or brick turn-up edge. Planters shall also consist of evergreen ground cover and perennial plantings. The street-facing leading edge of all planters shall be placed one foot, six inches (1.5 feet) from the face of the curb to allow clearance for passenger car doors to open.
- C. Prior to the issuance of a Certificate of Occupancy for any building, structure or improvement, all landscaping must be installed in accordance with the approved corresponding landscaping plan.
- D. Street Lights Street lights shall be located four (4) feet from face of curb on average intervals of seventy-five (75) feet along all block faces. The light fixtures shall be mounted ten (10) to twelve (12) feet from the finished grade of the sidewalk and shall be of metal halide type.
- E. Bicycle Racks Bicycle racks shall be provided on 150 foot intervals of all block faces, clustering at street lamp or building entry locations.
- F. Litter Containers and Benches Litter containers and benches shall be provided on 150 foot intervals along all block faces and clustered at street lamp or building entry locations.
- d. <u>Mixed-Use Development Standards (Traditional Retail)</u>. Retail development within the Mixed Use Tract is intended predominately for heavy retail, service, light intensity wholesale and commercial uses, but excluding warehousing uses. The

nature of uses in this District has operating characteristics and traffic service requirements generally compatible with typical office, retail, and some residential environments. Uses in this District may require open, but screened, storage areas for materials. In the event all or a portion of the Mixed Use Tract is developed solely for retail uses (i.e. not a mixed use development) then the development for retail uses shall conform to the following standards:

a. <u>Size of Yards</u>:

- 1. Minimum Front Yard: thirty (30) feet.
- 2. Minimum Side Yard:
 - a. Fifteen (15) feet adjacent to a nonresidential district. The minimum side yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.
 - b. Thirty (30) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.
 - Thirty (30) feet adjacent to a street.
- 3. Minimum Rear Yard:
 - a. Fifteen (15) feet adjacent to a nonresidential district. The minimum side yard setback may be eliminated for attached retail buildings on separate lots as shown on an approved site plan.
 - b. Thirty (30) feet for a one (1) story building adjacent to a residential district and sixty (60) feet for a two (2) story building adjacent to a residential district.

b. Size of Lots:

- 1. Minimum Size of Lot Area: Ten thousand (10,000) square feet.
- 2. Minimum Lot Width: One hundred (100) feet.
- 3. Minimum Lot Depth: One hundred (100) feet.
- c. <u>Maximum Height:</u> Two (2) stories, no greater than forty (40) feet.
- d. <u>Lot Coverage</u>: Fifty (50) percent.
- e. Floor Area Ratio: Maximum 0.5:1.
- f. <u>Permitted Uses</u>: Uses followed by an **S** are permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to conditional development standards. Conditional development standards are set forth in Chapter 3, Section 1 of the Town's Zoning Ordinance:
 - Accessory Building
 - Administrative, Medical, or Professional Office
 - Antenna and/or Antenna Support Structure, Commercial C
 - Antenna and/or Antenna Support Structure, Non-Commercial C
 - Antique Shop and Used Furniture
 - Artisan's Workshop
 - Assisted Care or Living Facility S

- Athletic Stadium or Field. Private S
- Athletic Stadium or Field, Public
- Auto Parts Sales, Inside
- Automobile Paid Parking Lot/Garage
- Automobile Parking Lot/Garage
- Automobile Repair, Major S
- Automobile Repair, Minor
- Automobile Sales, Used S
- Automobile Sales/Leasing, New S
- Bank, Savings and Loan, or Credit Union
- Beauty Salon/Barber Shop
- Bed and Breakfast Inn
- Beer & Wine Package Sales C
- Bottling Works
- Building Material and Hardware Sales, Major
- Building Material and Hardware Sales, Minor
- Bus Terminal C
- Business Service
- Cabinet/Upholstery Shop
- Caretaker's/Guard's Residence
- Cemetery or Mausoleum S
- Civic/Convention Center
- College, University, Trade, or Private Boarding School
- Commercial Amusement, Indoor
- Commercial Amusement, Outdoor S
- Community Center
- Convenience Store with Gas Pumps C
- Convenience Store without Gas Pumps
- Dance Hall S
- Day Care Center, Adult S
- Day Care Center, Child C
- Day Care Center, Incidental S
- Dry Cleaning, Minor
- Equipment and Machinery Sales and Rental, Minor
- Fairgrounds/Exhibition Area S
- Farm, Ranch, Stable, Garden, or Orchard
- Farmer's Market
- Feed Store
- Flea Market, Inside
- Flea Market, Outside S
- Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority
- Furniture Restoration
- Furniture, Home Furnishings and Appliance Store
- Gas Pumps C
- General Manufacturing/Industrial Use Complying with Performance Standards S
- Golf Course and/or Country Club
- Governmental Office
- Gunsmith
- Gymnastics/Dance Studio
- Health/Fitness Center

- Homebuilder Marketing Center
- Hospital
- Hotel C
- House of Worship
- Indoor Gun Range S
- Insurance Office
- Limited Assembly and Manufacturing Use Complying with Performance Standards
- Locksmith/Security System Company
- Machine Shop
- Massage Therapy, Licensed
- Mini-Warehouse/Public Storage S
- Mobile Food Vendor C
- Mortuary/Funeral Parlor
- Motel C
- Motorcycle Sales/Service S
- Municipal Uses Operated by the Town of Prosper
- Museum/Art Gallery
- Nursery, Major S
- Nursery, Minor
- Office and Storage Area for Public/Private Utility
- Office/Showroom
- Office/Warehouse/Distribution Center
- Open Storage (subject to Chapter 4, Section 5 of the Zoning Ordinance)
- Park or Playground
- Pawn Shop
- Pet Day Care C
- Print Shop, Major S
- Print Shop, Minor
- Private Club
- Private Recreation Center
- Private Utility, Other Than Listed
- Recreational Vehicle Sales and Service, New/Used S
- Recreational Vehicle/Truck Parking Lot or Garage S
- Recycling Collection Point
- Rehabilitation Care Institution S
- Research and Development Center C
- Residence Hotel C
- Restaurant or Cafeteria
- Restaurant, Drive In
- Retail Stores and Shops
- Retail/Service Incidental Use
- School District Bus Yard C
- School, Private or Parochial
- School, Public
- Sewage Treatment Plant/Pumping Station S
- Small Engine Repair Shop
- Stealth Antenna, Commercial C
- Storage or Wholesale Warehouse S
- Taxidermist
- Telephone Exchange

- Temporary Building C
- Theater, Neighborhood
- Theater, Regional
- Trailer Rental S
- Transit Center S
- Truck Sales, Heavy Trucks S
- Utility Distribution/Transmission Facility S
- Veterinarian Clinic and/or Kennel, Indoor
- Veterinarian Clinic and/or Kennel, Outdoor
- Water Treatment Plant S
- Winery

4. Parkland

- a. Parkland shall consist of the following types:
 - i. Neighborhood Park,
 - ii. Open space,
 - iii. Community Park containing a minimum of fifty (50) acres, and
- b. The schedule for providing Parkland shall be as follows:
 - i. Neighborhood Park: The Neighborhood Parks shall be dedicated to the Town for public use and constructed simultaneously with the construction of the Public Improvements contained within the platted area in which the Neighborhood Parks is/are located. Developer shall, after consultation with the Town, use reasonable efforts to situate Neighborhood Parks adjacent to School Areas, with the specific location being subject to approval by the Town, which may not be unreasonably withheld, delayed, condition or denied.
 - ii. Open Space: Open Space identified on a General Development Plan shall be dedicated to the Town for public use, or reserved for private use by Developer, upon the earlier of: (A) within a reasonable period of time after receiving a written request by the Town for such dedication or reservation, such request being based upon the Park Plan in accordance with the General Development Plan wherein such Open Space is located; or (B) upon recordation of a final plat in which such Open Space is located, provided Developer owns the Open Space to be dedicated or reserved. If Developer is not the owner of the Open Space to be dedicated or reserved, the Owners shall, unless otherwise required herein, be required to comply with such requirements as set forth in the Subdivision Ordinance when the Properties, or portions thereof, develop.
 - iii. Community Park: Within three (3) years from the Effective Date of the Preannexation Agreement, the Community Park shall be

dedicated to the Town upon the earlier of: (A) within ninety (90) days of receiving a written request by the Town for such dedication; or (B) at the time the adjacent streets are dedicated to the Town provided Developer owns the land identified as the Community Park; provided, however, the Parties agree that the Community Park dedication shall be in cooperation with and furtherance of the Town's overall park grant efforts. Notwithstanding anything to the contrary herein, if the Developer has not dedicated the Community Park by the time prescribed in the preceding sentence, Owners as applicable, shall dedicate, at absolutely no cost to the Town, the Community Park within three (3) months of a written request by the Town for such dedication. Town shall be fully responsible for Maintenance Obligations of the Community Park upon the Town's acceptance of the dedication. The Town will, within a reasonable time, after receiving the proposed conveyance instrument, provide the Developer and/or Owner, as applicable, written notice of the Town's acceptance of the dedicated Community Park.

- c. Parkland reserved for private use shall be owned and maintained by a homeowners association, or other entity, and made available to owners, tenants, residents, occupants and members within the Properties and to their guests and invitees.
- d. Permitted uses within the Parkland are active and passive recreation uses including, but not limited to the following:
 - trails,
 - playfields,
 - game courts,
 - golf courses,
 - nature centers.
 - outdoor education centers,
 - community gardens, and
 - trail amenities.

5. **General Requirements for the Windsong Ranch.**

a. <u>Amenities</u>: The intent of these development standards regarding the provision of amenities is for an integration of built and natural elements working together as a system that provides for the active and passive recreational needs of the Windsong Ranch community specifically and of the Town of Prosper generally. The distribution of natural beauty throughout the development, exemplified by mature trees and areas of rolling topography, provides the opportunity for a community-wide trail punctuated with nodes of built improvements such as pocket parks. In this way, neighborhood is linked to neighborhood and the Windsong Ranch community is linked to the Town.

To help preserve the open character of the Town of Prosper, it is the intent of these development standards that a significant amount of natural open space, particularly amid the floodplain and other sensitive land, be set aside to provide additional open space for Windsong Ranch and for the Town. Design elements in these areas should support non-programmed passive recreational activities such as walking and picnicking.

- b. <u>Development Plan</u>: A Conceptual Development Plan is hereby attached (Exhibit "D") and made a part of these development standards. It establishes the most general guidelines for the district by identifying the project boundaries, land use types, approximate thoroughfare locations, R.O.W. dedication, roads and illustrates the integration of these elements into a master plan for the whole district.
- The Developers shall establish a Homeowner's C. Maintenance of Facilities: Association ("HOA") for single family residential areas and a Property Owner's Association ("POA") for mixed use areas, in which membership is mandatory for each lot, and that will be responsible for operation and maintenance of all common areas and/or common facilities contained within the area of the respective residential or mixed use development or adjacent Right-of-Way ("ROW"). The HOA or POA will be created with Phase 1 and each subsequent phase shall be annexed into the association or a separate HOA/POA may be created for each respective phase at the Developer's discretion. Upon completion of fifty percent (50%) buildout of any phase of residential development and creation of the corresponding HOA, the Developer shall provide that all HOA Boards have an advisory position to be filled by individual homeowners residing within the corresponding phase. Prior to transfer of the ownership to the HOA or POA, all specified facilities shall be constructed by the Developer and approved by the Town. The Developer shall provide the Town a mandatory HOA/POA agreement that will be recorded in the deed records of Denton County, Texas. In lieu of the HOA and POA, the Town and Developer may elect to create another entity to undertake the same responsibilities of the HOA or POA.
- 6. **<u>Definitions</u>**. The definitions of the Town's Zoning Ordinance (as it currently exists or may be amended) shall apply to these regulations except as otherwise amended herein. For purposes of these Development Standards, the following terms shall have the following meaning:

"Masonry" shall mean stone, stucco, brick, tile, concrete, glass or similar materials or any similar material approved by the Town's Director of Development Services.

"Independent Living Facilities" means a facility containing dwelling units, accessory uses and support services specifically designated for occupancy by persons 55 years of age or older, in accordance with the housing for older persons provisions of the Federal Fair Housing Act of 1988 (42 U.S.C. section 3607 et seq.), as amended, who are fully ambulatory or who require no medical or personal assistance or supervision. The dwelling units may consist of either multifamily, single-family detached or attached residences, or a combination of such uses.

MAHARD RANCH

EXHIBIT "D"

Concept Plan for Windsong Ranch, Town of Prosper, Texas

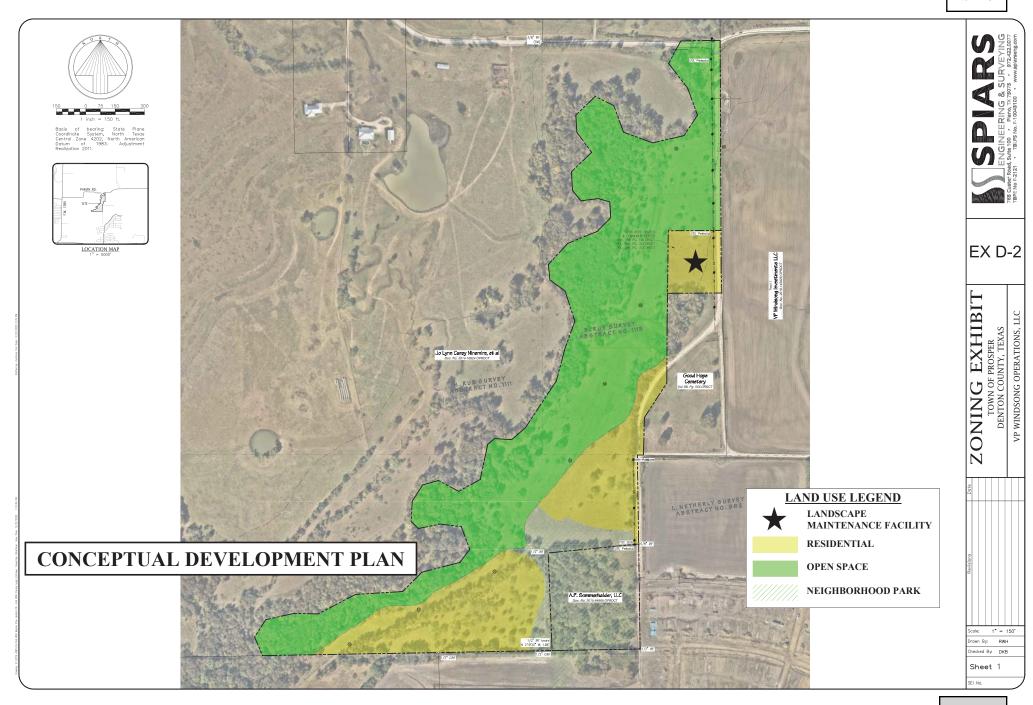


EXHIBIT "E"Development Schedule for Windsong Ranch, Town of Prosper, Texas

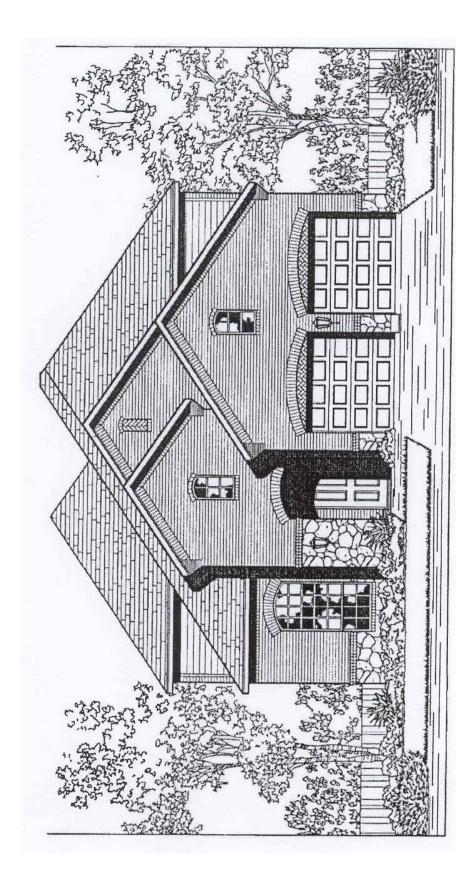
The anticipated schedule of development is to provide approximately 350 finished lots of various Types each 18-month period, beginning March 2009.

This 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 and acts of nature, among others.

EXHIBIT "F"

Illustrative Elevations and Plans for Windsong Ranch, Town of Prosper, Texas

EXHIBIT "F-1"



SCALE: 1 = 20'

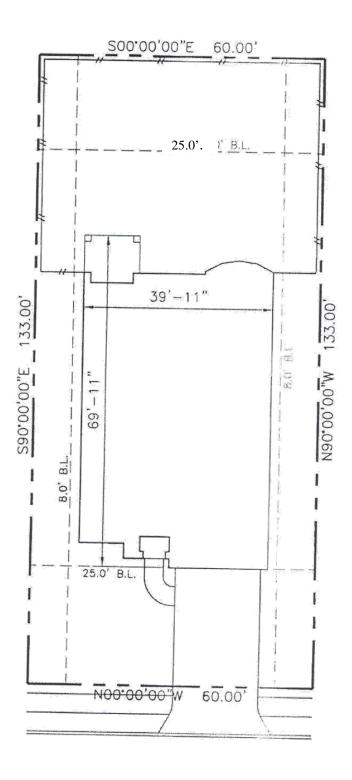
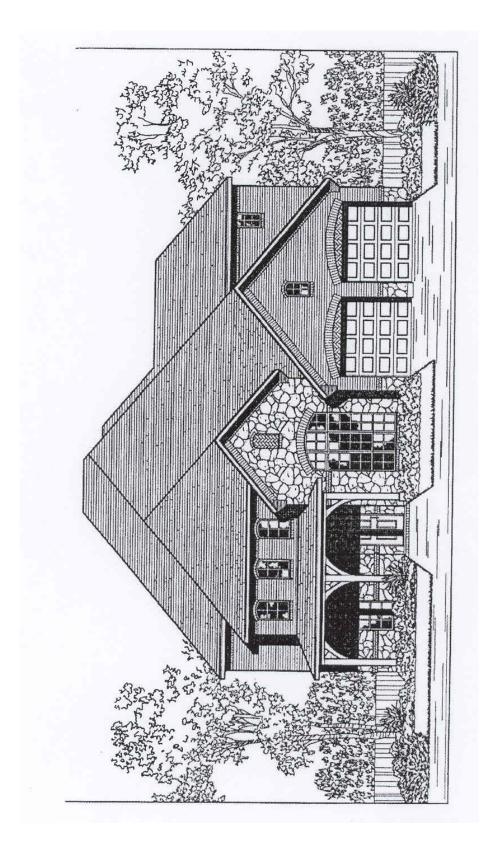


EXHIBIT "F-2"





SCALE: 1 = 20'

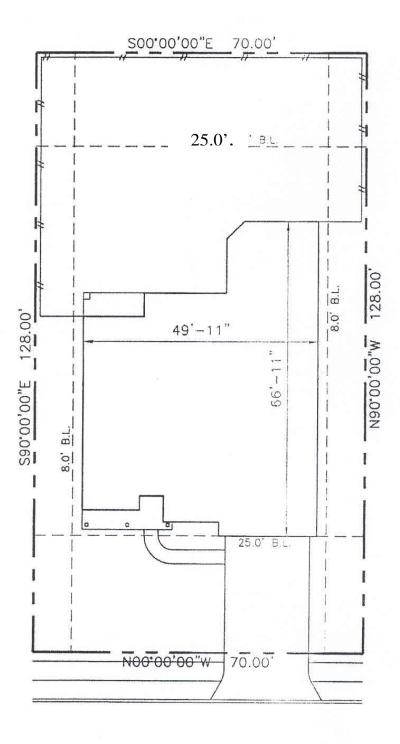
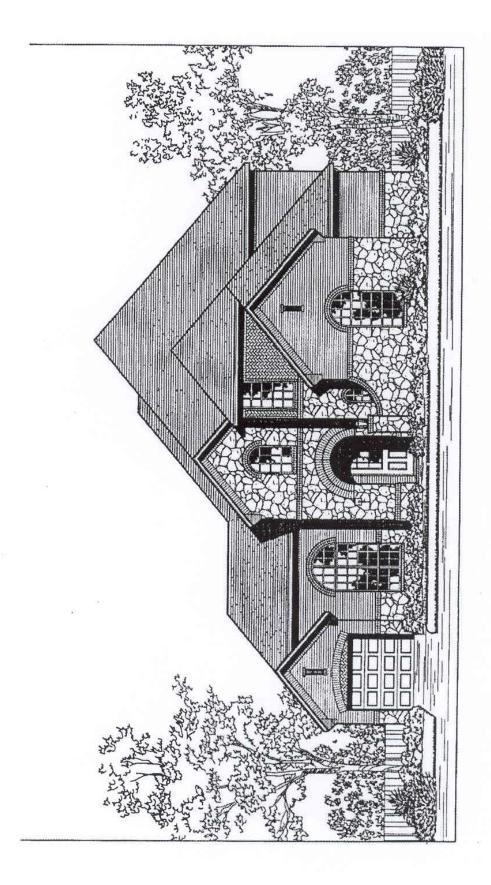


Exhibit "F-3"



2-

SCALE: 1 = 20'

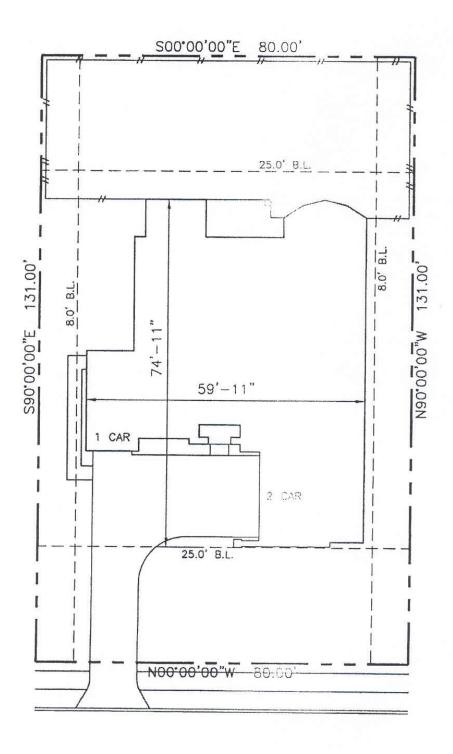
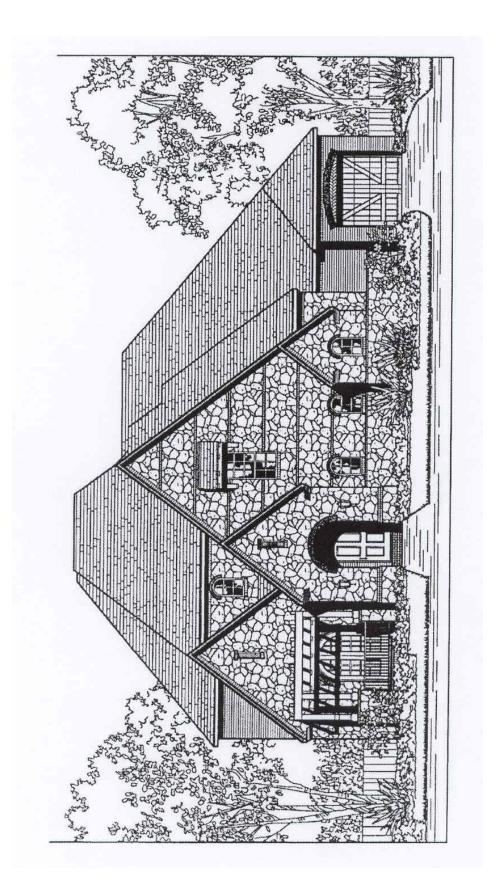


Exhibit "F-4"



2-

SCALE: 1 = 20'

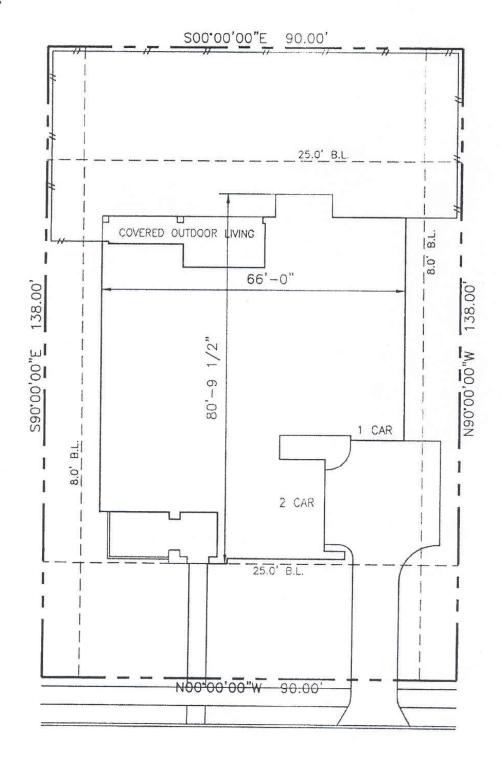
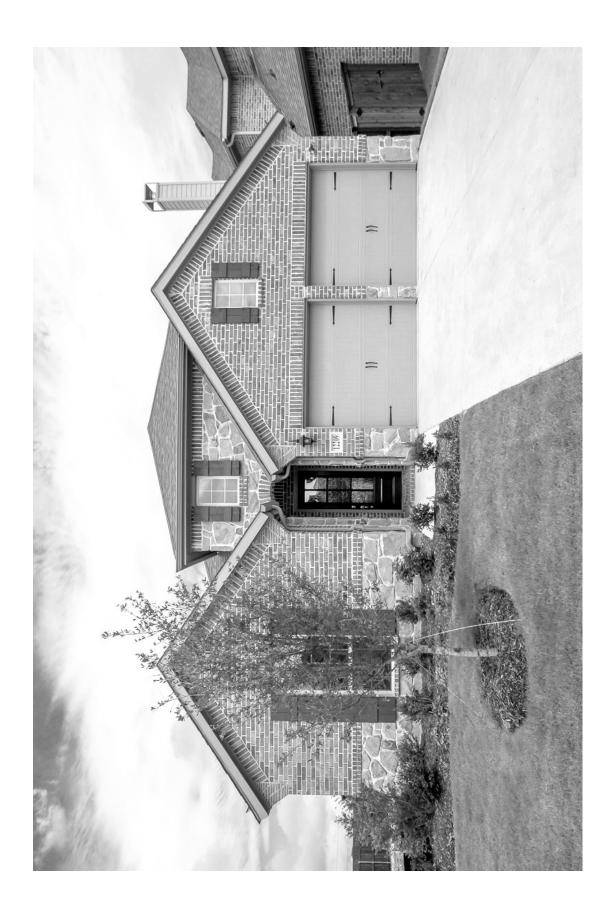
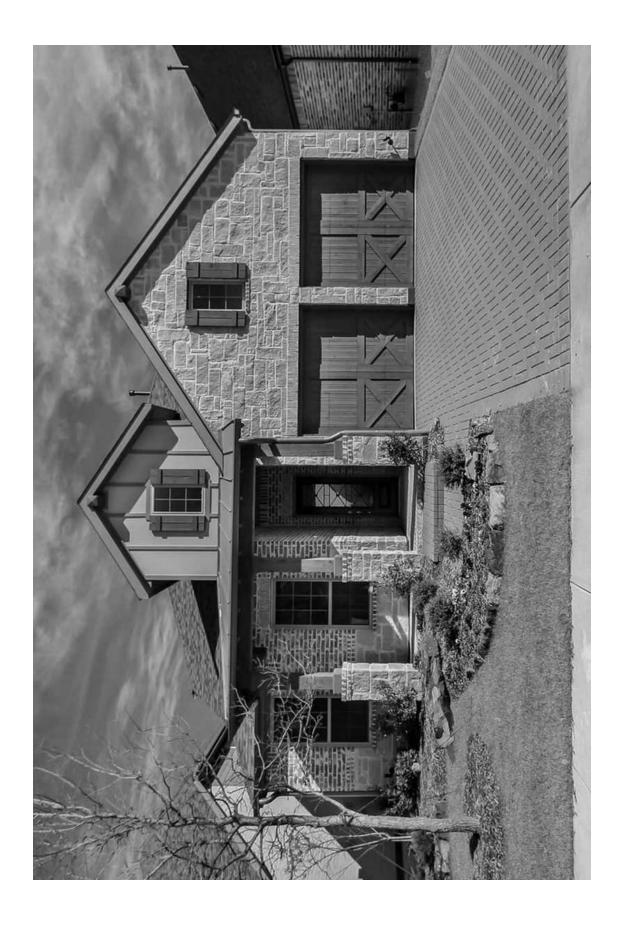


Exhibit "F-5"











PLANNING



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

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a Second Amended Development Agreement between VP Windsong Operation, LLC and VP Windsong Investments, LLC, and the Town of Prosper, Texas, related to the Windsong Ranch development.

Description of Agenda Item:

On January 26, 2021, the Town Council approved rezoning request (Z20-0023) related to Windsong Ranch. The zoning request was approved by a vote of 7-0. 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. Development Agreement Exhibits

Town Staff Recommendation:

Staff recommends the Town Council authorize the Town Manager to execute a Second Amended Development Agreement between VP Windsong Operation, LLC and VP Windsong Investments, LLC, and the Town of Prosper, Texas, related to the Windsong Ranch development.

Proposed Motion:

I move to authorize the Town Manager to execute a Second Amended Development Agreement between VP Windsong Operation, LLC and VP Windsong Investments, LLC, and the Town of Prosper, Texas, related to the Windsong Ranch development.

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT ("Second Amendment to_Development Agreement") is entered into by and between the Town of Prosper, Texas ("Town "), and VP Windsong Operations LLC and VP Windsong Investments LLC (collectively, "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 Delaware limited liability company qualified to do business in the State of Texas; and

WHEREAS, Owner has developed Windsong Ranch located in Denton County in the Town, and more particularly described in an Exhibit attached to the Planned Development 40 ("PD-40") zoning ordinance (the "Property"); and

WHEREAS, in 2008 the Town approved PD-40 relative to the development of the Property as a master-planned community, and has approved certain amendments to PD-40 subsequent thereto; and

WHEREAS, on or about January 14, 2020, the Town approved certain amendments to PD-40, 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, the foregoing were memorialized in a Development Agreement ("Development Agreement") approved by the Town Council on or about January 14, 2020, and subsequently filed in the Denton County Real Property records on or about January 15, 2020, as Document # 6140; and

WHEREAS, on or about August 11, 2020, the Town Council considered and approved other amendments to PD-40, and authorized the execution of a First Amendment to Development Agreement on or about September 8, 2020; and

WHEREAS, this Second Amendment to Development Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in PD-40, as amended, and to recognize Owner's reasonable investment-backed expectations in PD-40, as amended; and

WHEREAS, subject to the terms of the Development Agreement and the First Amendment to Development Agreement, Owner agreed and acknowledged that it would construct on the Property structures in accordance with the provisions, standards and notes reflected in the Development Agreement executed on or about January 14, 2020, as amended by the First Amendment to Development Agreement; and

WHEREAS, subject to the terms of this Second Amendment to Development Agreement, the Parties agree and acknowledge that the approximate 55.8-acre tract of land depicted and described in Exhibit A, attached hereto and incorporated by reference, shall be added to the property more fully described in PD-40 (Windsong Ranch), in accordance with the zoning case

approved by the Town Council on or about January 26, 2021, and as memorialized in an ordinance regarding same; and

WHEREAS, the Parties agree that a Community Landscape Maintenance Facility shall be constructed in accordance with the standards referenced in this Second 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. Architectural Standards and Building Materials for Community Landscape Maintenance Facility. For the Community Landscape Maintenance Facility referenced in this Second Amendment to Development Agreement, it shall comply with the applicable requirements contained in Exhibit B, "Architectural Standards and Building Materials," attached hereto and incorporated by reference, and Owner agrees to construct the Community Landscape Maintenance Facility in compliance therewith. 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. <u>Effect of Development Agreement</u>. Except to the extent referenced in Exhibit B, attached hereto and incorporated by reference, all other terms and conditions contained in the Development Agreement executed on or about January 14, 2020, and the First Amendment to Development Agreement executed on or about September 8, 2020, shall remain in full force and effect and apply to this Second Amendment to Development Agreement unless specifically otherwise provided 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)	
	efore me on the day of February, 2021, by Harlan sper, Texas, on behalf of the Town of Prosper, Texas.
	Notary Public, State of Texas My Commission Expires:

	OWNER:
	VP Windsong Operations LLC, a Delaware limited liability company
	By: Name: David R. Blom Title: Vice President
STATE OF TEXAS	
COUNTY OF DENTON	
R. Blom, in his capacity as Vic company, known to be the p	nowledged before me on the day of February, 2021, by Dav President of VP Windsong Operations LLC, a Texas limited liabili son whose name is subscribed to the foregoing instrument, ar ehalf of and as the act of Owner.
	Notary Public, State of Texas My Commission Expires:
	OWNER:
	VP Windsong Investments LLC, a Delaware limited liability company
	By: Name: David R. Blom Title: Vice President
STATE OF TEXAS	
COUNTY OF DENTON	
R. Blom, in his capacity as 'liability company, known to be	nowledged before me on the day of February, 2021, by Davice President of VP Windsong Investments LLC, a Texas limited the person whose name is subscribed to the foregoing instrument on behalf of and as the act of Owner.
	Notary Public, State of Texas My Commission Expires:

EXHIBIT A

(Description of Property to be Added to PD-40, Windsong Ranch Development)

EXHIBIT B

ARCHITECTURAL STANDARDS AND BUILDING MATERIALS FOR COMMUNITY LANDSCAPE MAINTENANCE FACILITY

1. <u>Community Landscape Maintenance Facility</u>: Any Community Landscape Maintenance Facility to be constructed on the Property described in Exhibit A to this Second Amendment to Development Agreement shall comply with the follow architectural and building materials standards as follows:

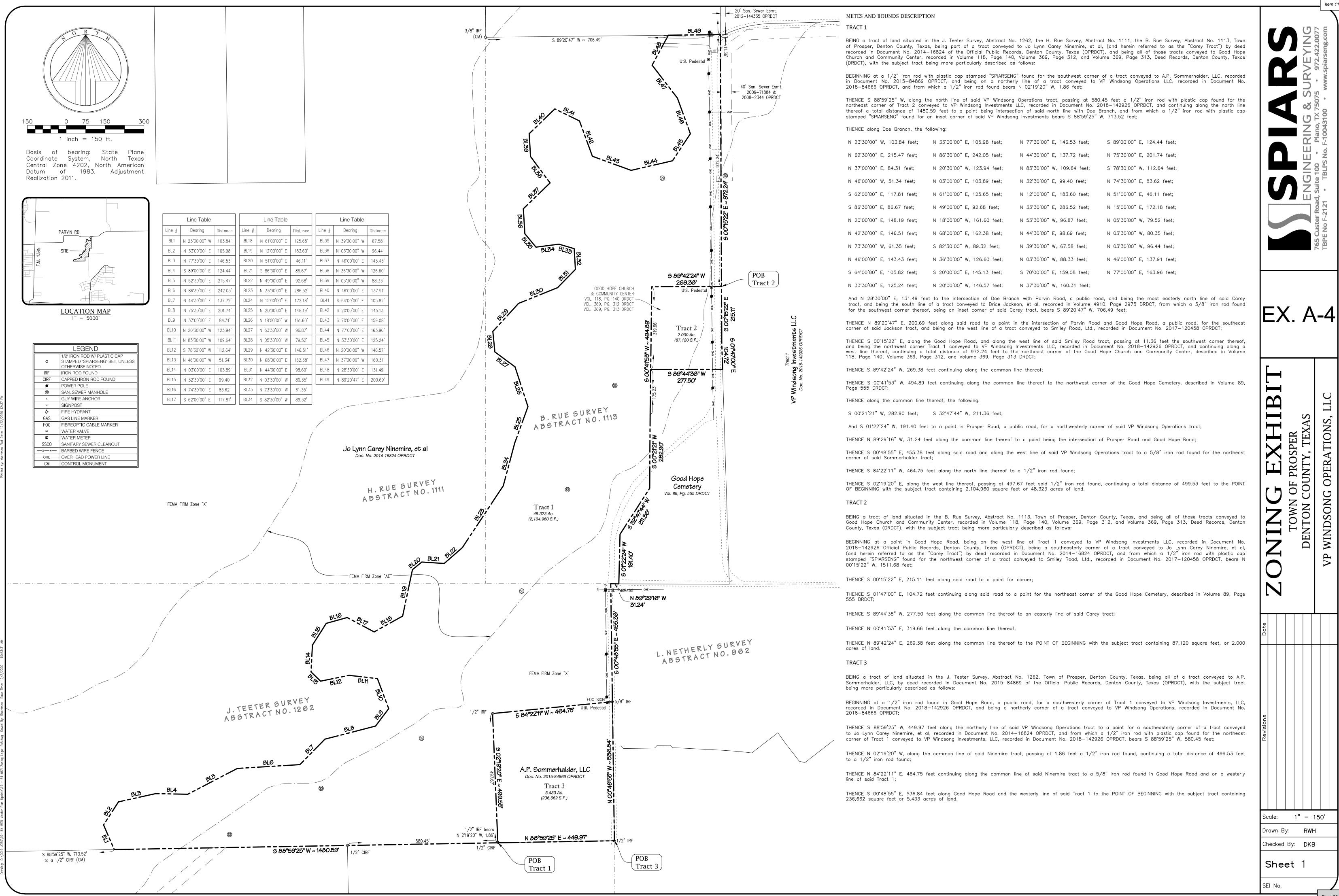
A. Front Facade.

The front façade shall consist of a minimum of ninety percent (90%) brick and/or stone exterior building material.

B. Side and Rear Facades.

The side and rear facades shall consist of a minimum of ten percent (10%) brick and/or stone, and the use of metal as an exterior building material shall be permitted.

C. Bay Doors. Bay doors shall not be permitted to directly face any right-of-way.



FINANCE DEPARTMENT



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 – February 23, 2021

Agenda Item:

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

Description of Agenda Item:

Administrative Services

Public Safety Honor Walls – Capital expenditures are increasing by \$90,000. This item was approved in the FY 2019-20 adopted budget and was subsequently placed on hold in March 2020 during the pandemic. Funding for this item lapsed at the end of the budget year and was not reappropriated in the FY 2020-21 budget. The walls are proposed to be placed outside of Town Hall. This will be a drawdown to fund balance.

Development Services

Expenditures are increasing by \$127,660 from \$375,421 to \$503,081. This increase covers implementation support services, the difference in the original budget projection for the new software package and the final negotiated price, and estimated travel expenses for the software vendor. The related expenditures are being presented as separate items on this meeting's agenda. Building Permit revenues are projected to increase to offset this expense due to strong building activity in the current fiscal year.

Budget Impact:

The General Fund revenues will increase by \$127,660 and expenditures will increase by \$217,660.

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.

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING ORDINANCE NO. 2020-71 (FY 2020-2021 BUDGET) TO FUND INCREASED EXPENDITURES OF \$217,660 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

<u>Findings Incorporated</u>. 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

<u>Savings/Repealing Clause</u>. 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

<u>Severability</u>. 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 23RD DAY OF FEBRUARY, 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 February 23, 2021

General Fund		Original Budget	C	Current Budget	Am	ended Budget	Increase (Decrease)
Total Revenues		32,698,400		32,798,400		32,926,060	127,660
	Total	\$ 32,698,400	\$	32,798,400	\$	32,926,060	\$ 127,660
Expenditures:	•						
Administration		5,598,394		6,391,809		6,481,809	90,000
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		4,612,744	-
Development Services		3,371,304		3,466,304		3,593,964	127,660
Engineering		2,031,806		2,055,123		2,055,123	-
	Total	\$ 32,590,291	\$	35,628,048	\$	35,845,708	\$ 217,660

Total Revenue	\$ 127,660.00
Total Expenditures	\$ 217,660.00
Net Effect All Funds	\$ (90,000.00)



FIRE DEPARTMENT

To: Mayor and Town Council

From: Stuart Blasingame, Fire Chief

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon authorizing the Town Manager to execute an agreement between Brown Reynolds Watford Architects (BRW) and the Town of Prosper, Texas, related to architectural and engineering design services for the Public Safety Complex, Phase 2 (Central Fire Station and Fire Administration).

Description of Agenda Item:

On June 26, 2018, the Town Council approved an agreement with BRW for architectural and engineering design services related to the Public Safety Complex, Phase 1 (Police Station and Dispatch Facility) project. With the opening of the new facility in October 2020, Phase I is complete.

On March 5, 2020, the Town Manager executed an agreement with BRW to conduct a feasibility study for the new fire station and fire administration. The project scope included:

- space programming;
- building code and zoning ordinance analysis;
- · site analysis and planning;
- floor plans and construction narratives; and
- budget planning.

Staff recommends retaining the services of BRW to provide architectural and engineering design services for Public Safety Complex, Phase 2 (Central Fire Station and Fire Administration). The proposed agreement with BRW includes the architectural, structural and MEP (mechanical, electrical, and plumbing) design of the building, engineering services for the on-site improvements, interior design, necessary consultants to assist with acoustical, technology and security design, and construction administration services. The proposed schedule for the project is as follows:

March 2021: Start Schematic Design

November 2021: Complete Construction Documents

January 2022: Commence ConstructionMarch-May 2023: Substantial Completion

Based on March-May 2023 Substantial Completion, the facility would be operational in Summer 2023.

BRW has requested that the Town select a Construction Manager At Risk (CMAR) no later than May 2021. Therefore, the Town anticipates issuing the RFP to select a CMAR as soon as possible, in order to benefit from pre-construction services.

Budget Impact:

The total project budget for Public Safety Complex, Phase 2 (Central Fire Station and Fire Administration) is \$18,000,000. The following is the current breakout of the budget:

Professional Services: \$ 1,605,000
Other Development Costs: \$ 820,000
Construction of Facility: \$14,300,000
Furniture, Fixtures & Equipment: \$ 1,275,000

The total cost for services with BRW is \$1,503,100 and will be funded from 750-5410-10-00-2019-FC. This fee includes \$1,287,000 for basic services as outlined in Article 11.1, \$196,100 for additional services as outlined in Article 11.2, and \$20,000 for reimbursable expenses as outlined in Article 11.8.1 of the Agreement.

As with previous professional services agreements for the construction of facilities, if the construction cost of this project exceeds \$14,300,000, then the professional services fees to BRW will be increased at a percentage of 8.85% times the increased amount of the construction cost exceeding \$14,300,000.

Legal Obligations and Review:

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

Attached Documents:

1. Agreement

Town Staff Recommendation:

Town staff recommends authorizing the Town Manager execute an agreement between Brown Reynolds Watford Architects (BRW) and the Town of Prosper, Texas, related to architectural and engineering design services for the Public Safety Complex, Phase 2 (Central Fire Station and Fire Administration).

Proposed Motion:

I move to authorize the Town Manager to execute an agreement between Brown Reynolds Watford Architects (BRW) and the Town of Prosper, Texas, related to architectural and engineering design services for the Public Safety Complex, Phase 2 (Central Fire Station and Fire Administration).

MAIA Document B133 - 2014

Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

AGREEMENT made as of the <u>Twenty-third</u> day of <u>February</u> in the year <u>Two Thousand Twenty-One.</u>

(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner: (Name, legal status, address and other information)

Town of Prosper 250 W. Main St. P.O. Box 307 Prosper, TX 75078

and the Architect:

(Name, legal status, address and other information)

Brown Reynolds Watford Architects, Inc. (BRW) 3535 Travis Street, Suite 250 Dallas, TX 75204

for the following Project: (Name, location and detailed description)

Town of Prosper Public Safety Complex, Phase 2 (Central Fire Station and Fire Administration)
911 Safety Way
Prosper, Texas 75078

The Construction Manager (if known): (Name, legal status, address and other information)

Unknown at this time.

The Owner and Architect agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Documents A201™-2007, General Conditions of the Contract for Construction; 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; and A134™-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 without a Guaranteed Maximum Price. AIA Document A201™-2007 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1. (Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution," or "to be determined later by mutual agreement.")

PROJECT SCOPE AND BUDGET

The Project Scope and Owner's Program is the Central Fire Station and Fire Administration offices with an Emergency Operations Center (EOC) and is defined by BRW Architects' Town of Prosper Feasibility Study for Prosper Fire Administration, dated May 27, 2020. The project construction budget proposed by the Feasibility Study was \$14,300,000 with a total project budget of \$18,000,000. The project is Phase 2 of the Public Safety Complex located west of the Police Station as roughly defined by Pacheco Koch Exhibit D Public Safety Facilities Site Plan, dated Dec. 2018 in the Feasibility Study.

We also understand the Owner intends to contract with a Construction Manager at Risk (CMaR) to construct the building and provide pre-construction cost estimating and scheduling services. The Architect will prepare one set of Contract Documents for a single-phase of construction, in lieu of "fast-track" construction with multiple construction phases.

SCOPE OF SERVICES

Basic Services

- Architectural design.
- Interior design, including all interior finishes and lighting, along with generic furniture plans to assist with locating electrical and communication outlets.
- Selection and specification of kitchen and laundry equipment.
- Site signage, building signage and interior room signage.

Init.

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User Notes:

- Structural engineering, including a Structured slab foundation and structural framing design. Cold-formed framing shall be a performance specification.
- Mechanical, electrical, and plumbing engineering, including mechanical HVAC and controls, electrical power and lighting, plumbing domestic water, sanitary, and gas. Fire sprinkler and fire alarm system shall be a performance specification.
- One (1) construction cost estimate at 50% Schematic Design. We expect the CMaR will produce a construction cost estimates for the 100% Schematic Design submittal and all other remaining submittals shown below.
- Anticipated submittals and Owner review meetings as shown below.
 - o 50% Schematic Design
 - o 100% Schematic Design
 - o 100% Design Development
 - o 50% Construction Documents
 - o 95% Construction Documents
 - o 100% Construction Documents (no Owner review meeting)
- Compliance with applicable codes and ordinances, including a pre-development meeting with Town departments related to site and building development.
- BRW will provide the Contractor with the Revit model (upon execution of BRW's waiver form) for their use in preparing shop drawing submittals. BRW will not prepare background drawings for the Contractor.
- TDLR TAS (Texas Accessibility Standards) response to plan review comments. Also, coordination of the site inspection at the completion of construction. TDLR fees are included in the reimbursable expense allowance.
- The design team will provide the below minimum number of site observation visits during construction to become generally familiar with the progress and quality of the work completed.

0	Architect	2	times per month, plus as needed for
		archit	ect/engineer to resolve field conditions
0	Civil Engineer	3	times total
0	Landscape Architect	3	times total
0	Structural Engineer	3	times total
0	MEP/IT/AV Engineer	6	times total (excludes IECC
	Car		Commissioning site visits)
0	Security Consultant Basic Services	8	times total
0	Security Consultant Performance Verification and Training	5	times total

- Record Documents reflecting contract changes from accepted contingency expenditures or change orders. The
 Contractor shall provide digital scans of the Contractor's field-set construction documents and specifications
 reflecting field changes. Incorporating the Contractor's field changes into the contract documents shall be an
 Additional Service.
- Assistance with the selection of the Construction Manager at Risk (CMaR), including review and comment on the Request for Qualifications (RFQ), evaluation and scoring of the CMaR Qualification submittals and participation in the CMaR interviews. The Owner will prepare the RFQ and evaluation criteria, communicate with the CMaR candidates, schedule events, and negotiate and prepare the construction contract.
- Return of Contractor RFIs and submittals within 14 calendar days
- Town Council meetings as appropriate.

Additional Services

- Civil engineering, including paving, grading, drainage, water and sanitary sewer plan, dimension control, and erosion control.
- Storm Water Management (SWM) Plan including a SWM Plan for the proposed development based on currently published Town design criteria. The information developed in this task is intended for submittal to the Town during the permitting process. Landscape and irrigation design meeting Town zoning landscape ordinance. The SWM Plan includes:
 - o Existing Conditions and Layout Map showing existing topography, existing soil types, boundaries of existing vegetation, existing major utilities, and easements
 - Orainage Area Map showing the proposed development, offsite drainage areas, delineation of watershed boundaries, file numbers for existing developments and drainage facilities, downstream constrictions, location of proposed structural storm water controls (if any)

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- o Analysis of hydrologic and hydraulic impacts of the proposed development
- o Site SWM Plan showing final hydrology, identification of storm water controls with summary calculations, delineation of adequate outfalls, zones of influence, required mitigation and structural details and specifications as required.
- Landscape Architectural and Irrigation Design
 - o Landscape and hardscape design, construction documents and technical specifications showing reasonable modifications to the proposed site grading, landscape plantings, and hardscape design, for building entries, plazas, vehicular entries, parking lots, and other natural site areas.
 - <u>Irrigation design</u>, construction documents and technical specifications utilizing Town water source including head and pipe layout and sizing, sleeving layout and sizing, controller location, details and all other elements pertaining to irrigation installation including information for compliance to 2019 TECQ requirements and Town of Prosper's Irrigation specifications.
- Civil site plan and landscape plan submittal to the Planning Department including a Pre-Application Conference, Development Plan Application, Conferences and Modifications during Town Review and action by the Planning and Zoning Commission. Based on the Client approved site plan, prepare a Site Plan Application in accordance with Town criteria, coordinate the submittal and processing of the application, and provide professional representation at the Planning and Zoning Commission.
- Property Replat incorporating new Phase 2 Fire Station improvements into the previously filed plat for the Phase 1 Police Station. Services include filing the final plat with the county.
- Storm shelter design
 - o Architectural, structural and MEP design.
 - o Storm shelter 3rd party design review including:
 - Review of architectural, structural, mechanical, electrical, and plumbing construction documents for code compliance at 50% CD, 95% CD and 100% CD phases.
 - Written report listing items not incorporated into the documents at the end of each review.
 - Letter of compliance at the completion of design.
 - Up to four (4) meetings to discuss the project and findings.
- IECC systems commissioning
 - o Provide required commissioning activities as described in Section C408 of the IECC which in general requires commissioning for mechanical systems, service water heating systems, lighting systems, and associated automatic controls.
 - O Develop System Readiness Checklist for the systems outlined below. Contractor shall review each item on the checklist and verify that it has been completed. Each piece of equipment will have its own specific checklist. All documentation is to be prepared and filled out by the Contractor. Contractor shall be ready and provide equipment specific technicians to conduct the required tests for engineer to witness.
 - o Review Start-up Checklist and ensure contractor has completed all necessary manufacturer requirements.
 - O Develop Functional Performance Tests for the systems outlined below. These series of tests will require the equipment to be fully tested versus the performance requirements of the design. The system will be tested under normal and emergency situations.
 - Develop and maintain Corrective Actions Log based on errors found in construction and/or during testing of equipment. Provide final report outlining issues and outstanding items
- Structured cabling
 - o Design a structured cabling (telephone/data) and cable TV system that will extend throughout the facility.
 - Locate and layout the Main Distribution Frame (MDF) room and, if necessary, the Intermediate Distribution
 Frame (IDF) room (excludes data center design).
 - o Confirm the quantity, type and location of outlets and wireless access points throughout the facility
 - Prepare construction documents and technical specifications.
 - Exclusions: This work does not include design and specification of networking electronics (i.e., switches, routers, wireless access points, hubs, etc.) for communication and computer hardware.
- Audio Visual systems
 - o Provide functional one-line drawings and conduit distribution requirements for the technical systems showing interconnection of equipment.
 - o Provide infrastructure, power, and HVAC requirements for each of the systems.
 - Work with the Owner and Architect for the integration of the required system components into the architectural and interior design.

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- o Prepare construction documents and technical specifications for the sound and AV systems equipment and installation techniques.
- Radio and Alerting Systems infrastructure design assistance
 - Through a design-build effort with the Town's vendor, design the conduit infrastructure associated with the radio system as coordinated with the architectural and interior design.
 - Coordinate power requirements for each system based on information from the Town's vendor.
 - o Prepare construction documents defining the conduit infrastructure.
- Video Surveillance and Access Control systems
 - o Develop a security program with all appropriate parties for the video surveillance and access control systems.
 - Owner's security staff, and past project experience.

 (Exclusion: This work does not include "security consulting," which is normally taken to include review of
 - criminal activity in the project vicinity, security staffing studies, and threat assessment studies, etc.)

Video Surveillance systems

- O Design and prepare construction documents and technical specifications for the surveillance system that meets the security program and allows monitoring of the cameras and recording of the images surveillance as appropriate.
- o Identification, location, and interconnection of exterior and interior cameras at designated sensitive points throughout the facility and site.

Access Control systems

- O Design and prepare construction documents and technical specifications for the access control system that meets the security program and allows monitoring and control of the facility as coordinated with the architectural design elements.
- Construction Administration services provided beyond sixty (60) calendar days after the Substantial Completion date established in the original Construction Contract. In such cases, the Architect shall receive a monthly lump sum Additional Services fee equal to the Architect's construction phase services fee divided by the total number of construction months in the original Construction Contract.

Owner-Provided Design Services

The Owner or the Owner's vendors or consultants shall furnish the following design services or building systems or authorize the Architect to furnish them as Optional Services, when such services are required to complete the project or desired by the Owner.

- Laboratory construction materials testing / inspections during construction.
- Site environmental surveys, assessments, and remediation.
- Boundary and topographic survey updates from Police Station survey
- Geotechnical survey, including a recommended minimum four (4) deep borings for the building(s) foundation design recommendations, two (2) shallow borings for the paving design recommendations.
- The design team shall use the boundary and topographic survey and flood plain analysis completed for the Police Station project.
- The Owner shall amend the Planned Development (PD) as required for the new fire station.
- Civil coordination with the Corps of Engineers regarding floodplain mitigation, including a Letter of Map Revision (LOMR) if required.
- Property zoning Special Use Permits (SUPs), if required.
- Off-site, public right-of-way improvements, including road and water utilities design.
- 2015 International Energy Conservation Code, Section C408 required building commissioning including:
 - o Lighting controls and daylighting controls.
 - o Plumbing service hot water systems.
- Traffic studies and traffic signals.
- Fueling and canopy systems design.
- Computer, telephone, communication, UPS, radio, alerting, antenna and public-address systems design, equipment selection and procurement. (Architect shall provide electrical power and empty conduit as directed by the Owner).
- Furniture, office equipment, fitness equipment, and fire equipment selection and procurement, including an extractor, SCBA filling station, air compressor, and any other items not specified under this Agreement.

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CM at Risk Provided Services

The CM at Risk shall furnish the following services or the Owner shall furnish them or the Owner shall authorize the Architect to furnish them as Additional Services, when such services are required to complete the project.

- Pre-construction cost estimates as a minimum at 100% SD, 100% DD, 50% CD and 95% CD phases.
- Storm water pollution prevention plan (SWPPP).
- Record Drawings consisting of field changes from the CMaR's field set of drawings and specifications drawn into the digital contract documents.

Exclusions from Architect's Services

The below services are not anticipated at this time, however, the Architect could provide them as Additional Services, if required to complete the project or desired by the Owner.

- Off-site engineering.
- Subsurface utility engineering (SUE).
- Underfloor and building perimeter drainage systems.
- Trench safety design.
- Retaining wall design over three feet (3') high.
- · Historical cultural resources assessment.
- Waters of the United States delineation.
- Threatened and endangered species habitat assessment.
- Fountain design.
- Glass curtainwall consulting.
- Building envelope (waterproofing) consulting.
- Food service consulting.
- Free-standing radio antennas & towers, other than building mounted antennas
- Leadership in Energy and Environmental Design (LEED) registration and certification.
- Energy modeling, utility bill estimates and life cycle cost analysis (LCCA).
- Data Center design.
- Coordination of artwork.
- Preparation or assistance with multiple or fast track drawing/bid packages.
- Photo-quality architectural renderings and architectural models, beyond our in-house renderings.
- Construction site observation visits beyond the number listed herein.
- Public presentations, other than Town Council meetings.

§ 1.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

Refer to Article 1.1.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

Refer to Article 1.1.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1: (Provide total and, if known, a line item breakdown.)

Refer to Article 1.1.

User Notes:

Init.

1

- § 1.1.4 The Owner's anticipated design and construction schedule:
 - .1 Design phase milestone dates, if any:

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Anticipated start of design: March 2021
Anticipated completion of Construction Documents: November 2021

2 Commencement of construction:

January 2022

3 Substantial Completion date or milestone dates:

March-May 2023

.4 Other:

None.

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement: (Indicate agreement type.)

- [!..] AJA 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.
- [] AJA Document A134-2009, 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 without a Guaranteed Maximum Price.
- § 1.1.6 The Owner's requirements for accelerated or fast-track scheduling or phased construction are set forth below: (List number and type of bid/procurement packages.)

None.

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as the Owner's sustainable objective, if any, or historic preservation requirements.)

None.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5: (List name, address and other information.)

Stuart Blasingame

Town of Prosper Fire Chief

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

(List name, address and other information.)

Bryan Ausenbaugh

Town of Prosper Fire Marshal

§ 1.1.10 The Owner will retain the following consultants:

(List name, legal status, address and other information.)

1 Construction Manager:

(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1)

Unknown at this time.

.2 Cost Consultant (if in addition to the Construction Manager):
(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.3.6, 3.3.7, 3.4.2, 3.4.3, 3.5.4, 3.5.5, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

Employed by Architect.

.3 Land Surveyor:

Employed by Owner.

.4 Geotechnical Engineer:

Alliance Geotechnical Group 3228 Halifax Street Dallas, TX 75247

.5 Civil Engineer:

Employed by Architect.

.6 Other consultants:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.)

Construction Materials Testing Laboratory - D&S Engineering Labs

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4: (List name, address and other information.)

Fred Clifford, AIA, Director Brown Reynolds Watford Architects, Inc. (BRW)

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2: (List name, legal status, address and other information.)

- § 1.1.12.1 Consultants retained under Basic Services:
 - .1 Structural Engineer:

Init.

JQ Engineering, LLP
2105 Commerce Street, Suite 200
Dallas, TX 75201
- John Hoenig, P.E., Principal

.2 Mechanical Engineer: .2 Mechanical, Electrical and Plumbing Engineer:

M.E.P. Consulting Engineers, Inc.

2928 Story Road West

Irving, TX 75038

- Adam Nemati, P.E., LEED AP, Principal

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User Notes:

.3 Public Safety Specialist:

NOT USED

.3 Electrical Engineer:

.4 Cost Estimating

CCM Construction Services, LLC

P.O. Box 120455

Arlington, TX 76012

-John Coakley, CPE, AVS, Estimator

§ 1.1.12.2 Consultants retained under Additional Services:

Civil Engineering
Hart Gaugler + Associates
12801 N. Central Expressway, Suite 1400
Dallas, TX 75243
John D. Blacker, P.E., Principal

Landscape Architects and Irrigation
SMR Landscape Architects, Inc.
1708 N. Griffin Street
Dallas, TX 75202
Steven M. Rahn, President

AV, IT and Security Consulting
Howell Design Group
906 W. McDermott Dr, Suite 116-133
Allen, Texas 75013
Charlie Howell, President

3rd Party Storm Shelter Design Review
WGI
8144 Walnut Hill Lane
Dallas, TX 75231
Mike Oler, P.E., Structural Market Leader

§ 1.1.13 Other Initial Information on which the Agreement is based:

None.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

- § 2.1 The Architect shall provide the professional services as set forth in this Agreement.
- § 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.
- § 2.2.1 The Owner and the Architect acknowledge that the Architect's standard of care is one of reasonable professional diligence and that certain increased costs and changes may be required because of possible ambiguities

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and inconsistencies in the drawings and specifications prepared by the Architect or its consultants. In recognition of the foregoing, the Owner shall set aside in the Project Budget a contingency equal to 2% of the Construction Cost of the Work as a contingency to be used, as required, to pay for the increased or additional costs related to any ambiguities or inconsistencies in the drawings and specifications. The Contingency is in addition to any construction contingency or other separate Owner contingencies and may not be used to fund costs that are typically funded by such other contingencies (such as, changed site conditions, subcontractor default or acceleration costs). The Owner shall make no claim against the Architect or its consultants for any costs, expenses or damages to install an omitted item or an item that provides a betterment, upgrade or enhancement of the Project, including necessary modifications to the Work before it was installed. The Architect shall modify and reissue the contract documents to correct ambiguous, inconsistent or omitted Work as the limit of the Architect's responsibility. The Owner shall be not responsible for the Architect's errors regarding installed Work.

- § 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.
- § 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.
- § 2.5 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.
- § 2.6 Insurance. The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost as set forth in Section 11.8.3.

Refer to Exhibit B Insurance Requirements Professional Services

- § 2.6.1 Commercial General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage.
- **§ 2.6.2** Automobile Liability covering vehicles owned by the Architect and non-owned vehicles used by the Architect with policy limits of not less than (\$) per claim and (\$) in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.
- § 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.6.1 and 2.6.2.
- § 2.6.4 Workers' Compensation at statutory limits and Employers Liability with policy limits of not less than (\$).
- § 2.6.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.
- § 2.6.6 The Owner shall be an additional insured on the Architect's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.
- § 2.6.7 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as additional insureds on the Commercial General Liability, Automobile Liability, and any excess policies.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

- § 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.
- § 3.1.1 The Architect shall manage the Architect's services, consult with the Owner and the Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.
- § 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.
- § 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, and (5) for approval of submissions by authorities having jurisdiction over the Project.
- § 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.
- § 3.1.5 Once the Owner, Construction Manager, and Architect agree to the time limits established by the Project schedule, the Owner and Architect shall not exceed them, except for reasonable cause.
- § 3.1.6 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made without the Architect's approval.
- § 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.
- § 3.1.8 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.
- § 3.2 Evaluation of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate § 3.2.1 Prior to the Owner's acceptance of the Guaranteed Maximum Price proposal or Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner on all communications related to substitution requests, clarifications, and interpretations.
- § 3.2.2 During one of the design phases, the Owner will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate, from the Construction Manager. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.3 Upon authorization by the Owner, and subject to Section 4.3.1.15, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

- § 3.3.1 The Architect shall review the program and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.
- § 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.
- § 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the Owner's sustainable objective, if any. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.
- § 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.
- § 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval and the Construction Manager's review. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
- § 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other sustainable design services under Article 4.
- § 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.
- § 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.
- § 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, identify agreed upon adjustments to the Project's size, quality, or budget, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.
- § 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.4, the Architect

shall prepare Design Development Documents for the Owner's approval and Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

- § 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.
- § 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

- § 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.
- § 3.5.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.
- § 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications and may include sample forms.
- § 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.
- § 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and obtain the Owner's approval of the Construction Documents.

§ 3.6 Construction Phase Services

§ 3.6.1 General

- § 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201TM_2007, General Conditions of the Contract for Construction. If the Owner and Construction Manager modify AIA Document A201–2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.
- § 3.6.1.2 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or the Owner's issuance of a Notice to Proceed to the Construction Manager. Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

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§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

§ 3.6.2 Evaluations of the Work

- § 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, 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 shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall 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, and (2) defects and deficiencies observed in the Work.
- § 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, 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 Construction Manager, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.
- § 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.
- § 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.
- § 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

- § 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's 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 (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.
- § 3.6.3.2 The issuance of a Certificate for Payment shall 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 Construction

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Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

- § 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule 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.
- § 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Construction Manager'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. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager's responsibility. 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.
- § 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Construction Manager that bear such professional's seal and signature when submitted to the Architect. 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.
- § 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.
- § 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

- § 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.
- § 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager 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 issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

- § 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.
- § 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.
- § 3.6.6.4 The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.
- § 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 **ADDITIONAL SERVICES**

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. (Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility	Location of Service Description
	(Architect, Owner	(Section 4.2 below or in an exhibit
	or	attached to this document and
	Not Provided)	identified below)
§ 4.1.1 Assistance with selection of the Construction	Architect	Basic Service
Manager		
§ 4.1.2 Programming (B202™_2009)	<u>Architect</u>	Basic Service
§ 4.1.3 Multiple preliminary designs	<u>Architect</u>	Basic Service
§ 4.1.4 Measured drawings	Not Applicable	
§ 4.1.5 Existing facilities surveys	Not Applicable	
§ 4.1.6 Site evaluation and planning (B203 TM _2007)	<u>Architect</u>	Basic Service
§ 4.1.7 Building information modeling (E203 TM _2013)	<u>Architect</u>	Basic Service
§ 4.1.8 Civil engineering	Architect	Additional Service
§ 4.1.9 Landscape design	<u>Architect</u>	Additional Service
§ 4.1.10 Architectural interior design (B252 [™] _2007)	Architect	Basic Service
§ 4.1.11 Value analysis (B204 [™] _2007)	<u>CMAR</u>	
§ 4.1.12 Detailed cost estimating	<u>CMAR</u>	
§ 4.1.13 On-site project representation (B207 TM _2008)	<u>CMAR</u>	
§ 4.1.14 Conformed construction documents	Not Provided	
§ 4.1.15 As-designed record drawings	<u>Architect</u>	Basic Service
§ 4.1.16 As-constructed record drawings	<u>CMAR</u>	
§ 4.1.17 Post occupancy evaluation	Not Provided	
§ 4.1.18 Facility support services (B210 [™] –2007)	Not Provided	
§ 4.1.19 Tenant-related services	Not Provided	
§ 4.1.20 Coordination of Owner's consultants	Owner	
§ 4.1.21 Telecommunications/data	Architect	A ddisin-1 Ci-
Telecommunications/Data/AV/Security design	Architect	Additional Service
§ 4.1.22 Security evaluation and planning (B206 [™] _2007)	Not Provided	
§ 4.1.23 Commissioning (B211 TM –2007)	Architect	IECC Minimum Commissioning Only
§ 4.1.24 Extensive environmentally responsible design	Not Provided	

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§ 4.1.25 LEED® certification (B214™–2012)	Not Provided	
§ 4.1.26 Historic preservation (B205™–2007)	Not Applicable	
§ 4.1.27 Furniture, furnishings, and equipment design (B253™–2007)	Owner	
Refer to Article 1 for other additional services.		

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

Refer to Article 1.1.

In regard to 4.1.22, the Architect shall provide security system design, but not provide a security risk or threat assessment or recommendations.

- § 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.
- § 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:
 - .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
 - .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
 - .3 Services necessitated by the Owner's request for extensive sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
 - .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
 - .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
 - .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
 - .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
 - .8 Preparation for, and attendance at, a public presentation, meeting or hearing:
 - .9 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
 - .10 Evaluation of the qualifications of bidders or persons providing proposals;
 - .11 Consultation concerning replacement of Work resulting from fire or other cause during construction;
 - .12 Assistance to the Initial Decision Maker, if other than the Architect;
 - .13 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method;
 - .14 Services necessitated by the Owner's delay in engaging the Construction Manager; and
 - .15 Making revisions in Drawings, Specifications, and other documents resulting from substitutions included in the agreed to assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.
- § 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner

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subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Construction Manager's submittal out of sequence from the submittal schedule agreed to by the Architect;
- Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Construction Manager-prepared coordination drawings, or prior Project correspondence or documentation;
- 3 Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.
- § 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:
 - (—) Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager. The Architect's Basic Services for review of Construction Manager's submittals shall be limited to an initial submittal and one resubmittal. Services by the Architect for review of additional resubmittals shall be an Additional Service. It shall be the responsibility of the Construction Manager to provide complete thorough submittals. The Architect will not be held responsible for construction delays resulting from submittals that must be returned to the Construction Manager as rejected because of significantly incomplete or inaccurate information.
 - .2 (—) Twice monthly visits to the site by the Architect over the duration of the Project during construction
 - .3 (—)One (1) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
 - .4 (<u>) One (1)</u> inspections for any portion of the Work to determine final completion
- § 4.3.4 If the services covered by this Agreement have not been completed within thirty (30) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

- § 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.
- § 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.
- § 5.3 The Owner shall furnish the services of a Construction Manager that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.
- § 5.4 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter

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agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

- § 5.4.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.
- § 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.
- § 5.6 The Owner-Architect shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written 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.
- § 5.7 The Owner 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.
- § 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.
- § 5.9 The Owner or Construction Manager shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, vacuum chamber water testing around windows, air barrier testing at the building envelope, concrete testing of cylinders, slump, temperature, air entertainment and other concrete testing, concrete reinforcing, mortar testing, steel bolt and weld inspection/tests, tests for air and water pollution, and tests for hazardous materials.
- § 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.
- § 5.11 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.
- § 5.12 The Owner shall contemporaneously provide the Architect with any communications provided to the Construction Manager about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.
- § 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

User Notes:

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

- § 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Managers' general conditions costs, overhead, and profit. The Cost of the Work does not include the compensation of the Architect, the compensation of the Construction Manager for Preconstruction Phase services, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.
- § 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and may be adjusted throughout the Project as required under Sections 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.
- § 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.
- § 6.3.1 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect shall work cooperatively with the Construction Manager to conform the cost estimates to one another.
- § 6.3.2 Subject to Section 4.3, if the Owner engages a Cost Consultant and a discrepancy exists between the Construction Manager's estimate and the Cost Consultant's estimate, the Architect shall assist the Cost Consultant and Construction Manager as necessary to conform the estimates to one another.
- § 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.
- § 6.5 If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall
 - .1 give written approval of an increase in the budget for the Cost of the Work;
 - .2 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
 - .3 implement any other mutually acceptable alternative.
- § 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.
- § 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

ARTICLE 7 COPYRIGHTS AND LICENSES

- § 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect 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.
- § 7.2 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 shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.
- § 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.
- § 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.
- § 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

- § 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.
- § 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.
- § 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The

Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

- § 8.1.4 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.
- § 8.1.5 Risk Allocation. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE OWNER AND THE ARCHITECT, THE RISKS HAVE BEEN ALLOCATED SUCH THAT THE OWNER AGREES, TO THE FULLEST EXTENT NOT PROHIBITED BY LAW, TO LIMIT THE LIABILITY OF THE ARCHITECT AND THE ARCHITECT'S CONSULTANTS TO THE OWNER FOR ANY AND ALL CLAIMS, LOSSES, COSTS, AWARDS, DAMAGES OF ANY NATURE WHATSOEVER OR CLAIMS OR EXPENSES FROM ANY CAUSE OR CAUSES, INCLUDING ATTORNEY'S FEES AND COSTS AND EXPERT-WITNESS FEES AND COSTS, SO THAT THE TOTAL AGGREGATE LIABILITY OF THE ARCHITECT AND THE ARCHITECT'S CONSULTANTS TO ALL THOSE ENTITIES NAMED ABOVE SHALL NOT EXCEED THE AMOUNT OF INSURANCE COVERAGE INDICATED UNDER PROFESSIONAL LIABILITY ON THE ATTACHED ARCHITECT'S CERTIFICATE OF INSURANCE AND IN ARTICLE 12.1. SUCH CLAIMS AND CAUSES OF ACTION INCLUDE, BUT ARE NOT LIMITED TO, GROSS NEGLIGENCE, PROFESSIONAL ERRORS AND OMISSIONS, STRICT LIABILITY, OR BREACH OF CONTRACT OR WARRANTY, ADDITIONAL LIMITS OF LIABILITY MAY BE MADE A PART OF THIS AGREEMENT AS A REIMBURSABLE EXPENSE TO THE OWNER IF REQUIRED.
- § 8.1.6 To the extent authorized by Texas Law, the Owner agrees with Architect to defend, indemnify and hold harmless the Architect from any and all costs related to Architect's employees having to prepare for or participate in any subpoena, deposition, mediation, arbitration or trial between Owner's Contractor and any of that Contractor's subcontractors or other person or entity related to the project (collectively "subcontractor") or any aspect of the project (collectively "dispute"). Owner shall reimburse Architect for employee's time spent in preparation for, travel to and attendance at such deposition, mediation, arbitration, trial and/or in responding to a subpoena at that employee's standard hourly rate and within 30 days of submission of Architect's invoice for same. Owner shall prepay Architect a flat fee of \$750 for making its files available to the Contractor or Contractor's subcontractor(s). Owner shall reimburse Architect for its legal fees (if any) involved in connection with any such dispute within 30 days of submission of Architect's invoice for same. The Owner shall cause the Contractor, through the Owner-Contractor agreement to have similar provisions.

§ 8.2 Mediation

- § 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. mediation. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.
- § 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them 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 of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution 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 proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.
- § 8.2.3 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.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect 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, the dispute will be resolved in a court of competent jurisdiction.)

[]	Arbitration pursuant to Section 8.3 of this Agreement
[<u>X</u>]	Litigation in a court of competent jurisdiction , Collin County, Dallas, TX
[]	Other: (Specify)

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement any claim, dispute or other matter in question arising out of or related to this Agreement 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 this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 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, dispute or other matter in question 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, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 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).

§ 8.3.4.2 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 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.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of

services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

- § 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.
- § 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.
- § 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.
- § 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.
- § 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.
- § 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.
- § 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

- § 10.1 This Agreement 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 8.3. located.
- § 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2007, General Conditions of the Contract for Construction, except as modified in this Agreement. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.
- § 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect 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 other.
- § 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.
- § 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.
- § 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

- § 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.
- § 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Based on the project scope and scope of services described in Article 1.1, Brown Reynolds Watford Architects proposes the lump sum fees, plus reimbursable expenses, as described below.

Basic Services Fee \$1,287,000.00

NOTE: The above fees are based on a \$14.3 million construction contract GMP for the site and building work. Should the final approved GMP exceed the \$14.3 million amount, the Architect's fees shall be increased at 8.85% times the additional construction contract amount.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Additional Services Fees	
•Civil engineering	\$ 44,500.00
•Storm Water Management Plan	\$ 3,200.00
•Landscape Architecture and Irrigation Design	\$ 16,500.00
•Site Plan and Landscape Plan Submittal	\$ 4,200.00
Property Plat Revisions	\$ 7,000.00
•Storm Shelter Design	
Architectural Design	\$10,000.00
Structural Design	\$15,000.00
MEP Design	\$ 4,000.00
3rd Party Peer Design Review	\$ 14,100.00
•AV, IT & Security Consulting:	
Basic Services	\$ 47,600.00
Performance Verification and Training	\$ 10,000.00
•IECC Minimum Commissioning	\$ 20,000.00
Total Additional Services Fee	\$196,100.00

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation.)

Negotiated lump sum fees and reimbursable expenses or at the hourly rates in Article 11.7.

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- § 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (-%), ten percent (10%), or as otherwise stated below:
- § 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Pricing Phase Construction Phase	Five Twenty	percent (<u>5</u> <u>20</u>	<u>%)</u> %)
Total Basic Compensation	one hundred <u>One</u> Hundred	percent (100	%)

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, the Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services as appropriate.

- § 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the Owner-accepted Guaranteed Maximum Price Amendment or Control Estimate, as applicable, or (2) if the Guaranteed Maximum Price proposal or Control Estimate has not been accepted by the Owner, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.
- § 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
Brown Reynolds Watford Architects, Inc. Principal Project Director Project Manager Project Architect Senior Interior Designer Architect	\$270.00 per hour \$230.00 per hour \$175.00 per hour \$150.00 per hour \$150.00 per hour \$125.00 per hour
Project Coordinator Interior Designer Intern Architect Administration Staff	\$115.00 per hour \$100.00 per hour \$100.00 per hour \$ 90.00 per hour
JO Engineering, LLP Partner Principal Senior Project Manager Engineering Technical Lead Project Manager	\$260.00 per hour \$225.00 per hour \$185.00 per hour \$195.00 per hour \$160.00 per hour

Senior Project Engineer	\$145.00 per hour
Project Engineer	
	\$130.00 per hour
Senior Technician	\$125.00 per hour
<u>Technician</u>	\$ 95.00 per hour
Administrative	\$ 80.00 per hour
MEP Consulting Engineers	
<u>Principal</u>	\$250.00 per hour
Project Manager	\$185.00 per hour
Quality Assurance/Quality Control Mana	
Mechanical Engineer	\$160.00 per hour
Electrical Engineer	\$160.00 per hour
	φτου.co per nour
Hart Gaugler + Associates	
Principal Engineer	\$185.00 per hour
Project Manager	\$160.00 per hour
Graduate Engineer	\$125.00 per hour
CAD Technician	\$ 95.00 per hour
CAD Technician	<u>\$ 95.00 per nour</u>
SMR Landscape Architects	
Principal Design/Administration	\$220.00 per hour
Associate/RLA	\$200.00 per hour
ASSOCIATE/ICLA	
Irrigation Tachnician	\$180.00 per hour
Irrigation Technician	\$180.00 per hour
Irrigation Technician	\$180.00 per hour
	\$180.00 per hour
Howell Design Group	\$180.00 per hour \$175.00 per hour
Howell Design Group	
Howell Design Group Principal/Owner WGI	\$175.00 per hour
Howell Design Group Principal/Owner	\$175.00 per hour \$275.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer	\$175.00 per hour \$275.00 per hour \$250.00 per hour
Howell Design Group Principal/Owner WGI	\$175.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager	\$175.00 per hour \$275.00 per hour \$250.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer	\$175.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager	\$175.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer	\$175.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour
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Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$160.00 per hour \$150.00 per hour \$145.00 per hour \$145.00 per hour \$140.00 per hour \$130.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Designer Engineer Intern Engineer Intern Chief Designer	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$160.00 per hour \$150.00 per hour \$145.00 per hour \$145.00 per hour \$140.00 per hour \$130.00 per hour \$100.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern Chief Designer Designer	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour \$150.00 per hour \$145.00 per hour \$140.00 per hour \$140.00 per hour \$100.00 per hour \$100.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern Chief Designer Designer Field Engineer	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour \$160.00 per hour \$145.00 per hour \$145.00 per hour \$140.00 per hour \$100.00 per hour \$100.00 per hour \$100.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern Chief Designer Designer	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour \$150.00 per hour \$145.00 per hour \$140.00 per hour \$140.00 per hour \$100.00 per hour \$100.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern Chief Designer Designer Field Engineer	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour \$160.00 per hour \$145.00 per hour \$145.00 per hour \$140.00 per hour \$100.00 per hour \$100.00 per hour \$100.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern Chief Designer Designer Field Engineer Field Inspector	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour \$160.00 per hour \$145.00 per hour \$145.00 per hour \$140.00 per hour \$100.00 per hour \$100.00 per hour \$100.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern Chief Designer Designer Field Engineer Field Inspector	\$275.00 per hour \$250.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour \$160.00 per hour \$145.00 per hour \$140.00 per hour \$100.00 per hour \$100.00 per hour \$100.00 per hour \$100.00 per hour \$100.00 per hour \$150.00 per hour
Howell Design Group Principal/Owner WGI Executive Engineer Chief Engineer Senior Project Manager Principal Engineer Project Manager Senior Engineer Senior Project Engineer Project Engineer Senior Designer Engineer Senior Engineer Intern Engineer Intern Chief Designer Designer Field Engineer Field Inspector	\$275.00 per hour \$275.00 per hour \$250.00 per hour \$210.00 per hour \$230.00 per hour \$185.00 per hour \$170.00 per hour \$160.00 per hour \$145.00 per hour \$145.00 per hour \$140.00 per hour \$100.00 per hour \$100.00 per hour \$100.00 per hour

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and Basic, Additional and Optional Services and are estimated at \$20,000.00. However, if they exceed this amount, BRW reserves the right to request an increase to cover the additional expenses over the original amount and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- 1 Transportation and authorized out-of-town travel and subsistence; subsistence outside the DFW area;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's consultants' expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- 11 Other similar Project-related expenditures.
- § 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent (%) ten percent (10%) of the expenses incurred.
- § 11.8.3 If the insurance requirements listed in Section 2.6 exceed the types and limits the Architect normally maintains and the Architect incurred additional costs to satisfy such requirements, the Owner shall reimburse the Architect for such costs as set forth below:

At cost.

§ 11.9 Compensation for Use of Architect's Instruments of Service

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Ten percent (10%) of the remaining consulting fees included in this agreement.

§ 11.10 Payments to the Architect

- § 11.10.1 An initial payment of (\$\(\frac{\\$-\)}{\}\) zero (\(\frac{\\$0}{\}\)) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.
- § 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid <u>sixty (60)</u> 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 Architect. (Insert rate of monthly or annual interest agreed upon.)

%—One and one half% 1.5%

- § 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.
- § 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

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ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

Any element of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, the Owner and the Architect will, in good faith, attempt to replace an invalid or unenforceable provision with on that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas:

The Texas Board of Architectural Examiners (TBAE)
P.O. Box 12337
Austin, Texas 78711
512.305.9000

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect 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 Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B133TM-2014, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- -2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:
- .3 Other documents:
 (List other documents, if any, including additional scopes of service forming part of the Agreement.)

Exhibit B - Insurance Requirements - Professional Services.

This Agreement entered into as of the day and year first written above.

OWNER (Signature)	ARCHITECT (Signature)
Harlan Jefferson, Town Manager Town of Prosper	Gary DeVries, AIA, Principal Brown Reynolds Watford Architects, Inc.
(Printed name and title)	(Printed name and title)

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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 – February 23, 2021

Agenda Item:

Consider and act upon awarding Bid No. 2021-30-B to Tiseo Paving Co., related to construction services for the Fishtrap Road Segment 4 Construction and Segment 1-4 Landscaping Architecture project; and authorizing the Town Manager to execute a construction agreement for same.

Description of Agenda Item:

On January 28, 2021, at 3:00 PM, six (6) bids were received for the project. The project includes the 4-lane extension of Fishtrap Road from Rushing Middle School to east of the driveway to Stuber Elementary School. The project also includes the installation of the Town of Prosper standard median landscaping, irrigation and empty conduit for future installation of median street lighting from Teel Parkway to Stuber Elementary School.

The project was advertised using the A+B Bidding alternative procurement method to allow the Town to award the project to the contractor that offers the best value, taking into consideration the number of days bid. The number of days bid is multiplied by the value of a calendar day as listed below, and added to each bidder's base bid:

Amount of Contract (\$)	Value of a Calendar Day(\$)
\$1,500,000 to \$1,999,999.99	\$500 per day
\$2,000,000 to \$2,999,999.99	\$1,000 per day
\$3,000,000 to \$3,999,999.99	\$1,500 per day
\$4,000,000.00 or more	\$2,000 per day

One contractor submitted an exception to the specifications that does not comply with the requirement to machine pour the concrete roadway pavement. This bid was deemed non-responsive and was not evaluated further.

The verified bid totals ranged between \$2,627,010.55 and \$2,951,951.00. The Engineer's Estimate was \$2,616,392.00. The proposed final completion times ranged from 239 calendar days to 395 calendar days.

The bids were tabulated in accordance with the evaluation criteria to determine the contractor that offered the best value. Tiseo Paving Co., was the firm ranked the highest for the project after consideration of Costs and Time, with a cost of \$2,627,010.55, and time of 284 calendar days for final completion. Tiseo Paving Co., completed the First Street (Craig Street – Coit Road) and Coit Road (US 380 – First Street) Improvements project in 2013 after the original contractor was unable to complete the project. Staff checked the references provided and received positive feedback.

Budget Impact:

The cost for the construction is \$2,627,010.55. The FY 2020-2021 Capital Improvement Program includes \$2,750,000.00 for the construction of the Fishtrap Road Segment 4 Construction and Segment 1-4 Landscaping Architecture project. The funding source is Account No. 750-6610-10-00-2017-ST.

Legal Obligations and Review:

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

Attached Documents:

- 1. Location Map
- 2. Bid Tabulation Summary
- 3. Construction Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council award Bid No. 2021-30-B to Tiseo Paving Co., related to construction services for the Fishtrap Road Segment 4 Construction and Segment 1-4 Landscaping Architecture project, and authorize the Town Manager to execute a construction agreement for same.

Proposed Motion:

I move to award Bid No. 2021-30-B to Tiseo Paving Co., related to construction services for the Fishtrap Road Segment 4 Construction and Segment 1-4 Landscaping Architecture project, and authorize the Town Manager to execute a construction agreement for same.



LOCATION MAP

Fishtrap Road Segment 4 Construction and Segment 1-4 Landscape Architecture







TOWN OF PROSPER						
	BID TABULATION SUMMARY					
Solicitation Number	Bid No. 2021-30-B					
Solicitation Title	Fishtrap Road Segment 4 Construction and Segment 1-4 Landscape Architecture					
Close Date	1/28/2021 3:00PM					
Engineer's Estimate	\$2,616,392.00					

Responding Supplier	Base Bid (A)		Time Value (B)		Total Value
Tiseo Paving Co.	\$	2,627,010.55	\$	284,000.00	\$ 2,911,010.55
McMahon Contracting LP	\$	2,721,546.80	\$	239,000.00	\$ 2,960,546.80
DDM Construction Corporation	\$	2,783,371.20	\$	280,000.00	\$ 3,063,371.20
Mario Sinacola & Sons Excavating, Inc.	\$	2,812,215.85	\$	261,000.00	\$ 3,073,215.85
Reliable Paving, Inc	\$	2,951,951.00	\$	395,000.00	\$ 3,346,951.00

CONTRACT DOCUMENTS AND SPECIFICATIONS FOR

FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE BID NO. 2021-30-B



TOWN OF PROSPER COLLIN COUNTY, TEXAS

TOWN OFFICIALS

Ray Smith, Mayor
Jason Dixon, Mayor Pro-Tem
Craig Andres, Deputy Mayor Pro-Tem
Marcus E. Ray, Place 1
Amy Bartley, Place 3
Meigs Miller, Place 4
Jeff Hodges, Place 5

Harlan Jefferson, Town Manager

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LEGAL NOTICE

The Town of Prosper is accepting competitive sealed bids for BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE. Bids will be accepted online through lonWave.net, the Town's e-procurement system, or in hard copy in the Purchasing Office located in the 3rd Floor Finance Suite of Town Hall, 250 W. First St., Prosper, Texas 75078 until 3:00 P.M. on Thursday, January 28, 2021. Any bids received after this time will not be accepted and will be returned unopened. The bid opening will be held online on Thursday, January 28, 2021 @ 4:00 P.M. To participate in the bid opening, please use the following:

Join Zoom Meeting: https://us02web.zoom.us/j/86528160937

Meeting ID: 865 2816 0937

Dial-in any of these numbers: +1 929 436 2866, +1 312 626 6799, +1 669 900 6833, +1 253 215 8782,

+1 301 715 8592 or +1 346 248 7799

The Project consists of furnishing all labor, equipment and materials (except as otherwise specified), and performing all work necessary for the construction of Grading, Paving, Drainage, and Utility Improvements to Fishtrap Road Segment 4 and the Landscape, Hardscape, and Irrigation Improvements for Fishtrap Road Segment 1-4 medians.

Each bid submitted shall be accompanied by a cashier's check in the amount of 5% of the maximum amount bid, payable without recourse to the Town of Prosper, or a Bid Bond in the same amount from a reliable surety company as a guarantee that, if awarded the contract, the successful Contractor will execute a Construction Agreement with the Town, including all required bonds and other documents.

The successful Contractor shall furnish a Performance Bond in the amount of 115% of the contract amount, and a Payment Bond in the amount of 100% of the contract amount, as well as evidence of all required insurance coverage within ten (10) calendar days of notice of award. The successful Contractor shall also furnish a Maintenance Bond in the amount of 100% of the contract amount covering defects of material and workmanship for two calendar years following the Town's approval and acceptance of the construction. An approved surety company, licensed in the State of Texas, shall issue all bonds in accordance with Texas law.

Copies of Plans, Specifications, and Contract Documents may be examined at **Town of Prosper Engineering Department**, **250 W. First Street**, **Prosper**, **Texas**, **75078**, **Phone**: **(972) 569-1198** without charge. These documents may be acquired from that office for the non-refundable purchase price of \$50.00 per set, payable to the Town of Prosper. Copies of Plans, Specifications, and Contract Documents may also be downloaded free of charge from Current Bidding Opportunities, at the following link: http://www.prospertx.gov/business/bid-opportunities/.

Questions and requests for clarifications in regard to this bid should be submitted in writing through IonWave.net, the Town's e-procurement system, or emailed directly to January Cook, CPPO, CPPB, Purchasing Manager, at jcook@prospertx.gov. The deadline for receipt of questions and requests for clarifications is 12:00 P.M. on Friday, January 22, 2021. After that day and time, no further questions or requests for clarifications will be accepted or answered by the Engineer or Town.

INSTRUCTIONS TO BIDDERS

- 1. <u>Submittal Deadline:</u> Bids will be accepted until 3:00 P.M. on Thursday, January 28, 2021.
- 2. <u>Submittal Location:</u> Bids will be accepted online through IonWave.net, the Town's e-procurement system, or in hard copy in the Purchasing Office located in the 3rd Floor Finance Suite of Town Hall, 250 W. First St., Prosper, Texas 75078.
- 3. <u>Electronic Submittal Requirements:</u> If submitting bid through IonWave.net, Bidder shall complete all requiested information and submit all required documents.
- 4. <u>Hard Copy Submittal Requirements</u>: If submitting bid in hard copy, Bidder shall submit one (1) original and one (1) copy of their bid in a sealed envelope clearly marked with their name and BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE. Bidder shall complete all requested information and submit all required documents.
- 5. <u>Bid Opening:</u> The bid opening will be held online on Thursday, January 28, 2021 @ 4:00 P.M. To participate in the bid opening, please use the following:

Join Zoom Meeting: https://us02web.zoom.us/j/86528160937

Meeting ID: 865 2816 0937

Dial-in any of these numbers: +1 929 436 2866, +1 312 626 6799, +1 669 900 6833, +1 253 215 8782,

+1 301 715 8592, +1 346 248 7799

6. <u>Bid Documents:</u> Copies of Plans, Specifications, and Contract Documents may be examined without charge at the following location:

Town of Prosper Engineering Department 250 W. First Street Prosper, TX 75078 Phone: 972-569-1198

or

Download free of charge from Current Bidding Opportunities, at the following link: http://www.prospertx.gov/business/bid-opportunities/.

- 7. <u>Questions and Requests for Clarification:</u> Questions and requests for clarifications in regard to this bid should be submitted in writing through IonWave.net, the Town's e-procurement system, or emailed directly to January Cook, CPPO, CPPB, Purchasing Manager, at jcook@prospertx.gov. The deadline for receipt of questions and requests for clarifications is 12:00 P.M. on Friday, January 22, 2021. After that day and time, no further questions or requests for clarifications will be accepted or answered by the Engineer or Town.
- 8. <u>Addenda:</u> If it becomes necessary to provide additional information to potential Bidders, the Town of Prosper will issue an addendum containing the necessary information.
- 9. <u>Pre-Bid Meeting:</u> A pre-bid meeting will be held **online** for this project at **10:00 A.M.**, **Thursday**, **January 21**, **2021**. Attendance is optional.

BID NO: 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE (Document Version 01/21)

10. To participate in the pre-bid meeting, please use the following:

Join Zoom Meeting: https://us02web.zoom.us/j/86211594612

Meeting ID: 862 1159 4612

Dial-in any of these numbers: +1 929 436 2866, +1 312 626 6799, +1 669 900 6833, +1 253 215 8782,

+1 301 715 8592 or +1 346 248 7799

11. Site Visit: N/A

CONSTRUCTION AGREEMENT

THE STATE OF TEXAS)	
)	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF COLLIN)	

This Construction Agreement (the "Agreement") is made by and between **Tiseo Paving Co.**, a company authorized to do business in Texas, (the "Contractor") and the **Town of Prosper**, **Texas**, a municipal corporation (the "Owner"). For and in consideration of the payment, agreements and conditions hereinafter mentioned, and under the conditions expressed in the bonds herein, Contractor hereby agrees to complete the construction of improvements described as follows:

BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE

in the Town of Prosper, Texas, and all extra work in connection therewith, under the terms as stated in the terms of this Contract, including all Contract Documents incorporated herein; and at his, her or their own proper cost and expense to furnish all superintendence, labor, insurance, equipment, tools and other accessories and services necessary to complete the said construction in accordance with all the Contract Documents, incorporated herein as if written word for word, and in accordance with the Plans, which include all maps, plats, blueprints, and other drawings and printed or written explanatory manner therefore, and the Specifications as prepared by Town of Prosper or its consultant hereinafter called Engineer, who has been identified by the endorsement of the Contractor's written bid, the General Conditions of this Contract, the Special Conditions of this Contract, the payment, performance, and maintenance bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

A. Contract Documents and Order of Precedence

The Contract Documents shall consist of the following documents:

- 1. this Construction Agreement;
- 2. properly authorized change orders;
- 3. the Special Conditions of this Contract;
- 4. the General Conditions of this Contract;
- 5. the Technical Specifications & Construction Drawings of this Contract;
- 6. the OWNER's Standard Construction Details;
- 7. the OWNER's Standard Construction Specifications;
- 8. the OWNER's written notice to proceed to the CONTRACTOR;
- 9. the Contractor's Cost Bid;
- 10. any listed and numbered addenda;
- 11. the Performance, Payment, and Maintenance Bonds; and,
- 12. any other bid materials distributed by the Owner that relate to the Project.

These Contract Documents are incorporated by reference into this Construction 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. If, however, there exists a conflict or inconsistency between the Technical Specifications and the Construction Drawings it shall be the Contractor's obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the project, the Contractor shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair and/or correct that component of the project.

B. Total of Payments Due Contractor

For performance of the Work in accordance with the Contract Documents, the Owner shall pay the Contractor in current funds an amount not to exceed **Two Million Six-Hundred Twenty-Seven Thousand Ten Dollars and fifty-five cents (2,627,010.55)**. This amount is subject to adjustment by change order in accordance with the Contract Documents.

C. Dates to Start and Complete Work

Contractor shall begin work within ten (10) calendar days after receiving a written Notice to Proceed or written Work Order from the Owner. All Work required under the Contract Documents shall be substantially completed within 270 calendar days after the date of the Notice to Proceed for the base bid. Within 14 additional calendar days after Substantial Completion, all outstanding issues shall be addressed and ready for final payment.

Under this Construction Agreement, all references to "day" are to be considered "calendar days" unless noted otherwise.

D. CONTRACTOR'S INDEMNITY TO THE OWNER AND OTHERS

CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS THE TOWN OF PROSPER (OWNER) TOGETHER WITH ITS MAYOR AND TOWN COUNCIL AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION OF EVERY KIND 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 ERROR, OMISSION, OR NEGLIGENT ACT OF CONTRACTOR, ITS SUBCONTRACTORS, ANY OFFICERS, AGENTS OR EMPLOYEES OF CONTRACTOR OR ANY SUBCONTRACTORS, INVITEES, AND ANY OTHER THIRD PARTIES OR PERSONS FOR WHOM OR WHICH CONTRACTOR IS LEGALLY RESPONSIBLE, IN ANY WAY ARISING OUT OF, RELATING TO, RESULTING FROM, OR IN CONNECTION WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL AT HIS OR HER OWN COST AND EXPENSE DEFEND AND PROTECT TOWN OF PROSPER (OWNER) FROM ANY AND ALL SUCH CLAIMS AND DEMANDS.

CONTRACTOR DOES HEREBY AGREE TO WAIVE ALL CLAIMS, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS TOWN OF PROSPER (OWNER) TOGETHER WITH ITS MAYOR AND

TOWN COUNCIL AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION 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 CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LIABILITY, LOSSES, PENALTIES, SUITS OR CAUSES OF ACTION ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE TOWN OF PROSPER (OWNER), ITS MAYOR AND TOWN COUNCIL, 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 CONTRACTOR TO INDEMNIFY AND PROTECT TOWN OF PROSPER (OWNER) FROM THE CONSEQUENCES OF TOWN OF PROSPER'S (OWNER'S) OWN NEGLIGENCE, WHETHER THAT NEGLIGENCE IS A SOLE OR CONCURRING CAUSE OF THE INJURY, DEATH OR DAMAGE.

IN ANY AND ALL CLAIMS AGAINST ANY PARTY INDEMNIFIED HEREUNDER BY ANY EMPLOYEE OF THE CONTRACTOR, ANY SUB-CONTRACTOR, 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 CONTRACTOR OR ANY SUB-CONTRACTOR UNDER WORKMEN'S COMPENSATION OR OTHER EMPLOYEE BENEFIT ACTS.

INDEMNIFIED ITEMS SHALL INCLUDE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS. INDEMNIFIED ITEMS SHALL ALSO INCLUDE ANY EXPENSES, INCLUDING ATTORNEYS' FEES AND EXPENSES, INCURRED BY AN INDEMNIFIED INDIVIDUAL OR ENTITY IN ATTEMPTING TO ENFORCE THIS INDEMNITY.

In its sole discretion, the Owner shall have the right to approve counsel to be retained by Contractor in fulfilling its obligation to defend and indemnify the Owner. Contractor shall retain approved counsel for the Owner within seven (7) business days after receiving written notice from the Owner that it is invoking its right to indemnification under this Construction Agreement. If Contractor does not retain counsel for the Owner within the required time, then the Owner shall have the right to retain counsel and the Contractor shall pay these attorneys' fees and expenses.

The Owner retains the right to provide and pay for any or all costs of defending indemnified items, but it shall not be required to do so. To the extent that Owner elects to provide and pay for any such costs, Contractor shall indemnify and reimburse Owner for such costs.

(Please note that this "broad-form" indemnification clause is not prohibited by Chapter 151 of the Texas Insurance Code as it falls within one of the exclusions contained in Section 151.105 of the Texas Insurance Code.)

E. Insurance Requirements

Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the contractor's bid. A certificate of insurance meeting all requirements and provisions outlined herein shall be provided to the Town prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration. Certificates holder shall be listed as follows, with the project/contract number referenced:

Town of Prosper Attn: Purchasing Manager P.O. Box 307 Prosper, Texas 75078

re: BID No. 2021-30-B

FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4

LANDSCAPE ARCHITECTURE

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- a. ISO Form Number GL 00 01 (or similar form) covering Comprehensive General Liability. "Occurrence" form only, "claims made" forms are unacceptable.
- b. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
- c. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.

2. Minimum Limits of Insurance

Contractor shall maintain throughout contract limits not less than:

- a. Commercial General Liability: \$1,000,000 per occurrence / \$2,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:
 - 1) Premises / Operations
 - 2) Broad Form Contractual Liability

- 3) Products and Completed Operations
- 4) Personal Injury
- 5) Broad Form Property Damage
- 6) Explosion Collapse and Underground (XCU) Coverage.
- b. Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 per injury, \$300,000 per occurrence, and \$100,000 per occupational disease.
- c. Automobile Liability: \$1,000,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired and nonowned autos.
- d. Builders' Risk Insurance: Completed value form, insurance carried must be equal to the completed value of the structure. Town shall be listed as Loss Payee.
- e. \$1,000,000 Umbrella Liability Limit that follows form over underlying Automobile Liability, General Liability, and Employers Liability coverages.
- 3. Deductible and Self-Insured Retentions

Any deductible or self-insured retentions in excess of \$10,000 must be declared to and approved by the Town.

Other Insurance Provisions

The policies are to contain, or be endorsed to contain the following provisions:

- a. General Liability and Automobile Liability Coverage
 - The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the 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.

- 2) 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.
- 3) 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.
- 4) 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.
- b. Workers' Compensation and Employer's Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Town, its officers, officials, employees and volunteers for losses arising from work performed by the contractor for the Town.

c. All Coverages

Each insurance policy required by this clause 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.

5. Acceptability of Insurers

The Town prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than A-VI, or better.

6. Verification of Coverage

Contractor shall provide the Town with certificates of insurance indicating coverage's required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of Insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

F. Performance, Payment and Maintenance Bonds

The Contractor shall procure and pay for a Performance Bond applicable to the work in the amount of one hundred fifteen percent (115%) of the total proposed price, and a Payment Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed price. The Contractor shall also

procure and pay for a Maintenance Bond applicable to the work in the amount of one hundred percent (100%) of the total proposed 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 this Construction Agreement. The performance, payment and maintenance bonds shall be issued in the form attached to this Construction Agreement as Exhibits B, C and D. 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 this Construction Agreement.

The performance, payment and maintenance bonds shall be issued by a corporate surety, acceptable to and approved by the Town, authorized to do business in the State of Texas, pursuant to Chapter 2253 of the Texas Government Code. Further, the Contractor shall supply capital and surplus information concerning the surety and reinsurance information concerning the performance, payment and maintenance bonds upon Town 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.

G. Progress Payments and Retainage

As it completes portions of the Work, the Contractor may request progress payments from the Owner. Progress payments shall be made by the Owner based on the Owner's estimate of the value of the Work properly completed by the Contractor since the time the last progress payment was made. The "estimate of the value of the work properly completed" shall include the net invoice value of acceptable, non-perishable materials actually delivered to and currently at the job site only if the Contractor provides to the Owner satisfactory evidence that material suppliers have been paid for these materials.

No progress payment shall be due to the Contractor until the Contractor furnishes to the Owner:

- 1. copies of documents reasonably necessary to aid the Owner in preparing an estimate of the value of Work properly completed;
- full or partial releases of liens, including releases from subcontractors providing materials or delivery services relating to the Work, in a form acceptable to the Owner releasing all liens or claims relating to goods and services provided up to the date of the most recent previous progress payment;
- 3. an updated and current schedule clearly detailing the project's critical path elements; and
- 4. any other documents required under the Contract Documents.

Progress payments shall not be made more frequently than once every thirty (30) calendar days unless the Owner determines that more frequent payments are appropriate. Further, progress payments are to be based on estimates and these estimates are subject to correction through the adjustment of subsequent progress payments and the final payment to Contractor. If the Owner determines after final payment that it has overpaid the Contractor, then Contractor agrees to pay to the Owner the overpayment amount specified by the Owner within thirty (30) calendar days after it receives written demand from the Owner.

The fact that the Owner makes a progress payment shall not be deemed to be an admission by the Owner concerning the quantity, quality or sufficiency of the Contractor's work. Progress payments shall not be deemed to be acceptance of the Work nor shall a progress payment release the Contractor from any of its responsibilities under the Contract Documents.

After determining the amount of a progress payment to be made to the Contractor, the Owner shall withhold a percentage of the progress payment as retainage. The amount of retainage withheld from each progress payment shall be set at five percent (5%). Retainage shall be withheld and may be paid to:

- 1. ensure proper completion of the Work. The Owner may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
- 2. ensure timely completion of the Work. The Owner may use retained funds to pay liquidated damages; and
- 3. provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

Retained funds shall be held by the Owner in accounts that shall not bear interest. Retainage not otherwise withheld in accordance with the Contract Documents shall be returned to the Contractor as part of the final payment.

H. Withholding Payments to Contractor

The Owner may withhold payment of some or all of any progress or final payment that would otherwise be due if the Owner determines, in its discretion, that the Work has not been performed in accordance with the Contract Documents. The Owner may use these funds to pay replacement or substitute contractors to complete unfinished or defective Work.

The Owner may withhold payment of some or all of any progress or final payment that would otherwise be due if the Owner determines, in its discretion, that it is necessary and proper to provide an additional source of funds to pay claims for which the Owner is entitled to indemnification from Contractor under the Contract Documents.

Amounts withheld under this section shall be in addition to any retainage.

I. Acceptance of the Work

When the Work is completed, the Contractor shall request that the Owner perform a final inspection. The Owner shall inspect the Work. If the Owner determines that the Work has been completed in accordance with the Contract Documents, it shall issue a written notice of acceptance of the Work. If the Owner determines that the Work has not been completed in accordance with the Contract Documents, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

It is specifically provided that Work shall be deemed accepted on the date specified in the Owner's written notice of acceptance of the Work. The Work shall not be deemed to be accepted based on "substantial completion" of the Work, use or occupancy of the Work, or for any reason other than the Owner's written Notice of Acceptance. Further, the issuance of a certificate of occupancy for all or any part of the Work shall not constitute a Notice of Acceptance for that Work.

In its discretion, the Owner may issue a Notice of Acceptance covering only a portion of the Work. In this event, the notice shall state specifically what portion of the Work is accepted.

J. Acceptance of Erosion Control Measures

When the erosion control measures have been completed, the Contractor shall request that the Owner perform a final inspection. The Owner shall inspect the Work. If the Owner determines that the Work has been completed in accordance with the Contract Documents and per TPDES General Construction Permit, it shall issue a written Notice of Acceptance of the Work. If the Owner determines that the Work has not been completed in accordance with the Contract Documents or TPDES General Construction Permit, then it shall provide the Contractor with a verbal or written list of items to be completed before another final inspection shall be scheduled.

K. Final Payment

After all Work required under the Contract Documents has been completed, inspected, and accepted, the Town shall calculate the final payment amount promptly after necessary measurements and computations are made. The final payment amount shall be calculated to:

- 1. include the estimate of the value of Work properly completed since the date of the most recent previous progress payment;
- 2. correct prior progress payments; and
- 3. include retainage or other amounts previously withheld that are to be returned to Contractor, if any.

Final payment to the Contractor shall not be due until the Contractor provides original full releases of liens from the Contractor and its subcontractors, or other evidence satisfactory to the Owner to show that all sums due for labor, services, and materials furnished for or used in connection with the Work have been paid or shall be paid with the final payment. To ensure this result, Contractor consents to the issuance of the

final payment in the form of joint checks made payable to Contractor and others. The Owner may, but is not obligated to issue final payment using joint checks.

Final payment to the Contractor shall not be due until the Contractor has supplied to the Owner original copies of all documents that the Owner determines are reasonably necessary to ensure both that the final payment amount is properly calculated and that the Owner has satisfied its obligation to administer the Construction Agreement in accordance with applicable law. The following documents shall, at a minimum, be required to be submitted prior to final payment being due: redline as-built construction plans; consent of surety to final payment; public infrastructure inventory; affidavit of value for public infrastructure; and, final change order(s). "Redline as-built construction plans" shall include, but are not limited to markups for change orders, field revisions, and quantity overruns as applicable. The list of documents contained in this provision is not an exhaustive and exclusive list for every project performed pursuant to these Contract Documents and Contractor shall provide such other and further documents as may be requested and required by the Owner to close out a particular project.

Subject to the requirements of the Contract Documents, the Owner shall pay the Final Payment within thirty (30) calendar days after the date specified in the Notice of Acceptance. This provision shall apply only after all Work called for by the Contract Documents has been accepted.

L. Contractor's Warranty

For a two-year period after the date specified in a written notice of acceptance of Work, Contractor shall provide and pay for all labor and materials that the Owner determines are necessary to correct all defects in the Work arising because of defective materials or workmanship supplied or provided by Contractor or any subcontractor. This shall also include areas of vegetation that did meet TPDES General Construction Permit during final close out but have since become noncompliant.

Forty-five (45) to sixty (60) calendar days before the end of the two-year warranty period, the Owner may make a warranty inspection of the Work. The Owner shall notify the Contractor of the date and time of this inspection so that a Contractor representative may be present. After the warranty inspection, and before the end of the two-year warranty period, the Owner shall mail to the Contractor a written notice that specifies the defects in the Work that are to be corrected.

The Contractor shall begin the remedial work within ten (10) calendar days after receiving the written notice from the Town. If the Contractor does not begin the remedial work timely or prosecute it diligently, then the Owner may pay for necessary labor and materials to effect repairs and these expenses shall be paid by the Contractor, the performance bond surety, or both.

If the Owner determines that a hazard exists because of defective materials and workmanship, then the Owner may take steps to alleviate the hazard, including making repairs. These steps may be taken without prior notice either to the Contractor or its surety. Expenses incurred by the Owner to alleviate the hazard shall be paid by the Contractor, the performance bond surety, or both.

Any Work performed by or for the Contractor to fulfill its warranty obligations shall be performed in accordance with the Contract Documents. By way of example only, this is to ensure that Work performed

during the warranty period is performed with required insurance and the performance and payment bonds still in effect.

Work performed during the two-year warranty period shall itself be subject to a one-year warranty. This warranty shall be the same as described in this section.

The Owner may make as many warranty inspections as it deems appropriate.

M. Compliance with Laws

The Contractor 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. This provision applies whether or not a legal requirement is described or referred to in the Contract Documents.

Ancillary/Integral Professional Services: In selecting an architect, engineer, land surveyor, or other professional to provide professional services, if any, that are required by the Contract Documents, Contractor shall not do so on the basis of competitive bids but shall make such selection on the basis of demonstrated competence and qualifications to perform the services in the manner provided by Section 2254.004 of the Texas Government Code and shall so certify to the Town the Contractor's agreement to comply with this provision with Contractor's bid.

N. "Anti-Israel Boycott" Provision

In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Contract that the company does not boycott Israel and will not boycott Israel during the term of this Contract.

O. Other Items

The Contractor shall sign the Construction Agreement, and deliver signed performance, payment and maintenance bonds and proper insurance policy endorsements (and/or other evidence of coverage) within ten (10) calendar days after the Owner makes available to the Contractor copies of the Contract Documents for signature. Six (6) copies of the Contract Documents shall be signed by an authorized representative of the Contractor and returned to the Town.

The Construction Agreement "effective date" shall be the date on which the Town Council acts to approve the award of the Contract for the Work to Contractor. It is expressly provided, however, that the Town Council delegates the authority to the Town Manager or his designee to rescind the Contract award to Contractor at any time before the Owner delivers to the Contractor a copy of this Construction Agreement that bears the signature of the Town Manager and Town Secretary or their authorized designees. The purpose of this provision is to ensure:

- 1. that Contractor timely delivers to the Owner all bonds and insurance documents; and
- 2. that the Owner retains the discretion not to proceed if the Town Manager or his designee determines that information indicates that the Contractor was not the lowest responsible

bidder or that the Contractor cannot perform all of its obligations under the Contract Documents.

THE CONTRACTOR AGREES THAT IT SHALL HAVE NO CLAIM OR CAUSE OF ACTION OF ANY KIND AGAINST OWNER, INCLUDING A CLAIM FOR BREACH OF CONTRACT, NOR SHALL THE OWNER BE REQUIRED TO PERFORM UNDER THE CONTRACT DOCUMENTS, UNTIL THE DATE THE OWNER DELIVERS TO THE CONTRACTOR A COPY OF THE CONSTRUCTION AGREEMENT BEARING THE SIGNATURES JUST SPECIFIED.

The Contract Documents shall be construed and interpreted by applying Texas law. Exclusive venue for any litigation concerning the Contract Documents shall be Collin County, Texas.

In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

Although the Construction Agreement has been drafted by the Owner, should any portion of the Construction Agreement be disputed, the Owner and Contractor agree that it shall not be construed more favorably for either party.

The Contract Documents are binding upon the Owner and Contractor and shall insure to their benefit and as well as that of their respective successors and assigns.

If Town Council approval is not required for the Construction Agreement under applicable law, then the Construction Agreement "effective date" shall be the date on which the Town Manager and Town Secretary or their designees have signed the Construction Agreement. If the Town Manager and Town Secretary sign on different dates, then the later date shall be the effective date.

[Signatures continued on following page.]

TISEO PAVI	NG CO.	TOWN OF F	PROSPER, TEXAS			
Ву:		By: HARLA	N JEFFERSON			
Title:		Title: Town I	Manager			
Date:		Date:				
Address:	419 US Highway 80 East Mesquite, Texas 75150	Address:	250 W. First St. P.O. Box 307 Prosper, Texas 75078			
Phone: (972 Email: Itise	e) 289-0723 o@tiseopaving.com	· · · · · · · · · · · · · · · · · · ·	Phone: (972) 346-2640 Email: hjefferson@prospertx.gov			
		ATTEST:				
		MELISSA LEE Town Secretary				

PERFORMANCE BOND

STATE OF TEXAS)	
COUNTY OF COLLIN)	
KNOW ALL MEN BY THESE PRESENTS:	That whose address is, hereinafter called
Principal, andexisting under the laws of the State of	, a corporation organized and
existing under the laws of the State of	, and fully licensed to transact business in
the State of Texas, as Surety, are held and firmly bound un	ito the TOWN OF PROSPER, a home-rule municipal
corporation organized and existing under the laws of the State	of Texas, hereinafter called "Beneficiary", in the penal
sum of Dollars (\$) plus	fifteen percent (15%) of the stated penal sum as an
additional sum of money representing additional court expense	es, attorneys' fees, and liquidated damages arising out
of or connected with the below identified Contract in lawful me	oney of the United States, to be paid in Collin County,
Texas, for the payment of which sum well and truly to be made,	we bind ourselves, our heirs, executors, administrators
and successors, jointly and severally, firmly by these present	s. The penal sum of this Bond shall automatically be
increased by the amount of any Change Order or Supplementa no event shall a Change Order or Supplemental Agreement, sum of this Bond.	

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the Town of Prosper, the Beneficiary, dated on or about the 23rd day of February, A.D. 2021, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other accessories necessary for the construction of:

BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the Plans, Specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by the Beneficiary, with or without notice to the Surety, and during the life of any guaranty or warranty required under this Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Owner; and, if the Principal shall fully indemnify and save harmless the Beneficiary from and against all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Plans, Specifications and Drawings, etc., accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

		REOF, this instrument ay of	is executed in two copies, each one of which shall be deemed, 2021.				
ATTEST:			PRINCIPAL:				
			Company Name				
By:	ure		By: Signature				
Typed/Print	ted Name		Typed/Printed Name				
Title			Title				
Address			Address				
City	State	Zip	City State Zip				
Phone		Fax	Phone Fax				

[Signatures continued on following page.]

ATTEST:			SURETY:		
By: Signatur			By:	re	
Printed Nam			Printed Nar		
Title			Title		
Address			Address		
City	State	Zip	City	State	Zip
Phone		Fax	Phone		Fax
The Resider process is:	nt Agent of the Si	urety in Collin County	or Dallas County, Texa	as, for delivery of I	notice and service of the
	JINLLIA	DDNL33			

<u>NOTE</u>: Date on <u>Page 1</u> of Performance Bond must be <u>same date as Contract</u>. Date on <u>Page 2</u> of Performance Bond must be <u>after date of Contract</u>. If Resident Agent is not a corporation, give a person's name.

PAYMENT BOND

STATE (OF TEX	(AS)					
COUNT	Y OF C	OLLIN))					
KNOW	ALL	MEN	ВҮ	THESE	PRESENTS:	That		whose	address is einafter called
Principal existing			of the S	State of			an	, a corporation and fully licensed to trans	organized and
the State	e of Te	xas, as	Surety	, are held	and firmly bou	nd unto the	TOWN O	F PROSPER, a home reinafter called "Owner	-rule municipal
hereinaft	ter re	ferred	to ir	n the p	enal sum of	f		or upon the building or	_ DOLLARS
paid in C	Collin C	ounty, T	exas,	for the pay	ment of which s	sum well and	d truly to be	vful money of the Unite e made, we bind ourse	elves, our heirs,
shall aut	omatica	ally be ir	ncreas	ed by the	amount of any (Change Ord	er or Supp	presents. The penal su lemental Agreement, w	which increases
				event shall of this Bo	•	er or Supple	emental Ag	reement, which reduce	es the Contract
THE OB	LIGAT	ION TO	PAY S	SAME is co	onditioned as fol	llows: Where	eas, the Pr	incipal entered into a c	ertain Contract

BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE

accessories necessary for the construction of:

with the Town of Prosper, the Owner, dated on or about the 23rd day of February, A.D. 2021, a copy of which is attached hereto and made a part hereof, to furnish all materials, equipment, labor, supervision, and other

NOW THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in the above-referenced Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Chapter 2253 of the Texas Government Code, and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may

BID NO: 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE (Document Version 01/21)

Annotated Civil Statutes of the State of Texas. IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____, 2021. ATTEST: PRINCIPAL: Company Name By: _ Signature Signature Typed/Printed Name Typed/Printed Name Title Title Address Address City State City Zip State Zip Phone Fax Phone Fax

be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's

[Signatures continued on following page.]

ATTEST:			SURETY:		
By: Signatu	rp		By:	re	
Printed Nan			Printed Nan		
Title		Title	Title		
Address			Address		
City	State	Zip	City	State	Zip
Phone		Fax	Phone		Fax
The Reside process is:	nt Agent of the Si	urety in Collin County	or Dallas County, Texa	as, for delivery of I	notice and service of the
	SINLLIA	DDNL33			

<u>NOTE</u>: Date on <u>Page 1</u> of Performance Bond must be <u>same date as Contract</u>. Date on <u>Page 2</u> of Performance Bond must be <u>after date of Contract</u>. If Resident Agent is not a corporation, give a person's name.

MAINTENANCE BOND

STATE OF TEXAS)				
COUNTY OF COLLIN)				
VAIONA ALL MENI DV THE	CC DDCCENTC. That			
KNOW ALL MEN BY THE			oforrod to or	Wnose address
	, a corporate sure			s "Principal," and laws of the State of
	transact business in the e held and firmly bound as "Owner," in the pena e hundred percent (100% ssors and assigns, for th	State of Texas, unto the TOWN al sum of	as Surety, herei OF PROSPER price), in lawful ch sum well and	nafter referred to as , a Texas municipal money of the United truly to be made, we
firmly by these presents, the condition			3 - 1, j	.,
WHEREAS, Principal entere 23rd day of February, 2021, to furnis supervision, and other accessories ne	sh all permits, licenses, b	onds, insurance, p		
FISHTRAP ROAD SEGMENT 4	BID NO. 202 [.] Construction and		LANDSCAPE	ARCHITECTURE

in the Town of Prosper, Texas, as more particularly described and designated in the above-referenced contract, such contract being incorporated herein and made a part hereof as fully and to the same extent as if written herein word for word:

WHEREAS, in said Contract, the Principal binds itself to use first class materials and workmanship and of such kind and quality that for a period of two (2) years from the completion and final acceptance of the improvements by Owner the said improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials and during the period of two (2) years following the date of final acceptance of the Work by Owner, Principal binds itself to repair or reconstruct said improvements in whole or in part at any time within said period of time from the date of such notice as the Town Manager or his designee shall determine to be necessary for the preservation of the public health, safety or welfare. If Principal does not repair or reconstruct the improvements within the time period designated, Owner shall be entitled to have said repairs made and charge Principal and/or Surety the cost of same under the terms of this Maintenance Bond.

NOW, THEREFORE, if Principal will maintain and keep in good repair the Work herein contracted to be done and performed for a period of two (2) years from the date of final acceptance and do and perform all necessary work and repair any defective condition (it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal) then this obligation shall be void; otherwise it shall remain in full force and effect and Owner shall have and recover from Principal and its Surety damages in the premises as provided in the Plans and Specifications and Contract.

PROVIDED, however, that Principal hereby holds harmless and indemnifies Owner from and against any claim or liability for personal injury or property damage caused by and occurring during the performance of said maintenance and repair operation.

PROVIDED, further, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original,

on this the	day of	, 2021.				
ATTEST:			PRINCIPAL:			
			Company Nai	me		
By:			By:			
Signat	ure		Signature	e		
Typed/Printed Name			Typed/Printed Name			
Title			Title	Title		
Address		Address				
City	State	Zip	City	State	Zip	
Phone		Fax	Phone		Fax	

[Signatures continued on following page.]

Item 14.

Phone		Fax	Phone	Phone Fa	
City	State	Zip	City	State	Zip
Address			Address	Address	
Title			Title	Title	
Printed Name		Printed Na	Printed Name		
Signature		Signat	Signature		
Ву:			Ву:		
ATTEST:			SURETY:		

SPECIAL CONDITIONS

SC.01 <u>PURPOSE:</u> The Special Conditions contained herein set forth conditions or requirements particular to this Contract: BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE

The Special Conditions supplement the General Conditions and the Standard Specifications and take precedence over any conditions or requirements of the General Conditions and the Standard Specifications with which they are in conflict.

- SC.02 <u>DEFINITIONS:</u> The following words and expressions, or pronouns used in their place, shall wherever they appear in this Contract, be construed as follows, unless a different meaning is clear from the context:
 - **ENGINEER:** The Engineer of Record as shown on the Construction Drawings: Jerico Robles, P.E., TNP, Inc.
 - LANDSCAPE ARCHITECT: The RLA of Record as shown on the Construction Drawings: William Smith, R.L.A., TNP, Inc.
- SC.03 <u>MINIMUM STANDARDS OF RESPONSBILITY:</u> A prospective vendor must affirmatively demonstrate responsibility. The Town of Prosper may request representation and other information sufficient to determine respondent's ability to meet the minimum standards, including but not limited to:
 - A. Have adequate financial resources, or the ability to obtain such resources as required;
 - B. Have a satisfactory record of performance on a minimum of three (3) completed projects of similar scope, quantities, and cost, within the past five (5) years;
 - C. Ability to comply with the required or proposed delivery schedule;
 - D. Have a satisfactory record of integrity and ethics; and
 - E. Be otherwise qualified and eligible to receive an award.
- SC.04 <u>BID AWARD</u>: The award shall be based on the lowest responsive and responsible bidder taking into consideration the number of days bid to complete the project.
 - A. For the purpose of award, each bid submitted shall consist of:
 - 1. Base Bid (A) = The correct summation of the products and the quantities shown in the bid proposal, multiplied by the bid unit prices.
 - 2. Time Bid (B) = (CD x Daily Value). The product of the total number of calendar days (CD) provided by the Contractor to complete the project and the daily value established in SC.04 B.
 - 3. Total Bid = Base Bid (A) + Time Bid (B). The lowest Total Bid will be determined by the Town as the lowest sum of the Base Bid (A) + the Time Bid (B).
 - Note: The dollar value of the Time Bid (B) will be used for evaluation purposes only, and will not be included in the contract award. However, the successful Contractor will be responsible for completing construction within the number of calendar days bid.
 - B. Contractor will enter the number of days to complete the project in the appropriate section of the Bid Attributes. The Town will calculate the Time Bid using the number of days bid by Contractor, and

the corresponding value of a calendar day indicated in the matrix below, based on total of Contractor's Base Bid (A). The Town reserves the right to set a maximum value to the total number of days.

Amount of Contract (\$) Value of a Calendar Day (\$) \$1,500,000 to \$1,999,999.99 \$500 per day \$2,000,000 to \$2,999,999.99 \$1,000 per day \$3,000,000 to \$3,999,999.99 \$1,500 per day More than \$4,000,000.00 \$2,000 per day

SC.05 PROJECT COMPLETION REQUIREMENT: N/A

- SC.06 <u>SUBMITTALS:</u> In order for your bid to be considered responsive, the following information should be submitted:
 - A. Respond to all Bid Items listed for this project.
 - B. Respond to all Bid Attributes listed for this project.
 - C. Submit Bid Guarantee (Bid Bond or Cashier's Check)
 - D. Complete and submit the Completed Projects and References Worksheet.
 - E. Submit resumes for key personnel that will be assigned to the project (executive and management team, as well as on-site project manager).
 - F. Submit a sample of an actual project schedule used during construction.
- SC.07 <u>SUBMISSION OR DELIVERY OF BID:</u> Bids for the construction services specified will be received online, or in hard copy. The date/time stamp located in the Purchasing Office serves as the official time clock. Late Submissions will not be considered. Submissions received after the stated deadline shall be refused and returned unopened. The Town of Prosper is not responsible for issues encountered with methods of delivery.

A. Online Submission

Bids may be submitted online through IonWave.net, the Town's e-procurement system. Please ensure that you provide all required information, including attachments. Any additional response attachments must be uploaded and included with your submission in order to be considered.

B. Mailed/Delivered Submission

Bids must be submitted with the BID number and the respondent's name and address clearly indicated on the front of the envelope. Please submit one (1) unbound original and one (1) copy of your bid, in a sealed envelope or package to the address listed below:

Delivery Address:

Town of Prosper Attn: Purchasing Manager 250 W. First St. 3rd Floor Finance Suite Prosper, Texas 75078

Mailing Address (US Postal Service Only):

Town of Prosper Attn: Purchasing Manager P.O. Box 307 Prosper, Texas 75078

TECHNICAL SPECIFICATIONS

TS.01 Bidders are specifically directed to become thoroughly familiar with the following standard specifications, in order of precedence, that shall apply to this project unless otherwise noted in the Bidding Documents:

- 1. Town of Prosper Standards
- 2. The North Central Texas Council of Governments' (NCTCOG) Standard Specifications for Public Works Construction, Fifth Edition, dated November 2017.
- 3. Texas Department of Transportation (TXDOT) Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, dated November 2014.

Please reference the Construction Plans for all other technical specifications



2021-30-B Addendum 1

Fishtrap Road Segment 4 Construction and Segment 1-4 Landscape Architecture

Issue Date: 1/12/2021

Questions Deadline: 1/22/2021 12:00 PM (CT) Response Deadline: 1/28/2021 03:00 PM (CT)

Contact Information

Contact: January Cook Purchasing Manager

Address: Purchasing Office

Town Hall 3rd Floor

250 W. First St. P.O. Box 307

Prosper, TX 75078

Phone: (972) 569-1018

Email: jcook@prospertx.gov

Event Information

Number: 2021-30-B Addendum 1

Title: Fishtrap Road Segment 4 Construction and Segment 1-4 Landscape Architecture

Type: Request for Bids

Issue Date: 1/12/2021

Question Deadline: 1/22/2021 12:00 PM (CT) Response Deadline: 1/28/2021 03:00 PM (CT)

Notes: REVISED ENGINEER'S ESTIMATE: \$2,616,392.00

The Town of Prosper is accepting competitive sealed bids for BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE. Bids will be accepted online through IonWave.net, the Town's e-procurement system, or in hard copy in the Purchasing Office located in the 3rd Floor Finance Suite of Town Hall, 250 W. First St., Prosper, Texas 75078 until 3:00 P.M. on Thursday, January 28, 2021. Any bids received after this time will not be accepted and will be returned unopened. The bid opening will be held online on Thursday, January 28, 2021 @ 4:00 P.M. To participate in the bid opening, please use the following:

Join Zoom Meeting: https://us02web.zoom.us/j/86528160937

Meeting ID: 865 2816 0937

Dial-in any of these numbers: +1 929 436 2866, +1 312 626 6799, +1 669 900

6833, +1 253 215 8782,

+1 301 715 8592 or +1 346 248 7799

The Project consists of furnishing all labor, equipment and materials (except as otherwise specified), and performing all work necessary for the construction of Grading, Paving, Drainage, and Utility Improvements to Fishtrap Road Segment 4 and the Landscape, Hardscape, and Irrigation Improvements for Fishtrap Road Segment 1-4 medians.

Each bid submitted shall be accompanied by a cashier's check in the amount of 5% of the maximum amount bid, payable without recourse to the Town of Prosper, or a Bid Bond in the same amount from a reliable surety company as a guarantee that, if awarded the contract, the successful Contractor will execute a Construction Agreement with the Town, including all required bonds and other documents.

The successful Contractor shall furnish a Performance Bond in the amount of 115% of the contract amount, and a Payment Bond in the amount of 100% of the contract amount, as well as evidence of all required insurance coverage within ten (10) calendar days of notice of award. The successful Contractor shall also furnish a Maintenance Bond in the amount of 100% of the contract amount covering defects of material and workmanship for two calendar years following the Town's approval and acceptance of the construction. An approved surety company, licensed in the State of Texas, shall issue all bonds in accordance with Texas law.

Copies of Plans, Specifications, and Contract Documents may be examined at Town of Prosper Engineering Department, 250 W. First Street, Prosper, Texas, 75078, Phone: (972) 569-1198 without charge. These documents may be acquired from that office for the non-refundable purchase price of \$50.00 per set, payable true.

Page 2 of 25 pages Deadline: 1/28/2021 03:00 PM (CT) 2021-30-B

Town of Prosper. Copies of Plans, Specifications, and Contract Documents also be downloaded free of charge from Current Bidding Opportunities, at the following link: http://www.prospertx.gov/business/bid-opportunities/.

Item 14.

Questions and requests for clarifications in regard to this bid should be submitted in writing through IonWave.net, the Town's e-procurement system, or emailed directly to January Cook, CPPO, CPPB, Purchasing Manager, at jcook@prospertx.gov. The deadline for receipt of questions and requests for clarifications is 12:00 P.M. on Friday, January 22, 2021. After that day and time, no further questions or requests for clarifications will be accepted or answered by the Engineer or Town.

Please complete and submit Planholder Registration Form to be placed on the official Planholder List.

Ship To Information

Contact: January Cook, Purchasing Manager

Address: Purchasing Office

Town Hall 3rd Floor

250 W. First St. P.O. Box 307 Prosper, TX 75078

Phone: (972) 569-1018

Email: january cook@prospertx.gov

Billing Information

Contact: Accounts Payable

Address: Finance

Town Hall 3rd Floor 250 W. First St.

P.O. Box 307 Prosper, TX 75078

Phone: (972) 569-1017 Email: ap@prospertx.gov

Bid Activities

Online Pre-Bid Meeting

1/21/2021 10:00:00 AM (CT)

A pre-bid meeting will be held online for this project at 10:00 A.M., Thursday, January 21, 2021. Attendance is optional. To participate in the pre-bid meeting, please use the following:

Join Zoom Meeting: https://us02web.zoom.us/j/86211594612

Meeting ID: 862 1159 4612

Dial-in any of these numbers: +1 929 436 2866, +1 312 626 6799, +1 669 900 6833, +1 253 215 8782, +1 301 715 8592 or +1 346 248 7799

Online Public Bid Opening

1/28/2021 4:00:00 PM (CT)

The bid opening will be held online on Thursday, January 28, 2021 @ 4:00 P.M. To participate in the bid opening, please use the following:

Join Zoom Meeting: https://us02web.zoom.us/j/86528160937

Meeting ID: 865 2816 0937

Dial-in any of these numbers: +1 929 436 2866, +1 312 626 6799, +1 669 900 6833, +1 253 215 8782, +1 301 715 8592 or +1 346 248 7799

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Bid Attachments

Attachment 3

Item 14.

Download

Download

Bid No. 2021-30-B Addendum No. 1.pdf

Bid No. 2021-30-B Addendum No. 1

Bid No. 2021-30-B Construction Plans.pdf

Bid No. 2021-30-B Construction Plans

Bid No. 2021-30-B Contract Documents and Specifications.docx

Bid No. 2021-30-B Contract Documents and Specifications

Standard Terms and Conditions for Procurements Construction V 4-24-20.pdf

Standard Terms and Conditions for Procurements Construction

GENERAL CONDITIONS CIP 2-21-2020.pdf

GENERAL CONDITIONS CIP 2-21-2020

Insurance Requirements for Construction Services R7-25-19.pdf

Insurance Requirements for Construction Services

Bid No. 2021-30-B Bid Bond.pdf

Bid No. 2021-30-B Bid Bond

CIP Completed Projects and References Worksheet 5-7-20 - Fillable.pdf

CIP Completed Projects and References Worksheet

Out of State Contractor Compliance Form.pdf

Out of State Contractor Compliance Form

Conflict of Interest Questionnaire - fillable.pdf

Conflict of Interest Questionnaire

Bid No. 2021-30-B Planholder Registration Form.pdf

Bid No. 2021-30-B Planholder Registration Form

Requested Attachments

Bid Bond

(Attachment required)

Completed Projects and References Worksheet

(Attachment required)

Complete and submit the Completed Projects and References Worksheet

Resumes for Key Personnel

(Attachment required)

Submit resumes for key personnel that will be assigned to the project (executive and management team, as well as on-site project manager).

Project Schedule

(Attachment required)

Sample of an actual project scheduled used during construction for similar project (sample is not specific to this project)

Conflict of Interest Questionnaire

Only submit if applicable

Out of State Contractor Compliance Form

Only submit if applicable

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Bid Attributes Attachment 3 Item 14. **Bid Proposal Condition No. 1** The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents. I Agree (Required: Check if applicable) **Bid Proposal Condition No. 2** Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those terms and conditions dealing with the disposition of Bid guaranty. This Bid will remain subject to acceptance for 90 calendar days after the day of opening Bids. Bidder will sign and submit the Agreement with the Bonds and other documents required by the Contract Documents within ten (10) calendar days after the date of Owner's Notice of Award. I Agree (Required: Check if applicable) **Bid Proposal Condition No. 3** The right is reserved, as the interest of the Owner may require, to reject any and all Bids and to waive any informality in the Bids received. I Agree (Required: Check if applicable) **Bid Proposal Condition No. 4** Bidder has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work. I Agree (Required: Check if applicable) **Bid Proposal Condition No. 5** Bidder has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies that pertain to the subsurface or physical conditions at the site or which otherwise may affect the cost, progress, performance or furnishing of the Work as Bidder considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by Bidder for such purposes. I Agree (Required: Check if applicable) **Bid Proposal Condition No. 6** Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said Underground Facilities are or will be required by the Bidder in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.

Page 5 of 25 pages Deadline: 1/28/2021 03:00 PM (CT) Page 330

I Agree

(Required: Check if applicable)

7	Bid Proposal Condition No. 7 Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, repertornal and studies with the terms and conditions of the Contract Documents. I Agree (Required: Check if applicable)
8	Bid Proposal Condition No. 8 Bidder has given Engineer written notice of all conflicts, errors or discrepancies that it has discovered, if any, in the Contract Documents and the written resolution thereof by Engineer is acceptable to Bidder. I Agree (Required: Check if applicable)
9	Bid Proposal Condition No. 9 This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from submitting a Bid; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner. [I] I Agree (Required: Check if applicable)
10	Bid Proposal Condition No. 10 Bidder will substantially complete the Work for the price(s) shown in the schedule of bid items and within the number of calendar days bid, based on date of Notice to Proceed. I Agree (Required: Check if applicable)
1	Bidder hereby agrees to commence work within ten (10) days after the date written notice to proceed shall have been given to him, and to substantially complete the work on which he has bid within the number of calendar days bid as part of this Proposal. Within 30 additional calendar days after Substantial Completion, all outstanding issues shall be addressed and ready for final payment. All such time restrictions are subject to such extensions of time as are provided by the General Provisions and Special Conditions. ☐ I Agree (Required: Check if applicable)
1 2	Bid Proposal Condition No. 12 Bidder agrees that the implementation of the Owner's right to delete any portion of the improvements shall not be considered as waiving or invalidating any conditions or provisions of the contract or bonds. Bidder shall perform the Work as altered and no allowances shall be made for anticipated profits. I Agree (Required: Check if applicable)
13	Bid Proposal Condition No. 13 Since the Work on this Project is being performed for a governmental body and function, the Owner will issue to the Contractor a certificate of exemption for payment for the State Sales TAX on materials incorporated into this Project if requested. I Agree (Required: Check if applicable)

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14	In the event of the award of a contract, vendor will furnish a Performance Bond for 115% of the contract and a Payment Bond for 100% of the contract amount, to secure proper compliance with the terms and provisions of the contract with sureties offered by <i>surety company named in the space provided</i> ,to insure and guarantee the work until final completion and acceptance, and to guarantee payment of all lawful claims for labor performed and materials furnished in the fulfillment of the contract. In addition, the undersigned will furnish a Maintenance Bond for 100% of the contract amount covering defects of material and workmanship for two calendar years following the Owner's approval and acceptance of the construction. I Agree (Required: Check if applicable)
15	Bid Proposal Condition No. 15 The work, proposed to be done, shall be accepted when fully completed in accordance with the plans and specifications, to the satisfaction of the Engineer and the Owner. I Agree (Required: Check if applicable)
1	Bid Proposal Condition No. 16 The vendor submitting this Bid certifies that the bid prices contained in this Bid have been carefully checked and are submitted as correct and final. I Agree (Required: Check if applicable)
1	Base Bid Cost of Materials \$ (Required: Numbers only)
18	Base Bid Cost of Labor, Profit, etc. \$ (Required: Numbers only)
19	Addendum No. 1 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) Acknowledged (Optional: Check if applicable)
2	Addendum No. 2 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) Acknowledged (Optional: Check if applicable)
2	Addendum No. 3 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) Acknowledged (Optional: Check if applicable)
2	Addendum No. 4 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) Acknowledged (Optional: Check if applicable)

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 Deadline: 1/28/2021 03:00 PM (CT)
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2	Addendum No. 5 Attachment 3
3	Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued)
	Acknowledged
	(Optional: Check if applicable)
2	Subcontractor 1 - Name
4	Each Bidder shall include a list of proposed subcontractors, the type of work to be completed by each such
	subcontractor and the approximate percentage of contract labor to be completed by each subcontractor. If
	complete listing of subcontracts totals more than five, please attach such additional pages as may be required. Owner reserves the right to accept or reject any subcontracts and/or amount subcontracted that it deems
	to be objectionable.
	(Optional: Maximum 1000 characters allowed)
25	Subcontractor 1 - Type of Work
5	
	(Optional: Maximum 1000 characters allowed)
2	Subcontractor 1 - % of Work
6	
	(Optional)
	(Optional)
2 7	Subcontractor 2 - Name
′	
	(Optional: Maximum 1000 characters allowed)
28	Subcontractor 2 - Type of Work
ð	
	(Optional: Maximum 1000 characters allowed)
29	Subcontractor 2 - % of Work
9	%
	(Optional)
	· · · ·
3	Subcontractor 3 - Name
	(Outlined Marinum 1000 shareston allowed)
	(Optional: Maximum 1000 characters allowed)

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3	Subcontractor 3 - Type of Work Attachment 3 Item 14.
	(Optional: Maximum 1000 characters allowed)
3	Subcontractor 3 - % of Work
3 2	
	(Optional)
	(Optional)
3	Subcontractor 4 - Name
3	
	(Optional: Maximum 1000 characters allowed)
3 4	Subcontractor 4 - Type of Work
4	
	(Optional: Maximum 1000 characters allowed)
3	Subcontractor 4 - % of Work
3 5	
	(Optional)
3	Subcontractor 5 - Name
U	
	(Optional: Maximum 1000 characters allowed)
3	Subcontractor 5 - Type of Work
1	
	(Optional: Maximum 1000 characters allowed)
3	Subcontractor 5 - % of Work
3 8	
	(Optional)

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3 9	Supplier 1 - Name Each Bidder shall include a list of proposed suppliers of major materials and equipment to be furnished an installed in connection with this Bid. If complete listing of suppliers totals more than five, please attach such additional pages as may be required.
	(Optional: Maximum 1000 characters allowed)
40	Supplier 1 - Type of Material/Equipment
	(Optional: Maximum 1000 characters allowed)
_	
4	Supplier 2 - Name
	,——————————————————————————————————————
	,
	(Optional: Maximum 1000 characters allowed)
4 2	Supplier 2 - Type of Material/Equipment
	(Optional: Maximum 1000 characters allowed)
43	Supplier 3 - Name
	(Optional: Maximum 1000 characters allowed)
4	Supplier 3 - Type of Material/Equipment
	(Optional: Maximum 1000 characters allowed)
4 5	Supplier 4 - Name
	(Optional: Maximum 1000 characters allowed)

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4	Supplier 4 - Type of Material/Equipment Attachment 3 Item 14.			
	(Optional: Maximum 1000 characters allowed)			
47	Supplier 5 - Name			
	(Optional: Maximum 1000 characters allowed)			
4 8	Supplier 5 - Type of Material/Equipment			
	(Optional: Maximum 1000 characters allowed)			
4 9	Project Timeline: Substantial Completion Provide total number of calendar days to reach substantial completion of all construction (this should be the total number of days to reach substantial completion from notice to proceed date) (Required: Numbers only)			
5 0	Project Timeline: Final Completion Provide total number of calendar days to reach final completion of all construction (this should be the total number of days to reach final completion from notice to proceed date) (Required: Numbers only)			
3ic	d Lines			
1	Package Header			
	Base Bid: Fishtrap Road Segment 4 Construction and Segment 1-4 Landscape Architecture			
	Quantity: 1 Total: \$			
	Supplier Notes: No bid Additional notes (Attach separate sheet)			
	Package Items			
	1.1 Mobilization (Response required)			
	Quantity: 1 UOM: LS Supplier Notes: No bid Additional notes			
	(Attach separate sheet)			

1.2	Right-of-Way Preparation (Response required)		Attachment 3 Item 14.
	Quantity: 1 UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.3	Remove Existing Asphalt Pavement (Response required)		
	Quantity: 6840 UOM: SY	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.4	Remove Existing Concrete Pavement (Response required)		
	Quantity: 1680 UOM: SY	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.5	Remove Existing Curb Ramp (Response required)		
	Quantity: 12 UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.6	Remove Existing Concrete Sidewalk (Response required)		
	Quantity: 421 UOM: SY	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.7	Remove & Relocate Exist Swing Gate with k (Response required)	Knox Box	
	Quantity: 1 UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)

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1.8 Unclassified Street Excavation & Gradin (Response required)	ng	Attachment 3 Item 14.
Quantity: <u>1</u> UOM: <u>LS</u>	Unit Price: \$	Total: \$
Supplier Notes:		No bid
		Additional notes (Attach separate sheet)
1.9 5ft Moisture Conditioning (Response required)		
Quantity: 22430 UOM: CY	Unit Price: \$	Total: \$
1.10 12in Aggregate Flexbase Subgrade (Response required)		
Quantity: 1230 UOM: SY	Unit Price: \$	Total: \$
Supplier Notes:		No bid
1.11 12in Lime Stabilized Subgrade (Response required)		
Quantity: 13460 UOM: SY	Unit Price: \$	Total: \$
Supplier Notes:		Additional notes
1.12 12in Lime Stabilized Subgrade - Doub (Response required)	le Pass	(Attach separate sheet)
Quantity: 13460 UOM: SY	Unit Price: \$	Total: \$
Supplier Notes:		No bid
		Additional notes (Attach separate sheet)
1.13 Lime for Stabilization (48lb/SY) (Response required)		
Quantity: 323 UOM: TON	Unit Price: \$	Total: \$
Supplier Notes:		No bid
		Additional notes
		(Attach separate sheet)

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1.14	Lime for Stabiliz (Response required)	ation (48lb/SY) - Double Pa	ass	Attachment 3 Item 14.
	Quantity: 323	UOM: TON	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				— Additional notes
				(Attach separate sheet)
1.15	9in Concrete Pa (Response required)			
	Quantity: <u>11940</u>	UOM: SY	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.16	3in Asphalt Pave (Response required)			
	Quantity: <u>1120</u>	UOM: SY	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.17	4in Asphalt Pavr (Response required)			
	Quantity: <u>1120</u>	UOM: SY	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.18	Stamped Concre	ete (Including stain and Me	dian Alert strin)	
_	(Response required)	cic (including stain and ivic	alari, liore outp)	
	(Response required)			Total: \$
Š	(Response required) Quantity: 245	UOM: SF		Total: \$
	(Response required)			No bid
	(Response required) Quantity: 245			
	(Response required) Quantity: 245	UOM: SF		No bid Additional notes
	(Response required) Quantity: 245 Supplier Notes: 6in Curb (Response required)	UOM: SF	Unit Price: \$	No bid Additional notes
	(Response required) Quantity: 245 Supplier Notes: 6in Curb (Response required)	UOM: SF UOM: LF	Unit Price: \$ Unit Price: \$	No bid Additional notes (Attach separate sheet) Total: \$
	(Response required) Quantity: 245 Supplier Notes: 6in Curb (Response required) Quantity: 6500	UOM: SF UOM: LF	Unit Price: \$	No bid Additional notes (Attach separate sheet)

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1.20	Asphalt Curb (Response required)			Attachment 3 ltem 14.
	Quantity: 369 Supplier Notes:	UOM: LF	Unit Price: \$	Total: \$ No bid Additional notes
1.21	Curb Ramp (Response required) Quantity: 12 Supplier Notes:	UOM: <u>EA</u>	_ Unit Price: \$	Total: \$ No bid Additional notes (Attach separate sheet)
1.22	Concrete Sidew (Response required) Quantity: 2280 Supplier Notes:	UOM: SF	_ Unit Price: \$	Total: \$ No bid Additional notes (Attach separate sheet)
1.23	(Response required)	UOM: LS	Unit Price: \$	Total: \$ — No bid — Additional notes (Attach separate sheet)
1.24	Construction Ex (Response required) Quantity:1 Supplier Notes:	UOM: LS	_ Unit Price: \$	Total: \$ — No bid — Additional notes (Attach separate sheet)
	Inlet Protection (Response required) Quantity:5 Supplier Notes:	UOM: <u>EA</u>	Unit Price: \$	Total: \$ — No bid — Additional notes (Attach separate sheet)

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1.26	Inlet Protection (Response required			Attachment 3 Item 14.
	Quantity: <u>5</u>	UOM: EA	Unit Price: \$	Total: \$
				No bid
				Additional notes (Attach separate sheet)
1.27	Traffic Control (including Temporary HMAC	Lanes)	
	Quantity: <u>1</u>	UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:			No bidAdditional notes (Attach separate sheet)
1.28	Erosion Contro (Response required			
	Quantity: 1	UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.29	Utility Adjustme (Response required			
	Quantity: 1	UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.30	Restoration of F	Parkways (Including topsoil,	sod, watering, and maintenance un	til project acceptance)
	Quantity: <u>4670</u>	UOM: SY	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.31	Remove Existin	ng Storm Drain Structure		
	Quantity: 1	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)

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1.32	Remove & Reconstruct Curb Inlet Top (Response required)		Attachment 3 Item 14.
	Quantity: 1 UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.33	21in Class III RCP (Response required)		
	Quantity: 112 UOM: LF	Unit Price: \$	Total: \$
	Supplier Notes:		No bid Additional notes (Attach separate sheet)
1.34	24in Class III RCP (Response required)		
	Quantity: 758 UOM: LF	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.35	4ft Std. Storm Drain Manhole (Response required)		
	Quantity: 1 UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.36	15ft Recessed Curb Inlet (Response required)		
	Quantity: 2 UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes (Attach separate sheet)
1.37	10ft Recessed Curb Inlet (Response required)		
	Quantity: 1 UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:		No bid
			Additional notes
			(Attach separate sheet)

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1.38	5ft Concrete Flu (Response required)			Attachment 3 ltem 14.
	Quantity: <u>120</u> Supplier Notes:	UOM: SF	Unit Price: \$	Total: \$
				Additional notes (Attach separate sheet)
1.39	18in Thick Rock			
	Quantity: <u>80</u> Supplier Notes:	UOM: SY	Unit Price: \$	Total: \$ — No bid — Additional notes
	(Response required,	sting Storm Drain Pipe ⁾ UOM: <u>EA</u>	Unit Price: \$	(Attach separate sheet) Total:
	Supplier Notes:			No bid Additional notes (Attach separate sheet)
1.41	Trench Safety (Response required))		
	Quantity: <u>870</u> Supplier Notes:	UOM: LF	Unit Price: \$	Total: \$ No bid Additional notes (Attach separate sheet)
1.42	Furnish and ins	tall Bald Cypress (4in Cal.)	including all incidentals	(Allacii separate sheet)
	Quantity: 16	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid Additional notes (Attach separate sheet)
1.43	Furnish and ins	tall DD Magnolia (4in Cal.) i	ncluding all incidentals	
	Quantity: <u>13</u>	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)

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1.44	Furnish and ins	stall Live Oak (4in Cal.) includ	ding all incide	entals	Attachment 3 Item 14.
	Quantity: 8	UOM: EA	Unit Price:	\$	Total: \$
					No bid
					Additional notes (Attach separate sheet)
1.45	Furnish and ins	stall Fosterfts Holly (30 Gal.)	including all i	ncidentals	
	Quantity: 21	UOM: EA	Unit Price:	\$	Total: \$
	Supplier Notes:				No bid
1.46	Furnish and ins	stall Little Gem Magnolia (3in	Cal.) includir	ng all incidentals	
	Quantity: <u>15</u>	UOM: EA	Unit Price:	\$	Total: \$
	Supplier Notes:				No bid
					Additional notes (Attach separate sheet)
1.47	Furnish and ins	stall Color Guard Yucca (5 G	al.) including	all incidentals	
	Quantity: 60	UOM: EA	Unit Price:	\$	Total: \$
	Supplier Notes:				No bid
					Additional notes (Attach separate sheet)
1.48	Furnish and ins	stall Dwarf Crape Myrtle (3 G	al.) including	all incidentals	
	Quantity: 40	UOM: EA	Unit Price:	\$	Total: \$
	Supplier Notes:				No bid
					Additional notes (Attach separate sheet)
1.49	Furnish and ins	stall Dwarf Hameln Grass (1	Gal.) includin	ng all incidentals	
	Quantity: 700	UOM: EA	Unit Price:	\$	Total: \$
	Supplier Notes:				No bid
					Additional notes (Attach separate sheet)

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1.50	Furnish and ins		(7 Gal.) including all incidentals	Attachment 3 Item 14.
	Quantity: 38	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.51	Furnish and ins	stall Dwarf Loropetalum (7 G	al.) including all incidentals	
	Quantity: 172	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.52	Furnish and ins		Gal.) including all incidentals	
	Quantity: 71	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.53	Furnish and ins	stall Nandina (7 Gal.) includir	ng all incidentals	
	Quantity: 85	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.54	Furnish and ins	tall Mexican Petunia (1Gal.)	including all incidentals	
	Quantity: 119	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.55	Furnish and ins		a Palisades) including all incidentals	S
	Quantity: 4037	3 UOM: SF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				— Additional notes
				(Attach separate sheet)

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1.56	Furnish and inst		n-6in) including all incidentals	Attachment 3 Item 14.
	Quantity: <u>333</u>	UOM: SF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.57	Furnish and inst (Response required)	tall Boulder (4in) including a	Il incidentals	
	Quantity: 10	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.58	Furnish and inst	tall Boulder (3in) including a	ll incidentals	
	Quantity: 10	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			
				Additional notes (Attach separate sheet)
1.59	Concrete Mow S (Response required)	•		
	Quantity: <u>1510</u>	UOM: SF	Unit Price: \$	Total: \$
				No bid
				Additional notes (Attach separate sheet)
1.60	Fine Grading (Response required)			
	Quantity: <u>53893</u>	B UOM: SF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.61	Bed Prep w/ An (Response required)			
	Quantity: 13520	UOM: SF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes
				(Attach separate sheet)

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1.62	Permanent Irrig (Response required			Attachment 3 Item 14.
		8 UOM: SF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid Additional notes
				(Attach separate sheet)
1.63	Electrical Drop (Response required			
		UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:			No bid Additional notes (Attach separate sheet)
1.64	2in Water Meter (Response required			(Allacii separate sileet)
	Quantity: 1	UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.65	Irrigation Contro (Response required			
	Quantity: 1	UOM: LS	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.66	Irrigation Flow N			
	Quantity: 1	UOM: EA	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.67	6in Bore and SI (Response required			
	Quantity: 344	UOM: LF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)

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1.68	4in Bore and Sle (Response required)			Attachment 3 ltem 14.
	Quantity: 725	UOM: LF	Unit Price: \$	Total: \$
				No bid
				Additional notes (Attach separate sheet)
1.69	2in Bore and Sle (Response required)			
	Quantity: <u>533</u>	UOM: LF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.70	6in Sleeve (Response required)			
	Quantity: 160	UOM: LF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.71	4in Sleeve (Response required)			
	Quantity: 320	UOM: LF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.72	2in Lighting Con (Response required)			
	Quantity: 5033	UOM: LF	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				Additional notes (Attach separate sheet)
1.73	Texas Pure "TU (Response required)	RF BLEND" Soil Mix		
	Quantity: 493	UOM: CY	Unit Price: \$	Total: \$
	Supplier Notes:			No bid
				— Additional notes
				(Attach separate sheet)

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1.74 Remove & Relocate Light Pole (Response required)		Attachment 3 Item 14.
Quantity: 2 UOM: EA	Unit Price:	\$ Total: \$
Supplier Notes:		No bid
		Additional notes (Attach separate sheet)

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Supplier Infor	mation	Attachment 3	Item 14.
Company Name:		ı	
Contact Name:			
Address:			
Phone:			
Fax:			
Email:			
Supplier Note	es		
By submitting your	response, you certify that you are authorized to represent an	d bind your company.	
Print Name	Signature		



2021-30-B Addendum 1 Tiseo Paving Co. Supplier Response

Event Information

Number: 2021-30-B Addendum 1

Title: Fishtrap Road Segment 4 Construction and Segment 1-4 Landscape

Architecture

Type: Request for Bids

Issue Date: 1/12/2021

Deadline: 1/28/2021 03:00 PM (CT)

Notes: **REVISED ENGINEER'S ESTIMATE: \$2,616,392.00**

The Town of Prosper is accepting competitive sealed bids for BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE. Bids will be accepted online through IonWave.net, the Town's e-procurement system, or in hard copy in the Purchasing Office located in the 3rd Floor Finance Suite of Town Hall, 250 W. First St., Prosper, Texas 75078 until 3:00 P.M. on Thursday, January 28, 2021. Any bids received after this time will not be accepted and will be returned unopened. The bid opening will be held online on Thursday, January 28, 2021 @ 4:00 P.M. To participate in the bid opening, please use the following:

Join Zoom Meeting: https://us02web.zoom.us/j/86528160937

Meeting ID: 865 2816 0937

Dial-in any of these numbers: +1 929 436 2866, +1 312 626 6799, +1

669 900 6833, +1 253 215 8782,

+1 301 715 8592 or +1 346 248 7799

Item 14.

The Project consists of furnishing all labor, equipment and material (except as otherwise specified), and performing all work necessary for the construction of Grading, Paving, Drainage, and Utility Improvements to Fishtrap Road Segment 4 and the Landscape, Hardscape, and Irrigation Improvements for Fishtrap Road Segment 1-4 medians.

Each bid submitted shall be accompanied by a cashier's check in the amount of 5% of the maximum amount bid, payable without recourse to the Town of Prosper, or a Bid Bond in the same amount from a reliable surety company as a guarantee that, if awarded the contract, the successful Contractor will execute a Construction Agreement with the Town, including all required bonds and other documents.

The successful Contractor shall furnish a Performance Bond in the amount of 115% of the contract amount, and a Payment Bond in the amount of 100% of the contract amount, as well as evidence of all required insurance coverage within ten (10) calendar days of notice of award. The successful Contractor shall also furnish a Maintenance Bond in the amount of 100% of the contract amount covering defects of material and workmanship for two calendar years following the Town's approval and acceptance of the construction. An approved surety company, licensed in the State of Texas, shall issue all bonds in accordance with Texas law.

Copies of Plans, Specifications, and Contract Documents may be examined at Town of Prosper Engineering Department, 250 W. First Street, Prosper, Texas, 75078, Phone: (972) 569-1198 without charge. These documents may be acquired from that office for the non-refundable purchase price of \$50.00 per set, payable to the Town of Prosper. Copies of Plans, Specifications, and Contract Documents may also be downloaded free of charge from Current Bidding Opportunities, at the following link: http://www.prospertx.gov/business/bid-opportunities/.

Questions and requests for clarifications in regard to this bid should be submitted in writing through IonWave.net, the Town's e-procurement system, or emailed directly to January Cook, CPPO, CPPB, Purchasing Manager, at jcook@prospertx.gov. The deadline for receipt of questions and requests for clarifications is 12:00 P.M. on Friday, January 22, 2021. After that day and time, no further questions or requests for clarifications will be accepted or answered by the Engineer or Town.

Please complete and submit Planholder Registration Form to be placed on the official Planholder List.

Contact Information

Contact: January Cook Purchasing Manager

Address: Purchasing Office

Town Hall 3rd Floor

250 W. First St. P.O. Box 307

Prosper, TX 75078

(972) 569-1018 Phone:

jcook@prospertx.gov Email:

Attachment 3 Item 14.

Tiseo Paving Co. Information

Attachment 3 Item 14.

Contact: Louis Tiseo

Address: 419 US Highway 80 East

Mesquite, TX 75150

(972) 289-0723 Phone: Fax: (972) 216-5637 Toll Free: (972) 289-0723

Email: Itiseo@tiseopaving.com

By submitting your response, you certify that you are authorized to represent and bind your company.

gbrown@tiseopaving.com Louis Tiseo

Signature

Submitted at 1/28/2021 12:43:28 PM

Requested Attachments

Bid Bond BID BOND.pdf

Email

Completed Projects and References

COMPLETED PROJECT AND REFERENCES WORKSHEET.pdf

Worksheet

Complete and submit the Completed Projects and References Worksheet

Resumes for Key Personnel

RESUME JUSTIN B.pdf

Submit resumes for key personnel that will be assigned to the project (executive and management team, as well as on-site project manager).

Project Schedule

Las Colinas Ph 3 10-3-19.pdf

Sample of an actual project scheduled used during construction for similar project (sample is not specific to this project)

Conflict of Interest Questionnaire

FORM CIQ.pdf

Only submit if applicable

Out of State Contractor Compliance Form

OUT OF STATE CONTRACTOR COMPLIANCE TO STATE LAW.pdf

Only submit if applicable

Bid Attributes

Bid Proposal Condition No. 1

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

I Agree

2 Bid Proposal Condition No. 2

Attachment 3

Item 14.

Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Engage, including without limitation those terms and conditions dealing with the disposition of Bid guaranty. This Bid will remain subject to acceptance for 90 calendar days after the day of opening Bids. Bidder will sign and submit the Agreement with the Bonds and other documents required by the Contract Documents within ten (10) calendar days after the date of Owner's Notice of Award.

I Agree

3 Bid Proposal Condition No. 3

The right is reserved, as the interest of the Owner may require, to reject any and all Bids and to waive any informality in the Bids received.

I Agree

4 Bid Proposal Condition No. 4

Bidder has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

I Agree

5 Bid Proposal Condition No. 5

Bidder has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies that pertain to the subsurface or physical conditions at the site or which otherwise may affect the cost, progress, performance or furnishing of the Work as Bidder considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by Bidder for such purposes.

I Agree

6 Bid Proposal Condition No. 6

Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said Underground Facilities are or will be required by the Bidder in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.

I Agree

7 Bid Proposal Condition No. 7

Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

I Agree

8 Bid Proposal Condition No. 8

Bidder has given Engineer written notice of all conflicts, errors or discrepancies that it has discovered, if any, in the Contract Documents and the written resolution thereof by Engineer is acceptable to Bidder.

I Agree

9 Bid Proposal Condition No. 9

Attachment 3

Item 14.

This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any person, firm or corporation to refrain from submitting a Bid; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.

I Agree

1 Bid Proposal Condition No. 10

Bidder will substantially complete the Work for the price(s) shown in the schedule of bid items and within the number of calendar days bid, based on date of Notice to Proceed.

I Agree

Bid Proposal Condition No. 11

Bidder hereby agrees to commence work within ten (10) days after the date written notice to proceed shall have been given to him, and to substantially complete the work on which he has bid within the number of calendar days bid as part of this Proposal. Within 30 additional calendar days after Substantial Completion, all outstanding issues shall be addressed and ready for final payment. All such time restrictions are subject to such extensions of time as are provided by the General Provisions and Special Conditions.

I Agree

Bid Proposal Condition No. 12

Bidder agrees that the implementation of the Owner's right to delete any portion of the improvements shall not be considered as waiving or invalidating any conditions or provisions of the contract or bonds. Bidder shall perform the Work as altered and no allowances shall be made for anticipated profits.

I Agree

1 Bid Proposal Condition No. 13

Since the Work on this Project is being performed for a governmental body and function, the Owner will issue to the Contractor a certificate of exemption for payment for the State Sales TAX on materials incorporated into this Project if requested.

I Agree

Bid Proposal Condition No. 14

In the event of the award of a contract, vendor will furnish a Performance Bond for 115% of the contract amount, and a Payment Bond for 100% of the contract amount, to secure proper compliance with the terms and provisions of the contract with sureties offered by *surety company named in the space provided*, to insure and guarantee the work until final completion and acceptance, and to guarantee payment of all lawful claims for labor performed and materials furnished in the fulfillment of the contract. In addition, the undersigned will furnish a Maintenance Bond for 100% of the contract amount covering defects of material and workmanship for two calendar years following the Owner's approval and acceptance of the construction.

I Agree

Bid Proposal Condition No. 15

The work, proposed to be done, shall be accepted when fully completed in accordance with the plans and specifications, to the satisfaction of the Engineer and the Owner.

I Agree

Bid Proposal Condition No. 16 Attachment 3 Item 14. The vendor submitting this Bid certifies that the bid prices contained in this Bid have been carefully checked are submitted as correct and final. I Agree **Base Bid** Cost of Materials \$1444855.80 **Base Bid** Cost of Labor, Profit, etc. \$1182154.75 Addendum No. 1 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) Acknowledged Addendum No. 2 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) No response Addendum No. 3 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) No response Addendum No. 4 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) No response Addendum No. 5 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) No response Subcontractor 1 - Name Each Bidder shall include a list of proposed subcontractors, the type of work to be completed by each such subcontractor and the approximate percentage of contract labor to be completed by each subcontractor. If complete listing of subcontracts totals more than five, please attach such additional pages as may be required. Owner reserves the right to accept or reject any subcontracts and/or amount subcontracted that it deems to be objectionable. **RPMX Construction**

Subcontractor 1 - Type of Work

Dirt Work

Subcontractor 1 - % of Work

17%

2021-30-B Page 7 of 13 pages Vendor: Tiseo Paving Co.

2 7	Subcontractor 2 - Name Fourstar Excavation Attachment 3 Item 14.
28	Subcontractor 2 - Type of Work Utility
29	Subcontractor 2 - % of Work 5%
3	Subcontractor 3 - Name Mels Electric
3	Subcontractor 3 - Type of Work Electrical
3 2	Subcontractor 3 - % of Work 3%
3	Subcontractor 4 - Name Stenson Landscape
3 4	Subcontractor 4 - Type of Work Grass
3 5	Subcontractor 4 - % of Work 16%
3 6	Subcontractor 5 - Name No response
3 7	Subcontractor 5 - Type of Work No response
38	Subcontractor 5 - % of Work No response
3 9	Supplier 1 - Name Each Bidder shall include a list of proposed suppliers of major materials and equipment to be furnished and installed in connection with this Bid. If complete listing of suppliers totals more than five, please attach such additional pages as may be required. BARNSCO
40	Supplier 1 - Type of Material/Equipment steel
4	Supplier 2 - Name LATTIMORE
	Page 358

4	Supplier 2 - Type of Material/Equipment Attachment 3
2	concrete Item 14.
4	Supplier 3 - Name
3	No response
А	Supplier 2 Type of Meterial/Equipment
4	Supplier 3 - Type of Material/Equipment
	No response
45	Supplier 4 - Name
5	No response
4	Supplier 4 - Type of Material/Equipment
O	No response
4	Supplier 5 - Name
7	No response
4 8	Supplier 5 - Type of Material/Equipment
8	No response
4	Project Timeline: Substantial Completion
4 9	Provide total number of calendar days to reach substantial completion of all construction (this should be the total
	number of days to reach substantial completion from notice to proceed date)
	270
E	Desired Timelines Final Completion
50	Project Timeline: Final Completion
	Provide total number of calendar days to reach final completion of all construction (this should be the total number of days to reach final completion from notice to proceed date)
	284
Ri∕	Lines
<u>ار</u>	A LITTES

1	Package Header							
	Base Bid: Fishtrap Road Segment 4 Construction and Segment 1-4 Landscape Architecture							
	Quantity: 1		Total:		\$2,627,010.55			
	Package Items							
	1.1 Mobilization							
	Quantity: 1 UOM: LS	Unit Price:	\$258,800.00	Total:	\$258,800.00			
	1.2 Right-of-Way Preparation	_						
	Quantity: 1 UOM: LS	Unit Price:	\$228,050.00	Total:	\$228,050.00			
	1.3 Remove Existing Asphalt Pavement	F			,			
	Quantity: 6840 UOM: SY	Unit Price:	\$7.90	Total:	\$54,036.00			

Vendor: Tiseo Paving Co.

1.4 Remove Existing Concrete Pavement			_	Attachment 3 Item 14.
Quantity: 1680 UOM: SY	Unit Price:	\$6.05	Total:	\$1 0,164.00
1.5 Remove Existing Curb Ramp				
Quantity: 12 UOM: EA	Unit Price:	\$275.00	Total:	\$3,300.00
1.6 Remove Existing Concrete Sidewalk				
Quantity: 421 UOM: SY	Unit Price:	\$9.35	Total:	\$3,936.35
1.7 Remove & Relocate Exist Swing Gate with	Knox Box			
Quantity: 1 UOM: LS	Unit Price:	\$4,290.00	Total:	\$4,290.00
1.8 Unclassified Street Excavation & Grading				
Quantity: 1 UOM: LS	Unit Price:	\$230,000.00	Total:	\$230,000.00
1.9 5ft Moisture Conditioning				
Quantity: 22430 UOM: CY	Unit Price:	\$3.30	Total:	\$74,019.00
1.10 12in Aggregate Flexbase Subgrade				
Quantity: 1230 UOM: SY	Unit Price:	\$26.00	Total:	\$31,980.00
1.11 12in Lime Stabilized Subgrade				
Quantity: 13460 UOM: SY	Unit Price:	\$2.35	Total:	\$31,631.00
1.12 12in Lime Stabilized Subgrade - Double F	Pass			
Quantity: 13460 UOM: SY	Unit Price:	\$2.35	Total:	\$31,631.00
1.13 Lime for Stabilization (48lb/SY)				
Quantity: 323 UOM: TON	Unit Price:	\$199.00	Total:	\$64,277.00
1.14 Lime for Stabilization (48lb/SY) - Double F	Pass			
Quantity: 323 UOM: TON	Unit Price:	\$199.00	Total:	\$64,277.00
1.15 9in Concrete Pavement				
Quantity: 11940 UOM: SY	Unit Price:	\$54.90	Total:	\$655,506.00
1.16 3in Asphalt Pavement Type D				
Quantity: 1120 UOM: SY	Unit Price:	\$19.55	Total:	\$21,896.00
1.17 4in Asphalt Pavment Type B				
Quantity: 1120 UOM: SY	Unit Price:	\$24.70	Total:	\$27,664.00
1.18 Stamped Concrete (Including stain and M	edian Alert strip)			
Quantity: 245 UOM: SF	Unit Price:	\$19.80	Total:	\$4,851.00
1.19 6in Curb				
Quantity: 6500 UOM: LF	Unit Price:	\$2.00	Total:	\$13,000.00
1.20 Asphalt Curb				
Quantity: 369 UOM: LF	Unit Price:	\$17.85	Total:	\$6,586.65
1.21 Curb Ramp				
Quantity: 12 UOM: EA	Unit Price:	\$2,640.00	Total:	\$31,680.00
1.22 Concrete Sidewalk				
Quantity: 2280 UOM: SF	Unit Price:	\$7.15	Total:	\$16,302.00

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 Vendor: Tiseo Paving Co.
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1.23 Pavement Striping, Marking & Signage				Attachment 3 Item 14.
Quantity: 1 UOM: LS	Unit Price:	\$18,350.00	Total:	\$18,350.00
1.24 Construction Exit				
Quantity: 1 UOM: LS	Unit Price:	\$2,475.00	Total:	\$2,475.00
1.25 Inlet Protection (Silt Fence)				
Quantity: 5 UOM: EA	Unit Price:	\$77.00	Total:	\$385.00
1.26 Inlet Protection (Sock Filter)				
Quantity: 5 UOM: EA	Unit Price:	\$121.00	Total:	\$605.00
1.27 Traffic Control (including Temporary HMAC	CLanes)			
Quantity: 1 UOM: LS	Unit Price:	\$25,800.00	Total:	\$25,800.00
1.28 Erosion Control (Silt Fence)				
Quantity: 1 UOM: LS	Unit Price:	\$1.60	Total:	\$1.60
1.29 Utility Adjustments				
Quantity: 1 UOM: LS	Unit Price:	\$2,750.00	Total:	\$2,750.00
1.30 Restoration of Parkways (Including topsoil			ıtil proje	ct acceptance)
Quantity: 4670 UOM: SY	Unit Price:	\$10.75	Total:	\$50,202.50
1.31 Remove Existing Storm Drain Structure		_	_	
Quantity: 1 UOM: EA	Unit Price:	\$2,255.00	Total:	\$2,255.00
1.32 Remove & Reconstruct Curb Inlet Top		_	_	
Quantity: 1 UOM: EA	Unit Price:	\$5,500.00	Total:	\$5,500.00
1.33 21in Class III RCP		_	_	
Quantity: 112 UOM: LF	Unit Price:	\$96.80	Total:	\$10,841.60
1.34 24in Class III RCP		_	_	
Quantity: 758 UOM: LF	Unit Price:	\$110.00	Total:	\$83,380.00
1.35 4ft Std. Storm Drain Manhole		_	_	
Quantity: 1 UOM: EA	Unit Price:	\$4,950.00	Total:	\$4,950.00
1.36 15ft Recessed Curb Inlet		_	_	
Quantity: 2 UOM: EA	Unit Price:	\$6,820.00	Total:	\$13,640.00
1.37 10ft Recessed Curb Inlet	_		_	
Quantity: 1 UOM: EA	Unit Price:	\$5,060.00	Total:	\$5,060.00
1.38 5ft Concrete Flume			_	
Quantity: 120 UOM: SF	Unit Price:	\$19.80	Total:	\$2,376.00
1.39 18in Thick Rock Riprap	_ _		_	
Quantity: 80 UOM: SY	Unit Price:	\$93.50	Total:	\$7,480.00
1.40 Connect to Existing Storm Drain Pipe	_ _		_	
Quantity: 1 UOM: EA	Unit Price:	\$3,300.00	Total:	\$3,300.00
1.41 Trench Safety	_ _		_	
Quantity: 870 UOM: LF	Unit Price:	\$1.25	Total:	\$1,087.50

1.42 Furnish and install	Bald Cypress (4in Cal.) including all incide	entals		Attachment 3 Item 14.
Quantity: 16 UC	DM: EA	Unit Price:	\$825.00	Total:	\$13,200.00
1.43 Furnish and install	DD Magnolia (4in Cal.)) including all incider	ntals		
Quantity: 13 UC	DM: EA	Unit Price:	\$984.50	Total:	\$12,798.50
1.44 Furnish and install	Live Oak (4in Cal.) incl	luding all incidentals	;		
Quantity: 8 UC	DM: EA	Unit Price:	\$935.00	Total:	\$7,480.00
1.45 Furnish and install	Fosterfts Holly (30 Gal	.) including all incide	entals		
Quantity: 21 UC	DM: EA	Unit Price:	\$385.00	Total:	\$8,085.00
1.46 Furnish and install	Little Gem Magnolia (3	in Cal.) including all	incidentals		
Quantity: 15 UC	DM: EA	Unit Price:	\$544.50	Total:	\$8,167.50
1.47 Furnish and install	Color Guard Yucca (5	Gal.) including all in	cidentals	_	
Quantity: 60 UC	DM: EA	Unit Price:	\$32.45	Total:	\$1,947.00
1.48 Furnish and install	Dwarf Crape Myrtle (3	Gal.) including all in	cidentals	_	
Quantity: 40 UC	DM: EA	Unit Price:	\$49.50	Total:	\$1,980.00
1.49 Furnish and install	Dwarf Hameln Grass (1 Gal.) including all	incidentals	_	
Quantity: 700 UC	OM: EA	Unit Price:	\$5.45	Total:	\$3,815.00
1.50 Furnish and install	Dwarf Indian Hawthorn	n (7 Gal.) including a	III incidentals	_	
Quantity: 38 UC	DM: EA	Unit Price:	\$46.75	Total:	\$1,776.50
1.51 Furnish and install	Dwarf Loropetalum (7	Gal.) including all in	cidentals	_	
Quantity: 172 UC	OM: EA	Unit Price:	\$54.45	Total:	\$9,365.40
1.52 Furnish and install	Dwarf Yaupon Holly (7	Gal.) including all in	ncidentals	_	
Quantity: 71 UC	DM: EA	Unit Price:	\$43.45	Total:	\$3,084.95
1.53 Furnish and install	Nandina (7 Gal.) includ	ding all incidentals		_	
Quantity: 85 UC	DM: EA	Unit Price:	\$46.75	Total:	\$3,973.75
1.54 Furnish and install	Mexican Petunia (1Ga	l.) including all incide	entals	_	
Quantity: 119 UC	DM: EA	Unit Price:	\$7.15	Total:	\$850.85
1.55 Furnish and install	Zoysia Palisades (Zoy	, <u> </u>		_	
Quantity: <u>40373</u>	UOM: SF	Unit Price:	\$1.27	Total:	\$51,273.71
1.56 Furnish and install	Colorado River Rock (4in-6in) including all	incidentals	_	
Quantity: 333 UC	OM: SF	Unit Price:	\$7.15	Total:	\$2,380.95
1.57 Furnish and install	Boulder (4in) including	all incidentals		_	
Quantity: 10 UC	DM: EA	Unit Price:	\$302.50	Total:	\$3,025.00
1.58 Furnish and install	Boulder (3in) including	all incidentals		-	
Quantity: 10 UC	DM: EA	Unit Price:	\$247.50	Total:	\$2,475.00
1.59 Concrete Mow Stri	p			-	
Quantity: <u>1510</u> U	JOM: SF	Unit Price:	\$23.65	Total:	\$35,711.50
1.60 Fine Grading				-	
Quantity: <u>53893</u>	UOM: SF	Unit Price:	\$0.06	Total:	\$3,233.58

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1.61 Bed Prep w/ Amendments				Attachment 3 Item 14.
Quantity: <u>13520</u> UOM: <u>SF</u>	Unit Price:	\$1.60	Total:	\$21,032.00
1.62 Permanent Irrigation				
Quantity: <u>53898</u> UOM: <u>SF</u>	Unit Price:	\$2.04	Total:	\$109,951.92
1.63 Electrical Drop for Controller				
Quantity: 1 UOM: LS	Unit Price:	\$22,200.00	Total:	\$22,200.00
1.64 2in Water Meter			_	
Quantity: 1 UOM: LS	Unit Price:	\$7,150.00	Total:	\$7,150.00
1.65 Irrigation Controller			_	_
Quantity: 1 UOM: LS	Unit Price:	\$16,500.00	Total:	\$16,500.00
1.66 Irrigation Flow Meter			_	_
Quantity: 1 UOM: EA	Unit Price:	\$2,750.00	Total:	\$2,750.00
1.67 6in Bore and Sleeve			_	_
Quantity: 344 UOM: LF	Unit Price:	\$33.00	Total:	\$11,352.00
1.68 4in Bore and Sleeve	_		_	
Quantity: <u>725</u> UOM: <u>LF</u>	Unit Price:	\$29.15	Total:	\$21,133.75
1.69 2in Bore and Sleeve	_		_	
Quantity: <u>533</u> UOM: <u>LF</u>	Unit Price:	\$24.75	Total:	\$13,191.75
1.70 6in Sleeve	_		_	
Quantity: 160 UOM: LF	Unit Price:	\$16.50	Total:	\$2,640.00
1.71 4in Sleeve			-	
Quantity: 320 UOM: LF	Unit Price:	\$13.20	Total:	\$4,224.00
1.72 2in Lighting Conduit			F	
Quantity: 5033 UOM: LF	Unit Price:	\$11.28	Total:	\$56,772.24
1.73 Texas Pure "TURF BLEND" Soil Mix				
Quantity: 493 UOM: CY	Unit Price:	\$82.50	Total:	\$40,672.50
1.74 Remove & Relocate Light Pole			-	
Quantity: 2 UOM: EA	Unit Price:	\$6,950.00	Total:	\$13,900.00

Response Total: \$2,627,010.55

BID BOND

STATE OF TEXAS	1
COUNTY OF COLLIN	

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, Tiseo Paving Company P. O. Box 270040, Dallas, TX 75227 hereinafter Principal, called Hartford Fire Insurance Company , a corporation organized and existing under the laws of the State of Connecticut , and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the Town of Prosper, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as "Owner," in the penal sum of \$ Five Percent of the Amount of Bid (5%) as the proper measure of liquidated damages arising out of or connected with the submission of a Bid Proposal for the construction of a public work project, in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents. The condition of the above obligation is such that whereas the Principal has submitted to Owner a certain Bid Proposal, attached hereto and hereby made a part hereof, to enter into a contract in writing, for the construction of:

BID NO. 2021-30-B FISHTRAP ROAD SEGMENT 4 CONSTRUCTION AND SEGMENT 1-4 LANDSCAPE ARCHITECTURE

NOW, THEREFORE, if the Principal's Proposal shall be rejected or, in the alternative, if the Principal's Proposal shall be accepted and the Principal shall execute and deliver a contract in the form of the Contract attached hereto (properly completed in accordance with said Proposal) and shall furnish performance, payment and maintenance bonds required by the Contract Documents for the Project and provide proof of all required insurance coverages for the Project and shall in all other respects perform the agreement created by the acceptance of said Proposal, then this obligation shall be void, otherwise the same shall remain in force and affect; it being expressly understood and agreed that the liability of the Surety for any breech of condition hereunder shall be in the face amount of this bond and forfeited as a proper measure of liquidated damages.

PROVIDED FURTHER, that if any legal action were filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, the Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Proposal; and said Surety does hereby waive notice of any such extension.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed and shall be deemed an original, this, the __28th day of __January _____, 2021.

ATTEST:	PRINCIPAL:
By: Signature Signature Jesica Cardenas Typed/Printed Name Admin Assistant Title P.O.Box 270040 Address Dallas Tx 75227	Tiseo Paving Company Company Name By: Signature LOUIS TISEO Typed/Printed Name President Title P. O. Box 270040 Address Dallas, TX 75227
City State (972) 21p-5637	City State Zip (972) 289-0723 (972) 216-5637
Phone Fax	Phone Fax
ATTEST:	SURETY: Hartford Fire Insurance Company By:
Signature Meagan Kress	Signature
Printed Name	Susan L. Small
Surety Administrator	Printed Name Attorney-In-Fact
Title 1175 West Long Lake Road, Suite 200	Title One Hartford Plaza
Address Troy, MI 48098	Address Hartford, CT 06155
City State Zip 248-828-3377 248-828-4290	City State Zip (248) 822-6456 (248) 822-6450
Phone Fax	Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: Donnie Doan

STREET ADDRESS: 8144 Walnut Hill Lane, 16th Floor CITY, STATE, ZIP: Dallas, TX 75321

NOTE: If Resident Agent is not a corporation, give a person's name.

Direct Inquiries/Claims to THE HARTFORD

BOND, T-12 One Hartford Plaza Hartford, Connecticut 06155

Bond.Claims@thehartford.com call: 888-266-3488 or fax: 860-757-5835

Agency Name: VTC INSURANCE GROUP

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS THAT:

i palenyi	William .	Agency Code: 35-351225
	Х	Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
	X	Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
	Х	Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
		Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
		Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
		Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
		Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
		Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida
vina t	heir ho	me office in Hartford Connecticut (harcinoffer collectively referred to an the "Occupation") to be a first to the second to the

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of Unlimited :

Susan L. Small of Farmington Hills MI, Jeffrey A. Chandler, Alan P. Chandler, Ian J. Donald, Wendy L. Hingson, Kathleen M. Irelan, Meagan L. Kress, Robert Trobec of TROY, Michigan

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by X, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 6, 2015 the Companies have caused these presents to be signed by its Senior Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



John Gray, Assistant Secretary

M. Ross Fisher, Senior Vice President

STATE OF CONNECTICUT

Hartford

COUNTY OF HARTFORD

On this 5th day of January, 2018, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Senior Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

Kathleen T. Waynoud

Kathleen T. Maynard Notary Public My Commission Expires July 31, 2021

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of January 28th, 2021 Signed and sealed at the City of Hartford.

















Kevin Heckman, Assistant Vice President

IMPORTANT NOTICE

To obtain information or make a complaint:

You may contact your agent.

You may call Hartford Insurance Group at the toll free telephone number for information or to make a complaint at:

1-800-392-7805

You may also write to The Hartford:

The Hartford
Hartford Financial Products
2 Park Avenue, 5th Floor
New York, New York 10016
1-212-277-0400

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance

P.O. Box 149104 Austin, TX 78714-9104 Fax Number (512) 475-1771 Web: http://www.tdi.state.tx.us

E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for your information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja.

Puede comunicarse con su agente.

Usted puede llamar al numero de telefono gratis de The Hartford Insurance Group para indormacion o para someter una queja al

1-800-392-7805

Usted tambien puede escribir a The Hartford.

The Hartford Hartford Financial Products 2 Park Avenue, 5th Floor New York, New York 10016 1-212-277-0400

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de compañías, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas

P.O. Box 149104 Austin, TX 78714-9104 Fax Number (512) 475-1771 Web: http://www.tdi.state.tx.us

E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS: Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con su agente primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

F-4275-1, ./TX4275-1 HR 42 H006 00 0807

PLANNING



To: Mayor and Town Council

From: Alex Glushko, AICP, Planning Manager

Through: Harlan Jefferson, Town Manager

Rebecca Zook, P.E., Executive Director of Development and

Infrastructure Services

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act to authorize the Town Manager to execute a Development Agreement between Founders Classical Academy of Prosper and the Town of Prosper, Texas, related to the Founders Classic Academy Charter School development on the southwest corner of First Street and Custer Road.

Description of Agenda Item:

At the January 12, 2021, and February 9, 2021, Town Council meetings, this item was tabled to allow the applicant additional time to consider revisions that would allow for enhancements to the north side building elevation, landscaping berming along First Street and Custer Road, and the future use of temporary/modular buildings.

The applicant is currently working on a site redesign in order to incorporate berms into the development. As a result, Founders Academy has requested this item be tabled to the March 9, 2021. While this item is proposed to be tabled, both the staff and applicant will be available to answer any questions Council may have regard the potential site redesign, including berms.

Attached Documents:

- 1. Draft Revised Development Agreement
- 2. Exhibit A Property Description
- 3. Exhibit B Façade Elevations
- 4. Exhibit C Field Lighting Photometric Plan
- 5. Approved Site Plan
- 6. Building Material Board

Town Staff Recommendation:

Staff recommends an update be provided to Town Council, and subsequently the item be tabled until the March 9, 2021, Town Council meeting.

Proposed Motion:

I move to table this item until the March 9, 2021, Town Council meeting.

<u>DEVELOPMENT/INTERLOCAL AGREEMENT BETWEEN THE TOWN OF</u> PROSPER, TEXAS, AND FOUNDERS CLASSICAL ACADEMY OF PROSPER

THIS DEVELOPMENT/INTERLOCAL AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND FOUNDERS CLASSICAL ACADEMY OF PROSPER ("Agreement"), is made and entered into this ____ day of December, 2020, by and between the Town of Prosper, Texas ("Prosper" or the "Town"), and Founders Classical Academy of Prosper ("Developer"), collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, this Agreement is entered into pursuant to the home-rule authority of the Town, pursuant to Article XI of the Texas Constitution, and to applicable provisions of the Texas Education Code for Developer, and to the extent applicable, Chapter 791 of the Texas Government Code; and

WHEREAS, Developer, a Texas nonprofit corporation, is constructing a Charter School ("Charter School") in the Town to be located on property at the southwest corner of East First Street and Custer Road in the Town (the "Property"); and

WHEREAS, the legal description of the Property on which the Charter School shall be constructed is attached hereto as Exhibit A and incorporated by reference; and

WHEREAS, in this Agreement the Town and Developer wish to address a variety of issues related to the construction and eventual operation of the Charter School, including building construction materials and architectural standards, and dedications and easements, among others; and

WHEREAS, this Agreement clearly is in the best interests of the Town and Developer and it is deemed mutually beneficial to each.

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

1. <u>Building Materials and Architectural Standards</u>. Following the execution of this Agreement by the Parties, for any structure built on the Property, which includes any structure in Phase 1 (elementary school and gym/cafeteria), as well as any structure contemplated in any future phase of the Charter School, Developer agrees to comply with the applicable building construction materials and architectural standards contained in the elevations reflected in Exhibit B, attached hereto and incorporated by reference. The Parties specifically agree and acknowledge that the provisions of this Paragraph shall apply to any new structure constructed subsequent to the execution of this Agreement. Further, with respect to any and all structures to be constructed on the Property pursuant to this Agreement, Developer agrees and acknowledges that no building it plans to initially construct on the Property shall be a commercial or residential

structure, and therefore waives any right, requirement or enforcement of Texas Government Code §§ 3000.001-3000.005, as amended.

- 2. <u>Outdoor Lighting Standards</u>. All outdoor lighting on the Property shall be in compliance with all applicable Town standards and regulations, and lighting around the athletic field also shall comply with the light emission standards referenced in the Field Lighting Photometric Plan, attached hereto as Exhibit C incorporated by reference.
- 3. <u>Portable/Temporary Buildings</u>. No portable or temporary buildings are contemplated on the Property as of the date of execution of this Agreement. In the event a portable or temporary building is requested, Developer shall submit a permit and all documentation required by the Town's zoning regulations, as same may be amended from time to time, for such building(s).
- 4. Rough Proportionality. Developer hereby agrees that any land or property donated and/or dedicated to the Town pursuant to this Agreement, whether in fee simple or otherwise, including any easements (as reflected in the Final Plat, attached hereto as Exhibit C and incorporated by reference), relative to any development on the Property is roughly proportional to the need for such land and Developer hereby waives any claim therefor that it may have. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the development referenced herein. Both Developer and the Town further agree to waive and release all claims one may have against the other related to any and all rough proportionality and individual determination requirements mandated by the United States Supreme Court in Dolan v. City of Tigard, 512 U.S. 374 (1994), and its progeny, as well as any other requirements of a nexus between development conditions and the provision of roadway services to the Property.
- 5. **Exactions/Infrastructure Costs**. Both the Town and Developer have been represented by legal counsel in the negotiation of this Agreement and been advised or each has had the opportunity to have legal counsel review this Agreement and advise them, regarding Developer's and the Town's rights under Texas and federal law. Developer and the Town hereby waive any requirement that the other retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions are roughly proportional or roughly proportionate to the proposed development's anticipated impact. Developer specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with § 212.904 of the Texas Local Government Code and any exemptions from impact fees under current or future law; however, notwithstanding the foregoing and to the extent permitted by law, Developer hereby releases the Town from any and all liability under § 212.904 of the Texas Local Government Code, as amended, regarding or related to the cost of those municipal infrastructure requirements imposed by this Agreement.

- Notification of Sale or Transfer; Assignment of Agreement. Developer 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 Developer 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 Developer. Each assignment shall be in writing executed by Developer 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 Assignee assumes the liabilities, responsibilities, and obligations of Developer 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 Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment. Developer shall maintain true and correct copies of all assignments made by Developer to Assignees, including a copy of each executed assignment and the Assignee's Notice information. Agreement shall be filed in the real property records of Collin County, Texas.
- 7. <u>Default</u>. If Developer or the Town fails to comply with any provision of this Agreement after receiving ten (10) days' written notice to comply from the other party, then so long as such default continues and is not cured, either party shall have the following remedies, in addition to any other rights and remedies:
 - (a) to seek specific enforcement of this Agreement; and/or
 - (b) declare a default of this Agreement and pursue any remedy authorized by law; and/or
 - (c) in the case of the Town, not issue a building permit for any new structure or phase contemplated by this Agreement until such default is cured by Developer.
- 8. <u>Other Applicable Development Ordinances</u>. Unless otherwise expressly stipulated in this Agreement or exempted under applicable law (now or hereafter enacted), nothing herein shall relieve Developer from responsibilities for the construction of other public improvements under applicable development ordinances of the Town.
- 9. <u>Venue</u>. 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. Venue for any action arising under this Agreement shall lie in Collin County, Texas.
- 10. <u>Notices</u>. Any notices required or permitted to be given hereunder 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, Texas

P.O. Box 307

Prosper, Texas 75078

Attn: Town Manager's Office

If to Developer: Founders Classical Academy of Prosper

c/o Responsive Education Solutions

1301 Waters Ridge Drive, Lewisville, Texas 75057

Attn: Robert Davison, Chief Operating Officer

With a copy to: Schulman, Lopez, Hoffer & Adelstein, LLP

845 Proton Road

San Antonio, Texas 78258 Attn: Jason Adelstein

- 11. <u>Prevailing Party</u>. In the event either party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).
- 12. **Sovereign Immunity**. The parties agree that neither Developer nor the Town has otherwise waived its sovereign or governmental immunity by entering into and performing its obligations under this Agreement excepting only for purposes of Local Government Code Chapter 271.
- 13. <u>Effect of Recitals</u>. 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 Developer; and (d) reflect the final intent of the parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.
- 14. <u>Vested Rights/Chapter 245 Waiver</u>. The signatories hereto shall be subject to all ordinances of Town, whether now existing or in the future arising. This Agreement shall confer no vested rights on the Property, or any portion thereof, unless specifically enumerated herein. In addition, nothing contained in this Agreement shall constitute a "permit" as defined in Chapter 245, Texas Local Government Code, and nothing in this Agreement provides Town with fair notice of any Developer's project. **DEVELOPER SPECIFICALLY WAIVES ANY STATUTORY CLAIM UNDER CHAPTER**

245 OF THE TEXAS LOCAL GOVERNMENT CODE UNDER THIS AGREEMENT. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

- 15. <u>Consideration</u>. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.
- 16. <u>Counterparts</u>. 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 if properly executed.
- 17. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto 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.
- 18. <u>Savings/Severability</u>. Invalidation of any one of the provisions of this document by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.
- 19. <u>Authority to Execute</u>. The Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town and Developer each warrant and represent that the individual executing this Agreement on behalf of each party has full authority to execute this Agreement and bind that party to the same. This Agreement is and shall be binding upon the Town and Developer, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.
- 20. <u>Mediation</u>. 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 mediation.
- 21. <u>Time</u>. Time is of the essence in the performance by the Parties of their respective obligations under this Agreement.
- 22. <u>Third Party Beneficiaries</u>. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the Parties do not intend to create any third-party beneficiaries by entering into this Agreement.
- 23. <u>Miscellaneous Drafting Provisions; Interpretation</u>. 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. Moreover, in the event of any conflict between any term or provision contained in this Agreement and any applicable Town ordinances related to non-zoning development standards for the Project, the terms or provisions of this Agreement shall apply.

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

	THE TOWN OF PROSPER, TEXAS
	By: Name: Harlan Jefferson Title: Town Manager
STATE OF TEXAS)
COUNTY OF COLLIN)
	s acknowledged before me on the day of January, 2021, n Manager for the Town of Prosper, Texas, on behalf of the
	Notary Public, State of Texas

	FOUNDERS CLASSICAL ACADEMY OF PROSPER, a Texas nonprofit corporation
	By: Robert Davison, Chief Operating Officer
	Approved as to Form:
	Lindsey Gordon, General Counsel
on this day personally appeared Rober Classical Academy of Prosper, a Texperson whose name is subscribed to that he executed the same for the papacity therein stated, on behalf of successions.	thority, a notary public in and for the State of Texas, rt Davison, the Chief Operating Officer of Founders cas nonprofit corporation, known to me to be the the foregoing instrument and acknowledged to me purpose and consideration expressed, and in the uch entity. of office this day of January, 2021.
	Notary public in and for the State of Texas My commission expires:

EXHIBIT A (Property Legal Description)

EXHIBIT B
(Building Elevations, Building Construction Materials and Architectural Standards)

EXHIBIT C (Final Plat)

EXHIBIT A LEGAL DESCRIPTION

STATE OF TEXAS
COUNTY OF COLLIN

WHEREAS RESPONSIVE EDUCATION SOLUTIONS ARE THE OWNERS OF A TRACT OF LAND SITUATED IN THE LARKIN MCCARTY SURVEY, ABSTRACT NUMBER 600, COLLIN COUNTY, TEXAS AND BEING OUT OF A 22.001 ACRE TRACT CONVEYED TO THEM BY CUSTER-1ST STREET PARTNERS, LLC, RECORDED IN INSTRUMENT NUMBER 20190909001107600, OF THE REAL PROPERTY RECORDS OF COLLIN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A "CROWLEY PIPELINE" MONUMENT FOUND AT THE SOUTHEAST CORNER OF SAID RES TRACT AND THE NORTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED BY DEED TO 310 PROSPER, L.P., RECORDED IN VOLUME 5823, PAGE 3462, SAID

REAL PROPERTY RECORDS, AND BEING IN THE WEST RIGHT-OF-WAY LINE OF N. CUSTER ROAD (A VARIABLE WIDTH RIGHT-OF-WAY);

THENCE S 89" 59'27"W, WITH THE SOUTH LINE OF SAID RES TRACT, AT 98.12 FEET A CONCRETE "CROWLEY PIPELINE" MONUMENT FOUND, A TOT AL DISTANCE OF 1688.22 FEET, TO THE SOUTHWEST CORNER OF SAID RES TRACT AND THE NORTHWEST CORNER OF SAID 310 PROSPER TRACT AND BEING IN THE EAST LINE OF THAT TRACT OF LANO DESCRIBED BY DEED TO HARLAN PROPERTIES, INC., RECORDED IN INSTRUMENT NUMBER 20110818000875530, SAID REAL PROPERTY RECORDS, FROM WHICH A 3/8 INCH IRON ROD FOUND BEARS N 62° 41'03"W, 2.50 FEET;

THENCE N 00" 07'56"E, WITH SAID EAST LINE ANO THE WEST LINE OF SAID RES TRACT, AT 565.51 FEET A 5/8 INCH IRON ROD FOUND, A TOTAL DISTANCE OF 587.77 FEET, TO A PK NAIL, WITH SHINER STAMPED "PELOTON", SET AT THE NORTHWEST CORNER OF SAID RES TRACT AND THE NORTHEAST CORNER OF SAID HARLAN PROPERTIES TRACT, BEING IN THE APPROXIMATE CENTERLINE OF EAST 1ST STREET (A VARIABLE WIDTH RIGHT-OF-WAY) AND IN THE SOUTH LINE OF THAT TRACT OF LAND DESCRIBED BY DEED TO THE TOWN OF PROSPER, RECORDED IN INSTRUMENT NUMBER 20070514000648440, SAID REAL PROPERTY RECORDS;

THENCE N 89" 59'17"E, 1342.12 FEET, WITH THE NORTH LINE OF SAID RES TRACT, TO A PK NAIL, WITH SHINER STAMPED "PELOTON", SET AT THE MOST NORTHERLY NORTHEAST CORNER OF SAID RES TRACT AND THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED BY DEED TO THE STATE OF TEXAS, RECORDED IN INSTRUMENT NUMBER 20180305000268220, SAID REAL PROPERTY RECORDS, ANO BEING IN SAID EAST 1ST STREET AND IN THE SOUTH LINE OF THAT TRACT OF LAND DESCRIBED BY DEED TO THE TOWN OF PROSPER, RECORDED IN INSTRUMENT NUMBER 20070514000648450, SAID REAL PROPERTY RECORDS:

THENCE WITH THE SOUTH AND WEST LINES OF SAID STATE OF TEXAS TRACT THE FOLLOWING COURSES AND DISTANCES:

S 00°00'43"E, 33.82 FEET, TO A 5/8 INCH IRON ROD, WITH PLASTIC CAP STAMPED "TX DOT", FOUND;

S 45" 13'55"E, 56.57 FEET, TO A 5/8 INCH IRON ROD, WITH PLASTIC CAP STAMPED "TX DOT", FOUND; S 86" 25'04"E, 150.33 FEET, TO A 5/8 INCH IRON ROD, WITH PLASTIC CAP STAMPED "TX DOT", FOUND; N 89" 46'05"E, 74.46 FEET, TO A 5/8 INCH IRON ROD, WITH PLASTIC CAP STAMPED "TX DOT", FOUND: S 45" 19'19"E, 77.90 FEET, TO A 5/8 INCH IRON ROD, WITH PLASTIC CAP STAMPED "TX DOT", FOUND AT THE MOST EASTERLY NORTHEAST CORNER OF SAID RES TRACT:

S 00" 24'43"E, 129.17 FEET, TO A 518 INCH IRON ROD, WITH PLASTIC CAP STAMPED "TX DOT", FOUND; S 30° 24'43"E, 41.29 FEET, TO A 5/8 INCH IRON ROD, WITH PLASTIC CAP STAMPED "TX DOT", FOUND AT THE SOUTHEAST CORNER OF SAID STATE OF TEXAS TRACT AND BEING IN THE EAST LINE OF SAID RES TRACT AND THE AFOREMENTIONED WEST RIGHT-OF-WAY LINE OF N. CUSTER ROAD;

THENCE S 00° 34'21"E, AT 212.96 FEET A "CROWLEY PIPELINE" MONUMENT FOUND, AT 264.83 FEET A "CROWLEY PIPELINE" MONUMENT FOUND, AND A TOTAL DISTANCE OF 285.49 FEET, SAID WEST RIGHT-OF-WAY LINE ANO SAID EAST LINE, TO THE POINT OF BEGINNING AND CONTAINING 958,347 SQUARE FEET OR 22.001 ACRES OF LAND MORE OR LESS.

1430 S BROADWAY STREET CARROLLTON, TEXAS 7 5 0 0 6 (972) 242 - 1015

Item 15.

06/11/2020

Prosper

of

s Classical Academy (R N. Custer Rd TX

Respons Founders E. 1st St 8 Prosper, 7

suoitr

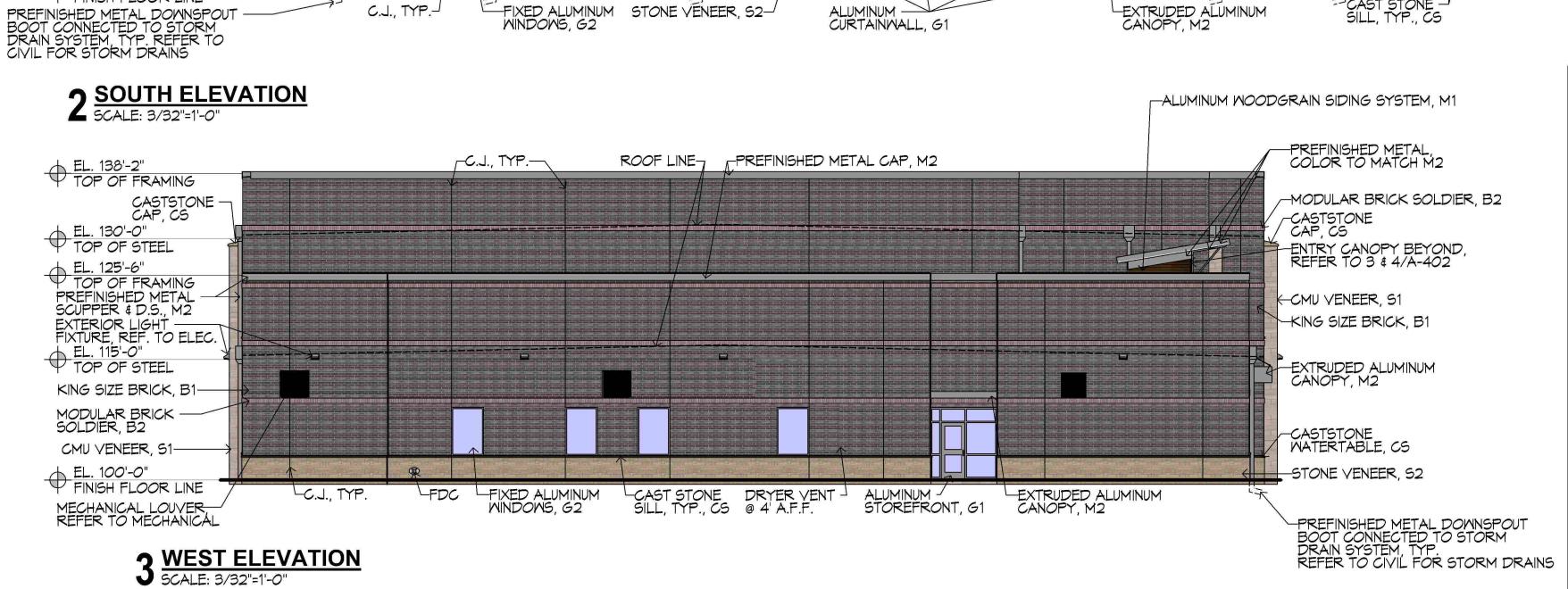
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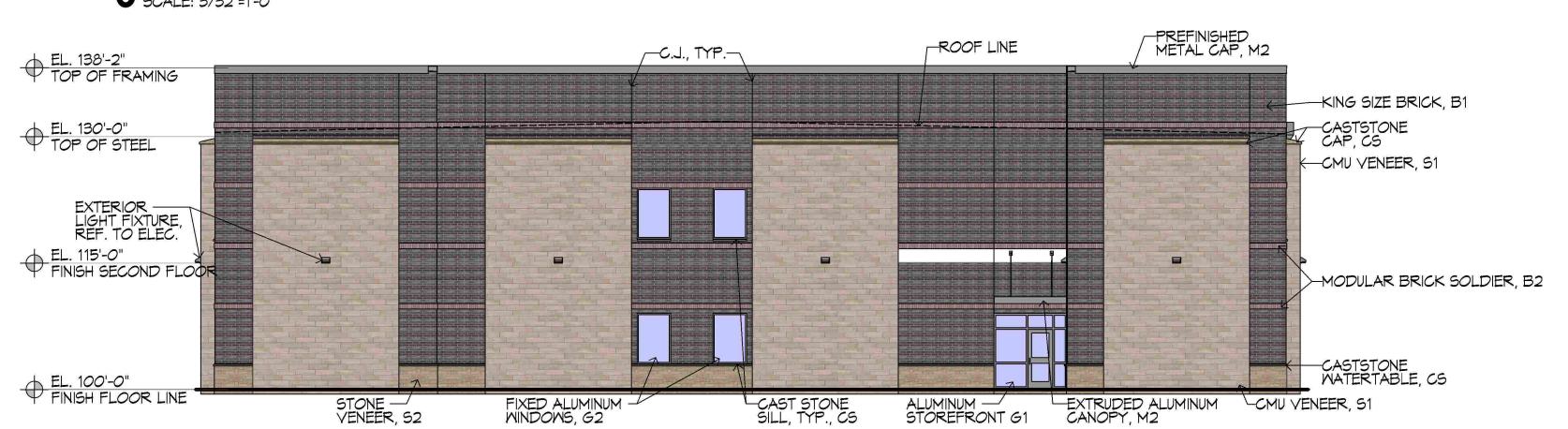
Educatio

sponsive



ALUMINUM MOODGRAIN -SIDING SYSTEM, M1 PREFINISHED METAL, COLOR TO MATCH M2 CAST ALUMINUM LETTERS PAINTED WHITE, 9" \$ 7" TALL LETTERS PREFINISHED — METAL CAP, M2 -ROOF LINE __C.J., TYP.-EL. 138'-2"
TOP OF FRAMING KING SIZE BRICK, B1-PREFINISHED METAL SCUPPER & D.S., M2 MODULAR BRICK -SOLDIER, B2 EL. 130'-0"
TOP OF STEEL PREFINISHED — METAL CAP, M2 EL. 125'-6"
TOP OF FRAMING —KING SIZE BRICK, B1 EXTERIOR LIGHTING -FIXTURE EL. 115'-0"
TOP OF STEEL EL. 115'-0" FINISH SECOND FLOOR -MODULAR BRICK SOLDIER, B2 -CMU VENEER, S1 KING SIZE BRICK, B1-—CASTSTONE WATERTABLE, CS EL. 100'-0"
FINISH FLOOR LINE EL. 100'-0" FINISH FLOOR LINE CAST STONE — SILL, TYP., CS FIXED ALUMINUM STONE VENEER, S2-/ WINDOWS, G2 =1 G2-1 CMU VENEER, S1 EXTRUDED ALUMINUM CANOPY, M2 C.J., TYP.-ALUMINUM CURTAINWALL, G1





4 EAST ELEVATION SCALE: 3/32"=1'-0"

MATERIAL SQUARE FEET				
NORTH ELEVATION:		9315 sq.ft.		
GLAZING		602.56 sq.ft.		
NET SURFACE AREA:		8706.00 sq.ft.		
MESTCHESTER BRICK	48%	4126.52 sq.ft.		
ROXBURY BRICK	5%	436.54 sq.ft.		
HONED SMOOTH STONE	35%	3073.30 sq.ft.		
ROUGH BACK STONE	5%	450.02 sq.ft.		
CAST STONE	1%	120.8 sq.ft.		
MISC. PREFINISHED METAL	6%	454.53 sq.ft.		
SOUTH ELEVATION:		9315 sq.ft.		
GLAZING		808.01 sq.ft.		
NET SURFACE AREA:		8803.25 sq.ft.		
WESTCHESTER BRICK	52%	4515.23 sq.ft.		
ROXBURY BRICK	4%	450.35 sq.ft.		
HONED SMOOTH STONE	18%	1609.11 sq.ft.		
ROUGH BACK STONE	5%	429.40 sq.ft.		
CAST STONE	1%	81.00 sq.ft.		
LONG BOARD PANELS	5%	479.03 sq.ft.		
MISC. PREFINISHED METAL	15%	1219.25 sq.ft.		
MEST ELEVATION:		4980 sq.ft.		
GLAZING		140.32 sq.ft.		
NET SURFACE AREA:		4839.68 sq.ft.		
WESTCHESTER BRICK	79%	3691.01 sq.ft.		
ROXBURY BRICK	5%	336.21 sq.ft.		
HONED SMOOTH STONE	2%	84.26 sq.ft.		
ROUGH BACK STONE	7%	330.99 sq.ft.		
CAST STONE	1%	31.17 sq.ft.		
LONG BOARD PANELS	1%	8.1 sq.ft.		
MISC. PREFINISHED METAL	5%	333.98 sq.ft.		
EAST ELEVATION:		4980 sq.ft.		
GLAZING		136.54 sq.ft.		
NET SURFACE AREA:		4843.46 sq.ft.		
WESTCHESYER BRICK	45%	2138.57 sq.ft.		
ROXBURY BRICK	4%	200.32 sq.ft.		
HONED SMOOTH STONE	44%	2113.21 sq.ft.		
ROUGH BACK STONE	3%	137.66 sq.ft.		
CAST STONE	1%	62.38 sq.ft.		
MISC. PREFINIGHED METAL	30/2	170 00 ca Ft		

3%

172.33 sq.ft.

MISC. PREFINISHED METAL

MA	TERIALS SCHEDULE
	B1: KING SIZE BRICK, WESTCHESTER, ACME, RUNNING BOND
	B2: MODULAR BRICK, ROBURY, ACME, SOLDIER COURSE
	S1: CUSTOM CONCRETE MASONRY UNITS NOMINAL, POLISHED SERIES 700P WHITE LIMESTONE, BEST BLOCK, RUNNING BOND
	S2: NATURAL TEXAS LIMESTONE STONE, ROUGH BACK, ACME, RUNNING BOND
	CS: CAST STONE, NATURAL LIMESTONE, DRY TAMP, LIGHT GRANULAR TEXTURE, ADVANCED CAST STONE
	G1: EXTERIOR ALUMINUM STOREFRONT/CURTAINWALL, CLEAR-ANODIZED, 1" GREY TINTED INSULATING GLASS
	G2: ALUMINUM FIXED WINDOWS, SILVER POWDER COATED, 3/4" GREY TINTED LOE INSULATING GLASS W/ ARGON GAS
	M1: ALUMINUM WOODGRAIN SIDING SYSTEM, DARK CHERRY, LIGHT CHERRY, WESTERN CEDAR (30/40/30 BLEND)
	M2: 24 GAUGE STEEL, SILVER METALIC
	M3: PREFINISHED METAL, MIDNIGHT BRONZE

FACADE PLAN NOTES -THIS FACADE PLAN IS FOR CONCEPTUAL PURPOSES ONLY. ALL BUILDING PLANS REQUIRE REVIEW AND APPROVAL FROM THE BUILDING INSPECTIONS DIVISION. -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. -WHEN PERMITTED, EXPOSED UTILITY BOXES AND CONDUITS SHALL BE PAINTED TO MATCH THE BUILDING. -ALL SIGNAGE AREAS AND LOCATIONS ARE SUBJECT TO APPROVAL BY THE BUILDING INSPECTIONS DIVISION. -WINDOWS SHALL HAVE A MAXIMUM EXTERIOR VISIBLE REFLECTIVITY OF TEN (10) PERCENT. -ANY DEVIATION FROM THE APPROVED FACADE PLAN WILL REQUIRE RE-APPROVAL BY THE TOWN OF PROSPER.

EXHIBIT B

JOB NO. A1902-09 DATE: 06/11/2020

ELEMENTARY

SHEET NO. A-406

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Page 382 Allplan 2020

H/W = 24" / 36"

EL. 125'-5"
TOP OF FRAMING

CASTSTONE CAP, CS-

MASONRY CONTROL JOINTS 6' FROM CORNERS MAX, TYP.

MODULAR BRICK SOLDIER, B2

CMU VENEER, S1

EL. 100'-0"
FINISH FLOOR LINE

EL. 125'-5"
TOP OF FRAMING

EL. 115'-0"
TOP OF STEEL

MODULAR BRICK -SOLDIER, B2

KING SIZE BRICK, B1-

EL. 100'-0"
FINISH FLOOR LINE

PREFINISHED METAL, — COLOR TO MATCH M2

EL. 125'-5"
TOP OF FRAMING

EL. 115'-0"
TOP OF STEEL

CASTSTONE -CAP, CS

PREFINISHED — METAL SCUPPER & D.S., M2

CMU VENEER, S1-

EL. 100'-0" FINISH FLOOR LINE

PREFINISHED METAL

DOWNSPOUT BOOT

CONNECTED TO STORM

DRAIN SYSTEM, TYP.

REFER TO CIVIL FOR

STORM DRAINS

EL. 125'-5"
TOP OF FRAMING

ROOF LINE-

EL. 115'-0"
TOP OF STEEL

CMU VENEER, S1-

EL. 100'-0" FINISH FLOOR LINE

4 EAST ELEVATION SCALE: 1/8"=1'-0"

2 SOUTH ELEVATION SCALE: 1/8"=1'-0"

CASTSTONE CAP, CS

1 NORTH ELEVATION SCALE: 1/8"=1'-0"

EL. 115'-0"
TOP OF STEEL

-C.J., TYP. -PREFINISHED METAL CAP, M2

STONE VENEER, S2

PREFINISHED METAL, — COLOR TO MATCH M2

STONE VENEER, S2

CMU VENEER, 51

ALUMINUM —/ CURTAINWALL, G1

2 WEST ELEVATION

/-C.J., TYP.-

J SCALE: 1/8"=1'-0"

CASTSTONE -CAP, CS

LEXTRUDED ALUMINUM CANOPY, M2

LMECHANICAL LOUVER, M2

PREFINISHED METAL SCUPPER & D.S., M2

LFIXED ALUMINUM WINDOWS, G2

-ALUMINUM WOODGRAIN SIDING SYSTEM, M1

CMU VENEER, S1

STONE FIXED ALUMINUM VENEER, S2 WINDOWS, G2

CASTSTONE WATERTABLE TYP. CS

FIXED ALUMINUM WINDOWS, G2

—PREFINISHED METAL CAP, M2

-PREFINISHED METAL DOWNSPOUT BOOT CONNECTED TO STORM DRAIN SYSTEM, TYP. REFER TO CIVIL FOR STORM DRAINS

CASTSTONE CAP, CS PREFINISHED METAL CAP, M2

—C.J., TYP. —PREFINISHED METAL CAP, M2

—C.J., TYP.—√

CMU VENEER, S1

-PREFINISHED METAL DOWNSPOUT BOOT CONNECTED TO STORM DRAIN SYSTEM, TYP. REFER TO CIVIL FOR STORM DRAINS

FIXED ALUMINUM WINDOWS, G2

DRYER VENT @ 4' A.F.F.

-KING SIZE BRICK, B1

MODULAR BRICK SOLDIER, B2

ALUMINUM STOREFRONT, G1-

ALUMINUM STOREFRONT, G1-

EXTRUDED ALUMINUM CANOPY, M2-

EXTRUDED ALUMINUM CANOPY, M2-

WRIGHT GROUP **ARCHITECTS - PLANNERS, PLLC** 1430 S BROADWAY STREET CARROLLTON, TEXAS 7 5 0 0 6 (972) 242 - 1015

06/11/2020

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Item 15.

MATERIAL SQUARE FEET NORTH ELEVATION: 4911 sq.ft. GLAZING 488.54 sq.ft. NET SURFACE AREA 4417.81 sq.ft 58% 2563.73 sq.ft. MESTCHESTER BRICK ROXBURY BRICK 388.95 sq.ft. HONED SMOOTH STONE 748.3 sq.ft ROUGH BACK STONE 303.73 sq.ft. CAST STONE 51.49 sq.ft. LONG BOARD PANELS 6.67 sq.ft. MISC. PREFINISHED METAL 7% 335.08 sq.ft SOUTH ELEVATION: 4911 sq.ft. 245.67 sq.ft. GLAZING NET SURFACE AREA: 4665.33 sq.ft. 56% 2599.85 sq.ft MESTCHESTER BRICK ROXBURY BRICK 8% 387.49 sq.ft. HONED SMOOTH STONE 20% 953.96 sq.ft. ROUGH BACK STONE 8% 350.40 sq.ft CAST STONE 62.68 sq.ft. LONG BOARD PANELS 6.62 sq.ft MISC. PREFINISHED METAL 280.30 sq.ft **MEST ELEVATION:** 3265 sq.ft. 234.33 sq.ft. GLAZING NET SURFACE AREA: 3024.43 sq.ft. WESTCHESTER BRICK 1604.14 sq.ft ROXBURY BRICK 237.25 sq.ft. HONED SMOOTH STONE 403.92 sq.ft. ROUGH BACK STONE 7% 198.16 sq.ft. CAST STONE 30.83 sq.ft LONG BOARD PANELS 180.73 sq.ft. MISC. PREFINISHED METAL 359.94 sq.ft EAST ELEVATION: 3265 sq.ft. 152.44 sq.ft. GLAZING NET SURFACE AREA: 3110.66 sq.ft MESTCHESTER BRICK 1665.66 sq.ft. 249.21 sq.ft. ROXBURY BRICK 8% HONED SMOOTH STONE 689.72 sq.ft. ROUGH BACK STONE 196.81 sq.ft. 40.96 sq.ft. CAST STONE MISC. PREFINISHED METAL 226.96 sq.ft.

ALUMINUM ______ CURTAINWALL, G1

PREFINISHED METAL SCUPPER & D.S., M2

CASTSTONE WATERTABLE TYP, CS 52

CASTSTONE WATERTABLE TYP, CS

/--C.J., TYP.--

-KING SIZE BRICK, B1

-FDC

STONE VENEER, S2

PREFINISHED METAL, — COLOR TO MATCH M2

HOLLOW METAL DOOR, PAINTED FINISH TO MATCH M2

CMU VENEER, S1

-MODULAR BRICK SOLDIER, B2

C.J., TYP. EXTERIOR LIGHTING
FIXTURE, REF. TO ELEC.

-ROOF LINE

CASTSTONE CAP, CS

CMU VEENER, S1

EXTERIOR
LIGHTING
FIXTURE,
REF. TO ELEC.

CAPSTONE CAP, CS

-CASTSTONE WATERTABLE TYP,

B1: KING SIZE BRICK, WESTCHESTER, ACME, RUNNING BOND B2: MODULAR BRICK, ROBURY, ACME, SOLDIER COURSE S2: NATURAL TEXAS LIMESTONE STONE, ROUGH BACK, ACME, RUNNING BOND CS: CAST STONE, NATURAL LIMESTONE, DRY TAMP, LIGHT GRANULAR TEXTURE, ADVANCED CAST STONE G1: EXTERIOR ALUMINUM STOREFRONT/CURTAINWALL, CLEAR-ANODIZED, 1" GREY TINTED INSULATING GLASS G2: ALUMINUM FIXED WINDOWS, SILVER POWDER COATED, 3/4" GREY TINTED LOE INSULATING GLASS W/ ARGON GAS M1: ALUMINUM MOODGRAIN SIDING SYSTEM, DARK CHERRY, LIGHT CHERRY, WESTERN CEDAR (30/40/30 BLEND) M2: 24 GAUGE STEEL, SILVER METALIC M3: PREFINISHED METAL, MIDNIGHT BRONZE FACADE PLAN NOTES -THIS FACADE PLAN IS FOR CONCEPTUAL PURPOSES ONLY. ALL BUILDING PLANS REQUIRE REVIEW AND APPROVAL FROM THE BUILDING INSPECTIONS DIVISION. -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. -ALL SIGNAGE AREAS AND LOCATIONS ARE SUBJECT TO APPROVAL BY THE BUILDING INSPECTIONS DIVISION. -WINDOWS SHALL HAVE A MAXIMUM EXTERIOR VISIBLE REFLECTIVITY OF TEN (10) PERCENT. -ANY DEVIATION FROM THE APPROVED FACADE PLAN WILL REQUIRE RE-APPROVAL BY THE TOWN OF PROSPER.

EXTRUDED ALUMINUM CANOPY, M2

-EXTERIOR LIGHT FIXTURE-

FIXTURE, REF. TO ELEC.

HING SIZE BRICK, B1

-MODULAR BRICK SOLDIER, B2

-STONE VENEER, S2

ROOF LINE

-CMU VENEER, S1

MATERIALS SCHEDULE

—CASTSTONE WATERTABLE TYP, CS

-ROOF LINE

JOB NO. A1902-09 DATE: 06/11/2020

CASE NO. D20-0045

HIGH SCHOOL

SHEET NO. A-406

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Allplan 2020

H/W = 24" / 36"

PROSPER

Staff Approved

22 JUNE 2020

ARCHITECTS - PLANNERS, PLLC

WRIGHT GROUP

1430 S BROADWAY STREET CARROLLTON, TEXAS 7 5 0 0 6 (972) 242 - 1015

Item 15.

06/11/2020

B1: KING SIZE BRICK, WESTCHESTER, ACME, RUNNING BOND B2: MODULAR BRICK, ROBURY, ACME, SOLDIER COURSE : CUSTOM CONCRETE MASONRY UNITS NOMINAL, POLISHED SERIES 700P WHITE LIMESTONE, BEST BLOCK, RUNNING BOND S2: NATURAL TEXAS LIMESTONE STONE, ROUGH BACK, ACME, RUNNING BOND CS: CAST STONE, NATURAL LIMESTONE, DRY TAMP, LIGHT GRANULAR TEXTURE, ADVANCED CAST STONE G1: EXTERIOR ALUMINUM STOREFRONT/CURTAINWALL, CLEAR-ANODIZED, 1" GREY TINTED INSULATING GLASS M1: ALUMINUM WOODGRAIN SIDING SYSTEM, DARK CHERRY, LIGHT CHERRY, WESTERN CEDAR (30/40/30 BLEND) M2: 24 GAUGE STEEL, SILVER METALIC M3: PREFINISHED METAL, MIDNIGHT BRONZE

SOUTH ELEVATION:		6252 sq.ft.
GLAZING		136.43 sq.ft.
NET SURFACE AREA:		6111.95 sq.ft
WESTCHESTER BRICK	55%	3340.98 sq.ft.
ROXBURY BRICK	6%	353.15 sq.ft.
HONED SMOOTH STONE	21%	1337.48 sq.ft.
ROUGH BACK STONE	5%	317.18 sq.ft.
CAST STONE	1%	64.26 sq.ft.
LONG BOARD PANELS	3%	194.86 sq.ft.
MISC. PREFINISHED METAL	9%	544.8 sq.ft.
NORTH ELEVATION:		6252 sq.ft.
GLAZING		182.87 sq.ft.
NET SURFACE AREA:		6069.75 sq.ft.
NESTCHESTER BRICK	56%	3373.61 sq.ft.
ROXBURY BRICK	6%	349.53 sq.ft.
HONED SMOOTH STONE	17%	0.0 sq.ft.
ROUGH BACK STONE	5%	309.82 sq.ft.
CAST STONE	1%	63.75 sq.ft.
LONG BOARD PANELS	5%	309.75 sq.ft
MISC. PREFINISHED METAL	10%	599.98 sq.ft
EAST ELEVATION:		5521 sq.ft.
GLAZING		0 sq.ft.
NET SURFACE AREA:		5521 sq.ft.
WESTCHESTER BRICK	61%	3315.75 sq.ft.
ROXBURY BRICK	6%	332.23 sq.ft
HONED SMOOTH STONE	19%	1022.67 sq.ft
ROUGH BACK STONE	6%	339.80 sq.ft
CAST STONE	1%	55.54 sq.ft
LONG BOARD PANELS	1%	37.69 sq.ft.
MISC. PREFINISHED METAL	6%	369.9 sq.ft.
MEST ELEVATION:		5521 sq.ft.
GLAZING		222.90 sq.ft.

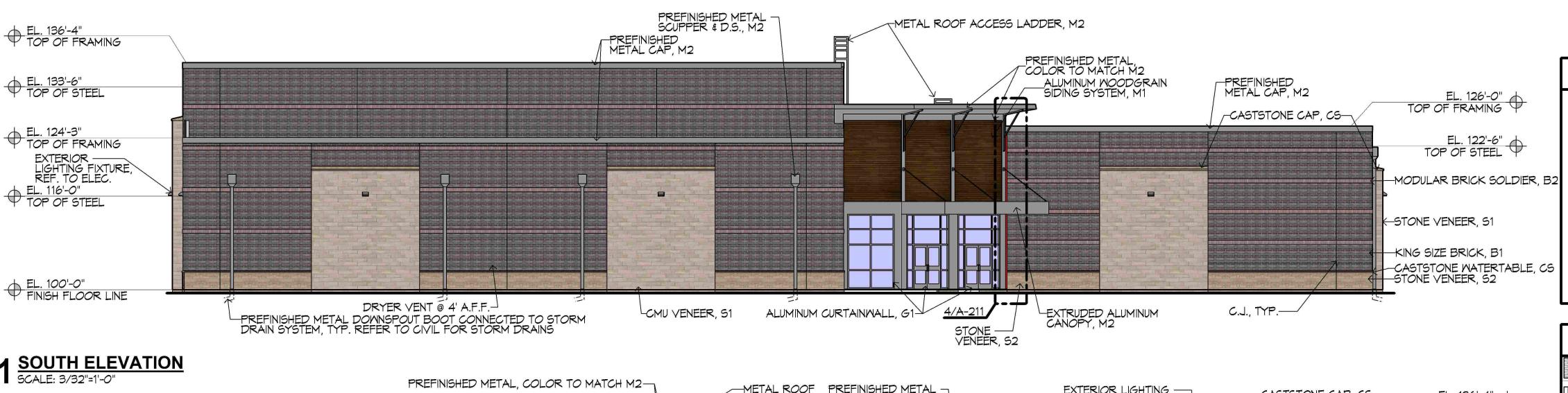
Prosper *suoit* Solu ofssical Academy Custer Road Education SÍVE \approx **⊗** ⊢ Ś spons Respon Founders E. 1st St Prosper,

JOB NO. A1902-09 DATE: 06/11/2020

GYM/CAFETERIA

SHEET NO. A-406

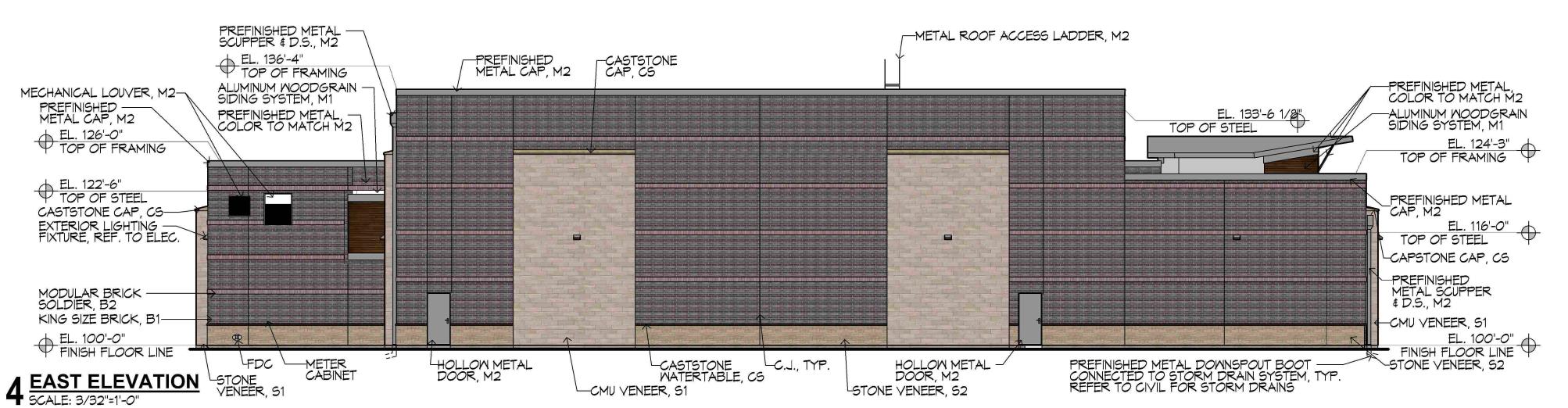
MISC. PREFINISHED METAL 13% 584.42 sq.ft. © WRIGHT GROUP Architects-Planners, PLLC, 2020





NORTH ELEVATION SCALE: 3/32"=1'-0"





PROSPER Staff Approved 22 JUNE 2020

CASE NO. D20-0045

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-WINDOWS SHALL HAVE A MAXIMUM EXTERIOR VISIBLE REFLECTIVITY OF TEN (10) PERCENT. -ANY DEVIATION FROM THE APPROVED FACADE PLAN WILL REQUIRE RE-APPROVAL BY THE TOWN OF PROSPER.

MATERIALS SCHEDULE

WESTCHESTER BRICK ROXBURY BRICK HONED SMOOTH STONE ROUGH BACK STONE

6% 321.38 sq.ft. 19% 1029.9 sq.ft. 4% 238.28 sq.ft CAST STONE LONG BOARD PANELS

1% 58.76 sq.ft. 5% 254.40 sq.ft. 15'-0"

13'-0"

4'-2"

15'-0"

5 DUMPSTER PLAN TYP. SCALE: 1/4"=1'-0"

2'-4" 1'-0"



Item 15.

ARCHITECTS - PLANNERS, PLLC

1430 S BROADWAY STREET CARROLLTON, TEXAS 7 5 0 0 6 (972) 242 - 1015

06/11/2020

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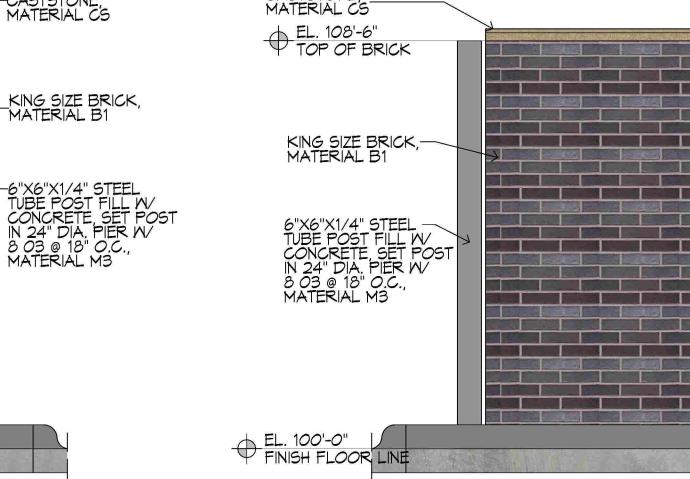
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4 ELEVATION SCALE: 1/2"=1'-0"

FACADE PLAN NOTES

-WHEN PERMITTED, EXPOSED UTILITY BOXES AND CONDUITS SHALL BE PAINTED TO MATCH THE BUILDING.

-ALL SIGNAGE AREAS AND LOCATIONS ARE SUBJECT TO APPROVAL BY THE BUILDING INSPECTIONS DIVISION. -WINDOWS SHALL HAVE A MAXIMUM EXTERIOR VISIBLE REFLECTIVITY OF TEN (10) PERCENT.

-ANY DEVIATION FROM THE APPROVED FACADE PLAN WILL REQUIRE RE-APPROVAL BY THE TOWN OF PROSPER.

MATERIALS SCHEDULE

B1: KING SIZE BRICK, WESTCHESTER, ACME, RUNNING BOND

B2: MODULAR BRICK, ROBURY, ACME, SOLDIER COURSE 1: CUSTOM CONCRETE MASONRY UNITS NOMINAL, POLISHED SERIES 700P WHITE LIMESTONE, BEST BLOCK, RUNNING BOND

S2: NATURAL TEXAS LIMESTONE STONE, ROUGH BACK, ACME, RUNNING BOND CS: CAST STONE, NATURAL LIMESTONE, DRY TAMP, LIGHT GRANULAR TEXTURE, ADVANCED CAST STONE

M1: ALUMINUM MOODGRAIN SIDING SYSTEM, DARK CHERRY, LIGHT CHERRY, WESTERN CEDAR (30/40/30 BLEND)

M2: 24 GAUGE STEEL, SILVER METALIC

M3: PREFINISHED METAL, MIDNIGHT BRONZE

PROSPER Staff Approved 22 JUNE 2020

CASE NO. D20-0045

JOB NO. A1902-09 DATE: 06/11/2020 ELEMENTARY

> SHEET NO. A-106

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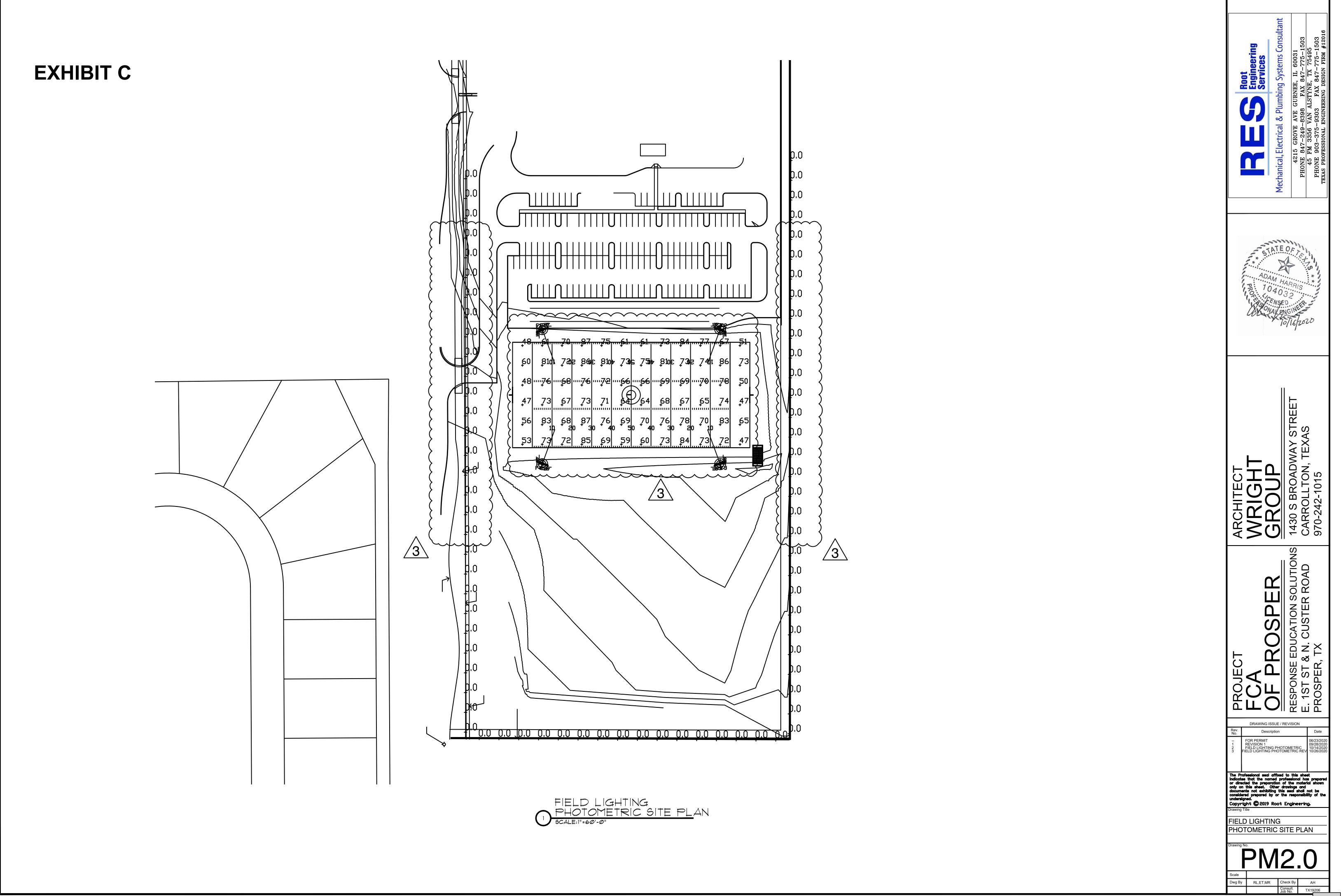
EL. 100'-0"
FINISH FLOOR LINE

2 ELEVATION SCALE: 1/2"=1'-0"

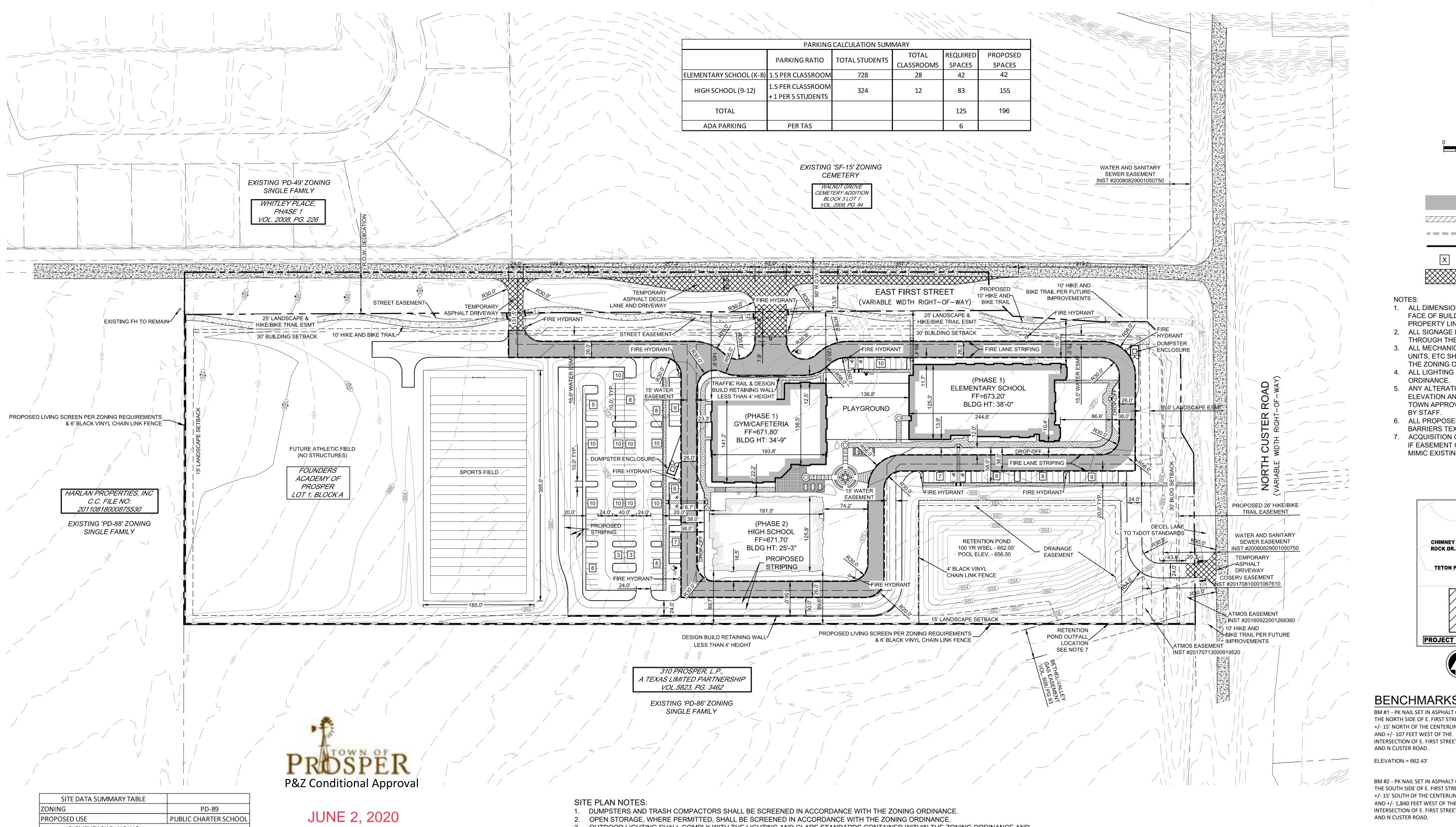
Page 385

Allplan 2020

H/W = 24" / 36"



Item 15



ELEMENTARY BUILDING BUILDING AREA 30,541 SF **BUILDING STORIES BUILDING HEIGHT** 32' 4 " GYM/CAFETERIA **BUILDING AREA** 26,424 SF BUILDING STORIES **BUILDING HEIGHT** 32' 6" HIGH SCHOOL **BUILDING AREA** 22,307 SF **BUILDING STORIES BUILDING HEIGHT** 21' 6" LOT AREA 868,151 SF/ 19.93 AC 90,213 SF / 2.07 AC R.O.W. DEDICATION SITE AREA 868,151 SF LOT COVERAGE 8.77%

8.77%

302,914 SF

7.0% - 63,230 SF

63.3% - 549,733 SF

2,940 SF

7,919 SF

FLOOR AREA RATIO

IMPERVIOUS AREA

OPEN SPACE REQUIRED

OPEN SPACE PROVIDED

LANDSCAPE

INTERIOR LANDSCAPE REQUIRED

INTERIOR LANDSCAPE PROVIDED

WATER / SANITARY SEWER CONNECTIONS SUMMARY 3" DOMESTIC 2" IRRIGATION SANITARY SEWER 6" CONNECTION

OUTDOOR LIGHTING SHALL COMPLY WITH THE LIGHTING AND GLARE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE AND

SUBDIVISION ORDINANCE.

LANDSCAPING SHALL CONFORM TO LANDSCAPE PLANS APPROVED BY THE TOWN. ALL ELEVATIONS SHALL COMPLY WITH THE STANDARDS CONTAINED WITHIN THE ZONING ORDINANCE

BUILDINGS OF 5,000 SQUARE FEET OR GREATER SHALL BE 100% FIRE SPRINKLED. ALTERNATIVE FIRE PROTECTION MEASURES MAY BE

FIRE LANES SHALL BE DESIGNED AND CONSTRUCTED PER TOWN STANDARDS OR AS DIRECTED BY THE FIRE DEPARTMENT. TWO POINTS OF ACCESS SHALL BE MAINTAINED FOR THE PROPERTY AT ALL TIMES.

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 PRELIMINARY SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL

13. ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FAÇADE 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 SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING SERVICES DEPARTMENT.

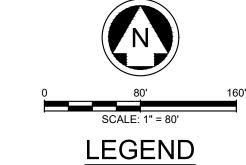
16. SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.

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. IMPACT FEES WILL BE ASSESSED IN ACCORDANCE WITH 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. 21. 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 RECIEVED 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.



PROPOSED FIRELANE

ACCESSIBLE CROSSWALK

PROP. ACCESSIBLE ROUTE PROP. RETAIN/SCREEN WALL

PARKING COUNT

TEMPORARY ASPHALT

1. ALL DIMENSIONS ARE TO FACE OF CURB, FACE OF WALL, FACE OF BUILDING, CENTER OF STRIPING, AND PROPERTY LINE UNLESS OTHERWISE NOTED.

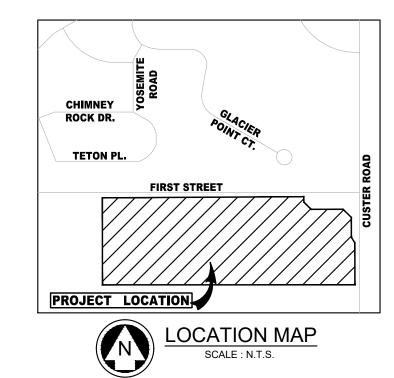
ALL SIGNAGE IS APPROVED VIA A SEPARATE PERMIT THROUGH THE BUILDING SAFETY DIVISION. ALL MECHANICAL EQUIPMENT, DUMPSTERS, ROOFTOP

UNITS, ETC SHALL BE SCREENED IN COMPLIANCE WITH THE ZONING ORDINANCE. 4. ALL LIGHTING SHALL COMPLY WITH THE ZONING

ORDINANCE. 5. ANY ALTERATION TO THE SITE PLAN, INCLUDING BUILDING ELEVATION AND LANDSCAPE SUBSTITUTIONS, REQUIRE TOWN APPROVAL THROUGH A REVISED PLAN, STAMPED

BY STAFF. 6. ALL PROPOSED RAMPS TO FOLLOW THE ARCHITECTURAL BARRIERS TEXAS ACCESSIBILITY STANDARDS (TAS).

7. ACQUISITION OF DOWNSTREAM EASEMENT IS PENDING. IF EASEMENT CANNOT BE OBTAINED, OUTFALL WILL MIMIC EXISTING CONDITIONS.



BENCHMARKS BM #1 - PK NAIL SET IN ASPHALT ON THE NORTH SIDE OF E. FIRST STREET +/- 15' NORTH OF THE CENTERLINE

INTERSECTION OF E. FIRST STREET AND N CUSTER ROAD. ELEVATION = 662.43'

BM #2 - PK NAIL SET IN ASPHALT ON THE SOUTH SIDE OF E. FIRST STREET +/- 15' SOUTH OF THE CENTERLINE AND +/- 1,840 FEET WEST OF THE INTERSECTION OF E. FIRST STREET

AND N CUSTER ROAD.

REVIEWER: KAK

PRELIMINARY -FOR REVIEW ONLY-

THESE DOCUMENTS ARE FOR DESIGN REVIEW ONLY AND ARE NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSE. THEY ARE PREPARED BY, OR UNDER THE SUPERVISION OF:

KYLE A. KATTNER 118741 05/28/2020

ELEVATION = 696.46' CASE NUMBER

> FOUNDERS ACADEMY OF PROSPER LOT 1, BLOCK A

SURVEYOR / ENGINEER

D20-0045

LAND SOLUTIONS **KYLE KATTNER** 9800 HILLWOOD PARKWAY SUITE 250 FORT WORTH, TX 76177

DEVELOPER / OWNER T. LYNN TOMPKINS. JR. RESPONSIVE EDUCATION SOLUTIONS 1301 WATERS RIDGE DR, LEWISVILLE, TX 75057 PHONE: 972-316-3663

PHONE: 817-562-3350

OVERALL SITE PLAN

PROSPER, COLLIN COUNTY, TEXAS



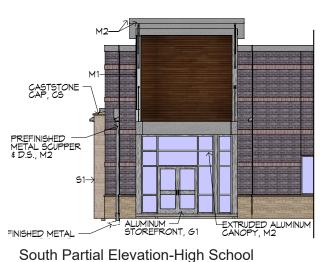
LAND SOLUTIONS 9800 HILLWOOD PKWY, SUITE 250, FORT WORTH, TEXAS 76177 FORT WORTH PHONE: (817) 562-3350

DRAWN: JFS **DESIGNED: KAK**

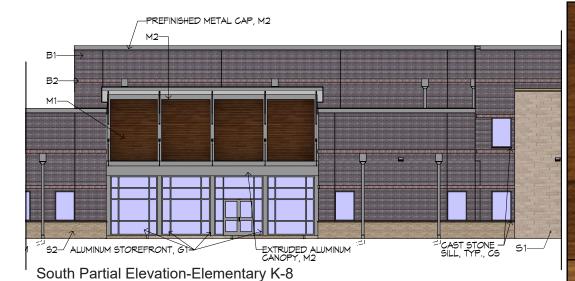
PROJECT# SHEET

APRIL 2020

PLS: RES19003 PROSPER, TX C201

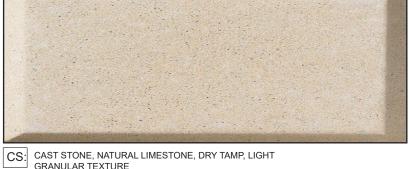






PREFINISHED METAL, CLEAR ANODIZED

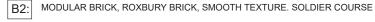












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GRANULAR TEXTURE



OTHER MATERIALS TO BE USED	
M3: PREFINISH METAL, MIDNIGHT BRONZE	
CO: ALLIMINIUM EIVED WINDOWS CLEAR ANODIZE ALLIMINIUM 3/4" CREV	



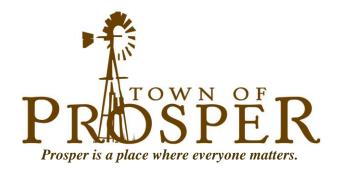
CONCRETE MASONRY UNIT POLISHED SERIES 700 P WHITE LIMESTONE

NATURAL TEXAS LIMESTONE STONE, ROUGH BACK, RANDOM RUNNING BOND PATTERN

ALUMINUM FIXED WINDOWS, CLEAR ANODIZE ALUMINUN, 3/4" GREY TINTED LoE INSULATING GLASS W/ ARGON GAS

ALUMINUM WOODGRAIN SIDING SYS DARK CHERY, LIGHT CHERRY, WEST CEDAR (30/40/30 BLEND)

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DEVELOPMENT SERVICES

To: Mayor and Town Council

From: Rebecca Zook, Exec. Director of Development & Infrastructure Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon awarding CSP No. 2021-02-A to Tyler Technologies, Inc. for a Community Development System; and authorizing the Town Manager to execute documents for the same.

Description of Agenda Item:

The Town previously selected Sciens, LLC, to serve as the Town's Consultant for Phase I of this project, which included discovery and pre-acquisition, evaluation, and selection of a software system. After the internal assessment and development of specifications, the Town solicited proposals for the implementation of a comprehensive, turnkey, integrated Community Development System to include project management, system design, systems integration, data migration, testing, implementation, and training. The Town received six proposals. The Consultant performed the initial evaluation of the proposed systems based on the following criteria:

- Qualifications, Experience, and References (20%)
- Functional Requirements (25%)
- Infrastructure, Service & Maintenance, Performance (20%)
- Implementation (20%)
- Price Proposal (15%)

The evaluation committee, comprised of representatives from I.T., Building Inspections, Planning, Code Compliance, Engineering, Parks and Recreation, and Public Works reviewed the evaluation results provided by the Consultant. The initial ranking provided by our consultant of the 6 proposals was based entirely on the information submitted in response to the solicitation. The ranking was focused on the technical capabilities of the system. Based on the cumulative scores, staff requested demonstrations of the top three systems. It was not until this phase in the process that involved presentations and discussions with the firms, that staff was able to receive clarification regarding certain responses and how the software system functioned based on the Town's needs. Staff from all involved departments were able to ask questions and see a first-hand demonstration of each of the top 3 systems. During this phase of the selection process, staff members were able to ask very specific user-based questions to determine which firm would meet

the Town's needs. The review of the top three firms took into account the original information, but also focused on the functionality and ease of use of the system. And although CityView was ranked highest after the first phase, the entirety of the selection team, no longer ranked them as the number one choice after the culmination of phase 2. Based on the interactive demonstration/presentation, questions and answers, and references, Tyler EnerGov was chosen as the top firm. In addition to and even after selecting Tyler as the top choice, staff went a step further and conducted more in-depth reference checks on the top ranked provider before negotiating an agreement. After completion of the entire process, staff recommends awarding the CSP to Tyler Technologies, Inc. as the best value proposal. Tyler EnerGov, the recommended solution, is a cloud-based system that will provide comprehensive, integrated Community Development System for use by internal departments, as well as, and most importantly to our customers who develop in Prosper. In the future, whether you are adding a pool to your home or developing a commercial building, you will be able to utilize our online plan review and permitting system that will allow you to move seamlessly through our process.

The initial term of the Agreement will be five years, with five automatic one-year renewal terms.

Budget Impact:

The year one cost to implement this system is \$427,918 (\$140,918 software licenses, \$270,000 professional/implementation services, and \$17,000 travel expenses) and will be funded from 100-5418-40-01 IT Fees. A discretionary package was approved for \$375,421 in the Fiscal Year 2020/2021 adopted budget. A budget amendment is also on this meeting's agenda to request the shortfall in funding. The annual cost for years 2-5 is \$140,918. Annual renewals after the initial 5-year term will be at the then current rates, subject to an annual increase not to exceed 5%. Subsequent annual expenditures will be subject to appropriations granted in future fiscal years.

Legal Obligations and Review:

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

Attached Documents:

- 1. Evaluation Matrix
- 2. Demonstration Rankings
- 3. Agreement

Town Staff Recommendation:

Town staff recommends awarding CSP No. 2021-02-A to Tyler Technologies, Inc. for a Community Development System; and authorizing the Town Manager to execute documents for the same.

Proposed Motion:

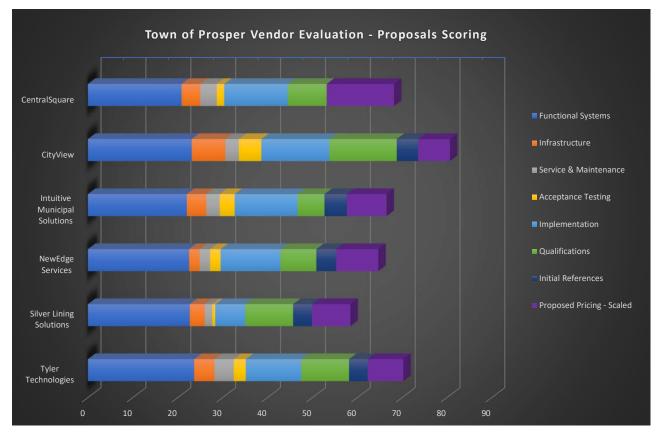
I move to award CSP No. 2021-02-A to Tyler Technologies, Inc. for a Community Development System; and authorize the Town Manager to execute documents for the same.

The Town of Prosper, TX Sciens Consulting - Vendor Proposals Evaluations



Evaluator: Sciens Consulting Date of Evaluation: 10/12/20

			CityView	Intuitive Municipal Solutions	NewEdge Services	Silver Lining Solutions	Tyler Technologies	
Proposed Software Solution	Software Solution		CityView	iMS	Cityworks	Accela	EnerGov	
Proposed Solution (65 points)	Functional Systems 2	20.9	23.1	22.0	22.6	22.7	23.7	
	Infrastructure 1	0 4.2	7.5	4.3	2.3	3.3	4.5	
	Service & Maintenance	5 3.7	3.0	3.0	2.3	1.7	4.3	
	Acceptance Testing	5 1.7	5.0	3.3	2.3	0.7	2.7	
	Implementation 2	14.2	15.2	14.0	13.3	6.7	12.3	
Subtotal	6	44.5	53.8	46.7	42.9	35.0	47.5	
Qualifications, Experience, and	Qualifications 1	5 8.7	15.0	6.0	8.0	10.7	10.7	
References (20 points)	Initial References	5 0.0	4.8	5.0	4.4	4.2	4.2	
Subtotal	8	53.2	73.6	57.7	55.3	49.9	62.4	
Proposed Pricing - Scaled	1	5 15.0	7.1	8.8	9.4	8.5	7.9	
TOTAL	. 10	68.2	80.7	66.5	64.7	58.5	70.3	
Rank Performance		3	1	4	5	6	2	



CSP NO. 2021-02-A COMMUNITY DEVELOPMENT SYSTEM

SYSTEM DEMONSTRATION RANKINGS	Evaluator 1	Evaluator 2	Evaluator 3	Evaluator 4	Evaluator 5	Evaluator 6	Evaluator 7
Company Name and Proposed System	Ranking						
CentralSquare Technologies, LLC - Community Development	3	3	2	3	3	3	2
CityView - CityView	2	2	3	2	2	2	3
Tyler Technologies, Inc EnerGov	1	1	1	1	1	1	1



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- "Agreement" means this Software as a Services Agreement.
- "Business Travel Policy" means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- "Client" means Town of Prosper, TX.
- "Data" means your data necessary to utilize the Tyler Software.
- "Data Storage Capacity" means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- "Defect" means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- "Defined Users" means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary.
- "Developer" means a third party who owns the intellectual property rights to Third Party Software.
- "Documentation" means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- "Effective Date" means the date by which both your and our authorized representatives have signed the Agreement.
- "Force Majeure" means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- "Investment Summary" means the agreed upon cost proposal for the products and services attached as Exhibit A.
- "Invoicing and Payment Policy" means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- "SaaS Fees" means the fees for the SaaS Services identified in the Investment Summary.



- "SaaS Services" means software as a service consisting of system administration, system
 management, and system monitoring activities that Tyler performs for the Tyler Software, and
 includes the right to access and use the Tyler Software, receive maintenance and support on the
 Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and
 archiving. SaaS Services do not include support of an operating system or hardware, support
 outside of our normal business hours, or training, consulting or other professional services.
- "SLA" means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- "Statement of Work" means the industry standard implementation plan describing how our professional services will be provided to implement the Tyler Software, and outlining your and our roles and responsibilities in connection with that implementation. The Statement of Work is attached as Exhibit E.
- "Support Call Process" means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- "Third Party Hardware" means the third party hardware, if any, identified in the Investment Summary.
- "Third Party Products" means the Third Party Software and Third Party Hardware.
- "Third Party Services" means the third party services, if any, identified in the Investment Summary.
- "Third Party Software" means the third party software, if any, identified in the Investment Summary.
- "Third Party Terms" means, if any, the end user license agreement(s) or similar terms for the Third Party Software, as applicable and attached as Exhibit D.
- "Tyler" means Tyler Technologies, Inc., a Delaware corporation.
- "Tyler Software" means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- "we", "us", "our" and similar terms mean Tyler.
- "you" and similar terms mean Client.

SECTION B - SAAS SERVICES

- 1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.
- 2. <u>SaaS Fees</u>. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the



terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).

3. Ownership.

- 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
- 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
- 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
- 4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
- 5. <u>Software Warranty</u>. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.

6. SaaS Services.

- 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information.
- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or



component failure. In the event any of your Data has been lost or damaged due to an act or omission of Tyler or its subcontractors or due to a defect in Tyler's software, we will use best commercial efforts to restore all the Data on servers in accordance with the architectural design's capabilities and with the goal of minimizing any Data loss as greatly as possible. In no case shall the recovery point objective ("RPO") exceed a maximum of twenty-four (24) hours from declaration of disaster. For purposes of this subsection, RPO represents the maximum tolerable period during which your Data may be lost, measured in relation to a disaster we declare, said declaration will not be unreasonably withheld.

- 6.4 In the event we declare a disaster, our Recovery Time Objective ("RTO") is twenty-four (24) hours. For purposes of this subsection, RTO represents the amount of time, after we declare a disaster, within which your access to the Tyler Software must be restored.
- 6.5 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.6 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.7 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.8 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.9 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 6.10 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at https://www.tylertech.com/about-



us/compliance, and in the event of any change in our status, will comply with applicable notice requirements.

SECTION C -PROFESSIONAL SERVICES

- 1. <u>Professional Services</u>. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
- 2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
- 3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
- 4. <u>Cancellation</u>. If travel is required, we will make all reasonable efforts to schedule travel for our personnel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
- 5. <u>Services Warranty</u>. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
- 6. <u>Site Access and Requirements</u>. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.
- 7. <u>Background Checks</u>. For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
- 8. <u>Client Assistance</u>. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project



deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).

- 9. <u>Maintenance and Support</u>. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:
 - 9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);
 - 9.2 provide support during our established support hours;
 - 9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
 - 9.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
 - 9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix and Logmeinrescue by Logmein, Inc. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our thencurrent Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) week's advance notice.

SECTION D - THIRD PARTY PRODUCTS



- 1. <u>Third Party Hardware</u>. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
- 2. <u>Third Party Software</u>. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
- 3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
- 4. <u>Third Party Services</u>. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

- 1. <u>Invoicing and Payment</u>. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
- 2. <u>Invoice Disputes</u>. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION F - TERM AND TERMINATION

1. <u>Term</u>. The initial term of this Agreement is five (5) years from the first day of the first month following the Effective Date, unless earlier terminated as set forth below. Upon expiration of the



initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then-current SaaS Fees, subject to the terms of Exhibit B, Section 1.1, unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.

- 2. <u>Termination</u>. This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
 - 2.2 <u>For Cause</u>. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
 - 2.3 <u>Force Majeure</u>. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
 - 2.4 <u>Lack of Appropriations</u>. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.
 - 2.5 Fees for Termination without Cause during Initial Term. If you terminate this Agreement during the initial term for any reason other than cause, Force Majeure, or lack of appropriations, or if we terminate this Agreement during the initial term for your failure to pay SaaS Fees, you shall pay us the following early termination fees:
 - a. if you terminate during the first year of the initial term, 100% of the SaaS Fees through the date of termination plus 25% of the SaaS Fees then due for the remainder of the initial term;
 - if you terminate during the second year of the initial term, 100% of the SaaS Fees through the date of termination plus 15% of the SaaS Fees then due for the remainder of the initial term; and
 - c. if you terminate after the second year of the initial term, 100% of the SaaS Fees through the date of termination plus 10% of the SaaS Fees then due for the remainder of the initial term.



3. <u>Provision of Client Data.</u> In the event of termination or nonrenewal of this Agreement, Tyler shall, upon Client's written request, provide to Client a copy of the Client SQL database then residing in Tyler's hosted environment.

SECTION G - INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

- 1. <u>Intellectual Property Infringement Indemnification</u>.
 - 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
 - 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
 - 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
 - 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for



personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

- 3. <u>DISCLAIMER</u>. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 4. LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).
- 5. EXCLUSION OF CERTAIN DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 6. <u>Insurance</u>. During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We agree to waive rights to subrogation for Worker's Compensation claims that arise out of or relate to the Agreement, except to the extent the injury is caused by the Client. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

SECTION H – GENERAL TERMS AND CONDITIONS

Additional EnerGov User Licenses. You may purchase additional user licenses for the EnerGov Software listed in the Investment Summary, at the rates set forth in the Investment Summary for twenty-four (24) months from the Effective Date by executing a mutually agreed addendum. Additional user licenses in months twenty-five (25) through sixty (60) may be purchased at thencurrent rates subject to a 5% annual cap on fees by executing a mutually agreed addendum. If those sixty (60) months have expired, you may purchase additional products and services at our then-



- current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
- 2. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
- 3. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
- 4. <u>Dispute Resolution</u>. You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.
- 5. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
- 6. <u>Nondiscrimination</u>. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
- 7. <u>E-Verify</u>. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
- 8. <u>Subcontractors</u>. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.



- 9. <u>Binding Effect; No Assignment</u>. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
- 10. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
- 11. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
- 12. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
- 13. <u>Severability</u>. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
- 14. <u>No Waiver</u>. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
- 15. <u>Independent Contractor</u>. We are an independent contractor for all purposes under this Agreement.
- 16. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.



- 17. <u>Client Lists</u>. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
- 18. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
 - (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
 - (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.
- 19. <u>Business License</u>. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
- 20. <u>Governing Law</u>. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.
- 21. <u>Multiple Originals and Authorized Signatures</u>. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.
- 22. <u>Cooperative Procurement</u>. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
- 23. Client Trademarks. For clients licensing DHD Tyler Software only:
 - 23.1 During the Term, Client hereby grants Tyler a nonexclusive, paid-up, nontransferable right to use Client's trademarks, trade names, service marks, logos, trade dress, trade name, or other indicia of sources or origin of Client ("Client Marks") for purposes of providing the SaaS



Services pursuant to the Agreement. The Client Marks are and will remain the exclusive property of Client and this Agreement gives Tyler no rights therein except for a limited license to reproduce the Client Marks for the sole purpose of allowing Tyler to provide services pursuant to the terms of this Agreement and as otherwise contemplated by this Agreement. All goodwill associated with the Client Marks will inure to the benefit of Client.

- 23.2 Client warrants that Client Marks and Data furnished by Client to Tyler will not infringe or misappropriate any patent, copyright, trademark, or other proprietary right of any third party. To the extent necessary to provide the SaaS Services, Client represents and warrants that it will provide all access to and information about Client Marks and Data in a timely manner. Client represents and warrants that (a) it has all rights necessary and appropriate to allow Tyler and its contractors to access and use the Client Marks and Data, and (b) it will not take or allow to be taken and action that would result in any harmful code or materials to be provided or submitted to Tyler.
- 24 Contract Documents. This Agreement includes the following exhibits:

Exhibit A Investment Summary

Exhibit B Invoicing and Payment Policy

Schedule 1: Business Travel Policy

Exhibit C Service Level Agreement

Schedule 1: Support Call Process

Schedule 2: Annual Support and Hosting Statement of Work

Exhibit D Third Party Terms

Exhibit E Implementation Statement of Work

Appendix A: DHD Platform System

Appendix B: Configurations Appendix C: Data Imports Appendix D: Public Website Appendix E: Field Client

Appendix F: Custom Printables Appendix G: Custom Reports

Incorporated by Reference:

Exhibit F Tyler's Proposal dated September 11, 2020

Exhibit G Town of Prosper Community Development System CSP: 2021-02-A

In the event of a conflict in the various contract documents listed above, the conflicting language will be interpreted and resolved according to the following order of precedence:

- License and Services Agreement Section A through H; Exhibits A through E
- Exhibit F Tyler's Proposal dated September 11, 2020
- Exhibit G Town of Prosper Community Development System CSP: 2021-02-A



IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.	Town of Prosper, Texas
By: Sherry Clark	Ву:
Name: Sherry Clark	Name:
Title: Senior Corporate Attorney	Title:
Date: February 4, 2021	Date:
Address for Notices:	Address for Notices:
Tyler Technologies, Inc.	Town of Prosper
One Tyler Drive	250 W. First St.
Yarmouth, ME 04096	P.O.Box 307
	Prosper, TX 75078
Attention: Chief Legal Officer	Attention: Harlan Jefferson, Town Manager



Exhibit A Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

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Craig J. Dixon Quoted By:

Date: 1/22/2021 Quote Expiration: 3/31/2021

Town of Prosper-EG-CD Quote Name:

2019-68482 Quote Number:

Quote Description: Tyler EnerGov CD, Town of Prosper, SaaS

Sales Quotation For

City of Prosper 113 W Broadway St Prosper, TX 75078-2731 Phone +1 (972) 346-2640

EnerGov SaaS - Silver

Description	Term	Monthly Fee	Users/Units	Annual Fee
Core Software:				
EnerGov Community Development Suite	5	\$187.00	56	\$125,664.00
EnerGov Community Health (CH)	5	\$187.00	5	\$11,220.00
SnapLogic - Up to 5 Snap integrations	5	\$368.00	Site License	\$4,421.00
Extensions:				
EnerGov Advanced Automation Bundle	5	\$414.00	Site License	\$4,972.00
EnerGov Citizen Self Service - Community Development	5	\$801.00	Site License	\$9,615.00
EnerGov Citizen Self Service - Community Health (CH)	5	\$249.00	1	\$2,984.00
EnerGov Community Development SDK	5	\$481.00	Site License	\$5,769.00
EnerGov e-Reviews	5	\$921.00	Site License	\$11,052.00
EnerGov IG Workforce Apps	5	\$55.00	21	\$13,860.00
EnerGov My GovPay	5	\$0.00	Site License	\$0.00
Socrata-EnerGov Executive Insights (Comm Dev)	5	\$645.00	Site License	\$7,736.00
Tyler Cashiering for EnerGov	5	\$0.00	Site License	\$0.00
Tyler GIS	5	\$0.00	56	\$0.00
	Sub-Total:			\$197,293.00
	Less Discount			\$56 375 00

EnerGov SaaS - Silver

Description Term Monthly Fee Users/Units Annual Fee

TOTAL: \$140,918.00

EnerGov Professional Services

Description	Hours/Units	Unit Price	Extended Price	Year One Maintenance
Configuration Services - Remote	756	\$175.00	\$132,300.00	\$0.00
EnerGov Community Health Services	200	\$175.00	\$35,000.00	\$0.00
Community Health End User Acceptance, Review & Go Live Training	16	\$175.00	\$2,800.00	\$0.00
Reports Modifications - Community Health (10 pack)	1	\$5,000.00	\$5,000.00	\$0.00
EnerGov CSS & eReviews Configuration	40	\$175.00	\$7,000.00	\$0.00
SnapLogic Support	32	\$175.00	\$5,600.00	\$0.00
Socrata-EnerGov Executive Insights Configuration	24	\$175.00	\$4,200.00	\$0.00
EnerGov Configuration & Admin Training	40	\$175.00	\$7,000.00	\$0.00
Letters and Forms Development (5 pack)	1	\$6,250.00	\$6,250.00	\$0.00
Prerequisite Training Courses			\$450.00	\$0.00
Project Management Services	240	\$175.00	\$42,000.00	\$0.00
Training & Production Support Services - Remote	128	\$175.00	\$22,400.00	\$0.00
TOTAL:			\$270,000.00	\$0.00

Summary	One Time Fees	Recurring Fees
Total Tyler Software	\$0.00	\$0.00
Total SaaS	\$0.00	\$140,918.00
Total Tyler Services	\$270,000.00	\$0.00
Total 3rd Party Hardware, Software and	\$0.00	\$0.00
Services		
Summary Total	\$270,000.00	\$140,918.00
Year One Contract Total	\$410,918.00	
Contract Total	\$974,590.00	
Estimated Travel Expenses	\$17,000.00	

Optional EnerGov Annual Services

Description		Units/Users	Annual Fee
EnerGov Assist Advanced		1	\$40,000.00
EnerGov Assist Basic		1	\$20,000.00
EnerGov Assist Complete		1	\$30,000.00
	TOTAL:		\$90,000.00

Unless otherwise indicate	ed in the contract or amendment thereto, pricing for o	ptional items will be held for
six (6) months from the C	Quote date or the Effective Date of the contract, which	never is later.
Customer Approval:	Date:	
Print Name:	P.O. #:	
		

All primary values quoted in US Dollars

Comments

EnerGov e-Reviews requires Bluebeam Studio Prime, at an estimated yearly subscription cost of \$3,000/100 users. Further pricing detail is available by contacting Bluebeam at https://www.bluebeam.com/solutions/studio-prime

EnerGov monthly fees are rounded, excluding cents.

End user has unlimited access to courses prior to end user training. The end user prerequisite service allows end users to take up to 11 foundational courses (where they get assessed a score) prior to our trainers arriving onsite. This allows for an overall more efficient training and cost effective training experience and a reduction of estimated 20-25% of actual required end users training hours/resources.

EnerGov SaaS includes up to 500GB of storage. Should additional storage be needed it may be purchased as needed at an annual fee of \$3,000 per TB.

As a new Tyler client, you are entitled to a 30-day trial of the Tyler Detect cybersecurity service. Please reference https://www.tylertech.com/services/tyler-detect for more information on the service and contact CybersecuritySales@tylertech.com to initiate the trial.

Template Business Process configuration are processes that require modifications to an already existing EnerGov template configuration process. The following configuration rules will apply:

- Addition/modification of up to 10 custom fields
- Addition/modification of up to 10 workflow actions
- Required fees for process based on Client's Fee Schedule
- Renaming of Inspections

EnerGov Implementation:

Implementation methodology will primarily levarge EnerGov's BMT (Best Management Templates) pre-configured database.

Data conversion charges for TRAKiT are waived, provided the client agrees to extract data from legacy system and populate Tyler's SQL conversion database (DCT-DB) for electronic data migration.

EnerGov Community Health (DHD) is limited to Food, Day-Care, Pools, and Multi-Family.



Exhibit B Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

<u>Invoicing</u>: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

- 1. <u>SaaS Fees</u>. SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, in Year 6 through Year 10 your annual SaaS fees will be at our then-current rates, subject to an increase of no more than 5% annually. Thereafter, SaaS fees will be at our then-current rates.
- 2. Other Tyler Software and Services.
 - 2.1 VPN Device: The fee for the VPN device will be invoiced upon installation of the VPN.
 - 2.2 Implementation and Other Professional Services (including training): Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary. The foregoing notwithstanding, ten percent (10%) of the fees for professional services rendered, by phase as indicated in the Statement of Work, shall be retained until thirty (30) days after completion of the Production Readiness Stage described in the Statement of Work.
 - 2.3 Consulting Services: If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Best Practice Recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.4 Conversions: Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
 - 2.5 Requested Modifications to the Tyler Software: Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the



specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.

2.6 Other Fixed Price Services: Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where "Project Planning Services" are provided, payment will be due upon delivery of the Implementation Planning document.

Third Party Products.

- 2.7 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.
- 2.8 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.
- 2.9 Third Party Hardware: Third Party Hardware costs, if any, are invoiced upon delivery.
- 2.10*Third Party Services:* Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary.
- 3. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

<u>Payment.</u> Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting AR@tylertech.com.



Exhibit B Schedule 1 Business Travel Policy

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.



2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a "mid-size" or "intermediate" car. "Full" size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation is unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler's TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

"No shows" or cancellation fees are not reimbursable if the employee does not comply with the hotel's cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.



Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. In no event shall the purchase of alcoholic beverages or alcoholic products be reimbursable. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
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Depart after 12:00 noon Dinner

Return Day

Return before 12:00 noon Breakfast

Return between 12:00 noon & 7:00 p.m. Breakfast and lunch

Return after 7:00 p.m.* Breakfast, lunch and dinner

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast 15% Lunch 25% Dinner 60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*



^{*7:00} p.m. is defined as direct travel time and does not include time taken to stop for dinner.

ibit B Item 16.

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C Service Level Agreement

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. All other support services are documented in the Support Call Process.

II.Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Attainment: The percentage of time the Tyler Software is available during a calendar quarter, with percentages rounded to the nearest whole number.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during which the Tyler Software is not available for your use. Downtime does not include those instances in which only a Defect is present.

Service Availability: The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding maintenance windows, Client Error Incidents and Force Majeure.

III. Service Availability

The Service Availability of the Tyler Software is intended to be 24/7/365. We set Service Availability goals and measures whether we have met those goals by tracking Attainment.

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support incident number.

You must document, in writing, all Downtime that you have experienced during a calendar quarter. You must deliver such documentation to us within 30 days of a quarter's end.

The documentation you provide must evidence the Downtime clearly and convincingly. It must include, for example, the support incident number(s) and the date, time and duration of the Downtime(s).

b.Our Responsibilities

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of a Client Error Incident or Force Majeure). We will also work with you to resume normal operations.

Upon timely receipt of your Downtime report, we will compare that report to our own outage logs and



support tickets to confirm that Downtime for which we were responsible indeed occurred.

We will respond to your Downtime report within 30 day(s) of receipt. To the extent we have confirmed Downtime for which we are responsible, we will provide you with the relief set forth below.

c. Client Relief

When a Service Availability goal is not met due to confirmed Downtime, we will provide you with relief that corresponds to the percentage amount by which that goal was not achieved, as set forth in the Client Relief Schedule below.

Notwithstanding the above, the total amount of all relief that would be due under this SLA per quarter will not exceed 5% of one quarter of the then-current SaaS Fee. The total credits confirmed by us in one or more quarters of a billing cycle will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Every quarter, we will compare confirmed Downtime to Service Availability. In the event actual Attainment does not meet the targeted Attainment, the following Client relief will apply, on a quarterly basis:

Targeted Attainment	Actual Attainment	Client Relief
100%	98-99%	Remedial action will be taken.
100%	95-97%	4% credit of fee for affected calendar quarter will be posted to next billing cycle
100%	<95%	5% credit of fee for affected calendar quarter will be posted to next billing cycle

You may request a report from us that documents the preceding quarter's Service Availability, Downtime, any remedial actions that have been/will be taken, and any credits that may be issued.

IV.Applicability

The commitments set forth in this SLA do not apply during maintenance windows, Client Error Incidents, and Force Majeure.

We perform maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

V.Force Majeure

You will not hold us responsible for not meeting service levels outlined in this SLA to the extent any failure to do so is caused by Force Majeure. In the event of Force Majeure, we will file with you a signed request that said failure be excused. That writing will at least include the essential details and circumstances supporting our request for relief pursuant to this Section. You will not unreasonably withhold its acceptance of such a request.





Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support:

- (1) Tyler Community an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone for urgent or complex questions, users receive toll-free, unlimited telephone software support.

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website www.tylertech.com for accessing client tools and other information including support contact information.
- (2) Tyler Community available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates where development activity is made available for client consumption

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Tyler's holiday schedule is outlined below. There will be no support coverage on these days.

New Year's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	



Issue Handling

Incident Tracking

Every support incident is logged into Tyler's Customer Relationship Management System and given a unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler's website or by calling software support directly.

Incident Priority

Each incident is assigned a priority number, which corresponds to the client's needs and deadlines. The client is responsible for reasonably setting the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain "characteristics" may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the client towards clearly understanding and communicating the importance of the issue and to describe generally expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client's remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler's responsibility for lost or corrupted Data is limited to assisting the client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of Data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted Data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. For non-hosted customers, Tyler's responsibility for lost or corrupted Data is limited to assisting the client in restoring its last available database.



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Priority Level	Characteristics of Support Incident	Resolution Targets
4 Non- critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Incident Escalation

Tyler Technology's software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client's needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone for immediate response, call toll-free to either escalate an incident's priority or to escalate an issue through management channels as described above.
- (2) Email clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

Remote Support Tool

Some support calls require further analysis of the client's database, process or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client's desktop and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.





Exhibit C Schedule 2 Annual Support and Hosting Statement of Work

In the event of a conflict between the terms of this Statement of Work and the Agreement, the terms and conditions of this Statement of Work shall prevail. This Statement of Work and the Agreement represents the complete agreement regarding the subject matter and replaces any oral or written communications between the Client and Tyler.

I. Overview

As more particularly described in the Agreement, the DHD System Maintenance includes a non-transferrable, limited, nonexclusive limited right to use the SaaS Services for named Client staff. This includes:

- The use of the Client Production System in the offices,
- The use of the offline version of the System ("Field Client"),
- Software support, i.e., correction of System-generated errors and identified bugs in the approved and implemented System functionality, and work stoppage issues created by these errors,
- Hosting of Client data and complete System application,
- Technical support to Client staff handled through Client and Tyler Maintenance Support team for modules on the current production System.
- Software Support

A. Software Version Releases

- 1. Although there are no formal software version releases, the DHD system is periodically updated to include system-wide improvements and features. As these updates are completed, they are implemented to the live system at no additional charge to the Client.
- 2. Tyler will notify the Client of any software modifications and revisions. The notification shall include, but may not be limited to, a statement describing the effect of including the software change on the system, application programs, data files, workstation functions and services, and personnel training recommendations.

B. Client Issue Tracker

The System includes the Client Issue Tracker module. The Client System Administrators (CSAs) are able to enter issues, open tickets, and enter requests. CSAs can also monitor the progress of the ticket as it moves through the system and are alerted when the issue is resolved. Each issue is assigned a priority level and a status, so pending issues can be addressed in order from highest priority to lowest as defined by Client and specified to Tyler staff.



C. Bug/Error/Break Fixes

- 1. Bugs, errors, and breaks are defects in the product, that is, a deviation between the functionality of the product and its actual performance. A bug fix is required to change the code to repair the bug. Bug fixes could be associated with a single line of code or large portions of code thus requiring more development time.
- 2. Critical Bugs are defined as problems that create a Client work stoppage, problems that affect the Client's ability to use the System as it was designed, problems that prevent the Client from doing business, or problems that prevent the Client from submitting data to the System.
 - a) If the Client reports an issue as a Critical Bug, Tyler staff will review and verify the status. If the issue does not qualify as a Critical Bug as defined above, Tyler staff will update the issue status, assign it to a Work Order, and notify Client.
- 3. Escalated Issues are defined as those issues that do not meet the qualifications of a Critical System Bug but still need to be addressed and corrected as soon as possible, e.g., before all other issues in Issue Tracker except Critical Bugs. Only Tyler staff is able to Escalate Issues. The types of issues that can be elevated to an Escalated Issues status are:
 - a) Time-sensitive or urgent report requests that have a hard date and/or time deadline, such as media requests or legislative reports,
 - b) Time-sensitive or urgent change requests that have a hard date and/or time deadline, such as state-mandated changes regarding permit renewals, licensing, or billing. Additional charges may apply to escalated change requests that fall outside the original Scope of Work.
- 4. Critical Bugs and Escalated Issues receive top priority in the maintenance schedule. When Critical Bugs and Escalated Issues are reported, they are verified by Tyler, acknowledged, and typically resolved within twenty-four (24) hours. If a Critical Bug will take longer than twenty-four (24) hours to correct, the Client will be notified of the proposed correction within twenty-four (24) hours. If there are more than three (3) Escalated Issues in the Client System at one time, a Work Order will be created containing only the Escalated Issues and will be moved into the development schedule as soon as possible. The estimated turnaround for Escalated Issues is seven (7) business days.
- 5. A Work Order is defined as a list of issues, grouped by issue priority and system module, created by Tyler staff and approved by the Client. Work Orders may contain up to twenty (20) issues and must be approved by Client signature before added to the maintenance schedule. Once a Work Order is complete, the Client will have 30 calendar days to review, test, and accept the Work Order by Client signature, or reject the changes in writing, with detailed documentation of the reasons for rejection. Once the Client accepts the Work Order, the changes will be pushed to the Client Production System within two (2) business days. All items within a Work Order will be pushed to production at one time, not piecemeal. The estimated turnaround time for Work Orders is sixty (60) to ninety (90) business days.
 - a) Once a Work Order is pushed to the production system and verified by Client, the Client will sign a completion form, indicating acceptance of all the issues within the Work Order.



No additional Work Orders will be moved into development until the completion form is signed.

D. State-Mandated Changes

- During the course of this contract, the federal, state, or county laws, ordinances, policies, or procedures may be changed or updated, and require the addition of fields to system screens and/or format changes to printable forms, or a change in the format in which the data is collected or output on a standard form directly relating to a module included in the Client Production System. Tyler will accommodate up to one (1) form change and ten (10) field changes per module annually. Further changes will be quoted on a case-by-case basis at the standard rate of \$200 per hour.
- 2. In the event that major functionality or report changes are required as the result as a law or ordinance change, the upgrade may require additional funding and will be quoted on a case-by-case basis at the standard rate of \$200 per hour.

E. System Enhancements

- 1. System Enhancements are defined as change requests and feature requests, which affect System appearance and/or functionality not included in the existing System functionality or that fall outside the system Scope of Work and/or approved system documentation.
- 2. The Tyler Project Team on a case-by-case basis evaluates change requests. Each change request will be reviewed against the original System scope of work and approved specifications and will be quoted to the Client at the standard per-hour development rate.
- 3. Feature requests are evaluated by the Tyler Project Team on a case-by-case basis. Each request will be reviewed against the original scope of work and approved system specifications and will be quoted to the Client at the standard per-hour development rate.
- 4. All changes and enhancements to the system will be quoted to the client on a case-by-case basis. No billable work will be performed until both parties sign a written agreement that includes scope of work, project timeline, and approved payment milestones.
- 5. Changes and features are first implemented and tested on Tyler's Development server. After the change is approved internally, it is pushed to the Testing server. This server is the Client's testing environment, which is an exact replica of the production system. This testing environment is standard in the system, and there is no extra fee for this feature. Once the enhancements have been fully tested and approved by the Client, they are pushed to the production system where they are immediately available to all users. There is no downtime for any user, and no extra software installations are necessary.
- 6. Change and feature requests will be addressed in ninety (90) to one hundred and twenty (120) working days, depending on type of request, complexity, and current development schedule.



F. Priorities

The Priority field helps define an issue's importance to the Client and is used to determine delivery dates. The options are: Very High, High, Medium, Low, and Very Low.

- 1. The "Very High" status is reserved for Work Stoppage bugs only. The status of a Work Stoppage is strictly reserved for bugs that are preventing use of the system. Work Stoppage Bugs are corrected within 24 hours unless otherwise notified by the Tyler Maintenance Team.
- In the event of a major issue that impacts production, procedures are in place to allow immediate attention to focus on that item whether it requires programming resources or other Tyler staff participation.
- 3. All escalation is handled through Tyler technical support. Depending on the type of issue, the system may escalate an item to one department or another (for example, Database Administration, Project Management, or Development). Any time an issue is escalated to senior technical staff the Client will receive an estimated correction time and a reason for the escalation to senior tech staff.

G. Project Procedures

Each deliverable document or Work Order will be approved in accordance with the following procedure:

- One printed draft of the deliverable document is submitted to the Client Project Manager, with a deliverable acceptance document including an approval signature page. It is the Client Project Manager's responsibility to make and distribute additional copies to the other reviewers.
- 2. Within five (5) business days the Client Project Manager will either approve the deliverable or provide the Tyler Project Team written documentation of the discrepancies.
- 3. The Tyler Project Manager will resubmit, in electronic form, the final version of the deliverable document to the Client Project Manager for approval. The Client Project Manager will provide final written approval within five (5) working days.
- 4. Reasonable delays in this approval process will be considered and allowed if agreed by the Tyler and the Client Project Manager.

H. Escalation Procedure

When a conflict arises between Client and Tyler, the project team member(s) will first strive to resolve the problem internally. The following procedure will be followed if resolution is required to a conflict arising during the performance of this SOW:

1. Level 1: If the project team cannot resolve the conflict within five (5) working days, the Client Project Manager and Tyler Project Manager will meet to resolve the issue.



- Level 2: If the conflict is not resolved within five (5) working days after being escalated to Level
 1, the Client Project Sponsor will meet with the Tyler Project Executive and Project Manager
 to resolve the issue.
- 3. Level 3: If the conflict remains unresolved after Level 2 intervention, resolution will be addressed in accordance with the Project Change Control Procedures or termination of this SOW, the Hosting SOW, and contract under the terms of the Agreement.
- 4. During any conflict resolution, Tyler agrees to provide services relating to items not in dispute, to the extent practicable pending resolution of the conflict.

I. Rate for Additional Work

 Changes to the system appearance and functionality will be quoted on a case-by-case basis at a rate of \$200 per hour. This price covers all project management and development staff time. Travel and other expenses are not included in the per-hour price and may be quoted separately as necessary. No billable work or travel will be performed until both parties sign a written agreement that includes scope of work, project timeline, and approved payment milestones.

II. System Hosting

System Hosting includes hardware support and maintenance for all Tyler-controlled equipment involved in hosting the Client's system, data and application storage, data and application backups, and disaster recovery.

A. Connectivity

The DHD system is accessed through an Internet browser and an Internet connection. No additional Client connectivity is required to access the full functionality of the production DHD system.

B. Data Storage

The data storage subsystem is configured with 9 terabytes of storage and can be expanded at any time if necessary, for the term of the contract.

C. Backups

The System is 100% web-browser based and is hosted on servers that Tyler maintains. Tyler is responsible for backups, security administrations, and problem resolutions. Tyler will run nightly backups of all data. The following backups are performed:

- 1. Nightly differentials,
- 2. Weekly move backup,
- 3. Monthly backup rotation.



D. Disaster Recovery

In the event that data recovery is necessary following a disaster that would render data in the primary database unrecoverable, Tyler would look first to the most recent incremental backup of data and attempt to restore. In the event that both the primary database and the incremental backup experienced a catastrophic failure, Tyler would restore from the nightly incremental backup. In the event that all three of these data sources were unavailable or had catastrophic failures, Tyler would retrieve the most recent daily or weekly backup from the long-term backup storage and restore. An exception to this process would be if data were available from another backup source maintained at the Client site – at that point, if the client felt their copy was the most up-to-date, Tyler would restore data from the copy the Client deemed appropriate.

E. Hardware Support

Hardware is defined as the processor(s), RAM, hard disk(s), motherboard, NIC card, and other related components included in the Tyler server assigned to the Client System. All hardware components directly relating to the Client System will function properly and any failed component will be replaced immediately at no additional Client cost. The replacement process will begin when the cause of the problem has been determined. Hardware replacement is guaranteed to take no more than four (4) hours.

F. Network Availability

Network uptime occurs when the functionality of all Tyler network infrastructure including cabling, switches, and routers, is operating as designed. Network downtime occurs if the Tyler servers are unable to transmit and/or receive data, and if the Client opens a service ticket for the incident in the System ticket-tracking module. Network downtime is measured from the time the Client ticket is opened to the time the issues is resolved and the Tyler network comes back online. The Tyler network will be available 99.9% of the time, excluding scheduled maintenance or upgrades approved by both Client and Tyler.

G. Infrastructure Guarantee

Critical systems include all power and HVAC infrastructure, UPS equipment, and cabling. Power supplies of individual servers are not included (see below for Hardware Guarantee). Critical systems downtime occurs when a Tyler server assigned to Client System is shut down because of power or heat problems, and if the Client opens a service ticket for the incident in the Client System ticket tracking module. Critical system downtime is measured from the time the Client ticket is opened to the time the issue is resolved and the Tyler server comes back online. Tyler critical systems, including power and HVAC, are available 99.9% of the time, excluding scheduled maintenance periods.

H. Maintenance and escalation (scheduled and unscheduled)

1. Tyler will notify Client at least 48 hours in advance of any scheduled network downtime for System maintenance and service.



- 2. In the event of an unscheduled outage, Tyler will immediately notify the Client contact, informing them of the outage and its estimated length. Should the outage last more than four hours Tyler will provide an update to Client every four hours as to the system status.
- 3. All updates and notifications will be delivered via email to the Client contact.

I. Remedies

1. Should a Tyler outage occur that results in Client system unavailability in excess of the guaranteed uptimes, Tyler will credit Client 5% of the monthly SaaS fee for every 5% of downtime with 95% as the first credit threshold. Credits will be applied toward future SaaS payments.

J. Exceptions

1. Delinquent customers may not take advantage of our uptime guarantee. Client must request all credits in writing within three (3) calendar days of the reported downtime, and the downtime must be from a single occurrence.

III. Customer Support

- A. On-line Support: System includes online text based help down to the field level. Users can hover the mouse over a field and popup text help for that field will appear.
- B. Telephone Support: Telephone support for Client System Administrators between the hours of 8:00 AM and 6:00 PM EST. There is a 24-hour emergency support line available for Client System Administrators, but not general staff. General staff issues should be first directed to the Client District System Administrator to determine that the issue does not pertain to Client policy. If the issue is a legitimate system use issue and the Client District System Administrator is unable to assist the user, the Client District System Administrator may call the Support line to receive additional assistance from a Tyler staff member.
- C. Virtual Support: Tyler technical staff can remote-in to the application so that they can see the exact screen that an employee is on at any time. This allows them the ability to assist as if they were sitting next to the employee. The Client has to allow access to the system through the Client firewall.
- D. User Manual: Electronic user manual documentation is configured to reflect the custom features of Client's specific version on the application.

IV. Roles and Responsibilities

Role	Responsibilities
Application Support (Table	The Client will be responsible for making some table changes to
Maintenance)	the system using Tyler-developed tools through the DHD system.
	The Client will also be responsible for using Issue Tracker to
	request changes to the system that are not available to them



Role	Responsibilities
	through the system. Tyler is responsible for fully supporting the application.
Communication	The Client is responsible for appointing a System Administrator who can verify and enter Issue Tracker items, set up users, etc. This position requires no special software or hardware knowledge and does not require a major time investment. Tyler is responsible for notifying the client of scheduled outings, updates on system changes, etc. Both the Client and Tyler are responsible for communication about the DHD system.
Connection	The Client is responsible for monitoring and ensuring that the internet connection is working properly.
Hardware Maintenance	The Client is responsible for all hardware purchased, installed, and used by the Client. Tyler is responsible for application and server hardware and peripheral equipment pertaining to those servers.
Information Services Technical	The Client is responsible for maintaining Client's own technical staff as it relates to the Client's existing infrastructure. Tyler will be responsible for everything that applies to the production system, data storage, and application and server hardware.
Network Support	The Client is responsible for maintaining their own network system so that users are able to access the Internet and a web browser. Tyler is responsible for all network support to application and data servers.
Security Monitoring	The Client is responsible for monitoring Internet security and any other security measures already in place. Additionally, the Client will be responsible for maintaining the integrity of the internal user security (permissions, passwords, etc.). Tyler is responsible for monitoring security at the data and application server level.
Software Updates	Tyler is responsible for all software updates on the application. The Client is responsible for other applicable software updates on the Client's hardware (operating systems, Internet browser, etc.).

[The remainder of this page is left blank intentionally.]





Exhibit D MyGovPay/VirtualPay and IVR

- 1. <u>MyGovPay/VirtualPay Licensing</u>. Access to MyGovPay and/or Virtual Pay is hereby granted if Customer elects to use MyGovPay or VirtualPay, products of Tyler Technologies (*Powered by Persolvent*), designed for Citizen Users to use for processing online payments.
- (a) Special MyGovPay/VirtualPay Definitions.

"Merchant Agreement" means the agreement between Customer and Persolvent that provides for the Merchant Fees.

"Merchant Fees" means direct costs levied by Visa/Mastercard/Discover or other payment card companies for Interchange Fees, Dues, Assessments and Occurrence Fees, over which Tyler Technologies has no authority.

"MyGovPay" means the Product of Tyler Technologies that allows members of the public to pay for Customer's services with a credit or other payment card on the Customer's citizen-facing web portal. "Persolvent" means Persolvent, formerly BankCard Services Worldwide, a Payment Card Industry (PCI) compliant processing agent through which the EnerGov Software passes credit card transactions. "Use Fees" means the Technology Fees, Authorization Fees and Program/Convenience Fees as listed in Use Fees Table in Section 2, titled MyGovPay/VirtualPay.

"VirtualPay" means the Product of Tyler Technologies that allows the Customer to accept and process citizen user's credit or other payment card using the EnerGov Software.

- (b) Conditions of Use. If customer elects to use MyGovPay and/or VirtualPay the following terms apply:
 - (1) Customer must apply for and agree to a Merchant Agreement with Persolvent.
 - (2) Customer agrees that Citizen Users will be subject to Use Fees as listed in Use Fees table in Section 2.
 - (3) Customer agrees that Use Fees are separate from and independent of Merchant Fees.
 - (4) Customer agrees that this Agreement does not represent any modification to Customer's Merchant Agreement with Persolvent.
 - (5) Customer agrees that Use Fees are for use on the MyGovPay/VirtualPay online system and will not be deposited or owed to Customer in any way.
 - (6) Customer agrees that MyGovPay's and VirtualPay's ability to assess Use Fees is dictated by the Card Associations whose rules may change at any time and for any reason. If MyGovPay and/or VirtualPay, for any reason, are unable to process payments using Use Fees, Customer agrees that MyGovPay/VirtualPay reserves the right to negotiate a new pricing model with Customer for the continued use of MyGovPay and/or VirtualPay.
- 2. <u>MyGovPay/VirtualPay Fees.</u> Customer agrees that the Use Fees set forth on the following page will apply if Customer elects to use MyGovPay/VirtualPay.

USE FEES TABLE FOLLOWS ON NEXT PAGE



Use Fees EnerGov's MyGovPay (Online / card-not-present payments)**

	MyGovPay (Online Payments)	MyGovPay (Online Payments)
	Percentage Based Fee	+ Transaction Fee
Option 1: Government Entity Paid	2.79%	\$0.20
Option 2: Patron Paid	3.29%	N/A

^{**}ACH processing is available for a fee of \$20 per month and \$0.30 per transaction.

EnerGov's VirtualPay (retail card present)

	VirtualPay (Retail Payments)	Virtual Pay (Retail Payments)
	Percentage Based Fee	+ Transaction Fee
Option 1: Government Entity Paid	2.59%	\$0.15
Option 2: Patron Paid	2.99%	N/A

Patron Paid fees will be communicated as "Service Fees" to the cardholder, at the time of transaction. In the event that the average monthly transaction amount is below \$30, Contractor reserves the right to apply an additional \$0.20 service fee above the quoted rates above.

- 3. <u>Interactive Voice Response ("IVR")</u>. If IVR is selected by Customer and included in the pricing, the following additional terms and conditions shall apply of this Agreement:
- (a) <u>Network Security</u>. Customer acknowledges that a third-party is used by Tyler Technologies to process IVR Data. Customer's content will pass through and be stored on the third-party servers and will not be segregated or in a separate physical location from servers on which other customers' content is or will be transmitted or stored.
- (b) <u>Content</u>. Customer is responsible for the creation, editorial content, control, and all other aspects of content to be used solely in conjunction with the EnerGov Software.
- (c) <u>Lawful Purposes</u>. Customer shall not use the IVR system for any unlawful purpose.
- (d) <u>Critical Application</u>. Customer will not use the IVR system for any life-support application or other critical application where failure or potential failure of the IVR system can cause injury, harm, death, or other grave problems, including, without limitation, loss of aircraft control, hospital life-support system, and delays in getting medicate care or other emergency services.
- (e) <u>No Harmful Code</u>. Customer represents and warrants that no content designed to delete, disable, deactivate, interfere with or otherwise harm any aspect of the IVR system now or in the future, shall be knowingly transmitted by Customer or Users.
- (f) IVR WARRANTY. Except as expressly set forth in this Agreement, TYLER TECHNOLOGIES MAKES NO REPRESENTATION AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR IVR.





Exhibit E Statement of Work



Town of Prosper

SOW from Tyler Technologies, Inc.

1/11/2021

Presented to: January Cook P.O. Box 307 Prosper, TX 75078

Contact:
Craig Dixon
Email: Craig.Dixon@TylerTech.com
5101 Tennyson Parkway, Plano, TX 75024

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Part 1: Executive Summary

Project Overview

Introduction

Tyler Technologies ("Tyler") is the largest and most established provider of integrated software and technology services focused solely on the public sector. Tyler's end-to-end solutions empower public sector entities including local, state, provincial and federal government, to operate more efficiently and connect more transparently with their constituents and with each other. By connecting data and processes across disparate systems, Tyler's solutions transform how clients gain actionable insights that solve problems in their communities.

Project Goals

This Statement of Work ("SOW") documents the methodology, implementation stages, activities, and roles and responsibilities, and project scope listed in the Investment Summary of the Agreement between Tyler and Client (collectively the "Project").

The overall goals of the project are to:

Successfully implement the contracted scope on time and on budget

Increase operational efficiencies and empower users to be more productive

Improve accessibility and responsiveness to external and internal customer needs

Overcome current challenges and meet future goals

Providing a single, comprehensive, and integrated solution to manage business functions

Provide a user-friendly user interface to promote system use and productivity

Eliminate redundant data entry

Streamline business processes through automation, integration, and workflows

Methodology

This is accomplished by Prosper and Tyler working as a partnership and Tyler utilizing its depth of implementation experience. While each Project is unique, all will follow Tyler's six-stage methodology. Each of the six stages is comprised of multiple work packages, and each work package includes a narrative description, objectives, tasks, inputs, outputs/deliverables, assumptions, and a responsibility matrix.

Tailored specifically for Tyler's public sector clients, the project methodology contains Stage Acceptance Control Points throughout each Phase to ensure adherence to scope, budget, timeline controls, effective communications, and quality standards. Clearly defined, the project methodology repeats consistently across Phases, and is scaled to meet the Client's complexity and organizational needs.

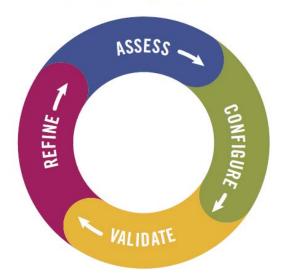
Tyler's Six Stage Project Methodology



The methodology adapts to both single-phase and multiple-phase projects.

To achieve Project success, it is imperative that both Prosper and Tyler commit to including the necessary leadership and governance. During each stage of the Project, it is expected that Prosper and Tyler Project teams work collaboratively to complete tasks. An underlying principle of Tyler's Implementation process is to employ an iterative model where Prosper's business processes are assessed, configured, validated, and refined cyclically in line with the project budget. This approach is used in multiple stages and work packages as illustrated in the graphic below.

Iterative Project Model



The delivery approach is systematic, which reduces variability and mitigates risks to ensure Project success. As illustrated, some stages, along with work packages and tasks, are intended to be overlapping by nature to efficiently and effectively complete the Project.

Part 2: Project Foundation

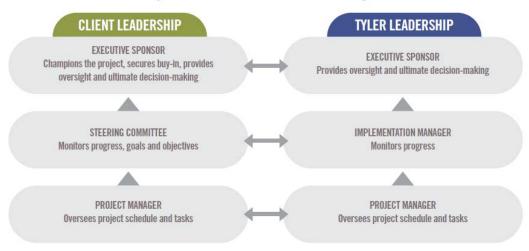
Project Governance

Project governance is the management framework within which Project decisions are made. The role of Project governance is to provide a decision-making approach that is logical, robust, and repeatable. This allows organizations to have a structured approach for conducting its daily business in addition to project related activities.

This section outlines the resources required to adequately meet the business needs, objectives, and priorities for the Project, communicate the goals to other Project participants, and provide support and guidance to accomplish these goals. Project governance defines the structure for escalation of issues and risks, Change Control review and authority, and Organizational Change Management activities. Throughout the Statement of Work Tyler has provided RACI Matrices for activities to be completed throughout the implementation which will further outline responsibilities of different roles in each stage. Further refinement of the governance structure, related processes, and specific roles and responsibilities occurs during the Initiate & Plan Stage.

The chart below illustrates an overall team perspective where Tyler and Prosper collaborate to resolve Project challenges according to defined escalation paths. In the event that project managers do not possess authority to determine a solution, resolve an issue, or mitigate a risk, Tyler implementation management and Prosper Steering Committee become the escalation points to triage responses prior to escalation to Prosper and Tyler executive sponsors. As part of the escalation process, each Project governance tier presents recommendations and supporting information to facilitate knowledge transfer and issue resolution. Prosper and Tyler executive sponsors serve as the final escalation point.

Project Governance Relationships



Project Scope Control

Managing Scope and Project Change

Project: Management governance principles contend that there are three connected constraints on a Project: budget, timeline, and scope. These constraints, known as the 'triple constraints' or Project management triangle, define budget in terms of financial cost, labor costs, and other resource costs. Scope is defined as the work performed to deliver a product, service or result with the specified features and functions, while time is simply defined as the schedule. The Triple Constraint theory states that if you change one side of the triangle, the other two sides must be correspondingly adjusted. For example, if the scope of the Project is increased, cost and time to complete will also need to increase. The Project and executive teams will need to remain cognizant of these constraints when making impactful decisions to the Project. A simple illustration of this triangle is included here, showing the connection of each item and their relational impact to the overall Scope.



Project Management Triangle

A pillar of any successful project is the ability to properly manage scope while allowing the appropriate level of flexibility to incorporate approved changes. Scope and changes within the project will be managed using the change control process outlined in the following section.

Change Control

It may become necessary to change the scope of this Project due to unforeseeable circumstances (e.g., new constraints or opportunities are discovered). This Project is being undertaken with the understanding that Project scope, schedule, and/or cost may need to change in order to produce optimal results for stakeholders. Changes to contractual requirements will follow the change control process specified in the final contract, and as described below.

Change Request Management

Should the need for a change to Project scope, schedule, and/or cost be identified during the Project, the change will be brought to the attention of the Steering Committee and an assessment of the change will occur. While such changes may result in additional costs and possible delays relative to the schedule,

some changes may result in less cost to Prosper; for example, Prosper may decide it no longer needs a deliverable originally defined in the Project. The Change Request will include the following information:

The nature of the change.

A good faith estimate of the additional cost or associated savings to Prosper, if any.

The timetable for implementing the change.

The effect on and/or risk to the schedule, resource needs or resource responsibilities.

Prosper will use its good faith efforts to either approve or disapprove any Change Request within ten (10) Business Days (or other period as mutually agreeable between Tyler and Prosper). Any changes to the Project scope, budget, or timeline must be documented and approved in writing using a Change Request form. These changes constitute a formal amendment to the Statement of Work and will supersede any conflicting term in the Statement of Work.

Change Request Process

NEED	SCOPE	DETAILS	REQUEST	CHANGES	SCHEDULE
CLIENT IDENTIFIES NEED/ DESIRE FOR CHANGE	TYLER ASSESSES / Determines out of scope	CLIENT DETAILS NEED IN CHANGE REQUEST FORM	IF TYLER AGREES WITH THE REQUEST	CLIENT AUTHORIZES Or Declines the Change	SCHEDULED ADJUSTED TO ACCOMMODATE THE CHANGE IF NECESSARY
			If Tyler Agrees with Request, Estimate provided to cilent, otherwise reason for denial provided		Including addition of new tasks that result from the change

Acceptance Process

The implementation of a Project involves many decisions to be made throughout its lifecycle. Decisions will vary from higher level strategy decisions to smaller, detailed Project level decisions. It is critical to the success of the Project that each Prosper office or department designates specific individuals for making decisions on behalf of their offices or departments.

Both Tyler and the Prosper will identify representative project managers. These individuals will represent the interests of all stakeholders and serve as the primary contacts between the two organizations.

The coordination of gaining client feedback and approval on Project deliverables will be critical to the success of the Project. The Prosper project manager will strive to gain deliverable and decision approvals from all authorized Prosper representatives. Given that the designated decision-maker for each department may not always be available, there must be a designated proxy for each decision point in the Project. Assignment of each proxy will be the responsibility of the leadership from each Prosper department. The proxies will be named individuals that have the authorization to make decisions on behalf of their department.

The following process will be used for accepting Deliverables and Control Points:

- The Prosper shall have five (5) business days from the date of delivery, or as otherwise mutually agreed upon by the parties in writing, to accept each Deliverable or Control Point. If the Prosper does not provide acceptance or acknowledgement within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.
- If the Prosper does not agree the particular Deliverable or Control Point meets requirements, the Prosper shall notify Tyler project manager(s), in writing, with reasoning within five (5) business days, or the otherwise agreed-upon timeframe, not to be unreasonably withheld, of receipt of the Deliverable.
- Tyler shall address any deficiencies and redeliver the Deliverable or Control Point. The Prosper shall then have two (2) business days from receipt of the redelivered Deliverable or Control Point to accept or again submit written notification of reasons for rejecting the milestone. If the Prosper does not provide acceptance within two (2) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.

Roles and Responsibilities

The following defines the roles and responsibilities of each Project resource for Prosper and Tyler. Roles and responsibilities may not follow the organizational chart or position descriptions at Prosper, but are roles defined within the Project. It is common for individual resources on both the Tyler and client project teams to fill multiple roles. Similarly, it is common for some roles to be filled by multiple people.

Tyler Roles & Responsibilities

Tyler assigns a project manager prior to the start of each Phase of the Project (some Projects may only be one Phase in duration). Additional Tyler resources are assigned as the schedule develops and as needs arise.

Tyler Executive Sponsor

Tyler executive management has indirect involvement with the Project and is part of the Tyler escalation process. This team member offers additional support to the Project team and collaborates with other Tyler department managers as needed in order to escalate and facilitate implementation Project tasks and decisions.

Provides clear direction for Tyler staff on executing on the Project Deliverables to align with satisfying Prosper's overall organizational strategy.

Authorizes required Project resources.

Resolves all decisions and/or issues not resolved at the implementation management level as part of the escalation process.

Acts as the counterpart to Prosper's executive sponsor.

Tyler Implementation Manager

Tyler implementation management has indirect involvement with the Project and is part of the Tyler escalation process. The Tyler project managers consult implementation management on issues and outstanding decisions critical to the Project. Implementation management works toward a solution with the Tyler Project Manager or with Prosper management as appropriate. Tyler executive management is the escalation point for any issues not resolved at this level.

Assigns Tyler Project personnel.

Provides support for the Project team.

Provides management support for the Project to ensure it is staffed appropriately and staff have necessary resources.

Monitors Project progress including progress towards agreed upon goals and objectives.

Tyler Project Manager

The Tyler project manager(s) provides oversight of the Project, coordination of Tyler resources between departments, management of the Project budget and schedule, effective risk and issue management, and is the primary point of contact for all Project related items. As requested by the client, the Tyler Project Manager provides regular updates to the client Steering Committee and other Tyler governance members. Tyler Project Manager's role includes responsibilities in the following areas:

Contract Management

Validates contract compliance throughout the Project.

Ensures Deliverables meet contract requirements.

Acts as primary point of contact for all contract and invoicing questions.

Prepares and presents contract milestone sign-offs for acceptance by Prosper project manager(s).

Coordinates Change Requests, if needed, to ensure proper Scope and budgetary compliance.

Planning

Delivers project planning documents.

Defines Project tasks and resource requirements.

Develops initial Project schedule and Project Management Plan.

Collaborates with Prosper project manager(s) to plan and schedule Project timelines to achieve ontime implementation.

Implementation Management

Tightly manages Scope and budget of Project to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.

Establishes and manages a schedule and Tyler resources that properly support the Project Schedule and are also in balance with Scope/budget.

Establishes risk/issue tracking/reporting process between Prosper and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to Prosper any items that may impact the outcomes of the Project.

Collaborates with Prosper's project manager(s) to establish key business drivers and success indicators that will help to govern Project activities and key decisions to ensure a quality outcome of the project.

Collaborates with Prosper's project manager(s) to set a routine communication plan that will aide all Project team members, of both Prosper and Tyler, in understanding the goals, objectives, current status, and health of the Project.

Resource Management

Acts as liaison between Project team and Tyler manager(s).

Identifies and coordinates all Tyler resources across all applications, Phases, and activities including development, forms, installation, reports, implementation, and billing.

Provides direction and support to Project team.

Manages the appropriate assignment and timely completion of tasks as defined in the Project Schedule, task list, and Go-Live Checklist.

Assesses team performance and adjusts as necessary.

Consulted on in Scope 3rd party providers to align activities with ongoing Project tasks.

Tyler Implementation Consultant

Completes tasks as assigned by the Tyler project manager(s).

Documents activities for services performed by Tyler.

Guides Prosper through software validation process following configuration.

Assists during Go-Live process and provides support until Prosper transitions to Client Services.

Facilitates training sessions and discussions with Prosper and Tyler staff to ensure adequate discussion of the appropriate agenda topics during the allotted time.

May provide conversion review and error resolution assistance.

Tyler Sales

Supports Sales to Implementation knowledge transfer during Initiate & Plan.

Provides historical information, as needed, throughout implementation.

Participates in pricing activities if additional licensing and/or services are needed.

Tyler Technical Services

Maintains Tyler infrastructure requirements and design document(s).

Involved in system infrastructure planning/review(s).

Provides first installation of licensed software with initial database on servers.

Supports and assists the project team with technical/environmental issues/needs.

Deploys Tyler products.

Conducts GIS Planning.

Reviews GIS data and provides feedback to the client.

Loads client provided GIS data into the system.

Tyler API Services

Provides training in the use of the API Toolkit.

Provides consulting services in the use of the API Toolkit to Prosper, as Prosper builds interfaces.

Prosper Roles & Responsibilities

Prosper resources will be assigned prior to the start of each Phase of the Project. One person may be assigned to multiple Project roles.

Prosper Executive Sponsor

The Prosper executive sponsor provides support to the Project by providing strategic direction and communicating key issues about the Project and its overall importance to the organization. When called upon, the executive sponsor also acts as the final authority on all escalated Project issues. The executive sponsor engages in the Project, as needed, in order to provide necessary support, oversight, guidance, and escalation, but does not participate in day-to-day Project activities. The executive sponsor empowers the Prosper steering committee, project manager(s), and functional leads to make critical business decisions for Prosper.

Champions the project at the executive level to secure buy-in.

Authorizes required project resources.

Actively participates in organizational change communications.

Prosper Steering Committee

The Prosper steering committee understands and supports the cultural change necessary for the Project and fosters an appreciation for the Project's value throughout the organization. The steering committee oversees the Prosper project manager and Project as a whole through participation in regular internal meetings. The Prosper steering committee remains updated on all Project progress, Project decisions, and achievement of Project milestones. The Prosper steering committee also serves as primary level of issue resolution for the Project.

Works to resolve all decisions and/or issues not resolved at the project manager level as part of the escalation process.

Attends all scheduled steering committee meetings.

Provides support for the project team.

Assists with communicating key project messages throughout the organization.

Prioritizes the project within the organization.

Ensures the project staffed appropriately and that staff have necessary resources.

Monitors project progress including progress towards agreed upon goals and objectives.

Has the authority to approve or deny changes impacting the following areas:

- o Cost
- o Scope
- o Schedule
- o Project Goals
- o Prosper Policies
- o Needs of other client projects

Prosper Project Manager

Prosper shall assign project manager(s) prior to the start of this project with overall responsibility and authority to make decisions related to Project Scope, scheduling, and task assignment. Prosper Project Manager should communicate decisions and commitments to the Tyler project manager(s) in a timely and efficient manner. When Prosper project manager(s) do not have the knowledge or authority to make decisions, he or she engages the necessary resources to participate in discussions and make decisions in a timely fashion to avoid Project delays. The client project manager(s) are responsible for reporting to client steering committee and determining appropriate escalation points.

Contract Management

Validates contract compliance throughout the project.

Ensures that invoicing and Deliverables meet contract requirements.

Acts as primary point of contact for all contract and invoicing questions. Collaborates on and approves Change Requests, if needed, to ensure proper scope and budgetary compliance.

Planning

Reviews and accepts project planning documents.

Defines project tasks and resource requirements for Prosper project team.

Collaborates in the development and approval of the project schedule.

Collaborates with Tyler project manager(s) to plan and schedule project timelines to achieve on-time implementation.

Implementation Management

Tightly manages project budget and scope.

Collaborates with Tyler project manager(s) to establish a process and approval matrix to ensure that scope changes and budget (planned versus actual) are transparent and handled effectively and efficiently.

Collaborates with Tyler project manager to establish and manage a schedule and resource plan that properly supports the project schedule as a whole and is also in balance with scope and budget.

Collaborates with Tyler project manager(s) to establish risk and issue tracking and reporting process between Prosper and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to Tyler any items that may impact the outcomes of the project.

Collaborates with Tyler project manager(s) to establish key business drivers and success indicators that will help to govern project activities and key decisions to ensure a quality outcome of the project.

Routinely communicates with both Prosper staff and Tyler, aiding in the understanding of goals, objectives, current status, and health of the project by all team members.

Manages the requirements gathering process and ensure timely and quality business requirements are being provided to Tyler.

Resource Management

Acts as liaison between project team and stakeholders.

Identifies and coordinates all Prosper resources across all modules, phases, and activities including data conversions, forms design, hardware and software installation, reports building, and satisfying invoices.

Provides direction and support to project team.

Builds partnerships among the various stakeholders, negotiating authority to move the project forward.

Manages the appropriate assignment and timely completion of tasks as defined.

Assesses team performance and takes corrective action, if needed.

Provides guidance to Prosper technical teams to ensure appropriate response and collaboration with Tyler Technical Support Teams in order to ensure timely response and appropriate resolution.

Owns the relationship with in-Scope 3rd party providers and aligns activities with ongoing project tasks.

Ensures that users have appropriate access to Tyler project toolsets as required.

Conducts training on proper use of toolsets.

Validates completion of required assignments using toolsets.

Prosper Functional Leads

Makes business process change decisions under time sensitive conditions.

Communicates existing business processes and procedures to Tyler consultants.

Assists in identifying business process changes that may require escalation.

Contributes business process expertise for Current & Future State Analysis.

Identifies and includes additional subject matter experts to participate in Current & Future State Analysis.

Validates that necessary skills have been retained by end users.

Provides End Users with dedicated time to complete required homework tasks.

Acts as an ambassador/champion of change for the new process and provide business process change support.

Identifies and communicates any additional training needs or scheduling conflicts to Prosper project manager.

Actively participates in all aspects of the implementation, including, but not limited to, the following key activities:

- o Task completion
- o Stakeholder Meeting
- o Project Management Plan development
- o Schedule development
- o Maintenance and monitoring of risk register
- o Escalation of issues
- o Communication with Tyler project team
- o Coordination of Prosper resources
- o Attendance at scheduled sessions
- o Change management activities
- Modification specification, demonstrations, testing and approval assistance
- o Data analysis assistance
- o Decentralized end user training
- o Process testing
- o Solution Validation

Prosper Power Users

Participate in project activities as required by the project team and project manager(s).

Exhibit E

Provide subject matter expertise on Prosper business processes and requirements.

Act as subject matter experts and attend Current & Future State Analysis sessions as needed.

Attend all scheduled training sessions.

Participate in all required post-training processes as needed throughout project.

Test all application configuration to ensure it satisfies business process requirements.

Become application experts.

Participate in Solution Validation.

Adopt and support changed procedures.

Complete all deliverables by the due dates defined in the project schedule.

Demonstrate competency with Tyler products processing prior to Go-live.

Provide knowledge transfer to Prosper staff during and after implementation.

Participate in conversion review and validation.

Prosper End Users

Attend all scheduled training sessions.

Become proficient in application functions related to job duties.

Adopt and utilize changed procedures.

Complete all deliverables by the due dates defined in the project schedule.

Utilize software to perform job functions at and beyond Go-live.

Prosper Technical Lead

Coordinates updates and releases with Tyler as needed.

Coordinates the copying of source databases to training/testing databases as needed for training days.

Coordinates and adds new users, printers and other peripherals as needed.

Validates that all users understand log-on process and have necessary permission for all training sessions.

Coordinates interface development for Prosper third party interfaces.

Develops or assists in creating reports as needed.

Ensures on-site system meets specifications provided by Tyler.

Assists with software installation as needed.

Extracts and transmits conversion data and control reports from Prosper's legacy system per the conversion schedule set forth in the project schedule.

Prosper GIS

Participates in GIS planning activities.

Responsible for management and maintenance of Prosper GIS infrastructure and data.

Ensures GIS data/service endpoints are in alignment with Tyler software requirements.

Provides Tyler implementation team with GIS data/service access information.

Prosper Upgrade Coordination

Becomes familiar with the software upgrade process and required steps.

Becomes familiar with Tyler's releases and updates.

Utilizes Tyler resources to stay abreast of the latest Tyler releases and updates, as well as the latest helpful tools to manage Prosper's software upgrade process.

Assists with the software upgrade process during implementation.

Manages software upgrade activities post-implementation.

Manages software upgrade plan activities.

Coordinates software upgrade plan activities with Prosper and Tyler resources.

Communicates changes affecting users and department stakeholders.

Obtains department stakeholder acceptance to upgrade production environment.

Prosper Change Management Lead

Validates that users receive timely and thorough communication regarding process changes. Provides coaching to supervisors to prepare them to support users through the project changes. Identifies the impact areas resulting from project activities and develops a plan to address them proactively.

Identifies areas of resistance and develops a plan to reinforce the change.

Monitors post-production performance and new process adherence.

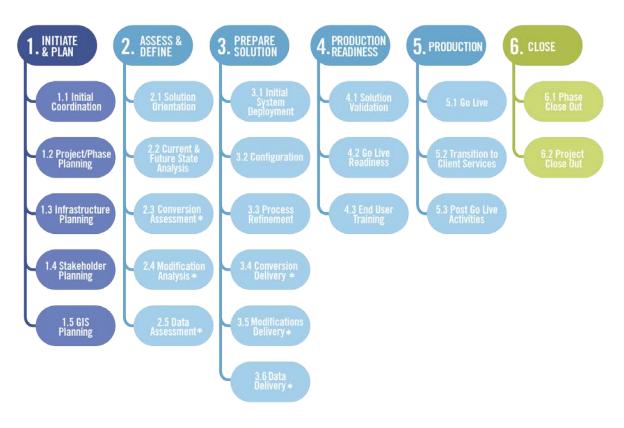
Part 3: Project Plan

Project Stages

Work Breakdown Structure

The Work Breakdown Structure (WBS) is a hierarchical representation of a Project or Phase broken down into smaller, more manageable components. The top-level components are called "Stages" and the second level components are called "Work Packages". The work packages, shown below each stage, contain the high-level work to be done. The detailed Project Schedule, developed during Project/Phase Planning and finalized during subsequent stages, lists the tasks to be completed within each work package. Each stage ends with a "Control Point", confirming the work performed during that stage of the Project has been accepted by Prosper.

Work Breakdown Structure (WBS)



*Items noted with an asterisk in the graphic above relate to specific products and services. If those products and services are not included in the scope of the contract, these specific work packages will be noted as "Intentionally Left Blank" in Section 6 of the Statement of Work.

Initiate and Plan

The Initiate and Plan stage involves Project initiation, infrastructure, and planning. This stage creates a foundation for the Project by identifying and establishing sequence and timing for each Phase as well as verifying scope for the Project. This stage will be conducted at the onset of the Project, with a few unique items being repeated for the additional Phases as needed.

Initial Coordination

Prior to Project commencement, Tyler management assigns project manager(s). Additional Project resources will be assigned later in the Project as a Project schedule is developed. Tyler provides Prosper with initial Project documents used to gather names of key personnel, their functional role as it pertains to the Project, as well as any blackout dates to consider for future planning. Prosper gathers the information requested by the provided deadline ensuring preliminary planning and scheduling can be conducted moving the Project forward in a timely fashion. Internally, the Tyler Project Manager(s) coordinate with sales to ensure transfer of vital information from the sales process prior to scheduling a Project Planning Meeting with Prosper's team. During this step, Tyler will work with Prosper to establish the date(s) for the Project and Phase Planning session.

Objectives:

Formally launch the project.

Establish project governance.

Define and communicate governance for Tyler.

Identify client project team.

STAGE 1	Init	ial Co	oord	inatio	on													
	Tyle	Tyler									Client							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads	
Tyler project team is assigned	А	R	С	Ι	1	1	1		1		1							
Client project team is assigned									Α	_	R	_	_	_				
Provide initial project documents to Prosper		А	R	С			С		1		Ι							
Gather preliminary information requested			I						А		R	С		С		С	С	
Sales to implementation knowledge transfer		А	R	1	1	T	T				1							

Create Project Portal to									
store project artifacts and	Α	R				1			
facilitate communication									

Inputs	Contract documents
	Statement of Work

Outputs/Deliverables	Completed initial project documents
	Project portal

Project activities begin after the agreement has been fully executed.

Project/Phase Planning

Project and Phase planning provides an opportunity to review the contract, software, data conversions and services purchased, identify applications to implement in each Phase (if applicable), and discuss implementation timeframes.

During this work package Tyler will work with Prosper to coordinate and plan a formal Project planning meeting(s). This meeting signifies the start of the Project and should be attended by all Prosper Project team members and the Tyler Project Manager. The meeting provides an opportunity for Tyler to introduce its implementation methodology, terminology, and Project management best practices to Prosper's Project Team. This will also present an opportunity for project managers and Project sponsors to begin to discuss Project communication, metrics, status reporting and tools to be used to measure Project progress and manage change.

Tyler will work with the Prosper Project Team to prepare and deliver the Project Management Plan as an output of the planning meeting. This plan will continue to evolve and grow as the Project progresses and will describe how the project will be executed, monitored, and controlled.

During project planning, Tyler will introduce the tools that will be used throughout the implementation. Tyler will familiarize the client with these tools during project planning and make them available for review and maintenance as applicable throughout the project. Some examples are Solution validation plan, issue log, and go-live checklist.

STAGE 1	Project/Phase Planning	
	Tyler	Client

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Schedule and conduct planning session(s)		А	R						I		С	С	I				
Develop Project Management Plan		А	R						I		С	С	I				
Develop initial project schedule		А	R	1	1	1	_		1	1	С	С	I	1	С		I

Inputs	Contract documents
	Statement of Work
	Guide to Starting Your Project

Outputs / Deliverables		Acceptance Criteria [only] for
		Deliverables
	Project Management Plan	Delivery of document
	Project Operational Plan	Delivery of document
	Initial Project Schedule	Prosper provides acceptance of
		schedule based on resource availability,
		project budget, and goals.

Prosper has reviewed and completed the Guide to Starting Your Project document.

Infrastructure Planning

Procuring required hardware and setting it up properly is a critical part of a successful implementation. This task is especially important for Tyler-hosted/SaaS deployment models. Tyler will be responsible for building the environments for a hosted/SaaS deployment, unless otherwise identified in the Agreement. Tyler will install Licensed Software on application server(s) or train Prosper to install License Software. The Prosper is responsible for the installation and setup of all peripheral devices.

Objectives:

Ensure Prosper's infrastructure meets Tyler's application requirements. Ensure Prosper's infrastructure is scheduled to be in place and available for use on time.

STAGE 1	Infr	astru	cture	e Plar	nning													
	Tyle	er							Client									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management	Subject Matter Experts	Department Heads	End Users	Technical Leads	
Provide Infrastructure Requirements and Design Document		А	R		С		С				I						I	
Initial Infrastructure Meeting		А	R		С		С				С						С	
*Schedule SaaS Environment Availability		А	R				С				-							
*Schedule Hardware to be Available for Installation			I				_		А		R						С	
Schedule Installation of All Licensed Software		А	R				С				1						I	
Infrastructure Audit		Α	R				С				1						С	

	Inputs	1. Initial Infrastructure Requirements and De	esign Document
	Outputs /		Acceptance Criteria [only] for Deliverables
	Deliverables		
		1. Completed Infrastructure Requirements	Delivery of Document
		and Design Document	,
		2. Infrastructure Audit	System Passes Audit Criteria
L			

Prosper will maintain environment (or virtual environment) for On-Premise deployments.

Stakeholder Meeting

Communication of the Project planning outcomes to the Prosper Project team, executives and other key stakeholders is vital to Project success. The Stakeholder meeting is a strategic activity to inform, engage, gain commitment, and instill confidence in the Prosper team. During the meeting, the goals and

objectives of the Project will be reviewed along with detail on Project scope, implementation methodology, roles and responsibilities, Project timeline and schedule, and keys to Project success.

Objectives:

Formally present and communicate the project activities and timeline. Communicate project expectations.

STAGE 1	Stal	kehol	der N	∕leeti	ng													
	Tyle	er							Client									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads	
Create Stakeholder Meeting Presentation	1	А	R	_	I				_	1	С		_					
Review Stakeholder Meeting Presentation		ı	С						А		R		С					
Perform Stakeholder Meeting Presentation	1	А	R	_	_				Ι	Ι	С	Ι	Ι	-	I	I	_	

Inputs	Agreement	
	SOW	
	Project Management Plan	
Outputs /		Acceptance Criteria [only] for
Deliverables		Deliverables
	Stakeholder Meeting Presentation	

Work package assumptions:

None

GIS Preparation

GIS data is a core part of many Tyler applications. Other Prosper offices/products may also use this data and have different GIS requirements. A key focus of this preparation will be the process for developing

the GIS data for use with Tyler applications. This can be an iterative process, so it is important to begin preparation early.

Objectives:

Identify all Prosper GIS data sources and formats.

Tyler to understand Prosper's GIS needs and practices.

Ensure Prosper's GIS data meets Tyler product requirements.

STAGE 1	GIS	Prep	arati	on														
	Tyle	er							Client									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads	
Initial GIS Planning Meeting		А	R				С				С						С	
Determine all GIS Data Sources			1				_		А		R						С	
Provide Source GIS Data			I				T		А		R						С	
Review GIS Data and Provide Feedback		А	R				С				I						С	

Inputs	GIS Requirements Document	
Outputs /		Acceptance Criteria [only] for Deliverables
Deliverables		
	Production Ready Map Data	Meets Tyler GIS Requirements.

Work package assumptions:

GIS data provided to Tyler is accurate and complete.

GIS data provided to Tyler is current.

Prosper is responsible for maintaining the GIS data.

Control Point 1: Initiate & Plan Stage Acceptance

Acceptance criteria for this stage includes completion of all criteria listed below.

Note: Advancement to the Assess & Define stage is not dependent upon Tyler's receipt of this stage acceptance.

Initiate & Plan Stage Deliverables:

Project Management Plan Initial Project Schedule

Initiate & Plan stage acceptance criteria:

- All stage deliverables accepted based on acceptance criteria previously defined
- Project governance defined
- Project portal made available to Prosper
- Stakeholder meeting complete

GIS Data Production Ready

Completed Infrastructure Requirements and Design Document

System Passes Infrastructure Audit (as applicable)

Assess & Define

The Assess & Define stage will provide an opportunity to gather information related to current Prosper business processes. This information will be used to identify and define business processes utilized with Tyler software. Prosper collaborates with Tyler providing complete and accurate information to Tyler staff and assisting in analysis, understanding current workflows and business processes.

Solution Orientation

The Solution Orientation provides the Project stakeholders a high-level understanding of the solution functionality prior to beginning the current and future state analysis. The primary goal is to establish a foundation for upcoming conversations regarding the design and configuration of the solution.

Tyler utilizes a variety of tools for the Solution Orientation, focusing on Prosper team knowledge transfer such as: eLearning, documentation, or walkthroughs. The Prosper team will gain a better understanding of the major processes and focus on data flow, the connection between configuration options and outcome, integration, and terminology that may be unique to Tyler's solution.

Objectives:

Provide a basic understanding of system functionality.

Prepare Prosper for current and future state analysis.

STAGE 2	Solu	ition	Orie	ntatio	n												
	Tyle	r							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads

Provide pre-		Α	R				ı	1		_	_
requisites		,					•		•		•
Complete pre- requisites							А	R	С		С
Conduct orientation		А	R				_	I	Ι	_	Ι

Inputs	Solution orientation materials
	Training Plan

Current & Future State Analysis

The Current & Future State Analysis provides the Project stakeholders and Tyler an understanding of process changes that will be achieved with the new system.

Prosper and Tyler will evaluate current state processes, options within the new software, pros and cons of each based on current or desired state and make decisions about the future state configuration and processing. This may occur before or within the same timeframe as the configuration work package. The options within the new software will be limited to the scope of this implementation and will make use of standard Tyler functionality.

The Prosper will adopt the existing Tyler solution wherever possible to avoid project schedule and quality risk from over customization of Tyler products. It is the client's responsibility to verify that in-scope requirements are being met throughout the implementation if functional requirements are defined as part of the contract. The following guidelines will be followed when evaluating if a modification to the product is required:

A reasonable business process change is available.

Functionality exists which satisfies the requirement.

Configuration of the application satisfies the requirement.

An in-scope modification satisfies the requirement.

Requirements that are not met will follow the agreed upon change control process and can have impacts on the project schedule, scope, budget and resource availability.

STAGE 2	Cur	rent (& Fut	ure S	State	Anal	ysis										
	Tyle	r							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads

Current State process review		А	R	T	1	1		С	С	С	С		С
Discuss future-state options		А	R	С	С	С		С	С	С	С		С
Make future-state decisions (non-COTS)		С	С	С	С	С		А	R	I	С		С
Document anticipated configuration options required to support future state		Α	R	С	С	С		I	I	I	I		I

Inputs	Client current state documentation
	Solution Orientation completion

Outputs /		Acceptance Criteria [only] for Deliverables
Deliverables		
	Documentation that describes future-state	Delivery of document
	decisions and configuration options to	
	support future-state decisions.	

Prosper attendees possess sufficient knowledge and authority to make future state decisions. Prosper is responsible for any documentation of current state business processes. Client is able to effectively communicate current state processes.

Conversion Assessment

Data Conversions are a major effort in any software implementation. Tyler's conversion tools facilitate the predictable, repeatable conversion process that is necessary to support a successful transition to the Tyler system. The first step in this process is to perform an assessment of the existing ("legacy") system(s), to better understand the source data, risks, and options available. Once the data has been analyzed, the plan for data conversion is completed and communicated to the appropriate stakeholders.

Objectives:

Communicate a common understanding of the project goals with respect to data. Ensure complete and accurate source data is available for review/transfer.

Map the data from the source to the Tyler system.

Document the data conversion/loading approach.

STAGE 2	Data Conversion Assessment	
	Tyler	Client

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Extract Data from Source Systems			1		С						А						R
Complete Data Analysis/Mapping		А	R	С	С						I	С		С			ı
Review and Scrub Source Data			1	1	1						А	R		С			I
Build/Update Data Conversion Plan			R	С	С						С	Ι	Т	_			I

Inputs	Client Source data
	Client Source data Documentation (if available)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data Conversion Plan built/updated	Client Acceptance of Data Conversion
		Plan, if Applicable

Tyler will be provided with data from the Legacy system(s) in a mutually agreed upon format. Tyler will work with Prosper representatives to identify business rules before writing the conversion. Prosper subject matter experts and resources most familiar with the current data will be involved in the data conversion planning effort.

Intentionally left blank.

Intentionally left blank.

Control Point 2: Assess & Define Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

<u>Note</u>: Advancement to the Prepare Solution Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Assess & Define Stage Deliverables:

Documentation of future state decisions and configuration options to support future state decisions. Modification specification document.

Assess & Define Stage Acceptance Criteria:

All stage deliverables accepted based on criteria previously defined.

Solution Orientation is delivered.

Conversion data extracts are received by Tyler.

Data conversion plan built.

Prepare Solution

During the Prepare Solution stage, information gathered during the Initiate & Plan and Assess & Define stages will be used to install and configure the Tyler software solution. Software configuration will be validated by the client against future state decisions defined in previous stages and processes refined as needed to ensure business requirements are met.

Initial System Deployment

The timely availability of the Tyler Solution is important to a successful Project implementation. The success and timeliness of subsequent work packages are contingent upon the initial system deployment of Tyler Licensed Software on an approved network and infrastructure. Delays in executing this work package can affect the project schedule.

Objectives:

All licensed software is installed and operational.

Prosper is able to access the software.

STAGE 3			tem			nt (Ho	osted	/SaaS)*								
	Tyle	r							Client								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Prepare hosted environment			А				R				I						С
Install Licensed Software with Initial Database on Server(s) for Included Environments			А				R				Ι						С
Install Licensed Software on			T				С				А						R

Client Devices									
(if applicable)									
Tyler System									
Administration		_		R					C
Training (if		Α		K		1			C
applicable)									

Outputs /		Acceptance Criteria [only] for Deliverables
Deliverables		
	Licensed Software is Installed on the	Software is accessible
	Server(s)	
	Licensed Software is Installed on Clients (if	Software is accessible
	applicable)	
	Installation Checklist/System Document	System Passes
	Infrastructure Design Document (C&J – If	
	Applicable)	

The most current generally available version of the Tyler Licensed Software will be installed. Prosper will provide network access for Tyler modules, printers, and Internet access to all applicable Prosper and Tyler Project staff.

Configuration

The purpose of Configuration is to prepare the software product for validation.

Tyler staff collaborates with Prosper to complete software configuration based on the outputs of the future state analysis performed during the Assess and Define Stage. Prosper collaborates with Tyler staff iteratively to validate software configuration.

Objectives:

Software is ready for validation.

Educate Prosper SME how to configure and maintain software.

Prepare standard interfaces for process validation (if applicable).

STAGE 3	Configuration	
	Tyler	Client

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Conduct			•	-								•		•			
configuration training			А	R							ı	С		С			
Complete Tyler																	
configuration tasks			Α	R							1	1		1			
(where applicable)																	
Complete Client																	
configuration tasks			1	С							Α	R		С			
(where applicable)																	
Standard interfaces																	
configuration and			Α	R			С				ı	С		С			С
training (if							Ŭ					Ŭ		Ò			Ü
applicable)																	
Updates to																	
Solution Validation			С	С							Α	R		С			С
testing plan																	

Inputs	Documentation that describes future state decisions and configuration options to
	support future state decisions.

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Configured System	N/A

Tyler provides guidance for configuration options available within the Tyler software. Prosper is responsible for making decisions when multiple options are available.

Process Refinement

Tyler will educate the Prosper users on how to execute processes in the system to prepare them for the validation of the software. Prosper collaborates with Tyler staff iteratively to validate software configuration options to support future state.

Objectives:

Ensure that Prosper understands future state processes and how to execute the processes in the software.

Refine each process to meet the business requirements.

Validate standard interfaces, where applicable.

Validate forms and reports, where applicable.

STAGE 3		Process Refinement															
	Tyle	r							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Conduct process training			А	R							_	С	_	С			
Confirm process decisions			ı	С						А	R	С	_	С			
Test configuration			1	С							А	R		С			
Refine configuration (Client Responsible)			А	R							I	I		_			
Refine configuration (Tyler Responsible)			1	С							А	R		С			
Validate interface process and results			_	С			С				А	R		С			С
Update client- specific process documentation (if applicable)			1	С							Α	R		C			
Updates to Solution Validation testing plan			С	С							А	R		С			С

Inputs	Initial Configuration
	Documentation that describes future state decisions and configuration options to
	support future state decisions.
	Solution validation test plan

Outputs /		Acceptance Criteria [only] for
Deliverables		Deliverables
	Updated solution validation test plan	
	Completed client-specific process	
	documentation (completed by Prosper)	

None

Conversion Delivery

The purpose of this task is to transition the Prosper's data from their source ("legacy") system(s) to the Tyler system(s). The data will need to be mapped from the legacy system into the new Tyler system format. A well-executed data conversion is key to a successful cutover to the new system(s).

With guidance from Tyler, the Prosper will review specific data elements within the system and identify / report discrepancies. Iteratively, Tyler will collaborate with the Prosper to address conversion discrepancies. This process will allow for clean, reconciled data to transfer from the source system(s) to the Tyler system(s). Reference Conversion Appendix for additional detail.



Objectives:

Data is ready for production (Conversion).

Bata is ready	Butto is ready for production (conversion).										
STAGE 3	Data Delivery & Conversion										

	Tyle	r							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	- mplementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Provide data crosswalks/co de mapping tool			А	С	R					3,	I	ı		I			
Populate data crosswalks/co de mapping tool			ı	С	С						А	R		С			
Iterations: Conversion Development			А	С	R						I						I
Iterations: Deliver converted data			А		R		_				_						I
Iterations: Proof/Review data and reconcile to source system			С	С	С						Α	R		С			С

Inputs	
	Data Conversion Plan
	Configuration

Outputs /		Acceptance Criteria [only] for
Deliverables		Deliverables
	Code Mapping Complete / Validated	N/A
	Conversion Iterations / Reviews	Conversion complete, verified and ready
	Complete	for final pass

The Prosper will provide a single file layout per source system as identified in the investment summary.

The Prosper subject matter experts and resources most familiar with the current data will be involved in the data conversion effort.

The Prosper project team will be responsible for completing the code mapping activity, with assistance from Tyler.

Intentionally left blank.

Intentionally left blank.

Control Point 3: Prepare Solution Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below in each Work Package.

Note: Advancement to the Production Readiness Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Prepare Solution Stage Deliverables:

Licensed software is installed.

Installation checklist/system document.

Conversion iterations and reviews complete.

Prepare Solution Stage Acceptance Criteria:

All stage deliverables accepted based on criteria previously defined.

Software is configured.

Solution validation test plan has been reviewed and updated if needed.

Production Readiness

Activities in the Production Readiness stage will prepare the client team for go-live through solution validation, the development of a detailed go-live plan and end user training. A readiness assessment will be conducted with the client to review the status of the project and the organizations readiness for go-live.

Solution Validation

Solution Validation is the end-to-end software testing activity to ensure that Prosper verifies all aspects of the Project (hardware, configuration, business processes, etc.) are functioning properly, and validates that all features and functions per the contract have been deployed for system use.

Objectives:

Validate that the solution performs as indicated in the solution validation plan.

Ensure Prosper organization is ready to move forward with go-live and training (if applicable).

STAGE 4	Solution Validation	
	Tyler	Client

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Update Solution Validation plan			А	R	С						С	С		С			
Update test scripts (as applicable)			С	С	С						А	R		С			
Perform testing			С	С	С						Α	R		С			
Document issues from testing			С	С	С						А	R		С			
Perform required follow-up on issues			А	R	С						С	С		С			

Inputs	Solution Validation plan
	Completed work product from prior stages (configuration, business process, etc.)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Solution Validation Report	Prosper updates report with testing results

Work package assumptions:

Designated testing environment has been established. Testing includes current phase activities or deliverables only.

Go-Live Readiness

Tyler and Prosper will ensure that all requirements defined in Project planning have been completed and the Go-Live event can occur, as planned. A go-live readiness assessment will be completed identifying risks or actions items to be addressed to ensure the client has considered its ability to successfully Go-Live. Issues and concerns will be discussed and mitigation options documented. Tyler and Prosper will jointly agree to move forward with transition to production. Expectations for final preparation and critical dates for the weeks leading into and during the Go-Live week will be planned in detail and communicated to Project teams.

Objectives:

Action plan for go-live established.

Assess go-live readiness.

Stakeholders informed of go-live activities.

STAGE 4	Go-Live Readiness

	Tyle	er							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Perform Readiness Assessment	1	А	R	С	С	_	С	Τ	Τ	1	Ι		1				1
Conduct Go-Live planning session		А	R	С							С	С	С	С	С		С
Order peripheral hardware (if applicable)			1							А	R						С
Confirm procedures for Go-Live issue reporting & resolution		А	R	I	I	_	_				С	С	I	I	1	1	Ι
Develop Go-Live checklist		А	R	С	С						С	С	T	С			С
Final system infrastructure review (where applicable)			А				R				С						С

Inputs	Future state decisions
	Go-live checklist

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated go-live checklist	Updated Action plan and Checklist for golive delivered to Prosper

Work package assumptions:

None

End User Training

End User Training is a critical part of any successful software implementation. Using a training plan previously reviewed and approved, the Project team will organize and initiate the training activities.

Tyler Led: Tyler provides training for all applicable users. One or multiple occurrences of each scheduled training or implementation topic will be covered.

Tyler will provide standard application documentation for the general use of the software. It is not Tyler's responsibility to develop client specific business process documentation. Client-led training labs using client specific business process documentation if created by the client can be added to the regular training curriculum, enhancing the training experiences of the end users.

Objectives:

- End users are trained on how to use the software prior to go-live.
- Prosper is prepared for on-going training and support of the application.

STAGE 4	End	End User Training															
	Tyle	er							Client								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Update training plan		А	R	С							С		I		С		
End User training (Tyler-led)		А	R	С							С	С	ı	С	С	С	
Train-the-trainer		Α	R	С							С	С	1	С			
End User training (Client-led)			С	С							А	R	1	C	С	С	

Inputs	Training Plan
	List of End Users and their Roles / Job Duties
	Configured Tyler System

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	End User Training	Prosper signoff that training was delivered

Work package assumptions:

- The Prosper project team will work with Tyler to jointly develop a training curriculum that identifies the size, makeup, and subject-area of each of the training classes.
- Tyler will work with Prosper as much as possible to provide end-user training in a manner that minimizes the impact to the daily operations of Prosper departments.
- Prosper will be responsible for training new users after go-live (exception—previously planned or regular training offerings by Tyler).

Control Point 4: Production Readiness Stage Acceptance

Acceptance criteria for this stage includes all criteria listed below. Advancement to the Production stage is dependent upon Tyler's receipt of the stage acceptance.

Production Readiness stage deliverables:

Solution Validation Report.

Update go-live action plan and checklist.

End user training.

Production Readiness stage acceptance criteria:

All stage deliverables accepted based on criteria previously defined.

Go-Live planning session conducted.

Production

Following end user training the production system will be fully enabled and made ready for daily operational use as of the scheduled date. Tyler and Prosper will follow the comprehensive action plan laid out during Go-Live Readiness to support go-live activities and minimize risk to the Project during go-live. Following go-live, Tyler will work with Prosper to verify that implementation work is concluded, post go-live activities are scheduled, and the transition to Client Services is complete for long-term operations and maintenance of the Tyler software.

Go-Live

Following the action plan for Go-Live, defined in the Production Readiness stage, Prosper and Tyler will complete work assigned to prepare for Go-Live.

Prosper provides final data extract and Reports from the Legacy System for data conversion and Tyler executes final conversion iteration, if applicable. If defined in the action plan, Prosper manually enters any data added to the Legacy System after final data extract into the Tyler system.

Tyler staff collaborates with Prosper during Go-Live activities. Prosper transitions to Tyler software for day-to day business processing.

Some training topics are better addressed following Go-Live when additional data is available in the system or based on timing of applicable business processes and will be scheduled following Go-Live per the Project Schedule.

Objectives:

- Execute day to day processing in Tyler software.
- Client data available in Production environment.

STAGE 5	Go-Live	
	Tyler	Client

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Provide final source data extract, if applicable			С		С						А						R
Final source data pushed into production environment, if applicable			Α	С	R						Ι	С		С			С
Proof final converted data, if applicable			С	С	С						А	R		С			
Complete Go-Live activities as defined in the Go-Live action plan			С	С	С					А	R	С	Ι	С			
Provide Go-Live assistance			А	R	С	С		_			С	С	1	С			С

Inputs	Comprehensive Action Plan for Go-Live
	Final source data (if applicable)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data is available in production	Client confirms data is available in
	environment	production environment

Work package assumptions:

- Prosper will complete activities documented in the action plan for Go-Live as scheduled.
- External stakeholders will be available to assist in supporting the interfaces associated with the Go-Live live process.
- The Client business processes required for Go-Live are fully documented and tested.
- The Prosper Project team and subject matter experts are the primary point of contact for the end users when reporting issues during Go-Live.
- The Prosper Project Team and SME's provide business process context to the end users during Go-Live.

- The Tyler Go-Live support team is available to consult with the Prosper teams as necessary.
- The Tyler Go-Live support team provides standard functionality responses, which may not be tailored to the local business processes.

Transition to Client Services

This work package signals the conclusion of implementation activities for the Phase or Project with the exception of agreed-upon post Go-Live activities. The Tyler project manager(s) schedules a formal transition of Prosper onto the Tyler Client Services team, who provides Prosper with assistance following Go-Live, officially transitioning Prosper to operations and maintenance.

Objectives:

Ensure no critical issues remain for the project teams to resolve.

Confirm proper knowledge transfer to Prosper teams for key processes and subject areas.

STAGE 5	Tra	nsitio	n to	Clien	t Serv	vices											
	Tyle	er							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Transfer client to Client Services and review issue reporting and resolution processes	I	I	Α	_	I			R	I	Ι	С	С		С			
Review long term maintenance and continuous improvement			Α					R			С	С		С			

Inputs	Open item/issues List	
Outputs /		Acceptance Criteria [only] for
Deliverables		Deliverables
	Client Services Support Document	

Work package assumptions:

No material project issues remain without assignment and plan.

Post Go-Live Activities

Some implementation activities are provided post-production due to the timing of business processes, the requirement of actual production data to complete the activities, or the requirement of the system being used in a live production state.

Objectives:

Schedule activities that are planned for after Go-Live.

Ensure issues have been resolved or are planned for resolution before phase or project close.

STAGE 5	Pos	t Go-	Live	Activi	ties						•			-			
	Tyle	er							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Schedule contracted activities that are planned for delivery after go-live		А	R	С	С	С	С	_			С	С	_	C			С
Determine resolution plan in preparation for phase or project close out		А	R	С	С	С		I			С	С	-	С			

Inputs	List of post Go-Live activities	
Outputs /		Acceptance Criteria [only]
Deliverables		for Deliverables
	Undated issues log	

Work package assumptions:

System is being used in a live production state.

Control Point 5: Production Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below:

Advancement to the Close stage is not dependent upon Tyler's receipt of this Stage Acceptance.

Converted data is available in production environment. Production Stage Acceptance Criteria:

All stage deliverables accepted based on criteria previously defined.

Go-Live activities defined in the Go-Live action plan completed.

Client services support document is provided.

Close

The Close stage signifies full implementation of all products purchased and encompassed in the Phase or Project. Prosper transitions to the next cycle of their relationship with Tyler (next Phase of implementation or long-term relationship with Tyler Client Services).

Phase Closeout

This work package represents Phase completion and signals the conclusion of implementation activities for the Phase. The Tyler Client Services team will assume ongoing support of Prosper for systems implemented in the Phase.

Objectives:

Agreement from Tyler and Prosper teams that activities within this phase are complete.

STAGE 6	Pha	se Cl	ose C	Out													
	Tyle	er							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Reconcile project budget and status of contract Deliverables	ı	А	R						I	Ι	С						
Hold post phase review meeting		А	R	С	С	С	С				С	С	С	С			С
Release phase- dependent Tyler project resources	А	R	1								I						

Participants	Tyler	Client
	Project Leadership	Project Manager
	Project Manager	Project Sponsor(s)

	Implementation Consultants	Functional Leads, Power Users,
		Technical Leads
-	Technical Consultants (Conversion, Deployment,	
	Development)	
	Client Services	

Inputs	Contract
	Statement of Work
	Project artifacts

Outputs /		Acceptance Criteria [only] for Deliverables
Deliverables		
	Final action plan (for outstanding items)	
	Reconciliation Report	
	Post Phase Review	

Work package assumptions:

Tyler deliverables for the phase have been completed.

Project Closeout

Completion of this work package signifies final acceptance and formal closing of the Project.

At this time Prosper may choose to begin working with Client Services to look at continuous improvement Projects, building on the completed solution.

Objectives:

Confirm no critical issues remain for the project teams to resolve.

Determine proper knowledge transfer to Prosper teams for key processes and subject areas has occurred.

Verify all deliverables included in the Agreement are delivered.

STAGE 6	Pro	ject C	lose	Out													
	Tyle	er							Clie	nt							
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Conduct post project review		А	R	С	С	С	С				С	С	С	C			С

Deliver post project											
report to Prosper		_	R					_			
and Tyler	'	A	L/			1	1	C			
leadership											
Release Tyler	٨	D									
project resources	А										

Inputs	Contract
	Statement of Work

Outputs /		Acceptance Criteria [only] for Deliverables
Deliverables		
	Post Project Report	Client acceptance; Completed report
		indicating all project Deliverables and
		milestones have been completed

Work package assumptions:

All project implementation activities have been completed and approved.

No critical project issues remain that have not been documented and assigned.

Final project budget has been reconciled and invoiced.

All Tyler deliverables have been completed.

Control Point 6: Close Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Note: Advancement to the Close Stage is not dependent upon Tyler's receipt of this Stage Acceptance.

Close Stage Deliverables:

Post Project Report.

Close Stage Acceptance Criteria:

Completed report indicating all Project deliverables and milestones have been completed.

General Assumptions

Tyler and Prosper will use this SOW as a guide for managing the implementation of the Tyler Project as provided and described in the Agreement. There are a number of assumptions which, when acknowledged and adhered to, will support a successful implementation. Assumptions related to specific work packages are documented throughout the SOW. Included here are general assumptions which should be considered throughout the overall implementation process.

Project

Project activities will begin after the Agreement has been fully executed.

The Prosper Project Team will complete their necessary assignments in a mutually agreed upon timeframe in order to meet the scheduled go-live date, as outlined in the Project Schedule.

Sessions will be scheduled and conducted at a mutually agreeable time.

- Additional services, software modules and modifications not described in the SOW or Agreement will be considered a change to this Project and will require a Change Request Form as previously referenced in the definition of the Change Control Process.
- Tyler will provide a written agenda and notice of any prerequisites to the Prosper project manager(s) ten (10) business days or as otherwise mutually agreed upon time frame prior to any scheduled on-site or remote sessions, as applicable.
- Tyler will provide guidance for configuration and processing options available within the Tyler software. If multiple options are presented by Tyler, Prosper is responsible for making decisions based on the options available.
- Implementation of new software may require changes to existing processes, both business and technical, requiring Prosper to make process changes.
- Prosper is responsible for defining, documenting and implementing their policies that result from any business process changes.

Organizational Change Management

Unless otherwise contracted by Tyler, Prosper is responsible for managing Organizational Change. Impacted Client resources will need consistent coaching and reassurance from their leadership team to embrace and accept the changes being imposed by the move to new software. An important part of change is ensuring that impacted client resources understand the value of the change, and why they are being asked to change.

Resources and Scheduling

- Prosper resources will participate in scheduled activities as assigned in the Project Schedule.
- The Prosper team will complete prerequisites prior to applicable scheduled activities. Failure to do so may affect the schedule.
- Tyler and Prosper will provide resources to support the efforts to complete the Project as scheduled and within the constraints of the Project budget.
- Abbreviated timelines and overlapped Phases require sufficient resources to complete all required work as scheduled.
- Changes to the Project Schedule, availability of resources or changes in Scope will be requested through a Change Request. Impacts to the triple constraints (scope, budget and schedule) will be assessed and documented as part of the change control process.
- Prosper will ensure assigned resources will follow the change control process and possess the required business knowledge to complete their assigned tasks successfully. Should there be a change in resources, the replacement resource should have a comparable level of availability, change control process buy-in, and knowledge.
- Prosper makes timely Project related decisions in order to achieve scheduled due dates on tasks and prepare for subsequent training sessions. Failure to do so may affect the schedule, as each analysis and implementation session is dependent on the decisions made in prior sessions.
- Prosper will respond to information requests in a comprehensive and timely manner, in accordance with the Project Schedule.
- Prosper will provide adequate meeting space or facilities, including appropriate system connectivity, to the project teams including Tyler team members.
- For on-site visits, Tyler will identify a travel schedule that balances the needs of the project and the employee.

Data

Data will be converted as provided and Tyler will not create data that does not exist.

Prosper is responsible for the quality of legacy data and for cleaning or scrubbing erroneous legacy data.

Tyler will work closely with Prosper representatives to identify business rules before writing the conversion. Prosper must confirm that all known data mapping from source to target have been identified and documented before Tyler writes the conversion.

All in-scope source data is in data extract(s).

Each legacy system data file submitted for conversion includes all associated records in a single approved file layout.

The client will provide the legacy system data extract in the same format for each iteration unless changes are mutually agreed upon in advance. If not, negative impacts to the schedule, budget and resource availability may occur and/or data in the new system may be incorrect.

The Prosper Project Team is responsible for reviewing the converted data and reporting issues during each iteration, with assistance from Tyler.

Client is responsible for providing or entering test data (e.g., data for training, testing interfaces, etc.)

Facilities

Prosper will provide dedicated space for Tyler staff to work with Prosper resources for both on-site and remote sessions. If Phases overlap, Prosper will provide multiple training facilities to allow for independent sessions scheduling without conflict.

Prosper will provide staff with a location to practice what they have learned without distraction.

Glossary

Word or Term	Definition
Acceptance	Confirming that the output or deliverable is suitable and conforms to the agreed upon criteria.
Accountable	The one who ultimately ensures a task or deliverable is completed; the one who ensures the prerequisites of the task are met and who delegates the work to those responsible. [Also see RACI]
Application	A computer program designed to perform a group of coordinated functions, tasks or activities for the benefit of the user.
Application Programming Interface (API)	A defined set of tools/methods to pass data to and received data from Tyler software products
Agreement	This executed legal contract that defines the products and services to be implemented or performed.
Business Process	The practices, policy, procedure, guidelines, or functionality that the client uses to complete a specific job function.
Business Requirements Document	A specification document used to describe Client requirements for contracted software modifications.
Change Request	A form used as part of the Change Control process whereby changes in the scope of work, timeline, resources, and/or budget are documented and agreed upon by participating parties.
Change Management	Guides how we prepare, equip and support individuals to successfully adopt change in order to drive organizational success & outcomes
Code Mapping [where applicable]	An activity that occurs during the data conversion process whereby users equate data (field level) values from the old system to the values available in the new system. These may be one to one or many to one. Example: Old System [Field = eye color] [values = BL, Blu, Blue] maps to New Tyler System [Field = Eye Color] [value = Blue].
Consulted	Those whose opinions are sought, typically subject matter experts, and with whom there is two-way communication. [Also see RACI]
Control Point	This activity occurs at the end of each stage and serves as a formal and intentional opportunity to review stage deliverables and required acceptance criteria for the stage have been met.
Data Mapping [where applicable]	The activity determining and documenting where data from the legacy system will be placed in the new system; this typically involves prior data analysis to understand how the data is currently used in the legacy system and how it will be used in the new system.

Deliverable	A verifiable document or service produced as part of the Project, as defined in the work packages.
Go-Live	The point in time when the Client is using the Tyler software to conduct daily operations in Production.
Informed	Those who are kept up-to-date on progress, often only on completion of the task or deliverable, and with whom there is just one-way communication. [Also see RACI]
Infrastructure	The composite hardware, network resources and services required for the existence, operation and management of the Tyler software.
Interface	A connection to and potential exchange of data with an external system or application. Interfaces may be one way, with data leaving the Tyler system to another system or data entering Tyler from another system, or they may be bi-directional with data both leaving and entering Tyler and another system.
Integration	A standard exchange or sharing of common data within the Tyler system or between Tyler applications
Legacy System	The software from which a client is converting.
Modification	Custom enhancement of Tyler's existing software to provide features or functions to meet individual client requirements documented within the scope of the Agreement.
On-site	Indicates the work location is at one or more of the client's physical office or work environments.
Organizational Change	The process of changing an organization's strategies, processes, procedures, technologies, and culture, as well as the effect of such changes on the organization.
Output	A product, result or service generated by a process.
Peripheral devices	An auxiliary device that connects to and works with the computer in some way. Some examples: scanner, digital camera, printer.
Phase	A portion of the Project in which specific set of related applications are typically implemented. Phases each have an independent start, Go-Live and closure dates but use the same Implementation Plans as other Phases of the Project. Phases may overlap or be sequential and may have different Tyler resources assigned.
Project	The delivery of the software and services per the agreement and the Statement of Work. A Project may be broken down into multiple Phases.

RACI	A matrix describing the level of participation by various roles in completing tasks or Deliverables for a Project or process. Individuals or groups are assigned one and only one of the following roles for a given task: Responsible (R), Accountable (A), Consulted (C), or Informed (I).
Remote	Indicates the work location is at one or more of Tyler's physical offices or work environments.
Responsible	Those who ensure a task is completed, either by themselves or delegating to another resource. [Also see RACI]
Scope	Products and services that are included in the Agreement.
Solution	The implementation of the contracted software product(s) resulting in the connected system allowing users to meet Project goals and gain anticipated efficiencies.
Stage	The top-level components of the WBS. Each Stage is repeated for individual Phases of the Project.
Standard	Software functionality that is included in the base software (off-the-shelf) package; is not customized or modified.
Statement of Work (SOW)	Document which will provide supporting detail to the Agreement defining Project-specific activities, services and Deliverables.
System	The collective group of software and hardware that is used by the organization to conduct business.
Test Scripts	The steps or sequence of steps that will be used to validate or confirm a piece of functionality, configuration, enhancement, or Use Case Scenario.
Training Plan	Document(s) that indicate how and when users of the system will be trained relevant to their role in the implementation or use of the system.
Validation (or to validate)	The process of testing and approving that a specific Deliverable, process, program or product is working as expected.
Work Breakdown Structure (WBS)	A hierarchical representation of a Project or Phase broken down into smaller, more manageable components.
Work Package	A group of related tasks within a project.

Part 4: Appendices

Conversion

Data Conversion Process for EnerGov Enterprise Server

Overview:

This document is an introduction to the SQL Server EG_Template database and how to populate it. The Full Conversion is the same process, as the Templated. However, with the Full Conversion option, Tyler is responsible for the data import instead of the client.

Modularized Design:

As with the EnerGov software, the EG_Template db is sectioned into modules. Each contains one master table at the top of the chain (ex. 'permit' for the Permit module). Within each module, various child tables branch below the master table for the associated module (ex. 'permit address', 'permit note', etc.).

Some tables cross multiple modules. The most notable of these involve inspections and payment transactions.

The EG_Template database includes database diagrams, which indicate the tables and their relationships to each module.

Required Fields:

In the EnerGov software, some fields are "Required Fields," and the associated columns must be populated for records to be written to the EnerGov db. On occasion, these required fields will not be available in the legacy source data, so a simple default value can be written to the EG_Template db to fulfill any NOT NULL constraint.

Dropdown picklist columns restrict the user from entering certain values in the EnerGov db. Conversely, drop-down fields do not have a restriction on values written to the EG_Template db. Therefore, exact spelling or careful matching to the EnerGov configured values is not a requirement for fields intended for EnerGov drop-down fields. Tyler maps the values through a separate table to translate the values to the appropriate EnerGov value during conversion and collaborates with the client to validate the resulting mappings during the development phase of the conversion.

Custom Fields (any fields not available in the master table for the module in question):

Most legacy systems have some attribute fields that are not specified in the corresponding master table within EG_Template. Tyler refers to these as custom fields. Within each module exists a child table for such custom fields. Since these fields are specific to the legacy system(s), the client may add columns to these tables in EG_Template to accommodate any needed custom fields in the migration. For example, 'permit_additional_fields' is the table for extra fields relating to the 'permit' records.

Gap Handling (where legacy data doesn't fit anywhere within EG_Template):

On occasion, legacy systems contain special features for which EnerGov does not account in the EG_Template db. As a result, the need may arise to develop a modified solution to address special cases.

Contacts:

Contacts generally fall into two categories:

Those managed with each person/company having one contact record, kept up to date over time. With this model, there is generally no duplication of contact records (except when created by mistake).

Contacts where the user enters the contact attribute info on each permit, case, license, etc. With this model, there is no single master record representing the contact itself and there is likely considerable duplication of contacts.

EnerGov stores contacts as in category 1 above. Tyler migrates contacts put into EG Template without a master 'contact' record link (category 2 above) into custom field memo boxes to avoid duplication of contacts within the EnerGov contact repository. For example, when populating the permit contacts, for contacts in category 1, input the record into the 'permit_contact' table. Input contacts for category 2 into the 'permit_contact_no_key' table.

Multiple Legacy Data Sources:

When presenting multiple data sources, ensure population of EG_Template for all data sources. At the main table level, an optional column exists for the legacy data source. Tyler provides this column to easily count or research records originating from a particular legacy data source.

Overall Architecture of Conversion:

There are 3 SQL Server databases involved in the conversion process.

1. EG Template (for legacy data)

EnerGov (the production EnerGov db)

A database containing all conversion processes and mapping tables; maintained by Tyler's data conversion team. This db translates the data from EG_Tempate into the EnerGov db.

EG_Template

 All legacy data sources populated into one db within the templated table structure.

Mapping and Conversion Code

 Db used to map/translate data before passing into EnerGov. Stored procedures and functions exist in this db, which becomes the conversion source code.

EnerGov DB

 EnerGov db used by the EnerGov software.

Progression of Conversion Development Process:

Step	Step Name	Responsible Party	Notes
1	Provide empty EG_Template database to client	Tyler	Database format will be SQL Server
2	Load legacy data into template database	Client	If there are multiple legacy data sources, all should be loaded into the one template SQL database.
3	Mapping process	Tyler /Client	Dependent on completed EnerGov configuration Spreadsheets will be used to communicate mapping values. Mapping questions may arise and both parties may need to discuss these until answers are agreed upon.
4	Import-specific configuration changes to EnerGov	Tyler	Certain fields or values may need to exist for imported records only. These usually require some minor EnerGov configuration changes.
5	Customize conversion scripts	Tyler	Minor customization can be expected for many conversions, based on special requests from client. Any special requests would also be added into the conversion scripts at this time.
6	Conversion execution	Tyler	Resulting EnerGov database will be provided to client team for review.
7	Review and either sign-off or request changes	Client	Client team will review the data and the interaction with it in the EnerGov software. If it meets the client's needs, sign-off will occur. If not, certain steps above may need to be repeated until client signs off on the conversion.

Progression of Final Conversion Cutover Process (Go-Live):

Step	Step Name	Responsible Party	Notes
1	Load legacy data into template database		This should just be an up-to-date extract of the legacy data into the template db.
2	Conversion execution	, -	Resulting EnerGov database will be provided to client team. This will be the production EnerGov db.
3	Go-Live	, , , , , , , , , , , , , , , , , , , ,	Verification of EnerGov db and site functionality - Data Conversion sign-off Move to production phase

Data Import Areas:

Business Management

Business entity (Only for Business Licensing)

License master basic information

License Contacts

Contacts – Unique (keyed) contacts converted to global contacts

Non-keyed contacts converted to a Memo Custom Field or a standard note Parcel and Addresses

Reviews and Approvals – Converted to Activity

Fees

Bonds and Escrow

Activities and Actions

Conditions

Notes

Holds

Initialized Workflows

Attachments

Contractors

Business Types & NAICS codes

Payment and Fee History

Community Development: Code Cases

Code Case master basic information

Code Case Contacts and Properties

Contacts – Unique (keyed) contacts converted to global contacts

Non-keyed contacts converted to a Memo Custom Field or a standard note

Parcels and Addresses

Reviews and Approvals – Converted to Activity Active Fees

Activities and Actions

Notes

Holds

Initialized Workflows

Attachments

Violations

- o Fees
- o Payments
- Notes

Meetings and Hearings

Zones

Requests

Payment and Fee history

Community Development: Permits

Permit master basic information

Permit Contacts

Contacts – Unique (keyed) contacts converted to global contacts

Non-keyed contacts converted to a Memo Custom Field or a standard note

Parcels and Addresses

Reviews and Approvals – Converted to Activity

Inspections and Inspection Cases

Sub-Permit Associations – Visible in workflow and attached records section

Fees

Meetings and Hearings

Bonds and Escrow

Activities and Actions

Conditions

Notes

Zones

Holds

Renewals

Initialized Workflows

Attachments

Contractors

Projects

Payment and Fee History

Community Development: Plans

Plan master basic information

Plan Contacts

Contacts – Unique (keyed) contacts converted to global contacts

Non-keyed contacts converted to a Memo Custom Field or a standard note

Parcels and Addresses

Reviews and Approvals – Converted to Activity

Inspections and Inspection Cases

Fees

Meetings and Hearings

Bonds and Escrow

Activities and Actions

Conditions

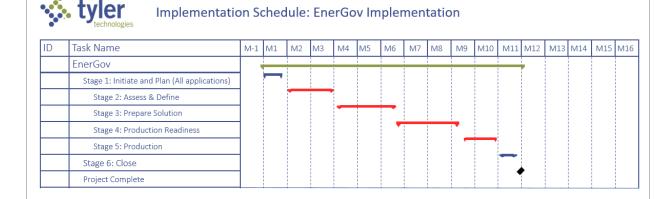
Notes Zones Holds Initialized Workflows Attachments Projects Payment and Fee history

Additional Appendices

Intentionally left blank.

Project Timeline

EnerGov 12 Month Timeline



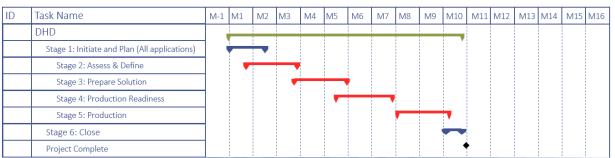
example

This timeline is an example. Please use it as a general guide...ONLY. Its purpose is to demonstrate the order in which various products are typically implemented and the potential overlap of stages for each phase. The exact timing of each deliverable depends on many factors including, but not limited to, the client's ability to commit resources to the project, client blackout dates, and the alignment of client business practices with Tyler implementation methodology. Tyler makes no guarantees that implementation schedules will align with this example.

DHD Timeline

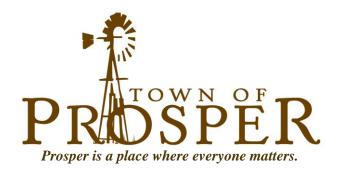


Implementation Schedule: DHD Implementation



example

This timeline is an example. Please use it as a general guide...ONLY. Its purpose is to demonstrate the order in which various products are typically implemented and the potential overlap of stages for each phase. The exact timing of each deliverable depends on many factors including, but not limited to, the client's ability to commit resources to the project, client blackout dates, and the alignment of client business practices with Tyler implementation methodology. Tyler makes no guarantees that implementation schedules will align with this example.



DEVELOPMENT SERVICES

To: Mayor and Town Council

From: Rebecca Zook, Exec. Director of Development & Infrastructure Services

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – February 23, 2021

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Sciens, LLC and the Town of Prosper, Texas, related to Phase II Project Implementation Support for the Tyler EnerGov Community Development System.

Description of Agenda Item:

On March 24, 2020, the Town Council awarded RFP No. 2020-12-B ERP System Selection Consultant to Sciens, LLC for Phase I Discovery and Pre-Acquisition, Evaluation and Selection of a Community Development System. With the award of CSP No. 2021-02-A Community Development System being presented for Town Council consideration on this same meeting agenda, Phase I is complete.

Staff recommends retaining the services of Sciens, LLC, for Phase II Project Implementation Support for the Tyler EnerGov Community Development System, contingent upon approval of CSP No. 2021-02-A. In addition, the Town has assigned an internal Project Manager (IPM) from the end user team. The IPM will coordinate with the internal team, including subject matter experts (SMEs), end users, and the Executive Sponsor to ensure the implementation project is successful.

The implementation of Tyler EnerGov will also require a dedicated Project Management professional focusing on the technical/software application and conversion to ensure project success. As the Town does not currently have dedicated Project Management staff, it is recommended that the services of Sciens, LLC be engaged. The Town has enjoyed recent success using contract Project Management assistance for the 911 Dispatch Center coordination and move, and Sciens comes highly recommended by many Texas municipalities including Irving, Richardson, McKinney, and San Marcos. Additionally, Sciens has specific experience with Tyler Technologies and their product suite, and has project managed EnerGov migrations for other clients.

Budget Impact:

The total cost for services is \$75,160 and will be funded from 100-5410-40-01. A budget amendment is on this meeting's agenda to fund this unbudgeted expense.

Legal Obligations and Review:

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

Attached Documents:

1. Professional Services Agreement

Town Staff Recommendation:

Town staff recommends authorizing the Town Manager to execute a Professional Services Agreement between Sciens, LLC, and the Town of Prosper, Texas, related to Phase II Project Implementation Support for the Tyler EnerGov Community Development System.

Proposed Motion:

I move to authorize the Town Manager to execute a Professional Services Agreement between Sciens, LLC, and the Town of Prosper, Texas, related to Phase II Project Implementation Support for the Tyler EnerGov Community Development System.

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made between the Town of Prosper, a municipal corporation located in Collin County, Texas ("OWNER") and Sciens LLC ("CONSULTANT").

OWNER hereby engages CONSULTANT to perform the following professional services (the "Services"): provide Phase II: Project Implementation Support for the Tyler EnerGov Permitting Software System for the Town of Prosper.

The Services are more particularly set forth in the scope of work attached as Exhibit A to this Agreement (the "Scope of Work") and by this reference made a part of the Agreement. CONSULTANT accepts this engagement on the terms and conditions hereinafter set forth. In the event of any conflict between Exhibit A and this Agreement, the terms of this Agreement will govern.

I.

CONSULTANT agrees to accept as payment for the Services, inclusive of expenses, \$75,160 to Phases 2.1 through 2.2. Such payment shall be full compensation for all work performed or services rendered, and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Exhibit A, Scope of Work. Additional services outside the Scope of Work will require prior written approval by OWNER.

II.

CONSULTANT will submit billings based on the completion of milestones as follows:

MONTH	ACTIVITY	ASSOCIATED FEES
1	Sciens Project Plan Development	\$13,800
	Onsite Project Review Meeting	\$3,400
	 Ongoing Vendor Management Support 	\$3,980
2	Ongoing Vendor Management Support	\$3,980
3	Ongoing Vendor Management Support	\$3,980
4	Ongoing Vendor Management Support	\$3,980
5	Onsite Project Review Meeting	\$3,400
	 Ongoing Vendor Management Support 	\$3,980
6	Ongoing Vendor Management Support	\$3,980
7	Ongoing Vendor Management Support	\$3,980
8	Ongoing Vendor Management Support	\$3,980
9	Onsite Project Review Meeting	\$3,400
	Ongoing Vendor Management Support	\$3,980
10	Ongoing Vendor Management Support	\$3,980
11	Ongoing Vendor Management Support	\$3,980
12	Onsite Project Review Meeting	\$3,400
	Ongoing Vendor Management Support	\$3,980
		\$75,160

Billings will be in writing and of sufficient detail to fully identify the work performed to date of billing. No invoices detailing services performed outside the Scope of Work will be paid without corresponding proof of prior written authorization by the OWNER. Payments will be made by OWNER within 30 days of receipt of billing. Interest on payments over 30 days past due shall accrue at the rate provided by law.

III.

CONSULTANT will confer with representatives of OWNER to take such steps as necessary to keep the Services on schedule. CONSULTANT will begin work on the Services at a mutually agreed upon date.

IV.

CONSULTANT agrees that all products, including but not limited to all reports, documents, materials, data, drawings, information, techniques, procedures, and results of the work ("Work Product") arising out of or resulting from the particular and defined Scope of Work that will be provided hereunder, will be the sole and exclusive property of OWNER and are deemed "Works Made for Hire". CONSULTANT agrees to and does hereby assign the same to OWNER. CONSULTANT will enter into any and all necessary documents to effect such assignment to OWNER. CONSULTANT is entitled to maintain copies of all Work Product that is produced or used in the execution of this Agreement. It is understood that CONSULTANT does not represent that such Work Product is suitable for use by OWNER on any other projects or for any purposes other than those stated in this Agreement. Reuse of the Work Products by OWNER without the CONSULTANT'S specific written authorization, verification and adaption will be at OWNER'S risk and without any liability on behalf of CONSULTANT.

V.

CONSULTANT agrees neither it nor its employees or subcontractors or agents will, during or after the term of this Agreement, disclose proprietary or confidential information of OWNER unless required to do so by court order or similar valid legal means. Such proprietary and confidential information received by CONSULTANT or its employees and agents shall be used by CONSULTANT or its employees and agents solely and exclusively in connection with the performance of the Scope of Work.

VI.

CONSULTANT agrees that OWNER or its duly authorized representatives will, until the expiration of 3 years after final payment under this Agreement, have access to and the right to examine, audit, and copy pertinent books, documents, papers, invoices and records of CONSULTANT involving transactions related to this Agreement, which books, documents, papers, invoices and records CONSULTANT agrees to maintain for said time period.

VII.

Any and all taxes assessed by any government body upon services or materials used in the performance of this Agreement shall be the responsibility of CONSULTANT.

VIII.

CONSULTANT shall furnish at CONSULTANT'S own expense, all materials, supplies and equipment necessary to carry out the terms of this Agreement.

IX.

If CONSULTANT is requested in writing by OWNER to provide any services outside of the Scope of Work, CONSULTANT and OWNER will agree in writing as to the nature of such services and to a price for such services before any work is started.

X.

CONSULTANT AGREES TO INDEMNIFY AND HOLD HARMLESS OWNER AND ITS OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS, AND ASSIGNS FROM AND AGAINST LIABILITY FOR DAMAGE TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE CONSULTANT OR THE CONSULTANT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH CONSULTANT EXERCISED CONTROL. CONSULTANT SHALL BE RESPONSIBLE FOR PERFORMING THE WORK UNDER THIS AGREEMENT IN A SAFE AND PROFESSIONAL MANNER AND SHALL BE LIABLE FOR CONSULTANT'S NEGLIGENCE AND THAT OF CONSULTANT'S EMPLOYEES, CONTRACTORS, AND AGENTS.

XI.

CONSULTANT will provide insurance coverage in accordance with OWNER'S insurance requirements as set forth in the "Certificate of Insurance Requirements" attached to this Agreement as Exhibit B and by reference made a part hereof. If the required insurance is terminated, altered, or changed in a manner not acceptable to OWNER, this Agreement may be terminated by OWNER, without penalty, on written notice to CONSULTANT. In addition, CONSULTANT will provide Professional Liability Insurance in the amount of \$1,000,000.000 per claim.

XII.

CONSULTANT shall at all times observe and comply with all applicable laws, ordinances, and regulations of the state, federal, and local governments which are in effect at the time of the performance of this Agreement.

XIII.

Either party shall have the right to terminate this Agreement by giving the non-terminating party seven days prior written notice. Upon receipt of notice of termination, CONSULTANT will cease any further work under this Agreement and OWNER will only pay for work performed prior to the termination date set forth in the notice. All finished and unfinished Work Product prepared by CONSULTANT pursuant to this Agreement will be the property of OWNER.

XIV.

In the event OWNER finds that any of the Work Product produced by CONSULTANT under this Agreement does not conform to the Scope of Work, then CONSULTANT will be given 30 days after written notice of the nonconformity to make any and all corrections to remedy the non-conformance. If after these 30 days CONSULTANT has failed to make any Work Product conform to the specifications, OWNER may terminate this Agreement and will only owe for work done prior to termination and accepted by OWNER. All finished or unfinished Work Product prepared by CONSULTANT pursuant to this Agreement will be the property of OWNER.

XV.

Neither party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of equipment or software from suppliers, default of a subcontractor or vendor to the party if such default arises out of causes beyond the reasonable control of such subcontractor or vendor, the acts or omissions of the other party, or its officers, directors, employees, agents, contractors, or elected officials, or other occurrences beyond the party's reasonable control ("Excusable Delay"). In the event of such Excusable Delay, performance shall be extended as agreed to in writing by the parties.

XVI.

CONSULTANT'S address for notice under this Agreement is as follows:

Attention: Stephen Gousie 5900 South Lake Forest Drive McKinney, Texas 75070 Telephone: (469) 424-3415 E-Mail: sgousie@sciens.com

OWNER'S address for notice under this Agreement is as follows:

Attention: Harlan Jefferson, Town Manager

P.O. Box 307

Prosper, Texas 75078 Telephone: (972) 346-2640

E-Mail: hjefferson@prospertx.gov

Any notice given pursuant to this Agreement shall be effective as of the date of receipt by registered or certified mail or the date of sending by fax, or e-mail and mailed, faxed or e-mailed to the address or number stated in this Agreement.

XVII.

All obligations of OWNER are expressly contingent upon appropriation by the Town Council of sufficient, reasonably available funds.

XVIII.

CONSULTANT shall provide experienced and qualified personnel to carry out the work to be performed by CONSULTANT under this Agreement and shall be responsible for and in full control of the work of such personnel. CONSULTANT agrees to perform the Scope of Work hereunder as an independent contractor and in no event shall the employees or agents of CONSULTANT be deemed employees of OWNER. CONSULTANT shall be free to contract for similar services to be performed for others while CONSULTANT is under Agreement with OWNER.

XIX.

CONSULTANT will perform the services to be provided under this Agreement with the professional skill and care ordinarily provided by professional consultants practicing in the same or similar locality and under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of surveying professionals.

XX.

CONSULTANT agrees not to discriminate by reason of age, race, religion, sex, color, national origin or condition of disability in the performance of the Services.

XXI.

No modifications to this Agreement shall be enforceable unless agreed to in writing by both parties.

XXII.

OWNER and CONSULTANT hereby each binds itself, its successors, legal representatives and assigns to the other party to this Agreement, and to the successors, legal representatives and assigns of such party in respect to all covenants of this Agreement. Neither OWNER nor CONSULTANT will be obligated or liable to any third party as a result of this Agreement.

XXIII.

CONSULTANT will not assign, sublet, or transfer interest in this Agreement without the prior written consent of the OWNER.

XXIV.

This Agreement is entered into and is to be performed in the State of Texas. OWNER and CONSULTANT agree that the law of the State of Texas shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interruption of this Agreement. All litigation arising out of this Agreement shall be brought in courts sitting in Texas with a venue in Collin County.

XXV.

In no event shall the making by the OWNER of any payment to CONSULTANT constitute or be construed as a waiver by the OWNER of any breach of the Agreement, or any default which may then exist, nor shall it in any way impair or prejudice any right or remedy available to the OWNER in respect to such breach or default.

XXVI.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

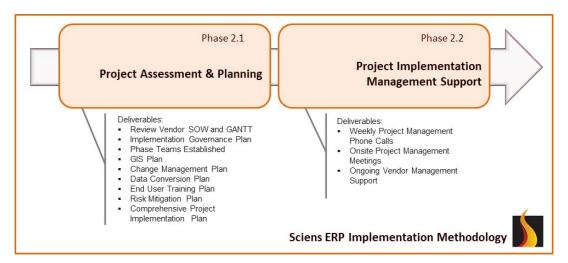
IN WITNESS WHEREOF, the parties have made and executed this Agreement as of the day, month and year shown below to be effective as of the date that the last of the parties signs.

ATTEST:	TOWN OF PROSPER (OWNER)
Melissa Lee, Town Secretary	By: Harlan Jefferson, Town Manager
	Date:
	SCIENS LLC (CONSULTANT) By: Stephen Gousie, Partner
	Date: 29 January 2021

Exhibit A – Scope of Work January 27, 2021

PROJECT PHASE 2: IMPLEMENTATION OF THE SELECTED PERMITTING SOFTWARE

The implementation is conducted using the Town's administrative work processes as the guide. Each process is examined for opportunities such as extra steps, signatures, paper generation, duplicate entry, and repetitive work. The components of our implementation methodology are shown below.



PHASE 2.1 - PROJECT ASSESSMENT & PLANNING

In Phase 2.1, the Sciens team will assist the Town with implementation management of the new system, including project planning and governance, vendor supervision, and expert guidance during each module's business process analysis.

Complex, technical projects are prone to failure; however, that failure is largely due to inadequate or insufficient project planning and management. While the vendor typically provides a project manager, their mission is to represent the interests of the vendor, not the Town; and, the project typically is larger than the scope being overseen by the vendor. Sciens will work with the Town to ensure that activities critical to the project's success are planned and executed well, and that sufficient vendor oversight is provided to ensure the project is successful and remains on schedule and budget.

The specific tasks performed as part of this project are as follows:

- Review Vendor SOW & GANTT: Conduct a review of the vendor submitted Statement of Work and Project GANTT and other project related documents. Subsequent to review, provide the Town with a summary of concerns and risks.
- <u>Establish Implementation Governance</u>: Assist the Town with establishment of a project steering committee that govern the implementation of the new system and ensure that all stakeholders/users have a voice in the new system definition.



- <u>Establish Project Teams</u>: Assist the Town with identification of roles to be filled on the project teams, by phase, including subject matter experts (SMEs), business leads and IT leads. Provide characteristics of individuals that make strong, successful team members.
- <u>Develop a Comprehensive Project Implementation Plan</u>: Sciens will work with the Town and the Vendor to conduct upfront project planning and define the Comprehensive Project Plan. This will include a review of materials, conference calls and onsite participation in the kickoff and negotiation of the Plan. The Plan and GANTT will include both vendor activity (e.g., system installation, configuration, data conversion, training) and non-vendor activity (e.g., change management, infrastructure setup, risk management planning, disaster recovery planning) required to make the project successful. Components of the Plan will include:
 - GIS: Sciens will work with the Town to review the current state of GIS readiness for the ERP system, identify gap areas, define the timeline for closing gaps, and identify resources assigned responsibility for closing the gaps.
 - <u>Change Management</u>: Sciens will work with the Town to develop a change management plan that focuses on clear communications and maintaining a positive perception of the system change for the duration of the project.
 - <u>Data Conversion</u>: Sciens will work with the Town and Vendor to develop a data conversion plan detailing data sources, resources required, validation and testing methods, schedules.
 - o <u>End User Training</u>: Sciens will work with the Town and Vendor to develop a training plan detailing (a) required training by user group, (b) timing, and (c) logistical requirements.
 - O Project Risk Identification and Mitigation: Sciens will work with the Town to identify Vendor-dependent (e.g., data conversion) and non-Vendor-dependent (e.g., Town resources availability) project risks. Create a project risk register which the Project Management team will use to identify the probability of risks occurring, potential impact on the project (including dependencies), mitigation actions to be taken, and assignment of resources responsible for mitigation.

PHASE 2.2 – PROJECT IMPLEMENTATION MANAGEMENT SUPPORT

In Phase 2.2, the Sciens team will assist the Town with implementation management of the project, including Project Plan,GANTT execution and vendor supervision. Phase 2.2 will be executed through quarterly (on average) project management meetings with the Town and the Vendor; and, weekly project management activities, including regular weekly conference calls with the Town's Project Management Team and the Vendor, as well as calls/emails as needed with Project Team members and/or the Vendor. Specifically, this includes:



- Onsite Project Management Meetings: Regular Onsite Reviews, coordinated with both the Town and the Vendor, to monitor execution of the Project Plan, do a comprehensive review of tasks (from the GANTT) completed during the preceding period, identify changes in practices required moving forward, and the upcoming tasks and assignments to ensure success.
 - o This includes quarterly meetings of 1 day each with 2 consultants (16 hours per quarter).

- Ongoing Vendor Management Support: Assist the Town in active management of the vendor and its
 execution of the project over the project implementation by actively keeping tasks and resources on
 schedule and on budget through phone calls, emails and other communications; this includes
 participation in weekly Vendor Management calls. During these calls we will review of the overall
 project, progress against both schedule and budget, and review the Project Risk Register.
 - This includes 2-4 hours each week for status meetings, 1-2 hours each week for meeting preparation, and 1-2 hours each week for phone calls and emails with Town and/or Vendor (20 hours per month).

Detailed below is a summary of the deliverables you can expect to receive throughout the duration of the implementation project.

Phase 2.1:

- Review of the Vendor's Project Plan
- Development of a Comprehensive Project Plan, Project Charter and Phased Project GANTT
 - o Project Implementation Governance
 - o Project Phase Team Members Identified
 - o GIS Plan
 - o Change Management Plan
 - o Data Conversion Plan
 - o End User Training Plan
 - o Risk Mitigation Plan
 - o Project Plan and Timeline
 - Kickoff Presentation
 - o Business Practices and Processes Review
 - Review of Current Technical Environment and System Status

These phases outline the project tasks that will be performed. Throughout the process, we serve as your advisors, advocates and project facilitators. Working together with your team to ensure a successful project outcome and system go-live.

Exhibit B

CERTIFICATE OF INSURANCE REQUIREMENTS TOWN OF PROSPER, TEXAS

Without limiting any of the other obligations or liabilities of the contractor, the contractor shall provide minimum insurance coverage as listed below, prior to the execution of the contract and maintain coverage, without interruption provided by an insurer of a Best Rating of B+ or better, until the work is completed and accepted by the Town. A certification of insurance will be placed on file with the Purchasing Department of the Town of Prosper, prior to the execution of the contract.

TYPE OF COVERAGE

MINIMUM LIMITS

WORKER'S COMPENSATION - Coverage A

Statutory

NOTES:

Worker's Compensation Insurance shall include a

Waiver of Subrogation in favor of the Town of Prosper

EMPLOYERS LIABILITY - Coverage B

Bodily Injury by Accident - each accident	\$100,000
Bodily Injury by Disease - policy limit	\$500,000
Bodily Injury by Disease - each employee	\$100,000

COMMERCIAL GENERAL LIABILITY:

Coverage A - Each Occurrence	\$500,000
Coverage B - Personal & Advertising Injury	\$500,000
General Aggregate Other Than Products/Completed Operations	\$500,000
Products/Completed Operations Aggregate	\$500,000

NOTE:

- 1) Coverage for explosion, collapse, and underground property hazards cannot be excluded.
- 2) Contractual liability coverage cannot be excluded.
- 3) Contractor will assume all liability for independent subcontractors.
- 4) Coverage must include the Town of Prosper as an Additional Insured for all work performed for or on behalf of the Town.

AUTOMOBILE LIABILITY:

Bodily Injury Liability - Each Person	\$250,000
Bodily Injury Liability - Each Occurrence	\$500,000
Property Damage Liability - Each Occurrence	\$100,000

NOTE:

- 1) Coverage must include all owned, hired, and non-owned vehicles.
- 2) Coverage must include the Town of Prosper as an Additional Insured for all work performed for or on behalf of the Town.