



Prosper is a place where everyone matters.

Agenda
Prosper Town Council Meeting
Council Chambers
Prosper Town Hall
250 W. First Street, Prosper, Texas
Tuesday, June 23, 2020
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. Presentation by Prosper nonprofit organizations on the impact of COVID-19. **(RB)**

CONSENT AGENDA:

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

2. Consider and act upon the minutes from the June 9, 2020, Town Council meeting. **(ML)**

3. Consider and act upon authorizing the Town Manager to execute an Interlocal Cooperation Agreement between Denton County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act. **(HJ)**
4. Consider and act upon an ordinance amending Ordinance No. 19-65 (FY 2019-2020 Budget). **(BP)**
5. Consider and act upon approving the purchase of Traffic Signal related items for the Temporary Traffic Signal at Fishtrap & Gee Road and the Permanent Traffic Signal at Coit Road & Richland Boulevard, from Consolidated Traffic Controls, Inc., through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program. **(PA)**
6. Consider and act upon awarding CSP No. 2020-34-B to Ratliff Hardscape, Ltd. related to construction services for the Whitley Place Trail Extension Project (1801-PK), and authorizing the Town Manager to execute a construction agreement for same. **(DR)**
7. Consider and act upon authorizing the Town Manager to execute a License, Maintenance, and Hold Harmless Agreement between Prosper 236, LLC, Lakewood HOA, Inc., and the Town of Prosper, Texas, related to the installation and maintenance of a screening wall and two columns within the right-of-way of Meadowbrook Boulevard in the Lakewood, Phase 1A development. **(DH)**
8. Consider and act upon authorizing the Town Manager to execute a Sewer Development Agreement between HH Lakewood LLC, and the Town of Prosper, Texas, related to the extension of a sanitary sewer line to serve the Lakewood at Brookhollow, Phase 3 development. **(HW)**

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 submit it to the Town Secretary prior to the meeting, or request to address the Council via videoconference or telephone.

REGULAR AGENDA:

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

Items for Individual Consideration:

9. Conduct a Public Hearing and receive comments on the proposed updates to the Roadway Design Standards. **(DH)**
10. Conduct a Public Hearing, and consider and act upon an ordinance rezoning 1.2± acres from Planned Development-84 (PD-84) to Downtown Retail (DTR), located on the northeast corner of Broadway Street and McKinley Street. (Z20-0012). *[Companion Case Z20-0011]* **(AG)**
11. Conduct a Public Hearing, and consider and act upon an ordinance amending Planned Development-84 (PD-84), on 1.1± acres, located on the southeast corner of Fifth Street and McKinley Street, generally to amend the property boundary, permitted

uses, and development standards for Silo Park Food Truck Park. (Z20-0011) [Companion Case Z20-0012] (AG)

12. Conduct a Public Hearing, and consider and act upon a request for Sign Waivers to allow for a Subdivision Entry Sign and additional Development Signage in Windsong Ranch. (MD20-0009) (AG)

EXECUTIVE SESSION:

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

Section 551.087 – To discuss and consider economic development incentives.

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

Section 551-074 - To discuss and consider personnel matters and all matters incident and related thereto.

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

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

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, June 19, 2020, and remained so posted at least 72 hours before said meeting was convened.

Melissa Lee, Town Secretary

Date Notice Removed

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

NOTICE

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

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



Prosper is a place where everyone matters.

Minutes
Prosper Town Council Meeting
 Council Chambers
 Prosper Town Hall
 250 W. First Street, Prosper, Texas
 Tuesday, June 09, 2020

Call to Order/ Roll Call.

The meeting was called to order at 5:47 p.m.

Council Members Present:

Mayor Ray Smith
 Mayor Pro-Tem Curry Vogelsang, Jr.
 Deputy Mayor Pro-Tem Jason Dixon
 Councilmember Marcus E. Ray
 Councilmember Craig Andres
 Councilmember Meigs Miller

Council Members Absent:

Councilmember Jeff Hodges

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
 Rebecca Zook, Executive Director of Development & Infrastructure Services
 Leigh Johnson, Director of Information Technology
 Betty Pamplin, Finance Director
 Hulon Webb, Engineering Services Director
 January Cook, Purchasing Manager
 Pete Anaya, Assistant Director of Engineering Services – Capital Projects
 John Webb, Development Services Director
 Alex Glushko, Planning Manager
 Doug Kowalski, Police Chief
 Scott Brewer, Assistant Police Chief
 Stuart Blasingame, Fire Chief
 Dudley Raymond, Director of Parks and Recreation
 Paul Naughton, Senior Park Planner, Parks and Recreation
 Leslie Scott, Director of Library Services
 Dan Heischman, Assistant Director of Engineering Services - Development

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

Pastor Mike Martin, Hope Fellowship Church of Prosper, led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

Announcements of recent and upcoming events.

Northbound Dallas Parkway traffic, south of First Street, will be transitioned from the east side lane to the west side lane beginning on Wednesday, June 10. No delays are expected, but travelers are urged to use caution in the area.

The Prosper Community Library is now offering “Library To-Go Services” for books, audiobooks, and movies. Library cardholders can search the online catalog and place a hold for up to ten items at a time. Library staff will email a notification when items are ready for pickup. For detailed instructions and information, about our Library To-Go service, please visit the Library page on the Town website.

Summer Reading Club is now available for readers of all ages. Library card holders can call the library to sign up at 972-569-1185.

Registration is now open for Prosper’s summer recreation programs, camps, and classes. Sign up at www.ProsperParksandRec.org. Active adults can enjoy a variety of virtual programs including bingo, trivia, and online fitness classes.

Discussion Items.

1. Update from the Prosper Police Department. (DK)

Police Chief Doug Kowalski provided an overview of the Prosper Police Department’s participation in the Texas Police Chief’s Association (TPCA) Best Practices Recognition Program. Chief Kowalski also provided an update to the Council on departmental written directives (policies & procedures), the code of conduct, bias based policing, guidelines for the use of force, and racial profiling.

David Simpson, 4500 Blue Stem #26106, Prosper, commended the Prosper Police Department on being ahead of the game regarding these issues and encouraged the community to continue to discuss matters such as use of force.

CONSENT AGENDA:

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

2. Consider and act upon the Minutes from the May 23, 2020, Special Called Meeting. (ML)
3. Consider and act upon the minutes from the May 26, 2020, Town Council meeting. (ML)
4. Receive the April financial report. (BP)
5. Consider and act upon approving the purchase and installation of furniture for the new Police Station and Dispatch Facility, from Workspace Interiors by Office Depot, through the Omnia Partners Cooperative; and authorizing the Town Manager to execute the Proposal and Terms and Conditions of Purchase for same. (JC)

8. **Consider and act upon approving the purchase of a Subscription License for total email protection from SHI Governmental Solutions, Inc., through a Texas Department of Information Resources (DIR) contract and authorizing the Town Manager to execute an agreement for same. (LJ)**
9. **Consider and act upon approving an Equipment Lease Agreement and Service Agreement for copier equipment and managed print services, between ImageNet Consulting, LLC, and the Town of Prosper, Texas, through a Texas Department of Information Resources (DIR) contract; and authorizing the Town Manager to execute the same. (LJ)**
10. **Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plan or Preliminary Site Plan. (AG)**

Deputy Mayor Pro-Tem Dixon removed Items 6 & 7 from the Consent Agenda.

Councilmember Miller made a motion and Deputy Mayor Pro-Tem Dixon seconded the motion to approve Items 2-5, and 8-10 on the Consent Agenda.

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

6. **Consider and act upon Resolution 2020-49 authorizing the Town Manager to execute an application to the Collin County Parks & Open Space Project Funding Assistance Program for the construction of Hays Park. (DR)**

Deputy Mayor Pro-Tem Dixon had a question on when the construction of Hays Park would be moving forward. Dudley Raymond, Director of Parks and Recreation, stated construction would start at the beginning of next year.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Councilmember Ray seconded the motion to approve Resolution 2020-49 authorizing the Town Manager to execute an application to the Collin County Parks & Open Space Project Funding Assistance Program for the construction of Hays Park.

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

7. **Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Dunaway Associates, Inc., and the Town of Prosper, Texas, related to the Pecan Grove Park Phase II Project (2015-PK). (DR)**

Deputy Mayor Pro-Tem Dixon questioned if the Phase II improvements were focused on the northern section of Pecan Grove Park. Dudley Raymond, Director of Parks and Recreation, stated the improvements were across the majority of park, not just the northern section.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Councilmember Ray seconded the motion to approve authorizing the Town Manager to execute a Professional Services Agreement between Dunaway Associates, Inc., and the Town of Prosper, Texas, related to the Pecan Grove Park Phase II Project (2015-PK).

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

CITIZEN COMMENTS

Scott Funk, 520 Michelle Ct, Prosper, and Bob Durone, 660 Sibyl Ln, Prosper, spoke on foundation and slope issues with Centurion and Megatel constructed homes within the Crestview subdivision. Centurion and Megatel continue to build homes and conduct repairs within the subdivision.

REGULAR AGENDA:

Items for Individual Consideration:

- 11. Consider and act upon awarding CSP No. 2020-58-B to Ratliff Hardscape, Ltd., related to construction services for the Decorative Monument Signs - Prosper Trail at Coit Road project; and authorizing the Town Manager to execute a construction agreement for same. (PA)**

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided an overview that included firm qualifications, project timelines and cost proposals. Ratliff Hardscape, Ltd., was the firm that ranked the highest with a cost of \$145,359.48, and a project timeline of 60 calendar days.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Councilmember Andres seconded the motion to approve awarding CSP No. 2020-58-B to Ratliff Hardscape, Ltd., related to construction services for the Decorative Monument Signs - Prosper Trail at Coit Road project; and authorizing the Town Manager to execute a construction agreement for same.

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

- 12. Consider and act upon awarding CSP No. 2020-57-B to Accelerated Critical Path, Inc., related to construction services for the Church Street and Parvin Street Sanitary Sewer and Drainage Improvements and Old Town Retention Pond projects; and authorizing the Town Manager to execute a construction agreement for same. (PA)**

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, provided information on the construction of one of the recommended regional detention/retention ponds to detain storm water flow increases anticipated from the re-development of the Old Town Core District. Accelerated Critical Path, Inc., was the firm that ranked the highest after consideration of Costs, Time, and Qualifications with a cost of \$885,150, and a project timeline of 180 calendar days.

Deputy Mayor Pro-Tem Dixon inquired as to the retention pond aspects, and asked to view the associated engineering designs for it. Council agreed to revisit this item before Executive Session to view the associated engineering designs.

13. Consider and act upon authorizing the Town Manager to execute a Professional Engineering Services Agreement between Garver, LLC, and the Town of Prosper, Texas, related to the design of the First Street (Dallas North Tollway to Coleman Street) project. (PA)

Pete Anaya, Assistant Director of Engineering Services – Capital Projects provided information on the project that includes the reconstructing and widening of approximately 5,250 linear feet of existing two-lane asphalt roadway from the Dallas North Tollway to Coleman Street with a four-lane ultimate divided roadway with concrete, curb and underground drainage.

Mayor Pro-Tem Vogelsang questioned what preparations are being done for a future overpass at the BNSF Railroad. Mr. Anaya confirmed the design does not include an overpass at the BNSF Railroad, but the project will include the development of a schematic bridge design over the BNSF's 300 feet of right-of-way in order to establish the right-of-way dedications necessary for a future overpass.

After discussion, Councilmember Ray made a motion, and Councilmember Andres seconded the motion to approve authorizing the Town Manager to execute a Professional Engineering Services Agreement between Garver, LLC, and the Town of Prosper, Texas, related to the design of the First Street (Dallas North Tollway to Coleman Street) project.

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

14. Update on the Hike and Bike Trail Master Plan. (DR)

Dudley Raymond, Director of Parks and Recreation, Lenny Hughes, Director of Landscape Architecture at Half Associates, and Kendall Howard, Senior Planner at Half Associates, provided an overview of the Hike and Bike Trail Master Plan. It included plan purpose and process, key public input results, needs assessment, and plan recommendations and implementation.

Councilmember Andres asked about connecting to adjacent communities. Director Raymond commented it is standard to make inter-city trail connections for the purpose of trail networks.

Mayor Pro-Tem Dixon discussed the 12 ft Veloweb sidewalk width and placement of them throughout the town. Also discussed, the prioritizing of the Master Plan and of shifting values over time.

12. Consider and act upon awarding CSP No. 2020-57-B to Accelerated Critical Path, Inc., related to construction services for the Church Street and Parvin Street Sanitary Sewer and Drainage Improvements and Old Town . Pond projects; and authorizing the Town Manager to execute a construction agreement for same. (PA)

Pete Anaya, Assistant Director of Engineering Services – Capital Projects, presented Council with a previously presented exhibit detailing the aspects of the pond. The possibility of a future neighborhood park at this location was discussed.

After discussion, Deputy Mayor Pro-Tem Dixon made a motion, and Councilmember Ray seconded the motion to approve awarding CSP No. 2020-57-B to Accelerated Critical Path, Inc., related to construction services for the Church Street and Parvin Street Sanitary Sewer and Drainage Improvements and Old Town Retention Pond projects; and authorizing the Town Manager to execute a construction agreement for same.

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

EXECUTIVE SESSION:

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

Section 551.087 – To discuss and consider economic development incentives.

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

Section 551-074 - To discuss and consider personnel matters and all matters incident and related thereto.

The Town Council recessed into Executive Session at 7:51 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 9:17 p.m.

Councilmember Miller made a motion and Deputy Mayor Pro-Tem Dixon seconded the motion to authorize the Town Manager to execute the following:

The Small Business Grant Agreements regarding the disbursement of small business COVID-19 relief grants.

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

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

No topics for future discussion were identified.

Adjourn.

The meeting was adjourned at 9:20 p.m. on Tuesday, June 9, 2020.

These minutes approved on the 23rd day of June 2020.

APPROVED:

Ray Smith, Mayor

ATTEST:

Melissa Lee, Town Secretary

DRAFT



TOWN MANAGER'S OFFICE

To: Mayor and Town Council

From: Harlan Jefferson, Town Manager

Re: Town Council Meeting – June 23, 2020

Agenda Item:

Consider and act upon authorizing the Town Manager to execute an Interlocal Cooperation Agreement between Denton County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Description of Agenda Item:

Denton County has received a direct distribution of \$147.7 million from the U.S. Treasury under the Coronavirus Relief Fund (CRF), as provided for in the CARES Act. Denton County has reserved \$45 million to assist municipalities with expenses incurred due to the COVID-19 public health emergency. The proposed ILA provides for the direct distribution of funds from Denton County to the Town of Prosper for COVID-19-related expenses. Funds will be allocated in the amount of \$55.00 per capita, using North Central Texas Council of Governments (NCTCOG) population estimate for the Denton County portion of Prosper from 2019, for a total of \$245,300.

There are three primary criteria for the use of the funds:

- the expense must be a necessary expenditure incurred due to the COVID-19 public health emergency;
- the expense must not be accounted for in the Town's most recent approved budget; and,
- the expense must be incurred between March 1, 2020 and December 30, 2020.

CARES Act funds may be used to reimburse the Town for expenses already paid and incurred, and for ongoing or future expenses related to the Town's response to COVID-19. The funds may not be used to replace revenue that was lost as a result of the pandemic. Eligible expenses under the CARES Act may include, but are not limited to, medical expenses, public health expenses, payroll expenses, expenses to facilitate compliance, expenses relating to facilitating compliance, expenses associated with providing economic support in connection with the COVID-19 public health emergency, and any other COVID-19-related expense reasonably necessary to the function of government.

The Town will be responsible for administering the funds in compliance with the CARES Act by providing justification and appropriate documentation for each expenditure. Denton County requires each municipality receiving a direct distribution of funds to execute the attached ILA, submit a proposed Budget of Expenditures & Description of Intended Uses, and agree to

participate in the County's CRF Compliance Forum prior to receiving CARES Act funds. Any funds not expended by December 30, 2020, must be returned to Denton County.

Legal Obligations and Review:

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

Attached Documents:

1. Interlocal Cooperation Agreement
2. CRF Compliance Documents

Town Staff Recommendation:

Town staff recommends the Town Council authorize the Town Manager to execute an Interlocal Cooperation Agreement between Denton County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Proposed Motion:

I move to authorize the Town Manager to execute an Interlocal Cooperation Agreement between Denton County and the Town of Prosper related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

06/07/2020

CORONAVIRUS RELIEF FUND
INTERLOCAL COOPERATION AGREEMENT

Denton County and the Town of Prosper

This Interlocal Cooperation Agreement (“Agreement”) is entered into by and between Denton County, Texas (the “County”) and the **Town of Prosper Texas** (the “Municipality”), pursuant to Chapter 791 of the Texas Local Government Code, to address the impact of the public health emergency with respect to the Coronavirus pandemic (“COVID-19”).

GENERAL

1. Coronavirus Relief Fund. The County has received federal funding under the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) to address and respond to the impact and effects of the COVID-19 emergency.

2. County Authority. The Resolution of the Denton County, Texas Commissioners Court, under Chapter 381 of the Local Government Code, lawfully establishing a COVID-19 municipality funding program (the “Municipality Program”), allowing the County to grant money to your Municipality, is attached hereto as Attachment A and incorporated by reference herein. Funds were received by the County from the US Department of the Treasury (the “Treasury”) under the Coronavirus Relief Fund (“CRF”), as provided for in the CARES Act. The use of these CRF funds to assist a municipality of the County with their expenditures incurred due to the effects of COVID-19 and to potentially fund a local grant program are legitimate and lawful uses of the CRF funds.

3. Municipality Authority. The Orders of the Municipality, establishing a COVID-19 emergency program or programs, allowing it to make grants of its award, is attached hereto and incorporated by reference herein. The Municipality represents and warrants that its programs (if the Municipality decides to distribute the Municipal Funds through its own programs) will be in full compliance with Chapter 380 of the Local Government Code.

4. Inspector General Oversight & Recoupment. Section 601(f) provides that the Inspector General of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of CRF funds. If the Inspector General determines that a unit of local government has failed to comply with the use of funds rules (as described herein in Paragraphs 10-16, “Use of Funds”), the amount of CRF funds in noncompliance shall be “booked as a debt of such entity owed to the federal government.” The conditions and restrictions on the use of the CRF funds follows to all

recipients, from the County, to the Municipality, to businesses and individuals that receive such funds.

GRANT

5. **Amount.** Subject to the terms and conditions of this Agreement, the County agrees to grant and transfer to the Municipality the sum of \$245,300 of its CRF funds (“Municipal Funds”).

6. **Separate Bank Account.** The Municipality agrees to deposit these Municipal Funds into a separate, segregated account created solely for holding and disbursing these Municipal Funds. The account must be an interest bearing account and similarly insured and protected in the same manner as the Municipality’s other funds.

7. **Calculation of Municipal Funds.** The initial calculation of the grant amount of funds is based on the higher of the Municipality’s 2019 NCTCOG estimated population (4,460) or 2018 ACS estimated population (979), multiplied by \$55.00 per capita (“the Maximum Allocation”). That amount is reduced by:

- a. the excess of the Maximum Allocation minus the budgeted amount of eligible funds (as defined in Paragraph 8(a)), and further reduced by;
 - b. the amount of funds redirected and contributed to the County’s programs (e.g., small business, housing and food programs), at the election of the Municipality, which is included in the Municipality’s proposed budget in Paragraph 8(a).
8. **Conditions.** Before receiving Municipal Funds, the Municipality must:
- a. provide the County with a proposed budget, which includes your contribution to the County’s programs (e.g., small business, housing, and food programs), and description of eligible uses of Municipal Funds (“Budget of Expenditures and Description of Intended Uses”). The form to complete your Budget of Expenditures and Description of Intended Uses is attached as Attachment B;
 - b. agree to participate in the County’s CRF Compliance Forum (the “Forum”); and
 - c. provide a copy of the appropriate Chapter 380 documentation.

RESPONSIBILITIES OF THE MUNICIPALITY

9. The responsibilities of the Municipality are:
- a. to comply with all terms and conditions of the CARES Act;
 - b. to use Municipal Funds in compliance with the CARES Act;

- c. to promptly return to the County any Municipal Funds not used;
- d. to participate in the Forum;
- e. to maintain proper and adequate records of its own expenses, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;
- f. to maintain proper and adequate records of the expenses of any grantees of Municipal Funds, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;
- g. to return the Statement of Compliance Certificate by February 1, 2021;
- h. to cooperate and coordinate with other members in the Forum concerning a federal compliance audit; and
- i. to comply with Chapter 381 and Chapter 380, if applicable.

USE OF FUNDS

10. Amounts paid from the Treasury's Coronavirus Relief Fund are subject to the restrictions outlined in the *Guidance for State, Territorial, Local, and Tribal Governments* (dated April 22, 2020) and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act. See Attachment C, which is incorporated by reference into this agreement.

11. Section 601(d) allows CRF funds/Municipal Funds to cover only those costs that:

- a. are necessary expenditures incurred due to the public health emergency with respect to the effects COVID-19;
- b. were not accounted for in the most recently approved budget [of the Municipality], including any amendments; and
- c. are incurred between March 1, 2020 and December 30, 2020. See *Coronavirus Relief Fund Frequently Asked Questions (Updated as of May 4, 2020)*. See Attachment C.

12. "Necessary Expenditure" Condition. The use of the money is limited to "necessary expenditures." The Treasury intends for broad interpretation of the word "necessary," meaning "reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending the Fund payments." The Treasury's standard, reasonable judgment, adopts a subjective, not objective standard. Examples of eligible expenditures include, but are not limited to, payment for certain types of:

- a. medical expenses;
- b. public health expenses;
- c. payroll expenses;
- d. expenses relating to facilitating compliance;
- e. expenses associated with providing economic support in connection with the COVID-19 public health emergency; and
- f. any other COVID-19-related expense reasonably necessary to the function of government.

13. Funds may not be used to fill shortfalls in governmental revenue to cover expenditures that would not otherwise qualify under section 601(d). **REVENUE REPLACEMENT IS STRICTLY PROHIBITED AND IS NOT A PERMISSIBLE USE OF FUNDS.**

14. “Due To” Condition. The requirement that expenditures be incurred “due to” the public health emergency created by COVID-19 means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred by the Municipality to respond directly to the emergency, as well as expenditures incurred to respond to second-order effects of the emergency (e.g., economic support to those suffering from employment or business interruptions due to COVID-19-related business closures).

15. The Municipality expressly agrees without qualification or exception to adhere and comply with section 601(d) and the accompanying guidelines regarding its spending and uses of the Funds.

16. Return of Unused Funds by Municipality. Any Municipal Funds not spent on eligible expenses before December 30, 2020 must be returned to the County within 30 days after December 30, 2020.

CRF COMPLIANCE FORUM

17. Description. The Forum is a county-wide initiative between the County and all of the Municipalities that have requested upfront funding of the Municipal Funds. It is a single, integrated initiative to mutually benefit all municipalities and the County.

18. Purpose. The Forum shall work for the mutual benefit of the County and the Municipalities, which will promote administrative efficiency, streamline initial compliance measures, and continuing through a potential audit, and foster collaboration between our counties.

19. Benefits. The primary goals of the Forum are to:

- a. provide answers to specific questions (e.g., eligible uses of funds);
- b. provide assistance with documentation guidelines;
- c. reduce noncompliance risk;
- d. reduce administrative burdens;
- e. manage and control the potential federal compliance audit; and
- f. collaborate and integrate grant programs.

REMEDIES

20. Indemnity. To the extent allowable by law, the Municipality shall defend, indemnify, and hold harmless the County and its officers, commissioners, employees, volunteers, and agents, from any and all costs and expenses, damages, liabilities, demands, causes of action, suits, charges, or legal or administrative proceedings, claims and losses, including, without limitation, attorneys' fees and costs, caused by or arising out of any act or omission of the Municipality relating to the terms of this Agreement, including but not limited to any ineligible expenditures.

21. Recoupment. If the County, or its designee, reasonably determines that all or a portion of a Municipality's expenditure of Municipal Funds is an ineligible expenditure, then the Municipality shall immediately reimburse the County in an amount equal to the amount of the ineligible expenditure from funds of the Municipality other than Municipal Funds granted pursuant to this Agreement, and provide to the County evidence of such reimbursement. The Municipality shall have 30 days of receipt of the County's determination of an ineligible expenditure to reimburse the County for such expense. If the Municipality chooses to subsequently grant its Municipal Funds, it shall be responsible for properly tracing and accounting for when, how, why and by whom the expenses were ultimately incurred. This includes the documentation responsibilities listed in Paragraph 9(f-g) above. In the event the County has to enforce this Agreement, it shall be entitled to recover its reasonable attorney's fees and costs incurred in doing so.

22. Offset. To the extent allowable by law, the County reserves the right in its sole discretion to apply any money, damages or costs incurred as a result of a material breach of this agreement by the Municipality against the future distribution of future tax revenues or receipts from the County to the Municipality.

OTHER

23. Attorney's Fees and Costs. The County shall be entitled to recover its reasonable and necessary attorney's fees, costs and expenses, from the Municipality in the event the County must

enforce the terms of this Agreement in any way, including, but not limited to, litigation or mediation to the extent allowed by law.

24. Law and Venue. The laws of the State of Texas shall govern this Agreement, except where clearly superseded by federal law. Venue of any dispute shall be in a court of competent jurisdiction in Denton County, Texas.

25. No Assignment. The Municipality may not assign this Agreement.

26. Entire Agreement. This Agreement supersedes and constitutes a merger of all prior oral and/or written agreements and understandings of the parties on the subject matter of this Agreement and is binding on the parties and their legal representatives, receivers, executors, successors, agents and assigns.

27. Amendment. Any Amendment of this Agreement must be by written instrument dated and signed by both parties.

28. Severability. No partial invalidity of this Agreement shall affect the remainder unless the public purpose to be served hereby is so greatly diminished thereby as to frustrate the object of this Agreement.

29. Survival. All provisions of this Agreement that impose continuing obligations on the parties, including but not limited to payment, agreement purpose, and confidentiality shall survive the expiration or termination of this Agreement.

30. Waiver. No waiver by either party of any provision of this Agreement shall be effective unless in writing, and such waiver shall not be construed as or implied to be a subsequent waiver of that provision or any other provision.

31. Signature Authority. The signatories hereto represent to each other that they have the full right, power, and authority and have been given any approvals necessary to enter into this Agreement to bind the respective parties for which they sign, and to perform their obligations hereunder, and that the consent of no other parties is needed to fully effectuate this Agreement.

ATTACHMENTS

32. This is a list of attachments and is included with this agreement and incorporated herein, as appropriate:

1. Attachment A: Chapter 381 Resolutions of the County;
2. Attachment B: Form Budget of Expenditures and Description of Intended Uses;
3. Attachment C: CRF Guidelines, Regulations (including statute, FAQs, and Guidance).

DENTON COUNTY, TEXAS

TOWN OF PROSPER, TEXAS

By: _____
Andy Eads, County Judge

By: _____
Mayor or City Manager

Date

Printed Name

Attest:

Printed Title

County Clerk

Date

Attest:

City Secretary

RESOLUTION OF THE DENTON COUNTY COMMISSIONERS COURT
Approving Economic Development Program under Texas Local Government
Code Section 381.004(b) and adopting "Chapter 381 Economic Development
Program Rules"

The Denton County Commissioners Court at its regular session on the 29th day of May 2020, considered the following resolution:

WHEREAS, Denton County is committed to the development and stimulation of business as part of an overall effort to increase job availability and improve the quality of life for residents; and

WHEREAS, pursuant to Article III, Section 52-a of the Texas Constitution, development and diversification of the economy, elimination of unemployment or underemployment, or the development or expansion of business serves a public purpose; and

WHEREAS, pursuant to Texas Local Government Code Section 381.004(h), commissioners court may develop and administer a program authorized by 381.004(b) for making grants of public money and providing personnel and services of the county; and

WHEREAS, pursuant to Section 381.004 (b)(1)-(3) of the Texas Local Government Code, Denton County Commissioners Court may develop and administer a Denton County program: 1. for state or local economic development; 2. for small or disadvantaged business development; 3. to stimulate, encourage, and develop business location and commercial activity in the County; and

WHEREAS, pursuant to Texas Local Government Code Section 381.004(c), 1. Commissioners Court may contract with another entity for administration of a program 3. Use County employees or funds for the program authorized by 381.004(b); and

WHEREAS, on May 8, 2020, Denton County desired to establish and administer a program (Exhibit A) under 381.004(b) for making grants of public money to small businesses in financial peril as a result of measures taken to inhibit the spread of the COVID-19 virus; and

WHEREAS, on May 8, 2020, Denton County determined that making economic development grants through the OPEN Grant Program (Exhibit A) in the amount up to TWO MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$2,200,000.00) will further the objectives of the County and benefit the County and its residents and serve the broader purpose of stimulating and encouraging business and commercial activity in the County, retaining and expanding job opportunities and building the property tax base; and

WHEREAS, Denton County is committed to distributing federal funding received from the U.S. Department of Treasury under the Coronavirus Aid, Relief, and Economic Security

Act (the "CARES Act") to assist municipalities of the County through the COVID-19 Municipality Funding Program (hereinafter "Municipality Program") (Exhibit B);

NOW THEREFORE, BE IT RESOLVED by the Commissioners Court of Denton County, Texas that:

- Section 1.** The foregoing are hereby found to be true and correct findings of Denton County, Texas, and are fully incorporated into the body of this Resolution.
- Section 2.** Due to measures taken to inhibit the spread of the COVID-19 virus, many small businesses and municipalities in Denton County have suffered and continue to suffer losses that threaten their businesses and residents. An urgent public need exists to help sustain these businesses and municipalities, and in particular, the jobs and services they provide to so many Denton County citizens, through this crisis.
- Section 3.** Denton County hereby amends the economic development program under Local Government Section 381.004(b)(1)-(3) (hereinafter "381 Program") for the making of grants of public money to businesses that are financially imperiled due to measures taken in response to the COVID-19 pandemic, which program will be operated and administered as described in the "Chapter 381 Economic Development OPEN Grant Program Rules," attached herein as Exhibit A; and adds program rules committed to distributing federal funding received from the U.S. Department of Treasury under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") to assist municipalities of the County through the COVID-19 Municipality Funding Program (hereinafter "Municipality Program") (Exhibit B);
- Section 4.** Denton County hereby adopts the attached "Chapter 381 Economic Development Program Rules," which rules describe the 381 Program in detail and set forth participation criteria and management/administration controls to ensure that the public purpose is accomplished or substantially achieved.
- Section 5.** The 381 Program will achieve or substantially obtain the public purpose of stimulating, encouraging and developing small business and other commercial activity within Denton County, and thereby contribute to the goal of developing/improving the local economy and providing and retaining employment for Denton County residents; as well as distribute federal funding to assist a municipality of the

County with their expenditures incurred due to the effects of COVID-19 and to potentially fund a local grant program.

Section 6. Nothing in this Resolution or in the 381 Economic Development Program Rules shall be construed to suggest or imply that Denton County is under any obligation to provide any grant or funding to any business applicant and/or municipality, and all applications and/or agreements for a grant under the 381 Program shall be considered on an individual case-by-case basis.

ADOPTED AND APPROVED effective the 29th day of May 2020.



Andy Eads
County Judge


High Emerson Citizian
Denton County Commissioner Precinct 1

Hugh Coleman
Commissioner, Precinct 1



Ron Marchant
Commissioner, Precinct 2



Bobbie Mitchell
Commissioner, Precinct 3



Dianne Edmondson
Commissioner, Precinct 4



Attest: 
Denton County Clerk

EXHIBIT A

CHAPTER 381 ECONOMIC DEVELOPMENT OPEN GRANT PROGRAM RULES DENTON COUNTY, TEXAS

Due to measures taken to inhibit the spread of the COVID-19 virus, many small businesses in Denton County have suffered and continue to suffer losses that threaten their survival. An urgent public need exists to help sustain these businesses, and in particular, the jobs they provide to so many Denton County citizens, through this crisis. Through the 381 Economic Development OPEN Grant Program described herein, Denton County seeks to provide financial assistance, in the form of grants, to affected local businesses. Denton County seeks to provide such assistance to businesses that, despite responsible management have been greatly impacted by the COVID-19 Pandemic.

Denton County's 381 Economic Development OPEN Grant Program is established pursuant to Texas Local Government Code 381.004(b)(1)-(3). Under 381.004(b)(1)-(3), Commissioners Court may, to stimulate business and commercial activity in the county, develop and administer a program for any of the following purposes:

- (1) for state or local economic development.
- (2) for small or disadvantaged business development.
- (3) to stimulate, encourage, and develop business location and commercial activity in the county.

1. General

Denton County may provide the following assistance to eligible businesses:

Operational Plan for Economic Normalization) Grant (hereinafter "OPEN Grant"):

Individual OPEN Grants of up to \$10,000 may be awarded. Award and amount of individual OPEN Grants will be based on such factors as need, eligibility, number of employees, loss due to full/partial shutdown due to being deemed by local or state shut-down order as non-essential during the COVID-19 Pandemic and availability of funds. In addition to the factors mentioned in this Section 1, award and amount of individual OPEN Grants will be subject to the provisions set forth in these Rules.

A business may apply for an OPEN Grant only during the Application Period. The application must be executed and submitted on behalf of the applying business (hereinafter "Applicant Business") by an owner (hereinafter "Applicant Business Owner").

- Denton County is under no obligation to provide assistance under this Program to any business, regardless of need, eligibility, or worthiness. The amount a business can receive will be based on the percentage of closure the business experienced during the COVID-19 Stay-at-Home order.
 - Business operations completely closed can get 100% of eligible grant.
 - Business operations partially closed can get 75% of eligible grant.
- Eligible amount of grant is the higher of:
 - 1.75x the average monthly payroll costs for the first quarter of 2020 (form 941) - including gross payroll, retirement costs and health insurance costs; if sole proprietor can use the average monthly amount of Schedule C net income divided by twelve (must have a net profit)
 - 2x fixed costs (rent, lease or mortgage payment of real and business property, real property taxes, business personal property taxes, and utilities excluding costs of your personal residence) calculated on 2019 monthly average

2. Eligibility

To be eligible for a Grant, the Applicant Business and Applicant Business Owner, as applicable, must demonstrate all of the following to Denton County's satisfaction:

- Business started before March 1, 2019
- 50 Employees or fewer
- No more than \$7 Million in Gross Annual Revenue
- If owner has more than one business, the owner is eligible for application for up to three businesses (all businesses must be located in Denton County). Ownership defined as 20% or more. Application will include disclosure of all 20% or more owners.
- Applications and required documentation will be reviewed by assigned Denton County Auditors based on Commissioners Court approved Denton OPEN Grant Program Guidelines. Applicant will receive an email indicating Denton County OPEN Program approval or denial or did not meet qualifications.
- Checks are to be issued to qualifying applicants by Denton County Accounts Payable.
- Applicant must have no outstanding Denton County tax liens or judgements
- Denton County is a governmental body subject to the Texas Public Information Act. Information you submit to Denton County in this application may be subject to the Act and, therefore, subject to public release.

APPLICATION PROCESS INCLUDES

- Good Faith Certification as to truth and accuracy of information provided

- That the grant request is necessary due to conditions caused by COVID-19
- Agreement to audit of the use of grant funds received
- Agreement to claw-back provisions if funds are used for ineligible purposes
- Unsworn Declaration of Owner

TYPES OF BUSINESSES:

- Corporation
- Individual
- Sole proprietorship
- Single-member limited liability company (LLC)
- LLC treated as a partnership
- LLC – C corporation
- LLC – S corporation
- Partnership

ELIGIBLE USES OF GRANT PROCEEDS

- Payroll costs for employees or owners draw (sole proprietors/partners)
- Contract labor
- Supplier payments
- Rent, lease or mortgage payment (for real property used for business purposes, like storefront or warehouse, excluding personal residence.)
- Rent, lease or purchase payment for business property (e.g., delivery vehicle; food truck; kitchen equipment; technology, payment, and communications systems and equipment)
- New or expanded technology applications and Wi-Fi services
- Utility payments for business properties, excluding personal residence.
- Cost of critical business operations (raw materials, marketing expenses, etc. payments)
- PPE and sanitation supplies and equipment
- Interest on other business debt obligations incurred before March 1, 2020, excluding personal residence.

3. **DOCUMENTS REQUIRED**

- Documentation of business (Choose one of the following)
 - Secretary of State Texas File number; State of Texas License number; DBA, 2018 or 2019 tax return (return only, schedules not required); Social Security Number, Employer Identification Number or Individual Taxpayer Identification Number, Certificate of Filing. If sole proprietor, please provide documentation on when you started your business. Ex. Include Occupational license, Sales Tax Certificate
- Drivers' license or state issued ID
- Most Recent Filed Business Tax return

- Most recent payroll report and number of employees – 1st QTR 941 for 2020
- Bank Statements for the following four months – March & April 2019; March & April 2020
- Submit documentation for proof of fund uses by September 30, 2020, including Form W-3, Form 941, utility statements, cancelled checks/receipts or bank statements
- For Sole Proprietor Applicants provide 2018 or 2019 Schedule C
- Form W-9

Denton County may require Applicant to submit documentation additional to that which is described in the Application and Affidavit.

INELIGIBLE BUSINESSES

- Non-Profits
- Sexually/Adult Oriented Businesses
- Professional Services deemed essential by local/state government
- Lobbying organizations and political organizations subject to Internal Revenue Code 527
- Gambling Concerns, including casinos, racing operations or other activities whose purpose involves gambling
- Concerns engaged in illegal activities under federal, state or local laws
- A business that is otherwise prohibited by federal or Texas law
- A business that is ineligible or precluded to receive federal or State of Texas funding due to federal laws (including but not limited to the CARES Act) or Texas laws
- Multi-level marketing concerns
- Governmental/taxing agencies/departments

Denton County may add and/or subtract from this list at any time due to change of use, law or other reason considered for eligibility by administration of the program.

3. Application.

- To apply for an OPEN Grant, the owner of applicant business must complete, execute and submit an Application for Chapter 381 Economic Development Program OPEN Grant to these Rules and fully incorporated herein.

The Application must be completed in full, and all information described therein must be provided in full, or the Application will not be considered. The Application must be completed and executed by the Owner of the applicant business.

EXHIBIT B**CHAPTER 381 ECONOMIC DEVELOPMENT COVID-19 MUNICIPALITY FUNDING
PROGRAM RULES
DENTON COUNTY, TEXAS****GENERAL**

The County has received federal funding under the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) to address and respond to the impact and effects of the COVID-19 emergency. Through the 381 Economic Development COVID-19 Municipality Funding Program described herein, Denton County seeks to provide financial assistance, in the form of Interlocal Cooperation Agreements, to Denton County municipalities.

County Authority. The Resolution of the Denton County, Texas Commissioners Court, under Chapter 381 of the Local Government Code, lawfully establishing a COVID-19 municipality funding program (hereinafter “Municipality Program”). Funds were received by the County from the US Department of the Treasury (the “Treasury”) under the Coronavirus Relief Fund (“CRF”), as provided for in the CARES Act. The use of these CRF funds to assist a municipality of the County with their expenditures incurred due to the effects of COVID-19 and to potentially fund a local grant program are legitimate and lawful uses of the CRF funds.

Municipality Authority. The Order of the Municipality, establishing a COVID-19 Emergency Program (the “Program”), allowing it to make grants of its award, is attached hereto and incorporated by reference herein. The Municipality represents and warrants that its Program will be in full compliance with Chapter 380 of the Local Government Code.

Inspector General Oversight & Recoupment. Section 601(f) provides that the Inspector General of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of CRF funds. If the Inspector General determines that a unit of local government has failed to comply with the use of funds rules as described herein, the amount of CRF funds in noncompliance shall be “booked as a debt of such entity owed to the federal government.” The conditions and restrictions on the use of the CRF funds follows to all recipients, from the County, to the Municipality, to businesses and individuals that receive such funds.

GRANT

Amount. Subject to the terms and conditions of this Agreement, the County agrees to grant and transfer to the Municipality the sum of *Calculation* Section below.

Separate Bank Account. The Municipality agrees to deposit these Municipal Funds into a separate, segregated account created solely for holding and disbursing these Municipal Funds. The account must be an interest bearing account and similarly insured and protected in the same manner as the Municipality's other funds.

Calculation of Municipal Funds. The initial calculation of the grant amount of funds is based on the higher of the municipality's 2019 NCTCOG estimated population (_____) or 2018 ACS estimated population (_____), multiplied by \$55.00 per capita ("the Maximum Allocation"). That amount is reduced by:

- the excess of the Maximum Allocation minus budgeted amount of eligible funds (as defined in Paragraph 8(a)), and further reduced by;
- the amount of funds redirected and contributed to the County's programs (e.g., small business, housing and food programs), at the election of the Municipality, which is included in the Municipality's proposed budget in Paragraph 8(a).

Conditions. Before receiving Municipal Funds, the Municipality must:

- provide the County with a proposed and description of eligible uses of Municipal Funds ("Budget of Expenditures and Description of Intended Uses");
- agree to participate in the County's CRF Compliance Forum (the "Forum"); and
- provide a copy of the appropriate Chapter 380 documentation.

RESPONSIBILITIES OF THE MUNICIPALITY

The responsibilities of the Municipality are:

- to comply with all terms and conditions of the CARES Act;
- to use Municipal Funds in compliance with the CARES Act;

- to promptly return to the County any Municipal Funds not used;
- to participate in the Forum;
- to maintain proper and adequate records of its own expenses, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;
- to maintain proper and adequate records of the expenses of any grantees of Municipal Funds, including monthly uploads to Dropbox, and supporting documentation of the expenditures, and provide copies of, or access to such, at any time as required by the County;
- to return the Statement of Compliance Certificate by February 1, 2021;
- to cooperate and coordinate with other members in the Forum concerning a federal compliance audit; and
- to comply with Chapter 381 and Chapter 380, if applicable.

USE OF FUNDS

Amounts paid from the Treasury's Coronavirus Relief Fund are subject to the restrictions outlined in the *Guidance for State, Territorial, Local, and Tribal Governments* (dated April 22, 2020) and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act, which is incorporated by reference into this agreement.

Section 601(d) allows CRF funds/Municipal Funds to cover only those costs that:

- are necessary expenditures incurred due to the public health emergency with respect to the effects COVID-19;
- were not accounted for in the most recently approved budget [of the Municipality], including any amendments; and
- are incurred between March 1, 2020 and December 30, 2020. See *Coronavirus Relief Fund Frequently Asked Questions (Updated as of May 4, 2020)*.

“Necessary Expenditure” Condition. The use of the money is limited to “necessary expenditures.” The Treasury intends for broad interpretation of the word “necessary,” meaning “reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending the Fund payments.” The Treasury’s standard, reasonable judgment, adopts a subjective, not objective standard. Examples of eligible expenditures include, but are not limited to, payment for certain types of:

- medical expenses;
- public health expenses;
- payroll expenses;
- expenses relating to facilitating compliance;
- expenses associated with providing economic support in connection with the COVID-19 public health emergency; and
- any other COVID-19-related expense reasonably necessary to the function of government.

Municipal Funds may not be used to fill shortfalls in governmental revenue to cover expenditures that would not otherwise qualify under section 601(d). REVENUE REPLACEMENT IS STRICTLY PROHIBITED AND IS NOT A PERMISSIBLE USE OF FUNDS.

“Due To” Condition. The requirement that expenditures be incurred “due to” the public health emergency created by COVID-19 means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred by the Municipality to respond directly to the emergency, as well as expenditures incurred to respond to second-order effects of the emergency (e.g., economic support to those suffering from employment or business interruptions due to COVID-19-related business closures).

The Municipality expressly agrees without qualification or exception to adhere and comply with section 601(d) and the accompanying guidelines regarding its spending and uses of the Municipal Funds.

Return of Unused Funds by Municipality. Any Municipal Funds not spent on eligible expenses before December 30, 2020 must be returned to the County within 30 days after December 30, 2020.

CRF COMPLIANCE FORUM

Description. The Forum is a county-wide initiative between the County and all of the Municipalities that have requested upfront funding of the Municipal Funds. It is a single, integrated initiative to mutually benefit all municipalities and the County.

Purpose. The Forum shall work for the mutual benefit of the County and the Municipalities, which will promote administrative efficiency, streamline initial compliance measures, and continuing through a potential audit, and foster collaboration between our counties.

Benefits. The primary goals of the Forum are to:

- provide answers to specific questions (e.g., eligible uses of funds);
- provide assistance with documentation guidelines;
- reduce noncompliance risk;
- reduce administrative burdens;
- manage and control the potential federal compliance audit; and
- collaborate and integrate grant programs.

**Budget of Expenditures & Description of Intended Uses
(Budgeted Sources & Uses)**

Town of Prosper

ELIGIBLE USE RESTRICTIONS: The CRF funds/Municipal Funds may be used to cover only those costs that:
 a. are necessary expenditures incurred due to the public health emergency with respect to the effects COVID-19;
 b. were not accounted for in the most recently approved budget [of the Municipality], including any amendments; and
 c. are incurred between March 1, 2020 and December 30, 2020.

Grant Amount ("Maximum Allocation," i.e., \$55 per capita amount) \$245,300

Category	Sub-Category	Tracking Indices	Description	Expenditures		
				Paid to Date	Proposed	Total
Category 1:						
Medical						
	Hospitals/Clinics	1.A		\$0	\$0	\$0
	Temporary Facilities	1.B		0	0	0
	Testing	1.C		0	0	0
	Emergency Reponse	1.D		0	0	0
	Telemedicine	1.E		0	0	0
	Sub-Total			<u>0</u>	<u>0</u>	<u>0</u>
Category 2:						
Public Health						
	Communication	2.A		0	0	0
	Medical, Protective Services	2.B		0	0	0
	Disinfection	2.C		0	0	0
	Technical Assistance	2.D		0	0	0
	Public Safety Measures	2.E		0	0	0
	Quarantine	2.F		0	0	0
	Sub-Total			<u>0</u>	<u>0</u>	<u>0</u>
Category 3:						
Payroll						
	Certain Payroll	3		<u>0</u>	<u>0</u>	<u>0</u>
Category 4:						
To Facilitate Compliance						
	Food Delivery	4.A		0	0	0
	Social Distancing/School Closings	4.B		0	0	0
	Telework	4.C		0	0	0
	Sick/Medical Leave	4.D		0	0	0
	Prisons/Jails	4.E		0	0	0
	Homelessness Care	4.F		0	0	0
	Sub-Total			<u>0</u>	<u>0</u>	<u>0</u>
Category 5:						
Economic Support						
	Business Grants	5.A		0	0	0
	Government Payroll	5.B		0	0	0
	Unemployment	5.C		0	0	0
	Sub-Total			<u>0</u>	<u>0</u>	<u>0</u>
Category 6:						
Other						
	Other	6		0	0	0
TOTAL ELIGIBLE EXPENDITURES				<u>0</u>	<u>0</u>	<u>0</u>
Municipality Programs: (Chapter 380)						
Amount of Contributions						
	Business Grant Program			0	0	0
	Housing or Food Program			0	0	0
	Total Contribution to Municipality Programs			<u>0</u>	<u>0</u>	<u>0</u>
County Programs (Chapter 381)						
Amount of Contributions						
	Business Grant Program			0	0	0
	Housing or Food Program			0	0	0
	Total Contribution to County Programs			<u>0</u>	<u>0</u>	<u>0</u>
TOTAL OF EXPENDITURES AND INTENDED USES				<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
EXCESS CASH (OR DEFICIT)						\$245,300

**Coronavirus Relief Fund
Frequently Asked Questions
Updated as of May 4, 2020**

The following answers to frequently asked questions supplement Treasury’s Coronavirus Relief Fund (“Fund”) Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, (“Guidance”).¹ Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

Eligible Expenditures

Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?

Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online

¹ The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

May a State receiving a payment transfer funds to a local government?

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

Are States permitted to use Fund payments to support state unemployment insurance funds generally?

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

May Fund payments be used for COVID-19 public health emergency recovery planning?

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

Are expenses associated with contact tracing eligible?

Yes, expenses associated with contract tracing are eligible.

To what extent may a government use Fund payments to support the operations of private hospitals?

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

May recipients create a “payroll support program” for public employees?

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

Questions Related to Administration of Fund Payments

Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

What records must be kept by governments receiving payment?

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act

May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government’s general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary

expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
April 22, 2020

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.¹

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

A cost is “incurred” when the responsible unit of government has expended funds to cover the cost.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
 - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - Costs of providing COVID-19 testing, including serological testing.
 - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
 - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
 - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - Expenses for public safety measures undertaken in response to COVID-19.
 - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures²

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.³
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

² In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

³ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

Hugh Coleman
Precinct 1



Bobbie J. Mitchell
Precinct 3

Item 3.

Ron Marchant
Precinct 2

Dianne Edmondson
Precinct 4

Denton County Commissioners Court
County Judge Andy Eads

MEMORANDUM

To: All Denton County Mayors
From: Denton County Commissioners Court
Date: May 29, 2020
Re: COVID-19 Relief Funds – CRF Compliance Forum

The purpose of this memorandum is to provide you with an explanation of the Denton County *CRF Compliance Forum* (the Forum) relating to the disbursement of funds to your municipality (“Municipal Funds”) from the Coronavirus Relief Fund (“CRF”).

Description

The Alliance will consist of representatives from both the County and each municipality electing an upfront allotment of Municipal Funds.

The Alliance will act as a single, integrated program in which everyone works together, rather than separately. The intension of the Alliance is to benefit everyone mutually.

The work of the Alliance will commence immediately and will end upon the completion of the Treasury compliance audit.

Purpose

The purpose of the Alliance is to promote administrative efficiency, streamline initial compliance measures, continue coordination through a potential audit, and foster collaboration between our cities and County.

A highly collaborative, organized effort will ease the administrative burdens and costs of complying with the CRF regulations. The Forum will establish a framework for tracking and accounting for the disbursements and spending.

Identify funds not likely to be expended so they can be reallocated to other Denton County programs.

Benefits

The Forum will help provide answers to ongoing issues and specific questions (e.g., eligible uses of funds).

The Forum will also assist with documentation and retention of eligible expenses, both of which should reduce overall noncompliance risk. Our efforts on the front-end is a much better way to prepare for and manage a U.S. Treasury compliance audit.

A collaborative effort will also help strategically allocate funds to the areas and industries in most need, avoiding duplicative efforts.

Forum Overview

Why is this necessary? Two important reasons. First, the CRF guidelines are new, and there is a reasonable amount of uncertainty about some of the specifics. We would prefer a unified understanding of the guidelines. Second, the U.S. Treasury has the ability, under the CRF regulations, to recoup (clawback) any funds not used, or used for ineligible purposes.

What are we asking for from our cities? Your commitment to work together. An appointed person from each municipality joins the Forum and participates in monthly meetings to address and communicate ongoing concerns.

C: Monica Latin, Bruce Hendrick, Ted Harrington
of Carrington, Coleman Sloman & Blumenthal, L.L.P.



Denton County Coronavirus Relief Fund
Municipality Disbursements

Certification
(Statement of Compliance)

Pursuant to the Interlocal Cooperation Agreement, CARES Act, and applicable Treasury Guidance regarding the Coronavirus Relief Fund, I hereby submit this Certification that all funds received by the municipality from the County (“Municipal Funds”), were used in compliance with the required guidelines.

I further submit, along with this Certification, all appropriate and necessary supporting documentation, including any explanations of expenses, accounting for all Municipal Funds received.

I submit this Certification, along with the accompanying documentation, which together constitute the Statement of Compliance, as conclusive evidence that the municipality used its Municipal Funds in eligible uses as set forth by the Coronavirus Relief Fund requirements.

Signature of Responsible Person

Date

Please complete the Certification and return it to Shannon Joski, Denton County Director of Administration at crfcitygrants@dentoncounty.com by February 1, 2021.



DENTON COUNTY CORONAVIRUS RELIEF FUND
Disbursement of Municipal Funds to Municipality

Acknowledgement

I hereby acknowledge the intention in good faith, on behalf of my municipality, to participate in the CRF Compliance Forum. This acknowledgement does not constitute a legally binding commitment.

Name of City Participant

Signature of Municipal Official

Date

Please complete the acknowledgement and return it to Shannon Joski, Denton County Director of Administration at crfcitygrants@dentoncounty.com as soon as possible.

MEMORANDUM

To: All Denton County Mayors

From: Denton County Commissioners Court

Date: May 29, 2020

Re: COVID-19 Relief Funds – Next Steps

The purpose of this memorandum is to provide you with our proposed guidance and timetable on our next steps, in order to receive your allocated disbursement from the Coronavirus Relief Fund (“Municipal Funds”).

NEXT STEPS

- (1) Paperwork. Please review all of the materials included in this package. If you have questions, please call the County Judge’s office at (940-349-2820) or email Shannon Joski at crfcitygrants@dentoncounty.com.
- (2) Acknowledgment. Please sign, date and return the Acknowledgement (included) to confirm your willingness to participate in the CRF Compliance Forum.
- (3) Request for Information. Please respond to our request for information. In advance of funding, we are requesting each municipality to provide us with the following: (a) a budget for the use of the Municipal Funds (the “Budget of Expenditures and Description of Eligible Uses”) and (b) a copy of your resolutions, if any, approving Economic Development Programs contemplating the use of Municipal Funds under Texas Local Government Code Chapter 380. Upon receipt of these materials, we shall immediately review them for compliance.
- (4) Interlocal Agreement (ILA). Please sign the attached ILA between the County and City and return it to the County.
- (5) Funding. Once we receive the signed documents and requested information and it is determined to be acceptable, we shall, as quickly as possible, transfer the agreed-upon funds to you.
- (6) CRF Compliance Forum. See attached copy of the Memorandum presented in our May 22nd meeting.

TIMETABLE

Following is our proposed timetable for the above steps.

Commissioners Court Approval:	May 29, 2020
Return Acknowledgement:	As soon as possible
Return Requested Information:	As soon as possible
Begin Funding:	Timely, upon receipt of Requested Information
Begin Forum Meetings	June 17, 2020

Thank you in advance for your cooperation. We look forward to working together to make the rollout of these funds a huge success to our communities. If you have any questions, please do not hesitate to contact your County Commissioner or the County Judge’s Office.

C: Monica Latin, Bruce Hendrick and Ted Harrington
of Carrington Coleman, Sloman & Blumenthal, LLP

FINANCE DEPARTMENT



To: Mayor and Town Council

From: Betty Pamplin, Finance Director

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – June 23, 2020

Agenda Item:

Consider and act upon an ordinance amending Ordinance No. 19-65 (FY 2019-2020 Budget).
(BP)

Description of Agenda Item:

This budget amendment increases the CARES Act Grant Fund (new fund) expenditure budget by \$1,344,150 to appropriate a budget for the CARES Act funds received from Collin County and Denton County.

Budget Impact:

The CARES Act Grant Fund expenditures will increase by \$1,344,150, and the CARES Act Grant Fund revenue will increase by \$1,344,150.

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. 19-65 (FY 2019-2020 Budget) to provide funding increased expenditures in the CARES Act Grant Fund.

Proposed Motion:

I move to approve amending Ordinance No. 19-65 (FY 2019-2020 Budget) to provide funding increased expenditures in the CARES Act Grant Fund.

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 20-xx

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING ORDINANCE NO. 19-65 (FY 2019-2020 BUDGET) AND ALLOCATING FUNDS TO FUND INCREASED EXPENDITURES OF \$1,344,150 IN THE CARES ACT GRANT FUND BUDGET; 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. 19-65 (FY 2019-2020 Budget) for the purposes listed in Exhibit “A,” attached hereto and incorporated herein by reference; and

WHEREAS, the changes will result in budgeted funds being allocated and an overall net neutral effect on the budget.

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

SECTION 1

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

SECTION 2

Amendment to Ordinance No. 19-65 (FY 2019-2020 Budget). Ordinance No. 19-65 (FY 2019-2020 Budget) is hereby amended to allow for reallocation of appropriations as shown in Exhibit “A,” attached hereto and incorporated herein by reference.

SECTION 3

Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent prosecution from being commenced for any violation if occurring prior to the repeal of the Ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

SECTION 4

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

SECTION 5

Effective Date. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 23RD DAY OF JUNE, 2020.

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 2019-2020
June 23, 2020

CARES Act Grant Fund	Original Budget	Amended Budget	Increase (Decrease)
Total Revenues:	\$ -	\$ 1,344,150	\$ 1,344,150
Total	\$ -	\$ 1,344,150	\$ 1,344,150
Expenditures:	-	1,344,150	1,344,150
Total	\$ -	\$ 1,344,150	\$ 1,344,150

Total Revenue	\$ 1,344,150
Total Expenditures	\$ 1,344,150
Net Effect All Funds	\$ -



ENGINEERING SERVICES

To: Mayor and Town Council

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

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – June 23, 2020

Agenda Item:

Consider and act upon approving the purchase of Traffic Signal related items for the Temporary Traffic Signal at Fishtrap & Gee Road and the Permanent Traffic Signal at Coit Road & Richland Boulevard, from Consolidated Traffic Controls, Inc., through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program.

Description of Agenda Item:

Traffic signal design plans are 60% complete for a temporary traffic signal at the Fishtrap and Gee Road intersection, and a permanent traffic signal at the Coit Road and Richland Boulevard intersection. The temporary traffic signal at Fishtrap and Gee Road will consist of galvanized steel poles with span wires supporting the traffic signal heads, similar to what was installed on First Street and the Dallas North Tollway prior to the permanent traffic signal being constructed with the DNT Southbound Frontage Road project. In the future, a permanent traffic signal will be installed when the additional lanes of Fishtrap and Gee Road are constructed. At that time, the temporary galvanized steel poles will be removed and stored at Public Works to be re-used by the Town for other intersections that require the construction of temporary traffic signals.

Due to the ten (10) to fourteen (14) week time required to manufacture, powder coat, and deliver the signal poles and mast arms, staff continues the policy of pre-ordering the materials needed, using the HGAC Cooperative Purchasing Program, while the design plans are being finalized. At this time, the design plans are anticipated to be complete and ready to advertise for bids in July 2020.

Local governments are authorized by the Interlocal Cooperation Act, V.T.C.A. Government Code, Chapter 791, to enter into joint contracts and agreements for the performance of governmental functions and services, including administrative functions normally associated with the operation of government (such as purchasing necessary materials and equipment).

The Town of Prosper and HGAC entered into an Interlocal Agreement, effective January 4, 2001, which allows our local government to purchase certain goods or services through HGAC. The agreement renews automatically each fiscal year, unless cancelled by either party.

Budget Impact:

The budget for the construction of the temporary traffic signal at Fishtrap and Gee Road is \$250,000 and will be funded by Account No. 680-6610-50-00-2004-TR. The cost for the traffic signal equipment associated with this item is \$52,513, and the remaining \$197,487 will be used to fund the installation.

The budget for the construction of the permanent traffic signal at Coit Road and Richland Boulevard was increased from \$250,000 to \$450,000 at the April 28, 2020, Town Council meeting, and will be funded by Account No. 660-6610-50-00-2005-TR. The cost for the traffic signal equipment associated with this item is \$122,803.65, and the remaining \$327,196.35 will be used to fund the installation. In comparison, the recent award for the installation of the traffic signal at Fishtrap Road and Teel Parkway was \$286,225.

Attached Documents:

1. HGAC Contract Pricing Worksheets

Town Staff Recommendation:

Town staff recommends approving the purchase of Traffic Signal related items for the Temporary Traffic Signal at Fishtrap & Gee Road and the Permanent Traffic Signal at Coit Road & Richland Boulevard, from Consolidated Traffic Controls, Inc., through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program.

Proposed Motion:

I move to approve the purchase of Traffic Signal related items for the Temporary Traffic Signal at Fishtrap & Gee Road and the Permanent Traffic Signal at Coit Road & Richland Boulevard, from Consolidated Traffic Controls, Inc., through the Houston-Galveston Area Council (HGAC) Cooperative Purchasing Program.

HGACBuy		CONTRACT PRICING WORKSHEET For Catalog & Price Sheet Type Purchases		Contract No.: PE-05-19	Date Prepared: 6/15/2020
This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents <u>MUST</u> be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.					
Buying Agency:	Prosper		Contractor:	Consolidated Traffic Controls, Inc.	
Contact Person:	Pete Anaya		Prepared By:	Bobby Hale	
Phone:	0		Phone:	800-448-8841	
Fax:			Fax:	800-448-8850	
Email:	pete_anaya@prospertx.gov		Email:	Bobby.Hale@ctc-traffic.com	
Catalog / Price Sheet Name:	Traffic Control, Enforcement & Signal Preemption Equipment				
General Description of Product:	Traffic Control Equipment				
A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary					
Line Number	Quan	Description		Unit Pr	Total
600	1	110610-MM Model 764 Multimode Phase Selector		\$ 2,946.00	\$ 2,946.00
604	3	110258 Model 721 Detector		\$ 535.00	\$ 1,605.00
672	500	110216A Model 138 Cable 500 Ft Roll (Per Ft.)		\$ 0.68	\$ 340.00
679	3	101001 Span Wire Clamp		\$ 4.00	\$ 12.00
809	1	87 - ICCU-S2 ICCU - Shelf Model Including Hardware Kit		\$ 2,335.00	\$ 2,335.00
847	4	87-iNS23TNO-B 9X15 iNS2 APS Push Button Station Black/Black		\$ 397.00	\$ 1,588.00
962	1	201502 Square Base		\$ 146.00	\$ 146.00
963	1	Paint Adder Paint for Base		\$ 26.00	\$ 26.00
966	1	PNS-10-501312GR Grounding Rod with Clamp and Wire		\$ 46.00	\$ 46.00
969	1	PB-5325-PXX Painted Collar		\$ 72.00	\$ 72.00
971	1	201001B 10' Aluminum Pole (Paint)		\$ 225.00	\$ 225.00
1191	1	M54705 356i ATC Cabinet, Fully Loaded, NO Controller,		\$ 9,597.00	\$ 9,597.00
1364	2	SP-30B-80 SP-30B-80		\$ 6,234.00	\$ 12,468.00
1365	2	SP-30B-80L-8 SP-30B-80L-8		\$ 7,144.00	\$ 14,288.00
1908	1	APC-TXDOT Turnkey UPS w/ APC Secure UPS 1300VA/1300 W 120 VAC In/Out RM, Bypass Unit, 12' Harness,		\$ 4,751.00	\$ 4,751.00
Total From Other Sheets, If Any:					
Subtotal A:					\$ 50,445.00
B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary (Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)					
	Quan	Description		Unit Pr	Total
	1	Upgrade M76119 to Prosper 356 Cabinet		\$ 1,888.00	\$ 1,888.00
	4	M14612- BRKT,POLE MOUNT ASSY,ALUM CABINET MOUNTING HARDWAR		\$ 45.00	\$ 180.00
					\$ -
					\$ -
Total From Other Sheets, If Any:					
Subtotal B:					\$ 2,068.00
Check: The total cost of Unpublished Options (Subtotal B) cannot exceed 25% of the total from Section A.					For this transaction the percentage is: 4%
C. Other Allowances, Discounts, Trade-Ins, Freight, Make Ready or Miscellaneous Charges					
	Quan	Description		Unit Pr	Total
					\$ -
					\$ -
Subtotal C:					\$ -
Delivery Date: 30 to 45 Days ARO			D. Total Purchase Price (A+B+C): \$ 52,513.00		

HGACBuy		CONTRACT PRICING WORKSHEET For Catalog & Price Sheet Type Purchases		Contract No.: PE-05-19	Date Prepared: 6/15/2020
This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents <u>MUST</u> be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.					
Buying Agency:	Prosper		Contractor:	Consolidated Traffic Controls, Inc.	
Contact Person:	Pete Anaya		Prepared By:	Bobby Hale	
Phone:	0		Phone:	800-448-8841	
Fax:			Fax:	800-448-8850	
Email:	pete_anaya@prospertx.gov		Email:	Bobby.Hale@ctc-traffic.com	
Catalog / Price Sheet Name:	Traffic Control, Enforcement & Signal Preemption Equipment				
General Description of Product:	Traffic Control Equipment				
A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary Poles will have ILSN arm and be powder coated RAL 8008. 10-12 lead time from approval of pole					
Line Number	Quan	Description	Unit Pr	Total	
600	1	110610-MM Model 764 Multimode Phase Selector	\$ 2,946.00	\$ 2,946.00	
604	4	110258 Model 721 Detector	\$ 535.00	\$ 2,140.00	
673	1000	110216B Model 138 Cable 1,000 Ft Roll (Per Ft.)	\$ 0.68	\$ 680.00	
678	4	201011 3/4" Narrow Hub (IR)	\$ 13.00	\$ 52.00	
809	1	87 - ICCU-S2 ICCU - Shelf Model Including Hardware Kit	\$ 2,335.00	\$ 2,335.00	
847	8	87-iNS23TNO-B 9X15 iNS2 APS Push Button Station Black/Black	\$ 397.00	\$ 3,176.00	
962	8	201502 Square Base	\$ 146.00	\$ 1,168.00	
963	8	Paint Adder Paint for Base	\$ 26.00	\$ 208.00	
967	8	201020 Collar	\$ 62.00	\$ 496.00	
968	8	PB-5325-PXX Collar Paint	\$ 10.00	\$ 80.00	
971	8	201001B 10' Aluminum Pole (Paint)	\$ 225.00	\$ 1,800.00	
1207	1	M76119 353i Garland Cabinet Includes Aux Display, Input Test Panel/Card, 9 LS 2202 Flashers, 2 SIU 2218-MC, 1	\$ 13,277.00	\$ 13,277.00	
1297	1	161407 ArmorCast Traffic Cabinet Pedestal	\$ 456.00	\$ 456.00	
1381	2	44' SMA-80L-8 44' SMA-80L-8	\$ 12,408.00	\$ 24,816.00	
1389	2	60' LMA-80/100L-8 60' LMA-80/100L-8	\$ 25,602.00	\$ 51,204.00	
1910	1	710001 APC Secure UPS 1300VA/1300 W 120 VAC In/Out RM Conformal Coated	\$ 1,757.00	\$ 1,757.00	
1912	1	710002NOGEN APC Schneider SecureUPS Bypass Unit W/O Generator input, W/O Batteries	\$ 250.00	\$ 250.00	
1913	1	710003 APC Schneider Battery Harness 12'	\$ 188.00	\$ 188.00	
1918	1	710009 Set of 4 APC 100 Amp 48V Batteries	\$ 1,156.00	\$ 1,156.00	
1957	4	CP824DTJNNAAD1 8' x 24" viewable area with retroreflective background and EC film	\$ 2,802.00	\$ 11,208.00	
1976	8	MISCDECAL Logo Two or more colors price per sign	\$ 65.00	\$ 520.00	
1977	4	PHOTOCELL-SWIVEL Photocell Tork Swivel	\$ 26.00	\$ 104.00	
1981	4	EZ Bar Even Free Swing from mast arm both fixed heights	\$ 191.00	\$ 764.00	
Total From Other Sheets, If Any:					
				Subtotal A: \$ 120,781.00	
B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary (Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)					
Quan	Description			Unit Pr	Total
1	Upgrade M76119 to Prosper ATC cabinet			\$1,666.65	\$1,666.65
1	Upgrade 161407 to Aluminum Powder coated two piece sub base			\$356.00	\$356.00
	Powder coating is included in the Traffic signal pole price				\$ -
Total From Other Sheets, If Any:					
				Subtotal B: \$ 2,022.65	
Check: The total cost of Unpublished Options (Subtotal B) cannot exceed 25% of the total from Section A.				For this transaction the percentage is: 2%	
C. Other Allowances, Discounts, Trade-Ins, Freight, Make Ready or Miscellaneous Charges					
Quan	Description			Unit Pr	Total
					\$ -
					\$ -
				Subtotal C: \$ -	

HGACBuy		CONTRACT PRICING WORKSHEET For Catalog & Price Sheet Type Purchases		Contract No.: PE-05-19	Date Prepared: 6/15/2020	
<i>This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.</i>						
Buying Agency:	Prosper		Contractor:	Consolidated Traffic Controls, Inc.		
Contact Person:	Pete Anaya		Prepared By:	Bobby Hale		
Phone:	0		Phone:	800-448-8841		
Fax:			Fax:	800-448-8850		
Email:	pete_Anaya@prospertx.gov		Email:	Bobby.Hale@ctc-traffic.com		
Catalog / Price Sheet Name:	Traffic Control, Enforcement & Signal Preemption Equipment					
General Description of Product:	Traffic Control Equipment					
A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary Poles will have ILSN arm and be powder coated RAL 8008. 10-12 lead time from approval of pole						
Line Number	Quan	Description			Unit Pr	Total
Delivery Date:			30 to 45 Days ARO		D. Total Purchase Price (A+B+C):	
					\$ 122,803.65	



PARKS & RECREATION

To: Mayor and Town Council

From: Dudley Raymond, Director of Parks and Recreation

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – June 23, 2020

Agenda Item:

Consider and act upon awarding CSP No. 2020-34-B to Ratliff Hardscape, Ltd. related to construction services for the Whitley Place Trail Extension Project (1801-PK), and authorizing the Town Manager to execute a construction agreement for same.

Description of Agenda Item:

On April 9, 2020, at 2:00 PM, ten proposals were opened for the Whitley Place Trail Extension Project. The verified proposal totals ranged between \$703,947.49 and \$1,376,340.40. The Engineer's Estimate was \$805,990.50.

The town used the following criteria to evaluate the proposals:

- Qualifications and Experience (30%)
- Proposed Project Timeline (20%)
- Cost Proposal (50%)

Based on the evaluation matrix, staff negotiated with Ratliff Hardscape, Ltd, and evaluated additional value engineering options. Through negotiations and value engineering the final price will be \$653,886.00. This price includes a 10' wide reinforced concrete trail, a 150' pedestrian bridge, grading, sodding, hydro-mulching, pavilion structure, along with other related improvements.

Budget Impact:

The FY 2019-2020 Capital Improvement Program included a total budget of \$680,000 in General Funds, Grant Funds, and Bond Funds for the Whitley Place Trail Extension Project. This agreement will be funded as follows: \$167,250.00 from 2019 CO Bonds in account 750-6610-60-00-1801-PK, and \$497,875.00 Park Improvement funds in 620-6610-60-00-1801-PK. \$500,000 of the project will be reimbursed by the awarded Texas Parks and Wildlife Grant.

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. Evaluation Matrix
3. Construction Agreement




Town Staff Recommendation:

Town staff recommends awarding CSP No. 2020-34-B to Ratliff Hardscape, Ltd. related to construction services for the Whitley Place Trail Extension Project (1801-PK), and authorize the Town Manager to execute a construction agreement for same.

Proposed Motion:

I move to award CSP 2020-34-B to Ratliff Hardscape, Ltd. related to construction services for the Whitley Place Trail Extension Project (1801-PK), and authorize the Town Manager to execute a construction agreement for same.



-  Project Location
-  Proposed Hike and Bike Trail
-  Proposed Pedestrian Bridge

Location Map Withley Place Trail Extension

CSP NO. 2020-34-B
WHITLEY PLACE TRAIL EXTENSION

EVALUATION MATRIX		A'Lure General Contractors LLC		Accelerated Critical Path, Inc.		AUI Partners, LLC		Crossland Construction Company		Dean Construction (Dean Electric, Inc.)		HQS Construction		Joe Funk Construction, Inc		North Rock Construction		Ratliff Hardscape, Ltd		RoeschCo Construction, Inc.	
EVALUATION CRITERIA	WEIGHTING	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE
Qualifications and Experience	30%	7.17	2.15	7.78	2.33	7.83	2.35	7.47	2.24	8.94	2.68	7.75	2.33	7.78	2.33	8.44	2.53	7.83	2.35	8.61	2.58
Proposed Project Timeline	20%	7.95	1.59	8.00	1.60	6.67	1.33	6.49	1.30	4.00	0.80	4.00	0.80	10.00	2.00	8.00	1.60	7.27	1.45	6.86	1.37
Cost Proposal	50%	7.67	3.83	6.68	3.34	6.70	3.35	7.10	3.55	9.00	4.50	7.89	3.95	5.11	2.56	8.13	4.06	10.00	5.00	7.32	3.66
TOTAL	100%		7.57		7.27		7.04		7.09		7.98		7.07		6.89		8.20		8.80		7.62

CONTRACT DOCUMENTS AND SPECIFICATIONS
FOR

WHITLEY PLACE TRAIL EXTENSION
CSP NO. 2020-34-B



TOWN OF PROSPER
COLLIN COUNTY, TEXAS

TOWN OFFICIALS

Ray Smith, Mayor
Curry Vogelsang, Jr., Mayor Pro-Tem
Jason Dixon, Deputy Mayor Pro-Tem
Marcus E. Ray, Place 1
Craig Andres, Place 2
Meigs Miller, Place 4
Jeff Hodges, Place 5

Harlan Jefferson, Town Manager

TABLE OF CONTENTS

TABLE OF CONTENTS	2
LEGAL NOTICE	3
INSTRUCTIONS TO PROPOSERS.....	4
CONSTRUCTION AGREEMENT.....	5
PERFORMANCE BOND.....	17
PAYMENT BOND.....	20
MAINTENANCE BOND.....	23
SPECIAL CONDITIONS.....	26
TECHNICAL SPECIFICATIONS	32
GEOTECHNICAL REPORT	33

LEGAL NOTICE

The Town of Prosper is accepting competitive sealed proposals for **CSP NO. 2020-34-B WHITLEY PLACE TRAIL EXTENSION**. Proposals 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 **2:00 P.M. on Thursday, April 2, 2020**. Any proposals received after this time will not be accepted, and will be returned unopened. Proposals will be publicly opened and read aloud in the Finance Conference Room, located in the 3rd Floor Finance Suite of Town Hall, 250 W. First St., Prosper, Texas 75078, immediately following the proposal deadline.

The Project consists of furnishing all labor, equipment and materials (except as otherwise specified), and performing all work necessary for the construction of the Whitley Place Trail Extension project which generally includes a 10' wide reinforced concrete trail, a 150' pedestrian bridge, grading, sodding, hydromulching, pavilion structure, benches, etc. along with other related improvements.

Each proposal submitted shall be accompanied by a cashier's check in the amount of 5% of the maximum amount proposed, 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 Parks and Recreation Department, 409 E. First Street, Prosper, Texas, 75078, Phone: (972) 569-1160** without charge. These documents may be acquired from that office for the non-refundable purchase price of \$25 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 regards to this proposal should be emailed directly to January Cook, CPPO, CPPB, Purchasing Manager, at january_cook@prospertx.gov. The deadline for receipt of questions and requests for clarifications is **12:00 P.M. on Friday, March 27, 2020**. After that day and time, no further questions or requests for clarifications will be accepted or answered by the Engineer or Town.

INSTRUCTIONS TO PROPOSERS

1. Submittal Deadline: Proposals will be accepted until **2:00 P.M. on Thursday, April 2, 2020**.
2. Submittal Location: Proposals 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. Electronic Submittal Requirements: If submitting proposal through IonWave.net, Proposer shall complete all requested information and submit all required documents.
4. Hard Copy Submittal Requirements: If submitting proposal in hard copy, Proposer shall submit one (1) original and one (1) copy of their proposal in a sealed envelope clearly marked with their name and **CSP NO. 2020-34-B WHITLEY PLACE TRAIL EXTENSION**. Proposer shall complete all requested information and submit all required documents.
5. Proposal Opening: Proposals will be publicly opened and read aloud in the Finance Conference Room, located in the 3rd Floor Finance Suite of Town Hall, 250 W. First St., Prosper, Texas 75078, immediately following the proposal deadline.
6. Proposal Documents: Copies of Plans, Specifications, and Contract Documents may be examined without charge at the following location:

Town of Prosper Parks and Recreation Department
409 E. First Street
Prosper, TX 75078
Phone: 972-569-1160

or

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

7. Questions and Requests for Clarification: Questions and requests for clarifications in regard to this proposal should be emailed directly to January Cook, CPPO, CPPB, Purchasing Manager, at january_cook@prospertx.gov. The deadline for receipt of questions and requests for clarifications is **12:00 P.M. on Friday, March 27, 2020**. After that day and time, no further questions or requests for clarifications will be accepted or answered by the Engineer or Town.
8. Addenda: If it becomes necessary to provide additional information to potential Proposers, the Town of Prosper will issue an addendum containing the necessary information.
9. Pre-Proposal Meeting: A pre-proposal meeting will be held for this project in the conference room in the Parks and Recreation Administration Building, located at 409 E. First Street, Prosper, Texas 75078 at 10:00 A.M., Wednesday, March 18, 2020. Attendance is optional.
10. Site Visit: N/A

CONSTRUCTION AGREEMENT

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

This Construction Agreement (the "Agreement") is made by and between **Ratliff Hardscape, Ltd.**, a Texas limited company, (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:

CSP NO. 2020-34-B WHITLEY PLACE TRAIL EXTENSION

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 proposal, 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 Proposal;
10. any listed and numbered addenda;
11. the Performance, Payment, and Maintenance Bonds; and,
12. any other proposal 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 **Six Hundred Fifty-Three Thousand Eight Hundred Eighty-Six dollars and no cents (\$653,886.00)**. 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 **150** calendar days after the date of the Notice to Proceed for the base proposal. Within **15** 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 proposal. 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: CSP No. 2020-34-B WHITLEY PLACE TRAIL EXTENSION

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 non-owned 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.

4. Other Insurance Provisions

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

- a. General Liability and Automobile Liability Coverage
 - 1) 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 A, B and C. Other performance, payment and

maintenance bond forms shall not be accepted. Among other things, these bonds shall apply to any work performed during the two-year warranty period after acceptance as described in 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;
2. 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:

- a. ensure proper completion of the Work. The Owner may use retained funds to pay replacement or substitute contractors to complete unfinished or defective work;
- b. ensure timely completion of the Work. The Owner may use retained funds to pay liquidated damages; and
- c. 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.

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.

RATLIFF HARDSCAPE, LTD

TOWN OF PROSPER, TEXAS

By: **BOODER MCWHORTER**

By: **HARLAN JEFFERSON**

Title: President and C.O.O.

Title: Town Manager

Date: _____

Date: _____

Address: 1740 Midway Rd.
Lewisville, Texas 75056

Address: 250 W. First St.
P.O. Box 307
Prosper, Texas 75078

Phone: (972) 436-2508

Phone: (972) 346-2640

Email: bmcwhorter@ratliffco.com

Email: harlan_jefferson@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, and _____, 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 unto 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 expenses, attorneys' fees, and liquidated damages arising out of or connected with the below identified Contract 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 penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal 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 June, A.D. 2020**, 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:

**CSP NO. 2020-34-B
WHITLEY PLACE TRAIL EXTENSION**

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

**CSP NO: 2020-34-B
WHITLEY PLACE TRAIL EXTENSION**

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.

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2020.

ATTEST:

PRINCIPAL:

By: _____
Signature

By: _____
Signature

Typed/Printed Name

Typed/Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

[Signatures continued on following page.]

ATTEST:

By: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
Phone Fax

SURETY:

By: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
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: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

NOTE: Date on Page 1 of Performance Bond must be same date as Contract. Date on Page 2 of Performance Bond must be after date of Contract. If Resident Agent is not a corporation, give a person's name.

PAYMENT BOND

STATE OF TEXAS)
)
COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and _____, 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 unto the **TOWN OF PROSPER**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Owner", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of _____ DOLLARS (\$_____) (one hundred percent (100%) of the total bid price) 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 penal sum of this Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement, which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement, which reduces the Contract price, decrease the penal 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 Owner, dated on or about the **23rd day of June A.D. 2020**, 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:

**CSP NO. 2020-34-B
WHITLEY PLACE TRAIL EXTENSION**

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 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.

**CSP NO: 2020-34-B
WHITLEY PLACE TRAIL EXTENSION**

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, this, the _____ day of _____, 2020.

ATTEST:

PRINCIPAL:

By: _____
Signature

By: _____
Signature

Typed/Printed Name

Typed/Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

[Signatures continued on following page.]

ATTEST:

By: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
Phone Fax

SURETY:

By: _____
Signature_____
Printed Name_____
Title_____
Address_____
City State Zip_____
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: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

NOTE: Date on Page 1 of Performance Bond must be same date as Contract. Date on Page 2 of Performance Bond must be after date of Contract. If Resident Agent is not a corporation, give a person's name.

MAINTENANCE BOND

STATE OF TEXAS)
)
 COUNTY OF COLLIN)

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter referred to as "Principal," and _____, a corporate surety/sureties organized under the laws of the State of _____ and fully licensed to transact business in the State of Texas, as Surety, hereinafter referred to as "Surety" (whether one or more), are held and firmly bound unto the **TOWN OF PROSPER**, a Texas municipal corporation, hereinafter referred to as "Owner," in the penal sum of _____ DOLLARS (\$_____) (one hundred percent (100%) of the total bid price), in lawful money of the United States to be paid to Owner, its successors and assigns, for the payment of which sum well and truly to be made, we bind ourselves, our successors, heirs, executors, administrators and successors and assigns, jointly and severally; and firmly by these presents, the condition of this obligation is such that:

WHEREAS, Principal entered into a certain written Contract with the Town of Prosper, dated on or about the **23rd day of June, 2020**, to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of:

**CSP NO. 2020-34-B
 WHITLEY PLACE TRAIL EXTENSION**

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.

**CSP NO: 2020-34-B
 WHITLEY PLACE TRAIL EXTENSION**

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 _____, 2020.

ATTEST:

PRINCIPAL:

By: _____
Signature

By: _____
Signature

Typed/Printed 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: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title

Title

Address

Address

City State Zip

City State Zip

Phone Fax

Phone Fax

SPECIAL CONDITIONS

SC.01 PURPOSE: The Special Conditions contained herein set forth conditions or requirements particular to this Contract: **CSP NO. 2020-34-B WHITLEY PLACE TRAIL EXTENSION**

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 DEFINITIONS: 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: BW2 Engineers, Inc., or his designee

SC.03 MINIMUM QUALIFICATIONS OF VENDORS: The Town will only consider Bidders who meet the Minimum Qualifications identified in this section. Should the Town determine, in its sole discretion, that the Bidder does not meet these Minimum Qualifications, the Town will disqualify the Bidder and its bid will be rejected as non-responsive. Experience performing projects of similar scope, quantities, and cost will be a primary consideration of meeting the minimum qualifications.

The Bidder shall submit within five (5) days of the Owner's request such evidence as the Owner may require to establish its financial responsibility, experience and possession of such equipment as may be needed to prosecute the work in an expeditious, safe and satisfactory manner. Bidders are subject to disqualification if they fail to provide evidence within the five-day period. Confidential bidders are strongly encouraged to have this evidence ready by Bid Opening. Submissions will be made to the Director of Engineering Services, Town of Prosper, 250 W. First Street, Prosper, Texas.

The Town reserves the right to conduct site/yard visits to the Bidders' place of business, yard sites or current project sites. The required information to be submitted shall consist of, but shall not necessarily be limited to, the following:

- A. Current Project Experience. A list of all projects presently under construction by the bidder including approximate cost, project start date and estimated completion date shall be submitted.
- B. Past Project Experience. A minimum of three (3) comparable projects in each category listed below meeting the following requirements shall be submitted:
 1. Roadway and Drainage Projects or similar Hike and Bike Trail Projects
 - a. Completed within the previous five years from the date of Owner's request;
 - b. Located in the Dallas-Fort Worth Metroplex;
 - c. Total Construction Cost for paving and drainage and related improvements of at least \$500,000;
 - d. Scope of work consisting of similar items and quantities including concrete paving and storm drainage improvements; and
 - e. Copy of actual project schedule used during construction.

- C. Key Personnel Resumes. If requested, bidder shall provide resumes of LOCAL personnel expected to oversee this project. Resumes shall be provided for executive and management team as well as on-site project manager.
- D. Financial Statement. Each Bidder shall be prepared to submit upon request of the Owner a financial statement prepared by an independent Certified Public Accountant with no evidence of threatening losses (current within the last six (6) months of bid date). This information will be used to confirm that the Bidder has suitable financial status to meet obligations incidental to performing the work.
- E. Proof that the bidder maintains a permanent place of business (must be submitted within five (5) days if requested).

SC.04 INTRODUCTION: The Town of Prosper ("Town") is accepting competitive sealed proposals (CSP) for furnishing all labor, equipment and materials (except as otherwise specified), and performing all work necessary for the construction of Whitley Place Trail Extension project.

The contract will be awarded based on the evaluation criteria stated herein. This document provides interested firms with the information necessary to prepare and submit a proposal for consideration. Proposals are to be submitted in accordance with this document, and the accompanying instructions.

There is no expressed or implied obligation for the Town to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. All costs directly or indirectly related to preparation of a response to this request for competitive sealed proposals (CSP), any oral presentation required to supplement and/or clarify a proposal, and/or reasonable demonstrations which may be, at its discretion, required by the Town shall be the sole responsibility of, and shall be borne completely by the proposer.

Proposals for the projects as 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. The Town reserves the right to reject any or all proposals submitted.

Proposals submitted will be reviewed by Town staff. It is the responsibility of the proposer to ensure the receipt of any and all addenda related to the proposal. It shall be the sole responsibility of the respondent to insure that their proposal is received by the Purchasing Office within the time limit indicated. Late proposals will not be considered.

During the evaluation process, the Town reserves the right, where it may serve the Town's best interest, to request additional information or clarifications from proposers, or to allow corrections of errors or omissions. At the discretion of the Town, firms submitting proposals may be requested to make oral presentations as part of the evaluation process, including an oral presentation to the Town Council.

The Town reserves the right to retain all proposals submitted, and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this CSP, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the Town and the firm selected. All proposals submitted will remain valid for a period of 90 days subsequent to the CSP due date.

SC.05 SPECIFICATIONS: Proposal must meet or exceed the specifications and requirements herein, in order to be considered.

SC06. TESTING, INSPECTION AND CONTROL: The Town will require materials testing and construction inspection to be performed by a commercial Material Testing Firm selected by the Contractor and approved by the Owner. The contractor shall coordinate with this Material Testing firm during construction of the project for all testing required. Coordination shall consist of the following items:

- Contractor to notify the Material Testing firm and the Town Inspector 48 hours in advance of all required testing.
- Provide access to project and testing areas sufficient to perform the required tests.
- Furnish incidental labor and facilities as required for testing.
- Provide a secure onsite storage area for test samples.
- Provide necessary Traffic Control for testing performed in traffic areas.
- Contractor to request Standard Proctor tests from the Material Testing Firm and Town Inspector at least ten (10) days in advance of beginning subgrade or trench excavation.

The Contractor will pay for all testing as required in the contract documents.

SC.07 BOND PROJECT SIGNS: The Contractor shall furnish and erect Bond Project signs at the locations on all bond funded projects as directed by the Town, payment for same shall be as provided in the proposal. The unit bid price of the sign includes fabrication, installation, modifications requested by the Town The Contractor shall be responsible for the protection and maintenance of these signs for the duration of the project.

The Bond Project signs shall meet the size and style requirements of the Town in dimension and information. The contractor shall submit a sample document of the sign for the Town's approval. The Bond Project signs shall include the project's TCEQ SWPPP permit number and shall also reference the Texas Parks and Wildlife Department as a contributor to the project.

SC.08 MOBILIZATION: This item shall consist of the mobilization of personnel, equipment and supplies at the project site in preparation for commencing work on other contract items. Mobilization shall include, but is not limited to, the movement of equipment, personnel, material, supplies, etc., to the project site and the establishment of necessary field facilities.

- A. Measurement of the item "Mobilization" as specified herein, will be by the "lump sum", as the work progresses.
- B. The price proposed for mobilization may not exceed five (5) percent of the total contract amount for the project. Partial payments of the lump sum proposed for mobilization will be as follows:
 1. When ten (10) days of contract time have elapsed, fifty (50) percent of the mobilization lump sum proposed will be paid on the following monthly payment.
 2. When twenty-five (25) days of contract time have elapsed, one hundred (100) percent of the mobilization lump sum proposed will be paid on the following monthly payment, minus retainage.
 3. Upon completion of all work under this contract, payment for the remainder of the lump sum proposed for mobilization will be made.

SC.09 PRESERVATION AND PROTECTION OF TREES, SHRUBS AND VEGETATION: No trees, shrubs or vegetation shall be removed except upon the specific authority of the Town. Trees adjacent to the work shall be protected in accordance with the Town Park Department Standard Details and Specifications.

It is the Town's intention that all native plant material at this project site not specifically indicated on the plans for removal be protected and preserved. The contractor shall take all necessary precautions to avoid damage

or removal of trees, shrubs and other plant materials that are to remain following construction. Specimen trees and other plants within and closely adjacent to construction sites shall be adequately protected by the Contractor.

Do not store, stack or place equipment, material, chemicals or supplies within twenty-five (25) feet from edge of canopy of any plant materials that are to remain.

Plant protection requirements cited above include authorized pruning and cutting of limbs and major roots. The Contractor is cautioned not to cut, prune or otherwise remove plant parts without prior approval and guidance by the Town inspector or representative. Any trees, shrubs or vegetation removed without approval by the Town will be replaced as directed by the Town and at the Contractors expense.

No separate measurement or payment will be made for preservation and protection of plant materials. This item shall be considered incidental to the other various items bid for the project.

- SC.10 EROSION CONTROL:** An Erosion Control Plan (ECP) has been prepared for the project and is incorporated into this bid package. As part of the Erosion Control bid item, the Contractor shall prepare the Storm Water Pollution Prevention Plan (SW3P). The Contractor and the Town will be co-operators for the site as defined in the Texas Pollution Discharge Elimination System (TPDES) General Permit issued for storm water discharges from construction sites. Both the Contractor and the Town will submit a Notice of Intent (NOI) as co-permittees to discharge storm water from sites that disturb more than 5 acres in compliance with the General Permit. Both the Town and the Contractor will generate a construction site notice to discharge storm water from sites that disturb more than 1 acre in compliance with the General Permit.

All additional contractors and/or subcontractors whose activities impact the (SW3P) shall sign a certification similar to that shown in Section IX - Erosion Control stating that they understand their responsibilities under the Plan.

The SW3P should be prepared in accordance with the most current North Central Texas Council of Governments (NCTCOG) best practices for construction activities manual which has been adopted by the Town of Prosper as a means for compliance with the TPDES General Permit. All other SW3P's that may be prepared in relation to this project must comply with the BMP Manual and, ultimately, the TPDES General Permit. Copies of the BMP Manual are available at the offices of the North Central Texas Council of Governments and on the NCTCOG website.

All Stormwater Pollution Prevention Plan measures and fees, including but not limited to those shown on the Erosion Control Plan and described in the Contract Documents shall be paid on a lump sum basis under the Erosion Control pay item. Temporary seeding, hydro mulching or sodding required during construction, prior to final resodding, will not be paid for separately but shall be paid for under this lump sum item.

All Site Operators/Contractors shall become familiar with and comply with all requirements detailed in the NCTCOG manual.

- SC.11 VIDEO OF WORK SITE:** The Contractor shall be required to video the entire project work site prior to beginning construction. A copy of the tape shall be furnished to the Town prior to the first pay request. (No separate pay item). Any damage identified during and after construction not documented is assumed to be the responsibility of the Contractor and the Contractor shall replace or repair any damaged areas at no cost to the Town.

- SC.12 DAMAGE AND RESTORATION OF SITE:** The Contractor shall minimize disturbance to the immediate area of the project work. Any damage to existing facilities or materials (including sidewalk, trail, landscaping, plant material, irrigation, etc.) shall be restored by the Contractor to equal or better than original conditions at no

cost to the Town. Damaged existing sidewalks and/or trails shall be removed and replaced with full panel replacements. Any damaged plant material on existing medians / roadways will require replacement by the Contractor at no cost to the Town.

SC.13 SUBMITTALS: In order for your proposal to be considered responsive, the following information must be submitted:

A. Qualifications and Experience

- 1) Outline contractor and subcontractor experience with similar projects, and label as **Attachment A1**.
- 2) Outline qualifications of key personnel assigned to this project and label as **Attachment A2**.
- 3) Complete the References Worksheet and label as **Attachment A3**.

B. Pricing

- 1) For online submissions, please submit the line item pricing.
- 2) For hard copy submissions, you must print and complete the Bid Lines and submit it with your proposal.
- 3) The Town is exempt from paying Texas State or local sales and use taxes. Please ensure the prices proposed do not include taxes.

C. Bid Proposal Conditions (Bid Attributes)

- 1) For online submissions, you must select "I Agree", or provide the requested information for each condition.
- 2) For hard copy submissions, you must complete and print the Bid Attributes section and submit it with your proposal.

D. Supplier Information

- 1) For hard copy submissions, you must complete and print the Supplier Information section and submit it with your proposal.

SC.14 EVALUATION CRITERIA: A review committee will evaluate submissions received in accordance with the general criteria defined herein. Failure of respondents to provide in their submission any information requested in this CSP may result in disqualification of the submission. The objective of the review committee will be to select the Proposal that provides the best value to the Town. The decision made by the Town of Prosper will be final. The agreement will be awarded based on the following evaluation criteria:

- A. Qualifications and Experience (30%)
- B. Proposed Project Timeline (20%)
- C. Cost Proposal (50%)

SC.15 INTERVIEWS AND PRESENTATIONS: In fairness to all firms, requests for interviews prior to the closing time and date will not be permitted. Interviews with selected firms may or may not be requested by the Town after the closing date. Selection may be made strictly from the information provided in the Proposal. However, the Town reserves the right to conduct interviews with and request presentations from any respondents.

SC.16 SELECTION AND AWARD: If the Town is unable to reach an agreement with the first-ranked Contractor, the Town shall terminate further discussions with the first-ranked Contractor, and commence negotiations with the next-ranked Contractor, in the order of the selection ranking until an agreement is reached, or all Proposals

are rejected. Time is of the essence, and the award of the contract to the successful Contractor is expressly conditioned upon (1) the Contractor's execution and delivery of the Contract, and delivery of all required bonds and evidence of insurance, within ten (10) calendar days after the Contractor is notified of the acceptance of its Proposal, and (ii) the Contractor's timely fulfillment of any and all other preconditions expressly set forth in the Contract Documents. Should the Contractor fail to timely execute and deliver the contract, required bonds, evidence of insurance, or fail to timely fulfill any other such preconditions, the Town may, at its option and discretion, without releasing, impairing or affecting its right to receive the Proposal security as damages for such failure, rescind the award, commence negotiations with the next ranked Contractor, or may reject all Proposals.

There will be no contractual obligation on the part of the Town to any Contractor, nor will any firm have any property interest or other right in the contract or work being proposed, unless and until the Agreement is unconditionally executed and delivered by all parties, all submittals required by the Proposal Documents and Agreement and all conditions to be fulfilled by the selected firm have either been so fulfilled by the firm, or waived in writing by the firm or Town, as applicable.

SC.17 SUBMISSION OR DELIVERY OF PROPOSAL: Proposals 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

Proposals 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

Proposals must be submitted with the CSP 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 proposal, 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: **GENERAL:** Materials furnished and construction methods utilized for this project shall be in conformance with the North Central Texas Council of Governments (NCTCOG) "Standard Specifications for Public Works Construction" (current edition), as amended or supplemented (**SEPARATE DOCUMENT NOT INCLUDED**) and the Town of Prosper standards and specifications (current version), including the current specifications for and rules governing improvements upon subdivisions of land within the jurisdiction of the Town of Prosper, Texas, and the Texas Department of Transportation "Standard Specifications for Construction of Highways, Streets and Bridges" (current version) (**SEPARATE DOCUMENT NOT INCLUDED**).

Where conflicts exist, the following documents shall govern in the following order: (1) Town of Prosper standards and specifications; (2) Construction Plans; (3) Project Manual; and (4) NCTCOG's "Standard Specifications for Public Works Construction".

Please reference the Construction Plans for all other technical specifications

GEOTECHNICAL REPORT

GR.01 GENERAL: See attached Geotechnical Report by ECS Southwest, LLC, Report 19:7578 dated February 13, 2019.



2020-34-B Addendum 7

Ratliff Hardscape, Ltd

Supplier Response

Event Information

Number: 2020-34-B Addendum 7
Title: Whitley Place Trail Extension
Type: Competitive Sealed Proposals
Issue Date: 3/11/2020
Deadline: 4/9/2020 02:00 PM (CT)

Notes: The Town of Prosper is accepting competitive sealed proposals for **CSP NO. 2020-34-B WHITLEY PLACE TRAIL EXTENSION**. Proposals 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 **2:00 P.M. on Thursday, April 2, 2020**. Any proposals received after this time will not be accepted, and will be returned unopened. Proposals will be publicly opened and read aloud in the Finance Conference Room, located in the 3rd Floor Finance Suite of Town Hall, 250 W. First St., Prosper, Texas 75078, immediately following the proposal deadline.

The Project consists of furnishing all labor, equipment and materials (except as otherwise specified), and performing all work necessary for the construction of the Whitley Place Trail Extension project which generally includes a 10' wide reinforced concrete trail, a 150' pedestrian bridge, grading, sodding, hydromulching, pavilion structure, benches, etc. along with other related improvements.

Each proposal submitted shall be accompanied by a cashier's check

in the amount of 5% of the maximum amount proposed, 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.

Attachment 3

Item 6.

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 Parks and Recreation Department, 409 E. First Street, Prosper, Texas, 75078, Phone: (972) 569-1160** without charge. These documents may be acquired from that office for the non-refundable purchase price of \$25 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 regards to this proposal should be emailed directly to January Cook, CPPO, CPPB, Purchasing Manager, at january_cook@prospertx.gov. The deadline for receipt of questions and requests for clarifications is **12:00 P.M. on Friday, March 27, 2020**. 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 the Planholder Registration form to be placed on the official Planholder Listing for this project.

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

Ratliff Hardscape, Ltd Information

Attachment 3

Item 6.

Contact: Lisa McBurrows
Address: 1740 MIDWAY RD
Lewisville
Lewisville, TX 75056
Phone: (972) 436-2508
Email: lisa@ratliffhardscape.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Lisa McBurrows

Signature

Submitted at 4/9/2020 11:21:13 AM

lisa@ratliffhardscape.com

Email

Requested Attachments

Bid Bond

Whitley Place Trail Bid Bond 2020-04.01.pdf

Attachment A1

Outline contractor and subcontractor experience with similar projects

Whitley Place Trail Ext - Subcontractor List.pdf

Attachment A2

Outline qualifications of key personnel assigned to this project

B McWhorter Resume 2018-12.11.doc

Attachment A3

Complete the References Worksheet

Whitley Place Trail Ext - References.pdf

Out of State Contractor Compliance Form (Optional)

Only if applicable

No response

Conflict of Interest Form (optional)

Only if applicable

No response

Response Attachments

Whitley Place Trail Ext - Bidder's Qualifications.pdf

Bidder's Qualification

Bid Attributes

1 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

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

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

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 Agree

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 proposed based on date of Notice to Proceed.**

I Agree

11 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 within **the number of calendar days proposed** 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

12 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

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

14 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

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

1 6	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. <input type="text" value="I Agree"/>	Attachment 3 <div style="border: 1px solid black; padding: 2px; display: inline-block;">Item 6.</div>
----------------	--	--

1 7	Base Bid Cost of Materials <input type="text" value="\$422368.49"/>
----------------	--

1 8	Base Bid Cost of Labor, Profit, etc. <input type="text" value="\$281579.00"/>
----------------	--

1 9	Addendum No. 1 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) <input type="text" value="Acknowledged"/>
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2 0	Addendum No. 2 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) <input type="text" value="Acknowledged"/>
----------------	---

2 1	Addendum No. 3 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) <input type="text" value="Acknowledged"/>
----------------	---

2 2	Addendum No. 4 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) <input type="text" value="Acknowledged"/>
----------------	---

2 3	Addendum No. 5 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) <input type="text" value="Acknowledged"/>
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2 4	Addendum No. 6 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) <input type="text" value="Acknowledged"/>
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2 5	Addendum No. 7 Bidder has examined copies of all the Contract Documents and of the following Addenda (if issued) <input type="text" value="Acknowledged"/>
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2 6	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. <input type="text" value="See attached"/>
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2 7	Subcontractor 1 - Type of Work	Attachment 3	Item 6.
		See attached	

2 8	Subcontractor 1 - % of Work
	No response

2 9	Subcontractor 2 - Name
	See attached

3 0	Subcontractor 2 - Type of Work
	See attached

3 1	Subcontractor 2 - % of Work
	No response

3 2	Subcontractor 3 - Name
	No response

3 3	Subcontractor 3 - Type of Work
	No response

3 4	Subcontractor 3 - % of Work
	No response

3 5	Subcontractor 4 - Name
	No response

3 6	Subcontractor 4 - Type of Work
	No response

3 7	Subcontractor 4 - % of Work
	No response

3 8	Subcontractor 5 - Name
	No response

3 9	Subcontractor 5 - Type of Work
	No response

4 0	Subcontractor 5 - % of Work
	No response

4 1	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.
	No response

4 2	Supplier 1 - Type of Material/Equipment	Attachment 3	Item 6.
	<input type="text" value="No response"/>		
4 3	Supplier 2 - Name		
	<input type="text" value="No response"/>		
4 4	Supplier 2 - Type of Material/Equipment		
	<input type="text" value="No response"/>		
4 5	Supplier 3 - Name		
	<input type="text" value="No response"/>		
4 6	Supplier 3 - Type of Material/Equipment		
	<input type="text" value="No response"/>		
4 7	Supplier 4 - Name		
	<input type="text" value="No response"/>		
4 8	Supplier 4 - Type of Material/Equipment		
	<input type="text" value="No response"/>		
4 9	Supplier 5 - Name		
	<input type="text" value="No response"/>		
5 0	Supplier 5 - Type of Material/Equipment		
	<input type="text" value="No response"/>		
5 1	Project Timeline: Substantial Completion		
	Provide number of calendar days to reach substantial completion of project.		
	<input type="text" value="No response"/>		
5 2	Project Timeline: Final Completion		
	Provide number of calendar days to reach final completion of project.		
	<input type="text" value="No response"/>		

Bid Lines

1	Mobilization, Bonds, Insurance and all Permitting (entire project), complete, per unit				
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Unit Price: <input type="text" value="\$35,937.50"/>	Total: <input type="text" value="\$35,937.50"/>		
2	All Traffic Control Measures, including construction sequencing, barricading, traffic control design, panels, signs, temporary pavement markings and temporary asphalt pavement, complete in place, per unit				
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Unit Price: <input type="text" value="\$9,200.00"/>	Total: <input type="text" value="\$9,200.00"/>		
3	Temporary Erosion Control, including providing SWPPP, NOI, and filing with TCEQ complete in place, per unit				
	Quantity: <u> 1 </u> UOM: <u> LS </u>	Unit Price: <input type="text" value="\$19,826.00"/>	Total: <input type="text" value="\$19,826.00"/>		

4	Clearing and Grubbing, including removal of existing trees as noted, complete, per unit	Attachment 3	Item 6.
	Quantity: <u>2</u> UOM: <u>AC</u> Unit Price: <input type="text" value="\$17,250.00"/> Total: <input type="text" value="\$34,500.00"/>		
5	Furnish and Install Temporary Capital Project Sign, complete in place, per town standard details, per unit		
	Quantity: <u>2</u> UOM: <u>EA</u> Unit Price: <input type="text" value="\$690.00"/> Total: <input type="text" value="\$1,380.00"/>		
6	Unclassified Excavation, including hauling and recompaction in other locations on site, complete in place, per unit		
	Quantity: <u>1600</u> UOM: <u>CY</u> Unit Price: <input type="text" value="\$7.50"/> Total: <input type="text" value="\$12,000.00"/>		
7	Place 5-inch 3500 psi Reinforced Concrete Trail Pavement, complete in place, per unit		
	Quantity: <u>2920</u> UOM: <u>SY</u> Unit Price: <input type="text" value="\$44.10"/> Total: <input type="text" value="\$128,772.00"/>		
8	Place 4-inch 3500 psi Reinforced Concrete Sidewalk Pavement, complete in place, per unit		
	Quantity: <u>90</u> UOM: <u>SY</u> Unit Price: <input type="text" value="\$42.75"/> Total: <input type="text" value="\$3,847.50"/>		
9	Longitudinal Butt Joint, complete in place, per unit		
	Quantity: <u>80</u> UOM: <u>LF</u> Unit Price: <input type="text" value="\$18.00"/> Total: <input type="text" value="\$1,440.00"/>		
10	Furnish and install Milsap stone retaining wall, including gravel pocket, filter fabric, and all appurtenances, all according to the plans and specifications, complete in place, per unit		
	Quantity: <u>143</u> UOM: <u>SFF</u> Unit Price: <input type="text" value="\$80.25"/> Total: <input type="text" value="\$11,475.75"/>		
11	Furnish and install reinforced concrete retaining wall (Class C) including reinforcing, footing, weep holes, and all other appurtenances, all according to the plans and specifications, complete in place, per unit		
	Quantity: <u>120</u> UOM: <u>SFF</u> Unit Price: <input type="text" value="\$43.25"/> Total: <input type="text" value="\$5,190.00"/>		
12	Furnish and Install 72-inchx22-inchx22-inch Limestone Blocks, including excavation, compaction, placement and all incidentals, complete in place, per unit		
	Quantity: <u>3</u> UOM: <u>EA</u> Unit Price: <input type="text" value="\$1,063.75"/> Total: <input type="text" value="\$3,191.25"/>		
13	Place 4-inch Thick Decomposed Granite, including filter fabric and compaction, complete in place, per unit		
	Quantity: <u>210</u> UOM: <u>SFF</u> Unit Price: <input type="text" value="\$40.00"/> Total: <input type="text" value="\$8,400.00"/>		
14	Furnish and Install Steel Edging, complete in place, per unit		
	Quantity: <u>42</u> UOM: <u>LF</u> Unit Price: <input type="text" value="\$7.50"/> Total: <input type="text" value="\$315.00"/>		
15	Furnish and Install 42-inch Tall Pedestrian Railing, complete in place, per unit		
	Quantity: <u>66</u> UOM: <u>LF</u> Unit Price: <input type="text" value="\$66.70"/> Total: <input type="text" value="\$4,402.20"/>		
16	Furnish and Install Small Road Sign Assemblies (pedestrian-scale), including posts and foundations, complete in place, per unit		
	Quantity: <u>1</u> UOM: <u>EA.</u> Unit Price: <input type="text" value="\$460.00"/> Total: <input type="text" value="\$460.00"/>		
17	Furnish and Install Collapsible Bollard, complete in place, per unit		
	Quantity: <u>2</u> UOM: <u>EA.</u> Unit Price: <input type="text" value="\$1,610.00"/> Total: <input type="text" value="\$3,220.00"/>		

1 8	Furnish and Install 8-inch HDPE Storm Pipe with Concrete Headwalls, complete in place, per Attachment 3 Item 6.	Quantity: <u>35</u> UOM: <u>LF</u>	Unit Price: <input type="text" value="\$149.50"/>	Total: <input type="text" value="\$5,232.50"/>
1 9	Furnish and Install 12-inch HDPE Storm Pipe with Concrete Headwalls, complete in place, per unit	Quantity: <u>80</u> UOM: <u>LF</u>	Unit Price: <input type="text" value="\$166.75"/>	Total: <input type="text" value="\$13,340.00"/>
2 0	Furnish and Install 12-inch Thick TxDOT Common Stone Grouted Riprap, including 12-inchx30-inch toewall and filter fabric, complete in place, per unit	Quantity: <u>110</u> UOM: <u>SY</u>	Unit Price: <input type="text" value="\$63.25"/>	Total: <input type="text" value="\$6,957.50"/>
2 1	Bermuda Solid Sod, including 4-inch of top soil, fertilizer and watering until established, complete in place, per unit	Quantity: <u>3665</u> UOM: <u>SY</u>	Unit Price: <input type="text" value="\$5.75"/>	Total: <input type="text" value="\$21,073.75"/>
2 2	Bermuda Hydromulch, including watering until established, complete in place, per unit	Quantity: <u>17100</u> UOM: <u>SY</u>	Unit Price: <input type="text" value="\$0.98"/>	Total: <input type="text" value="\$16,758.00"/>
2 3	Furnish and Install Pedestrian Steel Truss Bridge, complete in place, per unit	Quantity: <u>150</u> UOM: <u>LF</u>	Unit Price: <input type="text" value="\$1,314.45"/>	Total: <input type="text" value="\$197,167.50"/>
2 4	Construct 3600 PSI (Class C) 16-inch dia. Reinforced Concrete Pier, complete in place, per unit	Quantity: <u>120</u> UOM: <u>VF</u>	Unit Price: <input type="text" value="\$63.25"/>	Total: <input type="text" value="\$7,590.00"/>
2 5	Construct 3600 PSI (Class C) 24-inch dia. Reinforced Concrete Pier, complete in place, per unit	Quantity: <u>60</u> UOM: <u>VF</u>	Unit Price: <input type="text" value="\$80.50"/>	Total: <input type="text" value="\$4,830.00"/>
2 6	Construct Reinforced Concrete Abutments, complete in place, per unit	Quantity: <u>38.6</u> UOM: <u>CY</u>	Unit Price: <input type="text" value="\$806.15"/>	Total: <input type="text" value="\$31,117.39"/>
2 7	Construct Reinforced Concrete Pavilion Slab and Foundation including grade beams, structural slab, concrete piers, and other miscellaneous items, complete in place, per unit	Quantity: <u>1</u> UOM: <u>LS</u>	Unit Price: <input type="text" value="\$26,119.95"/>	Total: <input type="text" value="\$26,119.95"/>
2 8	Furnish and Install Standard Picnic Table, including all appurtenances, complete in place, per unit	Quantity: <u>3</u> UOM: <u>EA.</u>	Unit Price: <input type="text" value="\$1,819.30"/>	Total: <input type="text" value="\$5,457.90"/>
2 9	Furnish and Install Wheel Chair Accessible Picnic Table, including all appurtenances, complete in place, per unit	Quantity: <u>1</u> UOM: <u>EA.</u>	Unit Price: <input type="text" value="\$2,072.30"/>	Total: <input type="text" value="\$2,072.30"/>
3 0	Furnish and Install Complete Pavilion Structure, including all appurtenances, in accordance with the plans and specifications, complete in place, per unit	Quantity: <u>1</u> UOM: <u>LS</u>	Unit Price: <input type="text" value="\$63,020.00"/>	Total: <input type="text" value="\$63,020.00"/>
3 1	Furnish and Install 6 ft Pedestrian Benches, including all appurtenances, complete in place, per unit	Quantity: <u>2</u> UOM: <u>EA</u>	Unit Price: <input type="text" value="\$1,813.55"/>	Total: <input type="text" value="\$3,627.10"/>

3
2

Furnish all Required Materials Testing and Laboratory Services, complete, per unit

Attachment 3

Item 6.

Quantity: 1 UOM: LS

Unit Price:

Total:

Response Total: \$703,947.49



April 29, 2020

Ms. January M. Cook
Town of Prosper
PO Box 307
Prosper, Texas 75078

**Re: Additional Information: CSP No. 2020-34-B
Whitley Place Trail Extension**

Sent via: E-Mail

Dear Ms. Cook:

Please accept this letter in response to The Town of Prosper inquiry/clarification into our bid for Whitley Place Trail Extension.

1. Project Timeline: Substantial Completion

We should reach substantial completion for the project by 150 calendar days. The two main driving forces for this scheduling are the 10 to 12 weeks lead time for the pavilions and the 3 to 4 weeks needed for the bridge shop drawings and approval and then 10-12 week lead time for the manufacturing. We will need time to install and complete trail leave outs for crane access and landscaping for bridge installation.

2. Project Timeline: Final Completion

We should reach final completion for the project by 165 calendar days or an additional 15 days from substantial completion.

3. Bridge Manufacture Information:

The bridge manufacturer that we have selected for this project is Continental Bridges by Contech. Contech acquired Continental Bridges in 2000, but has been in business since the 80's. They have installed about 10,000 bridges across the US since the 80's. We have installed 10 to 12 of them in the DFW area over the last 5 years.

Let me know if you have any questions or need additional info. I can be best reached by my cell phone at (817) 692.3508.

Sincerely,

Booder McWhorter
President & C.O.O.

January Cook
Town of Prosper
PO Box 307
Prosper, Texas 75078
jcook@prospertx.gov



PROPOSAL BEST AND FINAL

PROJECT: Whitley Place

DATE: 6/16/20

LOCATION: Prosper, Texas

PROPOSAL NO: 10-20-06.16-04

Ratliff Hardscape, Ltd. proposes to furnish equipment, materials, and labor to perform the following work for the referenced project.

All bid items and quantities included in the scope of work were based on plans dated, N/A, by BW2 Engineers

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
01	Mobilization, Bonds, Insurance and all Permitting (entire project),	1	LS	35,937.50	\$ 35,937.50
02	All Traffic Control Measures, including construction sequencing, barricading & traffic control design, panels, signs, temporary pavement markings and temporary asphalt pavement	1	LS	9,200.00	\$ 9,200.00
03	Temporary Erosion Control, including providing SWPPP, NOI, and filing with TCEQ complete in place	1	LS	19,826.00	\$ 19,826.00
04	Clearing and Grubbing, including removal of existing trees as noted	2	AC	17,250.00	\$ 34,500.00
05	Furnish and Install Temporary Capital Project Sign, complete in place, per town standard detail	2	EA	690.00	\$ 1,380.00
06	Unclassified Excavation, including hauling and recompaction in other locations on site	1,600	CY	7.50	\$ 12,000.00
07	Place 5-inch 3500 psi Reinforced Concrete Trail Pavement,	2,920	SY	44.10	\$ 128,772.00
08	Place 4-inch 3500 psi Reinforced Concrete Sidewalk Pavement,	90	SY	42.75	\$ 3,847.50
09	Longitudinal Butt Joint, complete in place,	80	LF	18.00	\$ 1,440.00
10	Furnish and install reinforced concrete retaining wall (Class C), including reinforcing, footing, weep holes and all other appurtenances	143	SF	43.25	\$ 6,184.75
11	Furnish and install reinforced concrete retaining wall (Class C), including reinforcing, footing, weep holes and all other appurtenances	120	SF	43.25	\$ 5,190.00
12	Furnish and Install 42-inch Tall Pedestrian Railing,	66	LF	66.70	\$ 4,402.20
13	Earnish and Install Small Road Sign Assemblies (pedestrian-scale), including posts and foundations,	1	EA	460.00	\$ 460.00
14	Furnish and Install 8-inch HDPE Storm Pipe with Concrete Headwalls,	35	LF	149.50	\$ 5,232.50
15	Earnish and Install 12-inch HDPE Storm Pipe with Concrete Headwalls,	80	LF	166.75	\$ 13,340.00
16	Earnish and Install 12-inch Thick TxDOT Common Dry Stone Riprap, including 12-inchx30-inch toewall	110	SY	63.25	\$ 6,957.50
17	Bermuda Solid Sod, including 4-inch of top soil, fertilizer and watering until established,	3,665	SY	5.75	\$ 21,073.75
18	Bermuda Hydromulch, including watering until established,	17,100	SY	0.98	\$ 16,758.00
19	Earnish and Install Pedestrian Steel Truss Bridge,	150	LF	1,265.00	\$ 189,750.00
20	Construct 3600 PSI (Class C) 16-inch dia. Reinforced Concrete Pier	120	VF	63.25	\$ 7,590.00
21	Construct 3600 PSI (Class C) 24-inch dia. Reinforced Concrete Pier,	60	VF	80.50	\$ 4,830.00
22	Construct Reinforced Concrete Abutments (Structural by Ratliff)	39	CY	621.00	\$ 23,970.60
23	Pavilion Pad on Grade w/ 4 Piers at Columns (Structural design by Ratliff)	1	LS	11,040.00	\$ 11,040.00
24	Earnish and Install Standard Picnic Table, including all appurtenances,	3	EA	1,819.30	\$ 5,457.90
25	Earnish and Install Wheel Chair Accessible Picnic Table, including all appurtenances	1	EA	2,072.30	\$ 2,072.30
26	Furnish and Install Complete Pavilion Structure, including all appurtenances	1	LS	63,020.00	\$ 63,020.00
27	Furnish and Install 6 ft Pedestrian Benches, including all appurtenances	2	EA	1,813.55	\$ 3,627.10
28	Furnish all Required Materials Testing and Laboratory Services	1	LS	16,026.40	\$ 16,026.40
<p>Notes: Ratliff Hardscape will provide structural design for bridge abutments and pavilion foundation to submit for approvals prior to construction.</p> <p>Abutment drawing will need to include the additional piers along the wing walls unless otherwise approved by the Town</p>					

BID BOND

Conforms with The American Institute of Architects, A.I.A. Document No. A-310

KNOW ALL BY THESE PRESENTS, That we, Ratliff Hardscape, Ltd.

1740 Midway Road, Lewisville, Texas 75056

_____ as Principal, hereinafter called the Principal,
and the Continental Casualty Company

of 151 N. Franklin, Chicago, IL 60606, a corporation duly organized under

the laws of the State of Illinois, as Surety, hereinafter called the Surety, are held and firmly bound unto

Town of Prosper, Texas, 200 S. Main, Prosper, TX 75078 as Obligee, hereinafter called the Obligee,

in the sum of *** FIVE PERCENT OF TOTAL AMOUNT BID BY PRINCIPAL ***

Dollars (5% TAB) , for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Whitley Place Trail Extension

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 2nd day of April, 2020.

[Signature]
Wizer McBURROWS Sr. Admin Mgr. Witness

Ratliff Hardscape, Ltd. (Seal)
Principal
[Signature]
Boader McWhorter President Title

[Signature]
William Little Witness

Continental Casualty Company
By [Signature]
Patricia Ann Lyttle Attorney-in-Fact

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company (herein called "the CNA Companies"), are duly organized and existing insurance companies having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signatures and seals herein affixed hereby make, constitute and appoint

Gary W Wheatley, Bryan K Moore, Clark D Fresher, Betty J Reeh, Individually, of San Antonio, TX
Michael D Hendrickson, Patricia Ann Lyttle, Individually, of Irving, TX

their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their insurance companies and all the acts of said Attorney, pursuant to the authority hereby given is hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the insurance companies.

In Witness Whereof, the CNA Companies have caused these presents to be signed by their Vice President and their corporate seals to be hereto affixed on this 24th day of August, 2016.

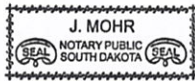


Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania

Paul T. Bruflat Vice President

State of South Dakota, County of Minnehaha, ss:

On this 24th day of August, 2016, before me personally came Paul T. Bruflat to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company described in and which executed the above instrument; that he knows the seals of said insurance companies; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said insurance companies and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said insurance companies.



My Commission Expires June 23, 2021

J. Mohr Notary Public

CERTIFICATE

I, D. Bult, Assistant Secretary of Continental Casualty Company, an Illinois insurance company, National Fire Insurance Company of Hartford, an Illinois insurance company, and American Casualty Company of Reading, Pennsylvania, a Pennsylvania insurance company do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the insurance companies printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said insurance companies this 2nd day of April, 2020



Continental Casualty Company
National Fire Insurance Company of Hartford
American Casualty Company of Reading, Pennsylvania

D. Bult Assistant Secretary

State of Texas
Claim Notice Endorsement

To be attached to and form a part of Bond No. _____.

In accordance with Section 2253.021(f) of the Texas Government Code and Section 53.202(6) of the Texas Property Code any notice of claim to the named surety under this bond(s) should be sent to:

CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606

Telephone: 1-877-672-6115

Figure: 28 TAC §1.601(a)(3)

1 IMPORTANT NOTICE

To obtain information or make a complaint:

2 You may contact Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company at 312-822-5000.

3 You may call Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company's toll-free telephone number for information or to make a complaint at:

1-877-672-6115

4 You may also write to Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company at:

CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606

5 You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

6 You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
Fax: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

7 PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA and Continental Insurance Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

8 ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

Form F8277-6-2018

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Puede comunicarse con Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company al 312-822-5000.

Usted puede llamar al numero de telefono gratis de Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company's para informacion o para someter una queja al:

1-877-672-6115

Usted tambien puede escribir a Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company:

CNA Surety
151 North Franklin, 17th Floor
Chicago, IL 60606

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, 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: (512) 490-1007
Web: www.tdi.texas.gov
E-Mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concniente a su prima o a un reclamo, debe comunicarse con el Continental Casualty Company, National Fire Insurance Company de Hartford, American Casualty Company de Reading, PA y Continental Insurance Company 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.



ENGINEERING SERVICES

To: Mayor and Town Council

From: Dan Heischman, P.E., Assistant Director of Engineering Services – Development

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – June 23, 2020

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a License, Maintenance, and Hold Harmless Agreement between Prosper 236, LLC, Lakewood HOA, Inc., and the Town of Prosper, Texas, related to the installation and maintenance of a screening wall and two columns within the right-of-way of Meadowbrook Boulevard in the Lakewood, Phase 1A development.

Description of Agenda Item:

During the final acceptance process for Lakewood, Phase 1A this spring, it was discovered that a portion of a screening wall and two columns were built within the right-of-way of Meadowbrook Boulevard. In lieu of a typical side yard wood privacy fence along the right-of-way line, the developer requested a masonry screening wall instead, due to the lot being located at the entry into the development off Coit Road. Due to the width of the screening wall and the two columns, half of the improvements actually encroach into the right-of-way. Staff inspected the improvements and determined that the improvements are not in conflict with any utilities and that the substantial cost to relocate the improvements outside the right-of-way would be prohibitive. To allow the screening wall and two columns to remain in the current location, a License, Maintenance, and Hold Harmless Agreement is recommended.

Legal Obligations and Review:

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

Attached Documents:

1. License, Maintenance, and Hold Harmless Agreement
2. Screening Wall Exhibit

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Manager to execute a License, Maintenance, and Hold Harmless Agreement between Prosper 236, LLC, Lakewood HOA, Inc., and the Town of Prosper, Texas, related to the installation and maintenance of a screening wall and two columns within the right-of-way of Meadowbrook Boulevard in the Lakewood, Phase 1A development.

Proposed Motion:

I move to authorize the Town Manager to execute a License, Maintenance, and Hold Harmless Agreement between Prosper 236, LLC, Lakewood HOA, Inc., and the Town of Prosper, Texas, related to the installation and maintenance of a screening wall and two columns within the right-of-way of Meadowbrook Boulevard in the Lakewood, Phase 1A development.

LICENSE, MAINTENANCE & HOLD HARMLESS AGREEMENT

This License, Maintenance & Hold Harmless Agreement (“**Agreement**”), dated June 23, 2020 (the “**Effective Date**”) is made by and between PROSPER 236, LLC, a Texas limited liability company (“**Developer**”), the Lakewood HOA, Inc. (“**HOA**”), and the TOWN OF PROSPER, TEXAS, a Texas home-rule municipality (“**Prosper**”), and is made with reference to the recitals set forth below concerning the real property located at Lot 1, Block A, Lakewood Phase 1A, Prosper, Texas (the “**Property**”), as both described and depicted in Exhibit “A”.

WHEREAS, Developer is the owner and developer of the Property, a single-family residential development; and

WHEREAS, Developer has constructed a masonry screening wall and two stone and brick columns located on the southern property line of Lot 1, Block A, in Lakewood Phase 1A, and both the wall and the two columns each encroach into Prosper’s right-of-way; and

WHEREAS, the Town has agreed to permit such minimal encroachment to remain, subject to the terms and conditions contained herein; and

WHEREAS, Developer and Prosper acknowledge and agree that the HOA, at its sole cost and expense, shall own and maintain the screening wall and columns; and

WHEREAS, the parties have reached agreements with respect to the possible impact or damage to the screening wall and columns.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. License. Subject to the terms and conditions of this Agreement, and to the extent of the right, title, and interest of the Town, and without any express or implied warranties, the Town grants to Developer and HOA permission to keep the minimal encroachment of the above-referenced masonry columns in Prosper’s right-of-way.

2. Hold Harmless. Developer shall hold harmless Prosper and Prosper’s Council Members, officers, agents, employees, representatives, successors and assigns from, against, for and in respect of all damages, losses, obligations, liabilities, claims, deficiencies, costs and expenses to the screening wall and columns based on or resulting from any maintenance, repair or other lawful use by Prosper within the right-of-way adjacent to the screening wall and columns.

3. Release. Developer and HOA hereby release Prosper, its Council Members, officers, agents, representatives and employees, from and against, and waives any and all rights to, any and all claims and/or demands for damages (personal or property), injury (including death), or otherwise, it/they may have with regard to the screening wall and columns based on or resulting from any maintenance, repair or other lawful use by Prosper within the right-of-way adjacent to the screening wall and columns located on the Property, in whole or in part, directly or indirectly, as provided in this Agreement.

4. Ownership and Maintenance. HOA shall own and maintain the masonry

screening wall and columns in reasonable condition, at no cost to the Town.

5. No Lease or Conveyance of Property Interest. This Agreement shall not be construed as a lease or as a conveyance of any right, title, or interest in Prosper's public right-of-way, but instead, this Agreement constitutes a grant of the privilege, permit, and license for Developer and HOA.

6. Developer, HOA and Prosper further agree that the provisions of this Agreement shall constitute a covenant running with the land described in Exhibit A attached hereto. The parties agree that this agreement shall be filed in the Deed Records of Collin County, Texas.

7. This Agreement shall inure to and bind the heirs, personal representatives, successors and assigns of the parties hereto.

8. If any provision in this Agreement be held to be void or unenforceable under the laws of any place governing its construction or enforcement, this Agreement shall not be void, but shall be construed to be in force with the same effect as though such provision were omitted.

9. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and is specifically performable in Collin County, Texas.

10. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

11. Nothing contained in this Agreement shall be construed as a waiver by Prosper of its governmental immunity.

12. The recitals set forth above are incorporated herein as if repeated verbatim.

Remainder of page intentionally blank


IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be signed as of the date first above written.

PROSPER 236, LLC
a Texas limited liability company



Aaron R. Richards, Authorized Signatory

Lakewood HOA, INC.
a Texas non-profit corporation



Aaron R. Richards, Director

TOWN OF PROSPER, TEXAS

By: _____
Harlan Jefferson, Town Manager

THE STATE OF IDAHO §
COUNTY OF MADISON §

BEFORE ME, the undersigned authority, on this day personally appeared Aaron R. Richards, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the Authorized Signatory of **PROSPER 236, LLC**, a Texas limited liability company, and he executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16 day of June, 2020.

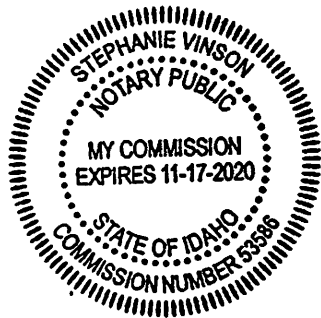


Stephanie Vinson
Notary Public in and for the State of Idaho
My Commission Expires: 11/17/20

THE STATE OF IDAHO §
COUNTY OF MADISON §

BEFORE ME, the undersigned authority, on this day personally appeared Aaron R. Richards, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the Director of **Lakewood HOA, INC**, a Texas non-profit corporation, and he executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16 day of June, 2020.



Stephanie Vinson
Notary Public in and for the State of Idaho
My Commission Expires: 11/17/20

THE STATE OF TEXAS §

COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared **Harlan Jefferson, Town Manager** for and on behalf of the **TOWN OF PROSPER, TEXAS**, a Texas home-rule municipal corporation; he acknowledged to me he is the duly authorized representative of the Town of Prosper, Texas and that he executed said instrument for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____, 2020.

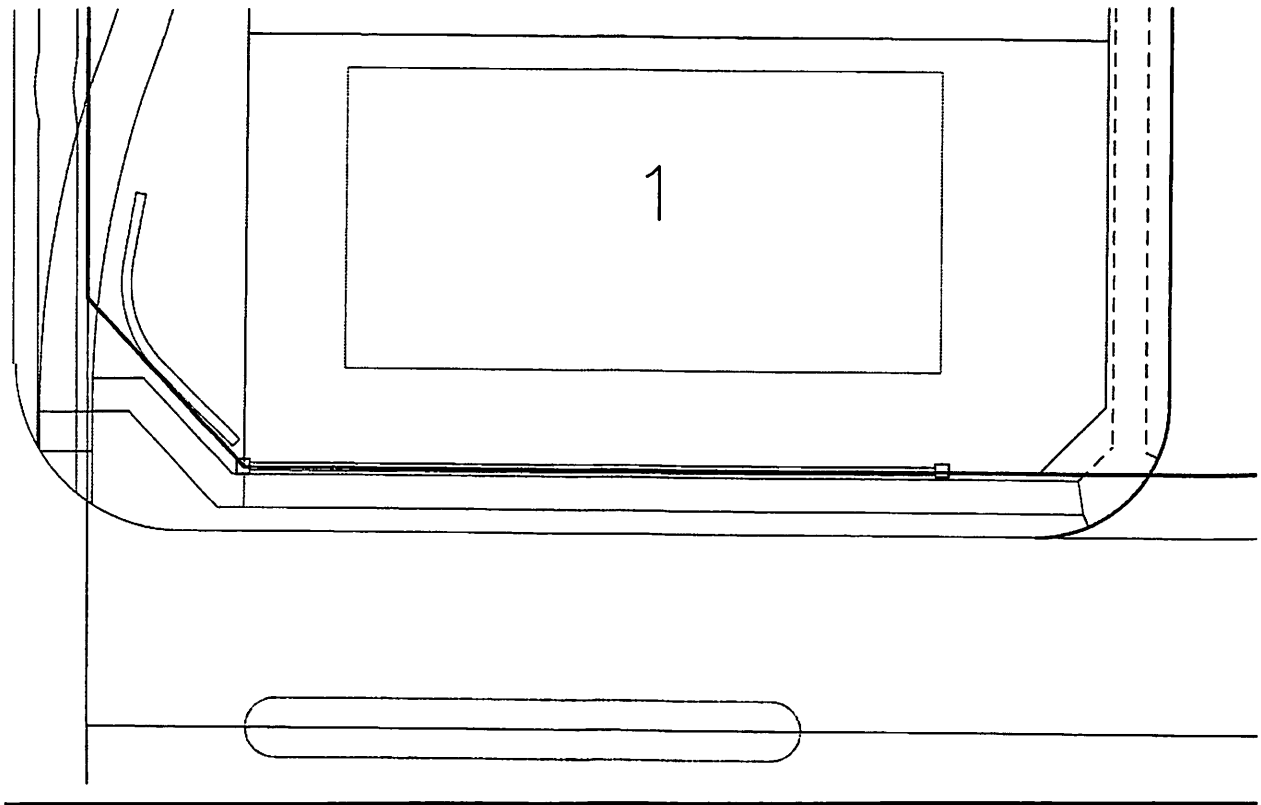
Notary Public in and for the State of Texas
My Commission Expires: _____

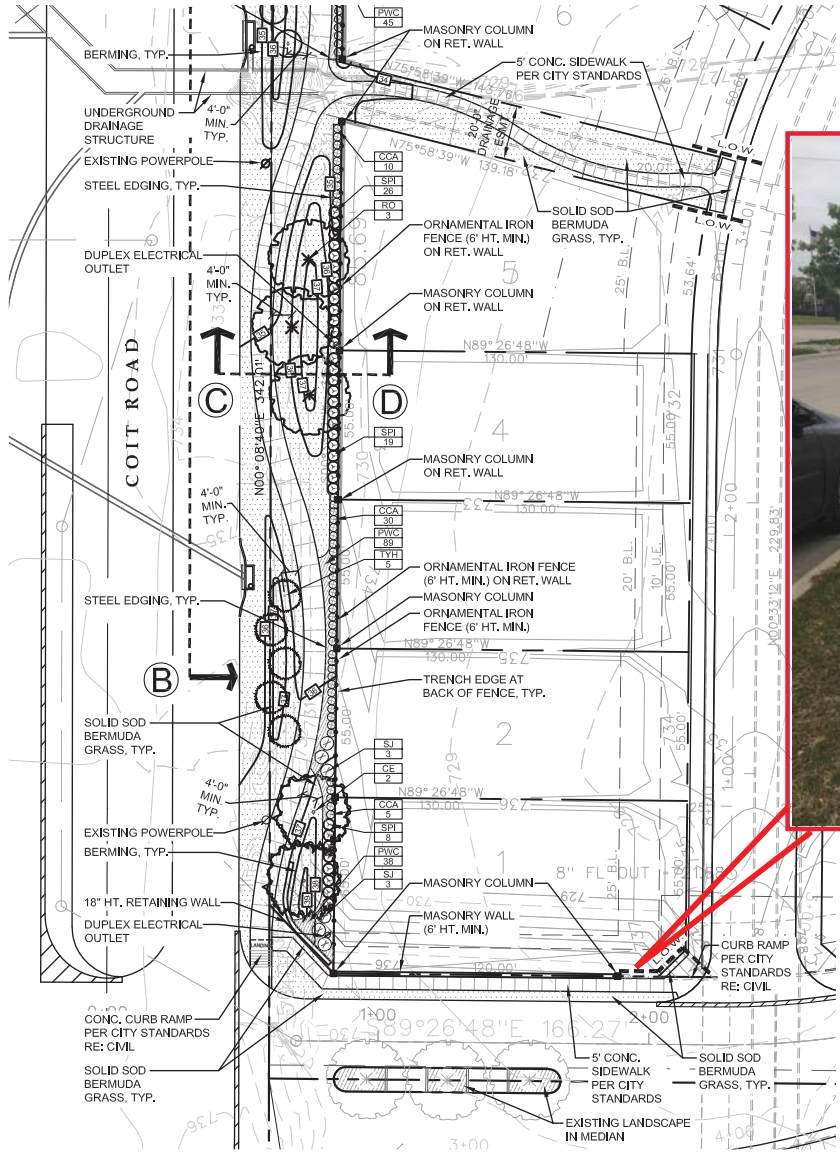
Exhibit A

Legal Description

Lot 1 Block A, Lakewood Phase 1A, Prosper, Collin County, Texas

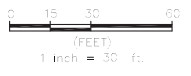
Depiction of Screening Wall and Columns





B LANDSCAPE PLAN
SCALE: 1" = 30'-0"

PLAN

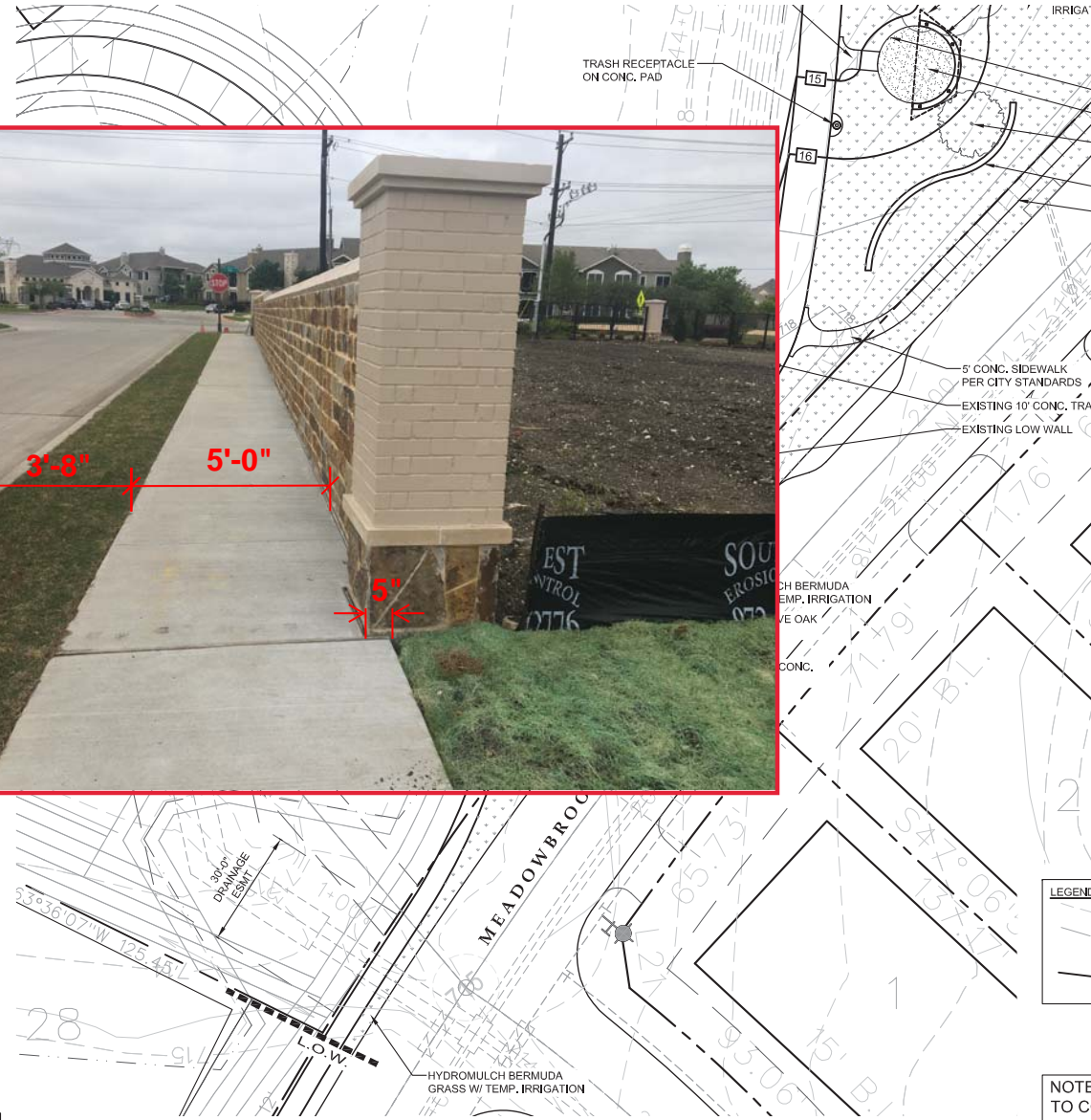
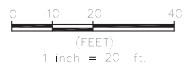


NOTE:
1. CANOPY & ORNAMENTAL TREES TO BE 4'-0" MIN FROM ADJACENT PAVING & WALLS.
2. CANOPY TREES TO BE MIN 25'-0" O.C.
3. ORNAMENTAL TREES TO BE MIN 12'-6" O.C.



A LANDSCAPE PLAN
SCALE: 1" = 20'-0"

PLAN



LEGEND

NOTE:
TO CO
UNDER
CALL E

PREPARED BY:
DCBA LANDSCAPE ARCHITECTURE
730 EAST PARK BLVD., STE 100
PLANO, TX 75074
PHONE: 972-508-1266
EMAIL: DAVE@DCBADESIGN.COM



ENGINEERING SERVICES

To: Mayor and Town Council

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

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – June 23, 2020

Agenda Item:

Consider and act upon authorizing the Town Manager to execute a Sewer Development Agreement between HH Lakewood LLC, and the Town of Prosper, Texas, related to the extension of a sanitary sewer line to serve the Lakewood at Brookhollow, Phase 3 development.

Description of Agenda Item:

HH Lakewood LLC, is developing Lakewood at Brookhollow, Phase 3, south of First Street and east of Coit Road. In order to facilitate the development, they will be required to extend a 12" sanitary sewer line as depicted on the Town of Prosper Wastewater System Capital Improvement Plan.

Since the proposed sanitary sewer line is depicted on the Town of Prosper Wastewater System Capital Improvement Plan, the actual costs for the design and construction of the improvements are eligible for reimbursement of sewer impact fees owed by the development. The purpose of the Sewer Development Agreement is to outline the obligations of the Town of Prosper, and HH Lakewood, LLC, related to the design, construction, and reimbursement of collected sewer impact fees to fund the project.

Budget Impact:

The estimated cost for the design and construction of the extension of 1,401 feet of a 12" sanitary sewer line is approximately \$214,785.30. The anticipated sewer impact fees owed by the Lakewood at Brookhollow, Phase 3 development is approximately \$524,892. If the full reimbursement is not made by the Town to HH Lakewood LLC, within the ten (10) year expiration from the date of the Town's acceptance of the sanitary sewer line, the Town shall endeavor to reimburse Developer from applicable sewer impact fee funds.

Legal Obligations and Review:

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality. HH Lakewood LLC, agrees to pay the Town reasonable attorney's fees charged to the Town by the Town's legal counsel associated with preparation and negotiation of this Agreement, in an amount not to exceed \$2,500.

Attached Documents:

1. Town of Prosper Wastewater System Capital Improvement Plan
2. Sewer Development Agreement

Town Staff Recommendation:

Town staff recommends that the Town Council authorize the Town Manager to execute a Sewer Development Agreement between HH Lakewood LLC, and the Town of Prosper, Texas, related to the extension of a sanitary sewer line to serve the Lakewood at Brookhollow, Phase 3 development.

Proposed Motion:

I move to authorize the Town Manager to execute a Sewer Development Agreement between HH Lakewood LLC, and the Town of Prosper, Texas, related to the extension of a sanitary sewer line to serve the Lakewood at Brookhollow, Phase 3 development.

Town of Prosper Wastewater System CIP Lakewood at Brookhollow, Phase 3



After Recording Return to:
 Town Manager
 Town of Prosper
 P. O. Box 307
 Prosper, Texas 75078

SEWER DEVELOPMENT AGREEMENT
 (LAKEWOOD AT BROOKHOLLOW PHASE 3)

THIS SEWER DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into as of this ____ day of _____, 2020, by and between **HH LAKEWOOD LLC**, a Delaware limited liability company (“Developer”), and the **TOWN OF PROSPER, TEXAS**, a Texas home-rule municipality (“Town”), on the terms and conditions hereinafter set forth.

WITNESSETH:

WHEREAS, Developer owns approximately 52.069 acres of land, more or less, situated in the James Stone Survey, Abstract No. 847 and the Isaac C. Williamson Survey, Abstract No. 948, Town of Prosper, Collin County, Texas, as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference (the “Property”); and

WHEREAS, pursuant to the Water and Wastewater Improvement Plan, Ordinance No. 11-71 (the “Master Sewer Plan”), Developer desires to, subject to the terms and conditions set forth herein, construct certain Sewer Improvements (as defined in Paragraph 3 below) to serve the Property;

WHEREAS, Developer desires to fulfill its obligation to pay Sewer Impact Fees (as defined in Paragraph 4, below) as prescribed in Article 10.02 of Chapter 10 of the Town’s Code of Ordinances, as amended (the “Impact Fee Ordinance”); and

WHEREAS, subject to the terms and provisions hereof, the parties agree that Developer may fulfill its obligation to pay Sewer Impact Fees in the manner set forth below.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, Town and Developer agree as follows:

1. **Land Subject to Agreement.** The land that is subject to this Agreement is the Property. Developer represents that it is the sole owner of the Property.

2. **Easements.** (a) The parties shall cooperate with each other in obtaining from third parties any and all easements, including, but not limited to, the easements depicted and described on Exhibit B (the “Third Party Sewer Improvement Easements”) necessary or appropriate, as solely determined by Town, for timely construction, completion and dedication of the Sewer Improvements required herein. The Third Party Sewer Improvement Easements will be obtained as follows:

(i) **Developer’s Responsibilities.** Developer shall be responsible for any and all costs and expenses associated with acquiring, by purchase or condemnation, all Third Party Sewer Improvement Easements, including, but not limited to, title work, appraisals,

expert fees, attorneys’ fees and expenses, engineering fees and expenses, surveying fees and expenses, court costs, commissioner’s fees and costs of appeal, if any (“Easement Acquisition Fees”). If requested by Town, Developer shall, at its sole cost and expense, lead all easement acquisition efforts for the Third Party Sewer Improvement Easements, including, but not limited to, providing all necessary engineering and surveying support required to obtain the Third Party Sewer Improvement Easements as required herein. Developer shall pay any and all Easement Acquisition Fees within seven (7) calendar days of receiving a written request from Town for the same.

(ii) Town’s Rights and Responsibilities. Town will, at Developer's sole cost and expense, provide, among any other assistance deemed necessary by Town, technical, engineering, legal and administrative assistance, as selected by Town, to acquire, by purchase or condemnation, the Third Party Sewer Improvement Easements. Town shall review and approve any and all documents associated with the Third Party Sewer Improvement Easements required herein. If Town determines, in its sole discretion, that condemnation proceedings are necessary to secure the Third Party Sewer Improvement Easements, Town shall have the right to, at Developer's sole cost and expense, take any and all steps Town deems necessary to initiate said proceedings.

(b) The Third Party Sewer Improvement Easements (if any) shall be filed and recorded prior to the commencement of construction of the Sewer Improvements or any portion thereof, unless a Right of Entry is secured, a condemnation award is tendered with the registry of the court and/or a right of possession by any other means is obtained on an earlier date.

(c) If the Third Party Sewer Improvement Easements are not obtained, or the Town has not secured the right to possess, in a form acceptable to the Town, the land made the subject of the Third Party Sewer Improvement Easements, within ninety (90) days after the execution hereof on terms acceptable to Town, then Town shall commence, and thereafter diligently pursue to completion, condemnation proceedings to obtain such Third Party Sewer Improvement Easements as soon as reasonably possible. Notwithstanding anything to the contrary herein, Town may, in its sole discretion, initiate condemnation proceedings prior to the expiration of the ninety (90) days referred to in this Paragraph 2(c).

(d) Notwithstanding the foregoing, Town and Developer agree that all Third Party Sewer Improvement Easements have been obtained and filed of record in Collin County, Texas as of the date hereof.

3. Sewer Improvements. (a) Developer shall, at its sole cost and expense except as provided in Paragraph 4 below, construct and install a twelve-inch (12") PVC Sewer line that is depicted on **Exhibit C** attached hereto and incorporated herein for all purposes, in accordance with the Master Sewer Plan, and (ii) in accordance with engineering plans, specifications and designs approved in writing by Town's engineer, which approval shall not be unreasonably withheld or delayed (the “Sewer Improvements”).

(b) Developer shall bid the construction of the Sewer Improvements with three (3) qualified contractors and shall provide copies of the bids received for such items to Town within five (5) business days of Developer’s receipt of same. Developer shall: (i) execute a contract for the construction of the Sewer Improvements with the lowest responsible bidder, as mutually and reasonably determined by Town and Developer; (ii) commence, or cause to be commenced,

construction of the Sewer Improvements within ten (10) business days following execution of a contract for construction of the Sewer Improvements or otherwise as soon as reasonably possible in accordance with the accepted bid; (iii) construct the Sewer Improvements in accordance with the Town-approved engineering plans, specifications and designs; and (iv) complete the Sewer Improvements and obtain Town's acceptance of same.

(c) Notwithstanding the foregoing, Town and Developer agree that all Sewer Improvements have been constructed as of the date hereof.

(d) Developer represents that the cost of constructing the Sewer Improvements was Two Hundred Fourteen Thousand Seven Hundred Eighty-Five and 30/100 Dollars (\$214,785.30), as more particularly described in Exhibit D, attached hereto and incorporated herein for all purposes (the "Construction Costs"). Prior to receiving any credit and/or reimbursement described in Paragraph 4 below, Developer shall tender to Town evidence, in a form(s) reasonably acceptable to Town, that all of the Sewer Improvements construction costs have been paid by Developer, including but not limited to, Affidavits of Payment/Affidavits as to Debts and Liens and any other evidence reasonably required by Town ("Evidence of Payment(s)").

4. **Reimbursement for Construction Costs.**

(a) Pursuant to the Impact Fee Ordinance, the sewer impact fees owed on the Property are Five Hundred Twenty-Four Thousand Eight Hundred Ninety-Two and 00/100 Dollars (\$524,892.00) (the "Sewer Impact Fees").

(b) The Property will receive reimbursement against the Sewer Impact Fees owed on the Property in an amount equal to the Construction Costs (the "Credit").

(c) Town will forward the collected Sewer Impact Fees to Developer, quarterly and as applicable, on or about January 15, April 15, July 15, and October 15 of each year beginning the first quarterly date after the Town accepts the Sewer Improvements

(d) (d) The credit of Sewer Impact Fees and reimbursement of collected Sewer Impact Fees will cease when the amount tendered, through the credit of Sewer Impact Fees and reimbursement of collected Sewer Impact Fees, to Developer equals the Construction Costs. Except as otherwise provided in this subparagraph, the Property will be subject to the Impact Fee Ordinance.

5. **Default.** If Developer fails to comply with any provision of this Agreement after receiving thirty (30) days written notice to comply from Town or such longer period as may be reasonably necessary provided that Developer commences to cure the default or breach within the 30-day period and proceeds with reasonable diligence thereafter to complete such cure, then so long as such default continues and is not cured, Town shall have the following remedies, in addition to Town's other rights and remedies:

(a) to refuse to issue building permits for the Property; and/or

(b) to refuse to accept the Sewer Improvements; and/or

- (c) to refuse, without notice and/or any other action, to issue the Credit; and/or
- (d) to construct and/or complete the Sewer Improvements and to recover any and all reasonable costs and expenses associated with the construction and/or completion of same (not to exceed the Credit); and/or
- (e) to seek specific enforcement of this Agreement.

In the event Town fails to comply with the terms and conditions of this Agreement, Developer may seek specific enforcement of this Agreement as its sole and exclusive remedy.

6. **Acknowledgements/Release/Waiver.** Developer agrees and acknowledges that: (i) Town is entering into this Agreement based on Developer's representations and warranties set forth herein with regard to the sewer service needed to serve the Property; (ii) Town makes no representations whatsoever with regard to the completion of the Sewer Improvements, other than that Town agrees to process Developer's request for acceptance of the Sewer Improvements in a similar manner as the Town normally processes such requests; (iii) all necessary Sewer Improvements have been completed and/or secured so as to serve the Property; and (iv) until acceptance of the Sewer Improvements as provided in this Agreement, Town is not required to and will not release any building permits and/or any Certificates of Occupancy. This paragraph shall survive the termination of this Agreement.

7. **Limitation of Liability.** Notwithstanding anything to the contrary herein, the parties agree and acknowledge that Town shall not, under any circumstance, be required to tender, and/or be liable to Developer for, any reimbursement of and/or payment of any monies with regard to the matters set forth herein, save and except as provided in Paragraph 4 above.

8. **Covenant Running with Land.** This Agreement shall be a covenant running with the land and the Property and shall be binding upon and inure to the benefit of Developer, and its successors and assigns. In addition, the parties shall cause this Agreement to be filed in the Land Records of Collin County, Texas. Notwithstanding the foregoing, the obligations herein that burden the Property shall be released automatically upon acceptance by the Town of the Sewer Improvements as set forth in this Agreement, provided that the foregoing shall not release Town from providing the Credit as described in Paragraph 4 above. Any third party, including any title company, grantee or lien holder, shall be entitled to rely on the immediately preceding sentence to establish whether such termination has occurred with respect to any lot. The Town agrees to execute and deliver, in recordable form, a form of release or other evidence of termination as Developer may reasonably request and that is reasonably satisfactory to Town.

9. **Limitations of Agreement.** The parties hereto acknowledge that this Agreement is limited to the Credit. Town ordinances covering property taxes, utility rates, permit fees, inspection fees, development fees, thoroughfare fees, park fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Developer to Town under any other ordinance, whether now existing or in the future arising.

10. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to Town, addressed to it at:

Town of Prosper
 Att'n: Town Manager
 P. O. Box 307
 250 W. First Street
 Prosper, Texas 75078
 Telephone: (972) 346-2640
 Facsimile: (972) 347-2111

With a copy to:

Brown & Hofmeister, L.L.P.
 Att'n: Terrence S. Welch
 740 East Campbell Road, Suite 800
 Richardson, Texas 75081
 Telephone: (214) 747-6100
 Facsimile: (214) 747-6111

If to Developer, addressed to it:

c/o Hines Interests Limited Partnership
 2200 Ross Avenue, Suite 4200W
 Dallas, TX 75201
 Attention: Rob Witte & Dustin Davidson
 Fax: (214) 777-5308

With a copy to:

Thompson & Knight LLP
 One Arts Plaza
 1722 Routh Street, Suite 1500
 Dallas, Texas 75201
 Attention: Ted M. Benn & David Rusk
 Fax: (214) 969-1751 (Ted) & (832) 397-8131 (David)
 Email: ted.benn@tklaw.com & david.rusk@tklaw.com

11. **INDEMNIFICATION.** (A) **DEVELOPER DOES HEREBY AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES,**

INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), ASSERTED AGAINST TOWN BY ANY THIRD PARTY TO THE EXTENT ARISING FROM AND CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF DEVELOPER, ITS OFFICERS, DIRECTORS, PARTNERS CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES, TRUSTEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM DEVELOPER IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, THE CONSTRUCTION OF THE SEWER IMPROVEMENTS, IN WHOLE OR IN PART, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF TOWN (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN DEVELOPER, AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE DEVELOPER, INCLUDING BUT NOT LIMITED TO, ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. IN THIS CONNECTION, DEVELOPER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS TOWN, ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FOR TOWN'S, ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND/OR EMPLOYEES, OWN NEGLIGENCE, IN WHATEVER FORM, ARISING OUT OF ANY ACT OR OMISSION, TAKEN OR FAILED TO BE TAKEN BY THE TOWN, RELATING TO THE MATTERS FOR WHICH IT IS INDEMNIFIED UNDER THIS PARAGRAPH, IN WHOLE OR IN PART, REGARDLESS OF CAUSE OR ANY CONCURRENT OR CONTRIBUTING FAULT OR NEGLIGENCE OF TOWN. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND TOWN AGAINST ALL CLAIMS, AND TOWN IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE; PROVIDED, HOWEVER, IF A

COURT OF COMPETENT JURISDICTION SIGNS A JUDGMENT THAT BECOMES FINAL AND NON-APPEALABLE, DETERMINING THAT TOWN (WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY) HAS JOINT, CONCURRENT OR SOLE NEGLIGENCE FOR THE CLAIMS, IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (THE “JUDGMENT”), THEN DEVELOPER IS NOT REQUIRED TO INDEMNIFY OR DEFEND TOWN TO THE EXTENT OF THE NEGLIGENCE APPORTIONED TO TOWN FOR EACH CAUSE(S) OF ACTION IDENTIFIED IN THE JUDGMENT. IN THE EVENT THE JUDGMENT PROVIDES THAT TOWN IS JOINTLY, CONCURRENTLY, OR SOLELY NEGLIGENT FOR THE CLAIMS REFERRED TO THEREIN, TOWN AGREES TO REIMBURSE DEVELOPER FOR ALL REASONABLE AND NECESSARY COSTS INCURRED AND PAID BY DEVELOPER THAT ARE ATTRIBUTABLE TO TOWN’S PERCENTAGE OF JOINT, CONCURRENT, OR SOLE NEGLIGENCE, AS SET FORTH IN THE JUDGMENT, INCLUDING REASONABLE AND NECESSARY ATTORNEY’S FEES AND EXPENSES, TO DEVELOPER WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE DATE OF THE JUDGMENT. NOTWITHSTANDING THE INDEMNIFICATION PROVISIONS SET FORTH IN THIS PARAGRAPH, TOWN SHALL DILIGENTLY AND TIMELY ASSERT ALL REASONABLE DEFENSES (INCLUDING WITHOUT LIMITATION GOVERNMENTAL IMMUNITY AND DEFENSES OTHERWISE AVAILABLE TO THE CITY AS A MUNICIPAL CORPORATION) AGAINST ANY THIRD-PARTY CLAIM THAT TOWN BELIEVES IS COVERED BY THE INDEMNITY IN THIS PARAGRAPH. NOTHING CONTAINED HEREIN, HOWEVER, SHALL BE CONSTRUED AS A WAIVER OF TOWN’S GOVERNMENTAL IMMUNITY TO ANY EXTENT GREATER THAN IS PROVIDED UNDER TEXAS LAW.

(B) IN ITS SOLE DISCRETION, TOWN SHALL HAVE THE RIGHT TO REASONABLY APPROVE DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY TOWN, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY TOWN IN WRITING. TOWN RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE AT ITS COST; HOWEVER, TOWN IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY TOWN IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER’S OBLIGATION TO DEFEND TOWN OR AS A WAIVER OF DEVELOPER’S OBLIGATION TO INDEMNIFY TOWN PURSUANT TO THIS AGREEMENT.

(C) THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

12. PARTIES’ ACKNOWLEDGEMENT OF TOWN’S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/DEVELOPER’S WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(A) DEVELOPER ACKNOWLEDGES AND AGREES THAT:

(I) THE SEWER IMPROVEMENTS AND/OR THE FEES TO BE IMPOSED BY TOWN REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:

- (A) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;
 - (B) VIOLATION OF THE TEXAS WATER CODE, AS IT EXISTS OR MAY BE AMENDED;
 - (C) NUISANCE; AND/OR
 - (D) CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST TOWN FOR A VIOLATION OF ANY FEDERAL AND/OR STATE CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION.
- (II) THE AMOUNT OF DEVELOPER'S FINANCIAL OR INFRASTRUCTURE CONTRIBUTION (AFTER RECEIVING ALL CONTRACTUAL OFFSETS, CREDITS AND REIMBURSEMENTS, IF ANY) AGREED TO IN THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT SUCH DEVELOPER'S DEVELOPMENT PLACES ON THE TOWN'S INFRASTRUCTURE.
- (III) DEVELOPER HEREBY AGREES THAT ANY PROPERTY WHICH IT CONVEYS TO TOWN PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY DEVELOPER 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 VALUE RECEIVED BY TOWN RELATIVE TO SAID CONVEYANCE ARE RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF DEVELOPER'S ADJACENT PROPERTY ON TOWN'S INFRASTRUCTURE. DEVELOPER AND 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 PUBLIC INFRASTRUCTURE.
- (IV) DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS TOWN FROM ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, AND/OR TRUSTEES, BROUGHT PURSUANT TO THIS PARAGRAPH.
- (B) DEVELOPER RELEASES TOWN FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED ON EXCESSIVE OR ILLEGAL EXACTIONS.
- (C) DEVELOPER WAIVES ANY CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST TOWN FOR A VIOLATION OF ANY FEDERAL AND/OR STATE

CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION.

(D) THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

13. **Vested Rights/Chapter 245 Waiver.** 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 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.**

14. **Attorney’s Fees.** In any legal proceeding brought to enforce the terms of this Agreement, including but not limited to, a proceeding brought pursuant to Paragraphs 5, 6, 11 and 12 above, the prevailing party may recover its reasonable and necessary attorney’s fees from the non-prevailing party as permitted by Section 271.159 of the Texas Local Government Code, as it exists or may be amended.

15. **Incorporation of Recitals.** The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of Town and the authorized representative of Developer.

16. **Developer’s Warranties/Representations.** All warranties, representations and covenants made by Developer in this Agreement or in any certificate or other instrument delivered by Developer to Town under this Agreement shall be considered to have been relied upon by Town and will survive the satisfaction of any fees under this Agreement, regardless of any investigation made by Town or on Town’s behalf.

17. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties hereto.

18. **Venue.** This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Collin County, Texas.

19. **Consideration.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

20. **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 if properly executed.

21. **Authority to Execute.** The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and

necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

22. **Savings/Severability.** 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 hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

23. **Representations.** Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.

24. **Sovereign Immunity.** The parties agree that this is not a contract for the provision of goods or services pursuant to Subchapter I of Chapter 271 of the Texas Local Government Code, as amended, and therefore, the Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

25. **No 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.

26. **Assignment/Binding Effect.** This Agreement is assignable upon the following conditions:

- (a) the assignment of the Agreement must be evidenced by a recordable document pursuant to which the assignee assumes all obligations of Developer hereunder;
- (b) Developer will file any executed assignment in the Land Records of Collin County, Texas; and
- (c) Developer shall provide Town with the name, address, phone number, fax number and the name of a contact person for the assignee.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as authorized herein.

27. **Indemnification.** The parties agree that the Indemnity provisions set forth in Paragraphs 11 and 12 herein are conspicuous, and the parties have read and understood the same.

28. **Construction.** All construction described herein shall be subject to and in compliance with all ordinances of Town, whether now existing, hereafter amended or in the future arising. Evidence of any bonds required by Section 212.073 of the Texas Local Government Code, or other applicable law, shall be provided by Developer to Town.

29. **Conveyances.** All conveyances required herein shall be made in a form acceptable to Town and free and clear of any and all encumbrances.

30. **Waiver.** Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

31. **Reference to Developer.** When referring to "Developer" herein, this Agreement shall refer to and be binding upon and inure to the benefit of, Developer, and its successors and assignees.

32. **Attorney's Fees.** Developer agrees to pay, or cause to be paid, to Town any attorney's fees charged to Town by Town'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 \$2,500.00 within ten (10) days upon receipt of an invoice of same from Town.

33. **Miscellaneous Drafting Provisions.** This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest date as reflected by the signatures below.

TOWN:

TOWN OF PROSPER, TEXAS

By: _____
Harlan Jefferson, Town Manager

Date: _____

STATE OF TEXAS §

§

COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared Harlan Jefferson, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the **TOWN OF PROSPER, TEXAS**, and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2020.

Notary Public in and for the State of Texas

My Commission Expires: _____

DEVELOPER:


HH Lakewood LLC, a Delaware limited liability company

By: Hines Lakewood MM LLC, its managing member

By: Hines Lakewood Associates LP, its sole member

By: Hines Interests Limited Partnership, its general partner

By: Hines Holdings, Inc., its general partner

HB By: 
Name: Robert W. Witte
Title: Senior Managing Director

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on June 9, 2020, 2020 by Robert W. Witte, the Senior Managing Director of Hines Holdings, Inc., the general partner of Hines Interests Limited Partnership, the general partner of Hines Lakewood Associates LP, the sole member of Hines Lakewood MM LLC, the managing member of HH Lakewood LLC, on behalf of said entities.



Signature of Notary Public

[Personalized Notary Seal]



EXHIBIT A

(Legal Description of the Property)

A 52.069 ACRE TRACT OF LAND SITUATED IN THE JAMES STONE SURVEY, ABSTRACT NO. 847 AND THE ISAAC C. WILLIAMSON SURVEY, ABSTRACT NO. 948, TOWN OF PROSPER, COLLIN COUNTY, TEXAS, AND BEING PART OF A 121.388 ACRE TRACT OF LAND, CONVEYED TO HH LAKEWOOD, LLC, AS RECORDED COUNTY CLERK'S FILE NUMBER 20181101001359210, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS. SAID 52.069 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (NAD83 (2011) EPOCH 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR THE SOUTHWEST CORNER OF LOT 1X, BLOCK A OF LAKEWOOD, PHASE 2, AN ADDITION TO THE TOWN OF PROSPER, AS RECORDED IN COUNTY CLERK'S FILE NO. _____, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, THE COMMON SOUTHEAST CORNER OF LAKEWOOD DRIVE, (A 60' RIGHT-OF-WAY) OF LAKEWOOD, PHASE 1, AN ADDITION TO THE TOWN OF PROSPER, AS RECORDED IN COUNTY CLERK'S FILE NO. 20170623010003030, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, SAME BEING THE SOUTHEAST CORNER OF SAID LAKEWOOD, PHASE 1, AND THE COMMON NORTHEAST CORNER OF LAKEWOOD DRIVE, AN ADDITION TO THE TOWN OF PROSPER, AS RECORDED IN COUNTY CLERK'S FILE NO. 20170622010003010, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING ON THE NORTH LINE OF A TRACT OF LAND CONVEYED TO 55 PROSPER, L.P., AS RECORDED IN COUNTY CLERK'S FILE NO. 20120111000035080, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LAKEWOOD, PHASE 2 AND THE COMMON NORTH LINE OF SAID 55 PROSPER, L.P. TRACT, A DISTANCE OF 443.17 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE **POINT OF BEGINNING**, SAID POINT BEING THE SOUTHEAST CORNER OF SAID LAKEWOOD, PHASE 2;

THENCE, ALONG THE EAST LINE OF SAID LAKEWOOD, PHASE 2 AND OVER AND ACROSS SAID 121.388 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 205.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, A DISTANCE OF 10.45 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 45 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 14.14 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 00 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 120.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE NORTHEAST CORNER OF SAID LAKEWOOD, PHASE 2;

THENCE, SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, ALONG THE NORTH LINE OF SAID LAKEWOOD, PHASE 2 AND CONTINUING OVER AND ACROSS SAID 121.388 ACRE TRACT, A DISTANCE OF 510.77 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE NORTHWEST CORNER OF SAID LAKEWOOD, PHASE 2, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF AFORESAID LAKEWOOD DRIVE OF SAID LAKEWOOD, PHASE 1. SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 04 DEGREES 46 MINUTES 45 SECONDS, A RADIUS OF 1260.00 FEET, AND A LONG CHORD THAT BEARS NORTH 25 DEGREES 10 MINUTES 42 SECONDS WEST, A DISTANCE OF 105.07 FEET;

THENCE, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID LAKEWOOD DRIVE, THE FOLLOWING COURSES AND DISTANCES:

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 105.10 FEET TO A 1/2" IRON ROD WITH CAP STAMPED "CORWIN ENG. INC." FOUND FOR CORNER;

NORTH 27 DEGREES 34 MINUTES 05 SECONDS WEST, A DISTANCE OF 846.39 FEET TO A 1/2" IRON ROD FOUND FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 27 DEGREES 15 MINUTES 58 SECONDS, A RADIUS OF 770.00 FEET, AND A LONG CHORD THAT BEARS NORTH 13 DEGREES 56 MINUTES 05 SECONDS WEST, A DISTANCE OF 362.98 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 366.43 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

NORTH 00 DEGREES 18 MINUTES 06 SECONDS WEST, A DISTANCE OF 86.15 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER AT THE SOUTHEAST END OF A ROUND-ABOUT AT SAID EAST RIGHT-OF-WAY LINE AND SOUTH RIGHT-OF-WAY LINE OF MEADOWBROOK BOULEVARD, (A VARIABLE WIDTH RIGHT-OF-WAY) OF SAID LAKEWOOD, PHASE 1. SAID POINT BEING THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 97

DEGREES 41 MINUTES 44 SECONDS, A RADIUS OF 45.00 FEET, AND A LONG CHORD THAT BEARS NORTH 48 DEGREES 32 MINUTES 29 SECONDS EAST, A DISTANCE OF 67.77 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 76.73 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER, AND THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 00 DEGREES 27 MINUTES 19 SECONDS, A RADIUS OF 1150.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 82 DEGREES 22 MINUTES 59 SECONDS EAST, A DISTANCE OF 9.14 FEET;

THENCE, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID MEADOWBROOK BOULEVARD AND SAID COMPOUND CURVE TO THE RIGHT, AN ARC DISTANCE OF 9.14 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID MEADOWBROOK BOULEVARD;

THENCE, ALONG THE EAST LINE OF SAID LAKEWOOD, PHASE 1, THE FOLLOWING COURSES AND DISTANCES:

NORTH 07 DEGREES 50 MINUTES 41 SECONDS EAST, A DISTANCE OF 85.00 FEET TO A STONE COLUMN FOUND FOR CORNER;

NORTH 35 DEGREES 27 MINUTES 51 SECONDS WEST, A DISTANCE OF 100.13 FEET TO A STONE COLUMN FOUND FOR CORNER;

NORTH 00 DEGREES 18 MINUTES 06 SECONDS WEST, A DISTANCE OF 282.17 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

THENCE, OVER AND ACROSS SAID 121.388 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 129.93 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 00 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 32.02 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 00 DEGREES 09 MINUTES 42 SECONDS EAST, A DISTANCE OF 109.86 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 730.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 00 DEGREES 09 MINUTES 42 SECONDS EAST, A DISTANCE OF 320.92 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 45 DEGREES 02 MINUTES 25 SECONDS, A RADIUS OF 85.50 FEET, AND A LONG CHORD THAT BEARS SOUTH 67 DEGREES 19 MINUTES 06 SECONDS WEST, A DISTANCE OF 65.49 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 67.21 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, A DISTANCE OF 270.80 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 00 DEGREES 09 MINUTES 42 SECONDS EAST, A DISTANCE OF 60.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 274.85 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 43 DEGREES 58 MINUTES 35 SECONDS, A RADIUS OF 85.50 FEET, AND A LONG CHORD THAT BEARS SOUTH 68 DEGREES 10 MINUTES 25 SECONDS EAST, A DISTANCE OF 64.03 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 65.62 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 97 DEGREES 06 MINUTES 23 SECONDS, A RADIUS OF 75.00 FEET, AND A LONG CHORD THAT BEARS NORTH 85 DEGREES 15 MINUTES 41 SECONDS EAST, A DISTANCE OF 112.44 FEET;

ALONG SAID REVERSE CURVE TO THE LEFT, AN ARC DISTANCE OF 127.11 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 395.05 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT

CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 06 DEGREES 43 MINUTES 27 SECONDS, A RADIUS OF 861.00 FEET, AND A LONG CHORD THAT BEARS NORTH 27 DEGREES 23 MINUTES 20 SECONDS EAST, A DISTANCE OF 100.99 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 101.05 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 45 MINUTES 14 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 03 DEGREES 20 MINUTES 07 SECONDS, A RADIUS OF 811.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 29 DEGREES 06 MINUTES 52 SECONDS WEST, A DISTANCE OF 47.20 FEET;

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 47.21 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 62 DEGREES 33 MINUTES 11 SECONDS EAST, A DISTANCE OF 131.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER ON THE EAST LINE OF SAID 121.388 ACRE TRACT AND THE COMMON WEST LINE OF A 73.015 ACRE TRACT OF LAND CONVEYED AS TRACT 1 TO PROSPER ISD, AS RECORDED IN COUNTY CLERK'S FILE NO. 20181023001321670, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS. SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 15 DEGREES 38 MINUTES 29 SECONDS, A RADIUS OF 680.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 19 DEGREES 37 MINUTES 34 SECONDS WEST, A DISTANCE OF 185.06 FEET;

THENCE, ALONG SAID COMMON LINE, AND ALONG THE WEST LINE OF AFORESAID 55 PROSPER, L.P. TRACT, AND ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 185.64 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

THENCE, SOUTH 00 DEGREES 15 MINUTES 52 SECONDS EAST, CONTINUING ALONG THE EAST LINE OF SAID 121.388 ACRE TRACT AND THE COMMON WEST LINE OF SAID 55 PROSPER, L.P. TRACT, A DISTANCE OF 1401.21 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 121.388 ACRE TRACT AND A COMMON INTERIOR ELL CORNER OF SAID 55 PROSPER, L.P. TRACT;

THENCE, SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 121.388 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 55 PROSPER, L.P. TRACT, A DISTANCE OF 504.06 FEET TO THE **POINT OF BEGINNING** AND CONTAINING A CALCULATED AREA OF 52.069 ACRES OF LAND.

EXHIBIT B

(Third Party Sewer Improvement Easements)

None.

EXHIBIT C

(General Location of Sewer Improvements)

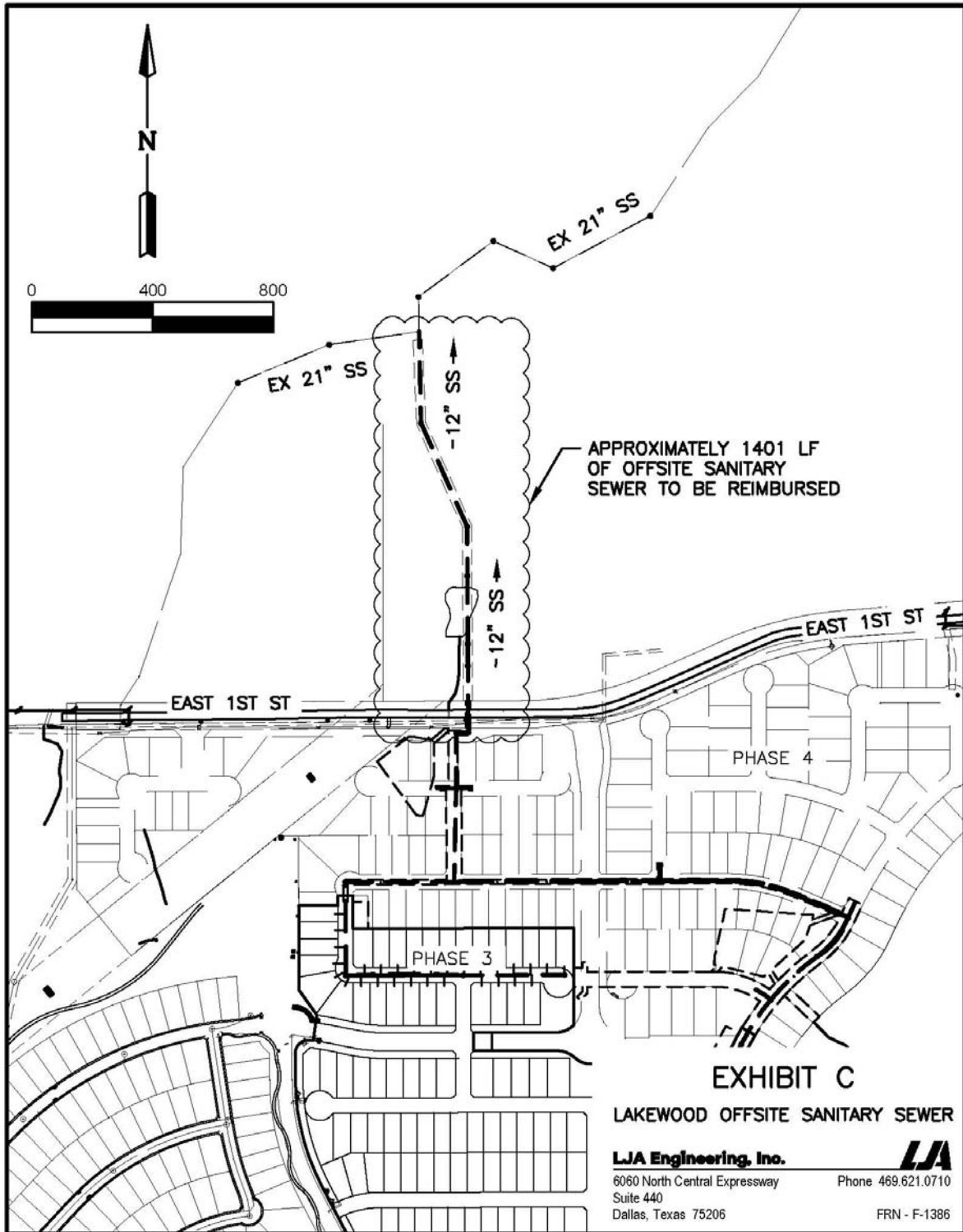


EXHIBIT D

(Estimated Construction Costs)

BID FORM**FOR****UTILITY IMPROVEMENTS AT LAKEWOOD AT BROOKHOLLOW, PHASE 3****ARTICLE 5 - BASIS OF BID**

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

SECTION A - SANITARY SEWER IMPROVEMENTS - OFFSITE

Item No.	Description	Unit	Quantity	Bid Unit Price	Bid Price
1	12" P.V.C., ASTM D3034, SDR-35 Sanitary Sewer (includes excavation, embedment, backfill, etc.)	LF	1,176	35.00	\$ 41,160.00
2	12" P.V.C., ASTM D3034, SDR-26 Sanitary Sewer (includes excavation, embedment, backfill, etc.)	LF	225	45.00	\$ 10,125.00
3	Steel Encasement	LF	170	247.00	\$ 41,990.00
4	5' Diameter Manhole (All depths including Excavation, Backfill, Manhole Frame, Bolted & Gasketed Cover, Manhole Inserts, False Bottom, etc.)	EA	3	5750.00	\$ 17,250.00
5	5' Diameter Manhole with Watertight & Sealed Pressure Lid (All depths including Excavation, Backfill, Manhole Frame, Bolted & Gasketed Cover, Manhole Inserts, False Bottom, etc.)	EA	3	6200.00	\$ 18,600.00
6	5' Diameter Vented Type S Manhole with Watertight & Sealed Pressure Lid (All depths including Excavation, Backfill, Manhole Frame, Bolted & Gasketed Cover, Manhole Inserts, False Bottom, etc.)	EA	1	7200.00	\$ 7,200.00
7	Connect to Existing 5' Diameter Manhole with Inside Drop Connection	EA	1	3950.00	\$ 3,950.00
8	Open Cut First Street for Offsite Sewer Alignment	LS	1	3400.00	\$ 3,400.00
9	Clearing & Grubbing Offsite Sanitary Sewer Easement	SY	4,670	2.50	\$ 11,675.00
10	Dewater Existing Pond	EA	1	40000.00	\$ 40,000.00
11	T.V. Testing	LF	1,401	1.00	\$ 1,401.00
12	Trench Safety	LF	1,401	0.10	\$ 140.10
13	Traffic Control	LS	1	2500.00	\$ 2,500.00
14	Maintenance Bond - 2 Yr, 100%	LS	1	1500.00	\$ 1,500.00
SECTION A - SANITARY SEWER IMPROVEMENTS - OFFSITE TOTAL:					\$ 200,891.10

Lakewood at Brookhollow, Phase 3

January 27, 2019

LJA #NT480-0016

SECTION B - EROSION CONTROL - OFFSITE

Item No.	Description	Unit	Quantity	Bid Unit Price	Bid Price
1	Silt Fence	LF	2,462		\$ \$10,094.20
2	Rock Check Dam	EA	2		\$ 800.00
3	Construction Entrance	EA	1		\$ 3,000.00
SECTION B - EROSION CONTROL - OFFSITE TOTAL:					\$ \$13,894.20

BID SUMMARY

SECTION A - SANITARY SEWER IMPROVEMENTS - OFFSITE	\$ \$200,894.10
SECTION B - EROSION CONTROL - OFFSITE	\$ \$13,894.20
TOTAL BASE BID:	\$ \$214,785.30

Number of Calendar Days to Complete: _____

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.



 Bryan Piper Executive Vice President

Date 2/26/2020



ENGINEERING SERVICES

To: Mayor and Town Council

From: Dan Heischman, P.E., Assistant Director of Engineering Services – Development

Through: Harlan Jefferson, Town Manager

Re: Town Council Meeting – June 23, 2020

Agenda Item:

Conduct a Public Hearing and receive comments on the proposed updates to the Roadway Design Standards.

Description of Agenda Item:

Goal 1c of the Town Council's Major Initiatives states "Provide Efficient and Effective Roads and Infrastructure." Staff has reviewed and revised the standards relating to roadway design and construction of infrastructure within the Town and its Extra-Territorial Jurisdiction (ETJ).

The process of developing and updating standards included 1) reviewing existing practices and requirements, 2) surveying neighboring communities regarding their best available technology and practices, and 3) ensuring the proposed requirements are consistent with standard practice for municipalities in this area. A draft of the proposed standards was provided to the development and engineering community via the Prosper Developers Council (PDC).

The updated standards include:

1. Revisions and updates to be consistent with 2017 Subdivision Ordinance,
2. Updates to references for recently adopted Paving and Subgrade Design Standards,
3. Added typical sections for roadway intersections at US 380 matching up with neighboring municipality's sections,
4. Design standards for roundabouts,
5. Expanded pedestrian facility guidelines,
6. Design guidelines for curvilinear streets and traffic calming, and
7. Internal Site Circulation Requirements.

A summary table outlining the proposed updates is attached.

Pending direction and input from the Town Council, an ordinance updating the standards will be placed on the July 14, 2020, Town Council agenda for formal adoption.

Attached Documents:

1. Summary Table

Town Staff Recommendation:

Town staff desires to receive feedback from the public and Town Council regarding the proposed updates to the Roadway Design Standards.

Category	Subject	Existing Standards	Proposed Standards	
General	Section	Section 1 - Thoroughfare and Circulation Manual	Updated section number to be Section 4 -Roadway Design Standards which shall fit in what is intended to be an all encompassing engineering design manual. Section 1 is now reserved for General Requirements which shall include administrative procedures and guidelines among other basic information.	
	Intro Section	Subsection listed general procedure for deviations.	Subsection removed as Subdivision Ordinance covers procedures and future Section 1 will cover procedures in even more detail	
			New information added to list Federal standard to be met for all roadway design including AASHTO and MUTCD reference material.	
	Deputy Director	Referenced Deputy Director of Engineering Services	Now references Director of Engineering Services	
Street Design	Pavement and Subgrade	Listed minimum pavement and subgrade requirements	New section references table and adopted Pavement and Subgrade Design Manual	
	Typical Sections		Removed Minor Rural 4LRD as well as updated pavement thickness to match updates per Pavement and Subgrade Design standards.	
	Roundabouts		Added typical sections for major thoroughfares at intersections with frontage roads to match up with street sections in Frisco along US 380 and to apply along ultimate DNT intersections. Also removed 4LRD sections.	
	Residential Frontage		Added detailed section on Roundabouts including when to use, geometry, and other requirements.	
	Street Lengths		Expanded on Residential Frontage section to match requirements in Subdivision Ordinance which includes no lots shall front arterial or collectors streets.	
	Block Lengths		Added section on Street Lengths to restrict straight tangent sections over 800 feet to be consistent with Subdivision Ordinance, but references traffic calming section when constraints make it difficult to meet requirements.	
	Entrance Streets		Added section on Block Lengths to provide guidance for requirements listed in Subdivision Ordinance.	
	Curvilinear Streets		Added section on Entrance Streets to provide guidance for requirements listed in Subdivision Ordinance.	
	Misc. Design		Added section on Curvilinear Streets to provide guidance on street design that discourages speeding while promoting streetscapes.	
	Traffic Calming		Added section on additional street design requirements for roads adjacent to schools, parks, and other miscellaneous features.	
Driveway Design	Turn Lanes	Previous requirements limited decel lanes to Preston, US 380, and DNT and all driveway at a median opening.	Added section on Traffic Calming treatments to provide flexibility to developers when physical constraints or other make meeting the other curvilinear requirements difficult. Section allows certain lengths of straight streets with a variety of options for traffic calming.	
	Grade Differential		Expanded turn lane requirement to all 4-lane and 6-lane thoroughfares	
	Pavement Requirements		Added language to match differential grades on fire lanes per Fire Code.	
	Driveway Width	Standard Driveway - Commercial max width = 30 ft High Capacity drives - 3 lane exits maximum width = 30 ft Maximum width for service stations = 40 ft	Standard Driveway - Commercial max width = 33 ft High Capacity drives - 3 lane exits maximum width = 33 ft Maximum width for service stations = 36 ft	
	Radii		Added additional information for pavement requirements of driveways within right-of-way.	
Alley Design	Section		Added language for commercial driveway radii to encroach past property lines	
	Alley Deign		Section relocated to be after Driveway Design section	
	Figures		Added new figure to illustrate alley intersecting an elbow.	
	Alley R.O.W.	Alley right-of-way width was 15 ft for residential and 20 ft for non-residential Alley pavement width was 10 ft for residential and 12 ft for non-residential	Added new figure to illustrate Alley to Alley intersection Updated right-of-way widths to be 18 ft for residential (still 20 ft for non-res). Updated pavement widths to be 12 ft for residential (still 12 ft for non-res).	
	Various Alley Design			Added maximum alley length requirements (800 ft)
				Added requirements if alley is to serve as a fire lane for fire protection.
				Added requirements maximum street grades.
			Added vertical curve requirements for stopping sight distance.	
Frontage Road Design (non-TxDOT)	Frontage Roads	Section 1.09	Added requirements for strip between screening walls and alleys.	
			Updated section on frontage road requirements now that DNT is expanding and development along that corridor is in near future. Needed clear design standards to help address certain conditions.	
Bridge and Bridge-Class Culvert Design	Bridge Design		Added section on bridge design as development and CIP roadways expand into areas with major creeks and drainage ways. Needed clear design standards to address certain conditions.	
Pedestrian Facilities	Additional Ped Facilities	Section 1.06 had design standard for various conditions juts on sidewalks.	New section expands to hike& bike trails, barrier free ramps and other standards to address all pedestrian facilities.	
	Federal and State Code		Section added to list applicable federal and state guidelines that apply and govern pedestrian facilities.	
	Misc. Sidewalk Design	Section 1.06.A.1 thru 5		Expanded on old section to give clear guidance on sidewalk requirements as it relates to ADA, but also as it relates to other Town standards.
		Section 1.06.A.8.		Reworded section(s) to provide clearer guidance and design standards for sidewalks.
Pubic Right-of-way Visibility Requirements		Section 1.07.E. Landscape Plan Requirements	Added section to provide more guidance on hike and bike trail design Changed to Hike & Bike Trail under Bridges vs Sidewalks under Bridges.	
			Added new section to provide design standards for pedestrian handrails along public sidewalks and trails.	
Street Lighting			Removed section as Town has standard median landscape requirements	
Street Names Signs			Added section on Street Lights to provide guidance for requirements of Town's new light standards.	
			Added section on Street Name Signs at all non-signalized intersections to provide guidance for requirements of Town's street name sign standards.	

Traffic Signals		Section 1.10	Updated section on Traffic Signals to provide guidance for requirements of Town's new signal standards.
Traffic Impact Analysis Mitigation			Added section to provide guidance when specific development on existing or planned thoroughfares may alter zoning and/or future land use in order to provide analysis to identify and mitigate impacts to Town road system.
Post-Development Traffic Calming Guidelines		Section 1.08	Retitled section to more accurately reflect section intent

PLANNING



To: Mayor and Town Council
From: Alex Glushko, AICP, Planning Manager
Through: Harlan Jefferson, Town Manager
Re: Town Council Meeting – June 23, 2020

Agenda Item:

Conduct a Public Hearing, and consider and act upon an ordinance rezoning 1.2± acres from Planned Development-84 (PD-84) to Downtown Retail (DTR), located on the northeast corner of Broadway Street and McKinley Street. (Z20-0012). [Companion Case Z20-0011]

Description of Agenda Item:

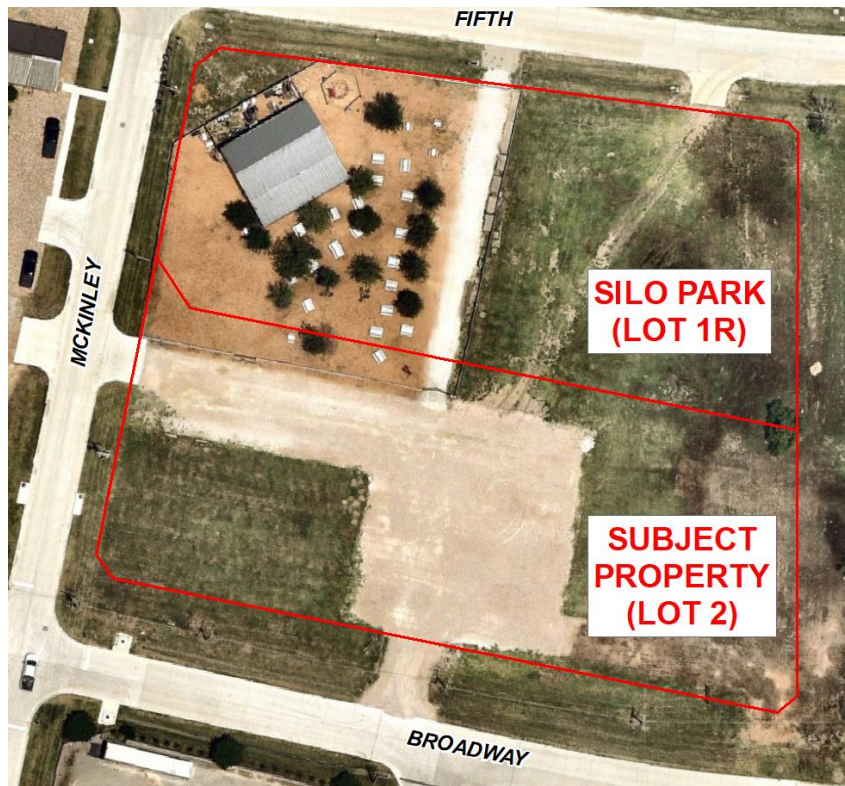
The zoning and land use of the surrounding properties are as follows:

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Planned Development-84	Parking/Undeveloped	Old Town Main Street Retail
North	Planned Development-84	Silo Park Food Truck Park	Old Town Main Street Retail
East	Downtown Retail	Undeveloped	Old Town Main Street Retail
South	Downtown Commercial	Office/Warehouses	Old Town Mixed Use
West	Downtown Commercial	Prosper Tire	Old Town Mixed Use

Requested Zoning – The subject property was rezoned to PD-84 in November 2017, to allow for the development of Silo Park, a food truck park and outdoor entertainment venue. With the development of Silo Park, the property was zoned and platted as one (1) lot. In December 2019, the lot was subdivided into two (2) lots, with Silo Park occupying the lot on the northern half of the property, being Lot 1R, and the lot on the southern half of the property, being Lot 2, serving as the parking for Silo Park, as shown below. The property owner of Lot 2 desires to be removed from the Silo Park PD and have the property rezoned to DTR.

The subdivision allowed the operator of Silo Park to acquire Lot 1R. In conjunction with the subdivision of property, a parking agreement was established which requires relocation of parking

from Lot 2 to Lot 1R, within 90 days from the time requested by the property owner of Lot 2. The purpose of this request is to rezone Lot 2 back to its previous designation, prior to the establishment of PD-84, to Downtown Retail.



At the time of an application for “straight” zoning, the applicant is not required to submit an exhibit depicting how the property will be specifically developed or elevations of the proposed building. Prior to development, the developer will be required to submit a Site Plan for review and approval by the Planning & Zoning Commission. The applicant has been advised of the standards necessary for development.

As a companion item, the Planned Development-84 amendment request for Silo Park (Z20-0011) is on the June 23, 2020 agenda.

Future Land Use Plan – The Future Land Use Plan recommends Old Town Main Street Retail. The proposed zoning request conforms to the Future Land Use Plan.

Thoroughfare Plan – The property has direct access to Broadway Street, a two lane roadway. The proposed request conforms to the Thoroughfare Plan.

Parks Master Plan – The Parks Master Plan does not indicate a park is needed on the subject property; however, a hike and bike trail (wide sidewalk) will be needed along Broadway Street and McKinley Street at the time of development.

Legal Obligations and Review:

Notification was provided as required by the Zoning Ordinance and state law. Town Attorney, Terrence Welch of Brown and Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Aerial and Zoning Maps
2. Ordinance
3. Exhibit A

Planning & Zoning Commission Recommendation:

At their June 2, 2020 meeting, the Planning and Zoning Commission recommended the Town Council approve the request, by a vote of 6-0.

Staff Recommendation:

Town staff recommends the Town Council approve an ordinance rezoning 1.2± acres from Planned Development-84 (PD-84) to Downtown Retail (DTR), located on the northeast corner of Broadway Street and McKinley Street.

Proposed Motion:

I move to approve an ordinance rezoning 1.2± acres from Planned Development-84 (PD-84) to Downtown Retail (DTR), located on the northeast corner of Broadway Street and McKinley Street.



FIFTH ST

SIXTH ST

MAIN ST

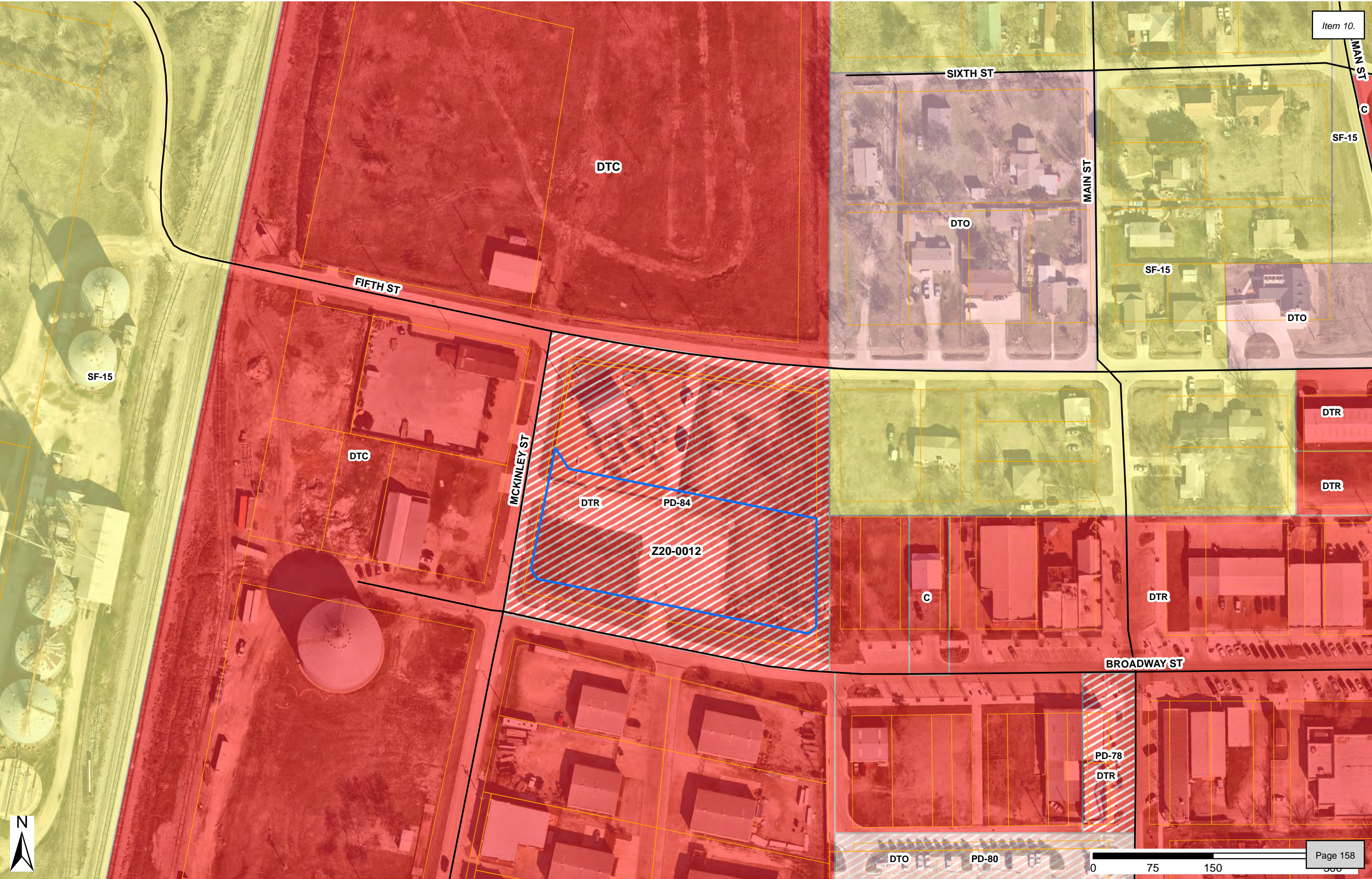
MCKINLEY ST

BROADWAY ST

Z20-0012



0 75 150



DTC

SIXTH ST

SF-15

MAIN ST

DTO

SF-15

DTO

FIFTH ST

SF-15

DTC

MCKINLEY ST

DTR

PD-84

Z20-0012

DTR

DTR

C

DTR

BROADWAY ST

PD-78

DTR



DTO PD-80

0 75 150

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2020-____

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING PROSPER'S ZONING ORDINANCE BY REZONING A TRACT OF LAND CONSISTING OF 1.16 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS; FROM PLANNED DEVELOPMENT-84 (PD-84) TO DOWNTOWN RETAIL (DTR); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

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

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request (Case Z20-0012) from Don Brown ("Applicant"), to rezone 1.16 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, from Planned Development-84 (PD-84) to Downtown Retail (DTR) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

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

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

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

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

SECTION 1

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

SECTION 2

Amendment to the Town's Zoning Ordinance. The Town's Zoning Ordinance, adopted by Ordinance No. 05-20 and Ordinance No. 17-84 are amended as follows: The zoning designation of the below described property containing 1.16 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads, and alleyways contiguous and/or adjacent thereto is hereby zoned as Downtown Retail (DTR) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

All development plans, standards, and uses for the Property shall comply fully with the requirements of all ordinances, rules, and regulations of the Town of Prosper, as they currently exist or may be amended.

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

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

SECTION 3

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

SECTION 4

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

SECTION 5

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

SECTION 6

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

SECTION 7

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

SECTION 8

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 23RD DAY OF JUNE, 2020.

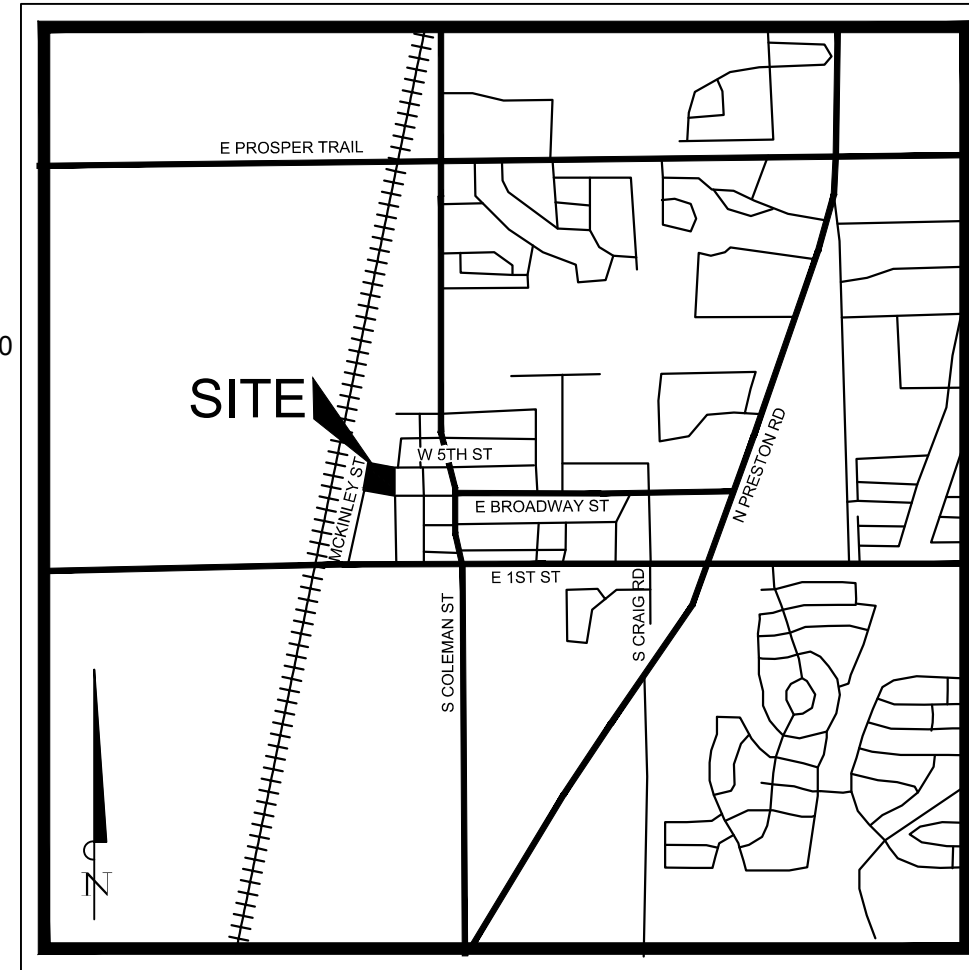
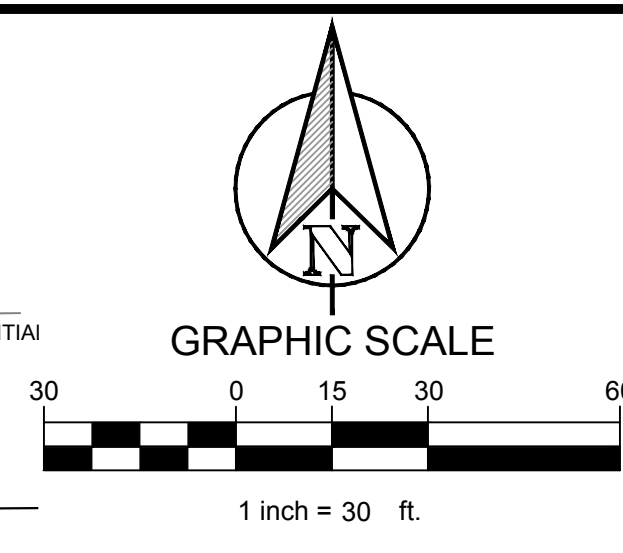
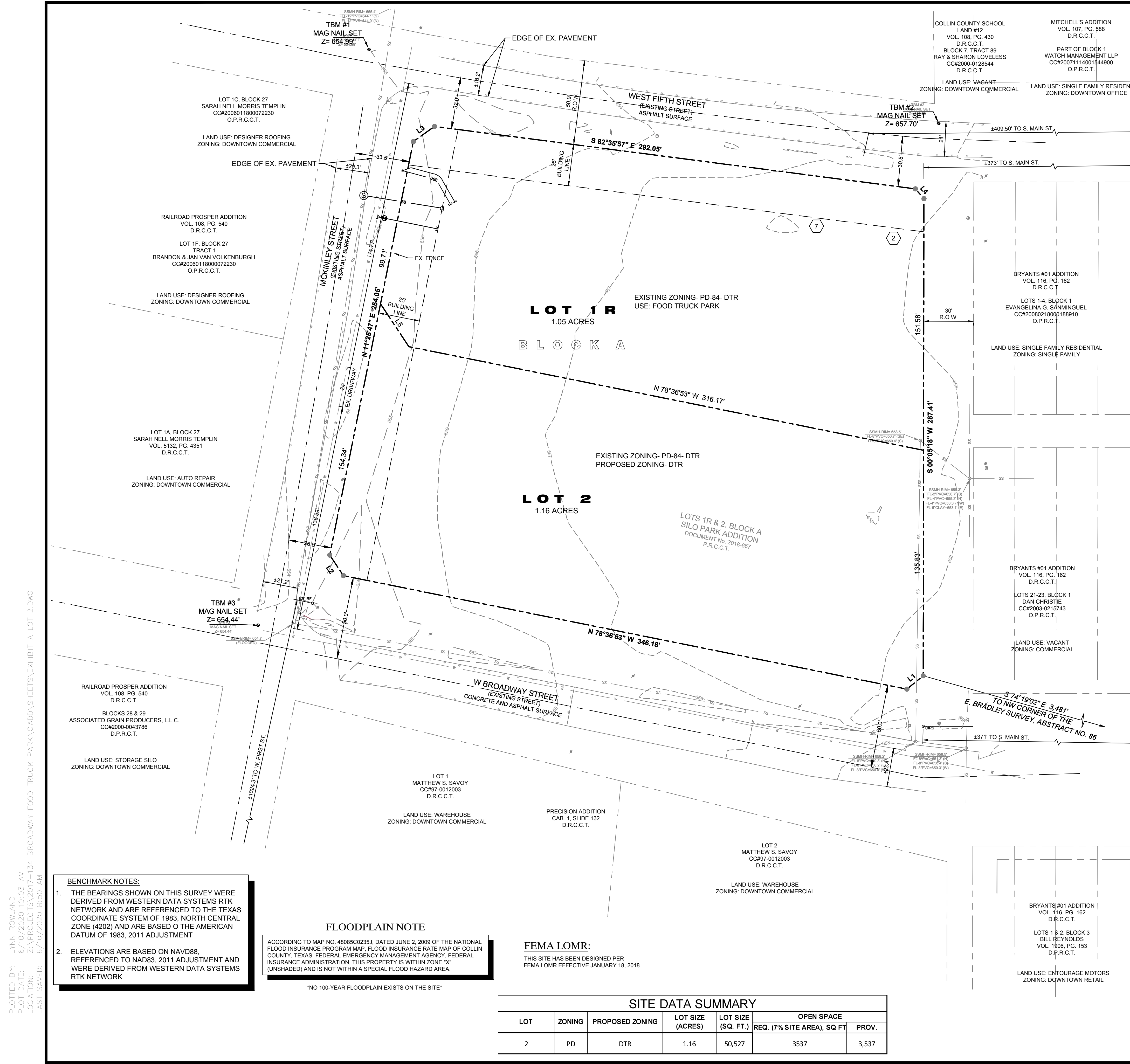
Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

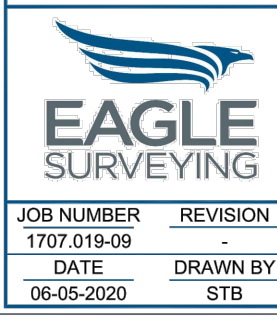
APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



VICINITY MAP
N.T.S.

LEGAL DESCRIPTION
Being a 1.16 acre tract or parcel of land situated in the Collin County School Land Survey, Abstract Number 147 in the Town of Prosper, Collin County, Texas and being all of Lot 2, Block A of Silo Park Addition, an addition to the Town of Prosper, Collin County, Texas, recorded in Document Number 2020-67 of the Plat Records of Collin County, Texas and being more particularly described by metes and bounds as follows:
BEGINNING, at a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Southeast corner of said Lot 2 and in the North right-of-way line of W. Broadway Street, a variable width right-of-way and being at the end of a corner clip;
THENCE, North 78°36'53" West, with the South line of said Lot 2 and the common North right-of-way line of said W. Broadway Street, a distance of 346.18 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Southwest corner of said Lot 2 and being the beginning of a corner clip;
THENCE, North 33°35'31" West, with the West line of said Lot 2, a distance of 14.91 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the end of said corner clip and being in the East right-of-way line of McKinley Street, a 50' right-of-way;
THENCE, North 11°25'47" East, with the West line of said Lot 2 and the common East right-of-way line of said McKinley Street, a distance of 154.33 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Northwest corner of said Lot 2 and the common Southwest corner of Lot 1R, Block A of said Silo Park Addition;
THENCE, with the North line of said Lot 2 and the common South line of said Lot 1R, the following courses and distances:
South 33°35'31" East, a distance of 30.94 feet to a capped 1/2" iron rod stamped "EAGLE SURVEYING" found;
South 78°36'53" East, a distance of 316.17 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Northeast corner of said Lot 2 and the common Southeast corner of said Lot 1R and being in the West right-of-way line of Crockett Street (unimproved) a 30' right-of-way, recorded in Volume 116, Page 162 of the Deed Records of Collin County, Texas;
THENCE, South 00°50'18" West, with the East line of said Lot 2 and the common West right-of-way line of said Crockett Street, a distance of 135.83 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the beginning of a corner clip;
THENCE, South 50°44'12" West, a distance of 12.68 feet to the **POINT OF BEGINNING** and containing 1.16 acres of land more or less.



Eagle Surveying, LLC
210 South Elm Street
Suite: 104
Denton, TX 76201
(940) 222-3009
www.eaglesurveying.com
TX Firm # 10194177

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a Registered Professional Land Surveyor under the laws of the State of Texas.
Matthew Hulse
Matthew Hulse
R.P.L.S. # 6402
Date: 6-05-20



BENCHMARK NOTES:
1. THE BEARINGS SHOWN ON THIS SURVEY WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK AND ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE (4202) AND ARE BASED ON THE AMERICAN DATUM OF 1983, 2011 ADJUSTMENT
2. ELEVATIONS ARE BASED ON NAVD83, REFERENCED TO NAD83, 2011 ADJUSTMENT AND WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK

FLOODPLAIN NOTE
ACCORDING TO MAP NO. 48085C02351, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X" (UNSHADED) AND IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA.
NO 100-YEAR FLOODPLAIN EXISTS ON THE SITE

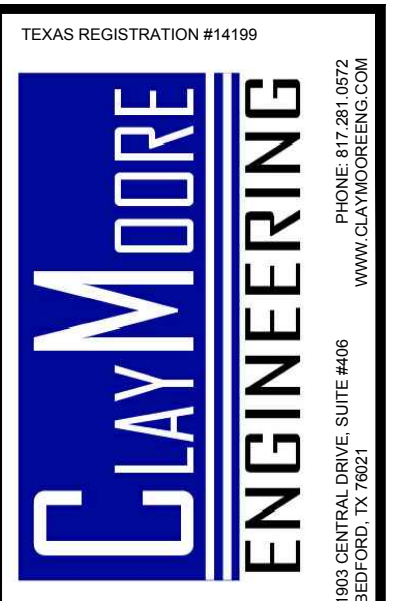
FEMA LOMR:
THIS SITE HAS BEEN DESIGNED PER FEMA LOMR EFFECTIVE JANUARY 18, 2018

SITE DATA SUMMARY

LOT	ZONING	PROPOSED ZONING	LOT SIZE (ACRES)	LOT SIZE (SQ. FT.)	OPEN SPACE	
					REQ. (7% SITE AREA), SQ FT	PROV.
2	PD	DTR	1.16	50,527	3537	3,537

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 50°44'12" W	12.68'
L2	N 33°35'33" W	14.91'
L3	N 54°24'55" E	15.72'
L4	S 41°15'20" E	7.79'
L5	N 33°35'31" W	30.94'



SILO PARK
PROSPER CO-OP GIN ASSOCIATION
VOL. 853, PG. 336
D.R.C.C.T.
PROSPER, TEXAS

NO.	DATE	REVISION	BY

CASE No. Z20-0012

SILO PARK- LOT 2

EXHIBIT A

DEVELOPER:
SILO PARK LLC
1061 N. COLEMAN, SUITE 90
PROSPER, TEXAS 750578
PH: 214.725.1104
CONTACT NAME: DOUG WALKER

APPLICANT:
CLAYMOORE ENGINEERING, INC.
301 S. COLEMAN, SUITE 40
PROSPER, TX 75078
PH: 817.281.0572
CONTACT NAME: MATT MOORE

SURVEYOR:
EAGLE SURVEYING, LLC
210 SOUTH ELM STREET
DENTON, TX 76201
PH: 940.222.3009
CONTACT NAME: JOHN COX

LEGAL DESCRIPTION:
LOT 2, BLOCK A
SILO PARK ADDITION
DOCUMENT No. 2018-667
P.R.C.C.T.

CITY: TOWN OF PROSPER
STATE: TEXAS

COUNTY: COLLIN
SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY
ABSTRACT NO.: 147

EXHIBIT A

DESIGN: MBT
DRAWN: MBT
CHECKED: DD
DATE: 06/09/2020

SHEET
EX-A

File No. 2017-134

PLOTTED BY: LYNN ROWLAND
PLOT DATE: 6/10/2020 10:03 AM
LOCATION: Z:\PROJECTS\2017-134 BROADWAY FOOD TRUCK PARK\CADD\SHEETS\EXHIBIT A LOT 2.DWG
LAST SAVED: 6/10/2020 8:50 AM

PLANNING



To: Mayor and Town Council
From: Alex Glushko, AICP, Planning Manager
Through: Harlan Jefferson, Town Manager
Re: Town Council Meeting – June 23, 2020

Agenda Item:

Conduct a Public Hearing, and consider and act upon an ordinance amending Planned Development-84 (PD-84), on 1.1± acres, located on the southeast corner of Fifth Street and McKinley Street, generally to amend the property boundary, permitted uses, and development standards for Silo Park Food Truck Park. (Z20-0011) [Companion Case Z20-0012]

Description of Agenda Item:

The zoning and land use of the surrounding properties are as follows:

	Zoning	Current Land Use	Future Land Use Plan
Subject Property	Planned Development-84	Silo Park Food Truck Park	Old Town Main Street Retail
North	Downtown Commercial	Undeveloped	Old Town Commercial
East	Single Family-15	Single Family Residence	Old Town Main Street Retail
South	Planned Development-84	Undeveloped	Old Town Main Street Retail
West	Downtown Commercial	Contractor Yard	Old Town Mixed Use

The purpose of the proposed PD amendment is to allow for the continued operation of Silo Park, a food truck park and outdoor entertainment venue. In November 2017, PD-84 was approved as a temporary use to determine if it would be a viable business. Approval permitted the use for an initial period of three (3) years, and allowed for continued use with approval of a Specific Use Permit, provided all development standards (i.e. architecture, landscaping, and parking) were

brought up to Town code. In-lieu of applying for a Specific Use Permit, the applicant is requesting to amend PD-84 to allow for continued use, as well as to modify the property boundary, permitted uses, and development standards, as described below:

- *Property Boundary* – With the development of Silo Park, the property was zoned, platted, and developed as one (1) lot. In December 2019, the subject property was subdivided into two (2) lots, with Silo Park occupying the lot on the northern half of the property, being Lot 1R, and the lot on the southern half of the property, being Lot 2, serving as the parking for Silo Park. With this request, the southern half of the property, Lot 2, will be removed from the Planned Development and PD-84 for Silo Park is proposed only for Lot 1R.
- *Food Truck Park Use* – The applicant is proposing the Food Truck Park use by right, without being subject to a term of expiration. However, the PD indicates that following the discontinuation of use the property shall be restored to its original pre-developed condition.
- *Restaurant Incubator Use* – The applicant is requesting approval of a new use on the property, restaurant incubators. In the southwest corner of the property, two (2) approximately 10-foot by 20-foot shipping container type structures would be placed on the site to provide a location for one or more restaurants to occupy. These structures would be connected to the Town's water and sewer utilities to comply with health and code requirements. Similar to the beverage center, the two structures would not have a masonry exterior as required by the zoning requirements. These incubator restaurants would be in addition to any food trucks that are located on the site. The PD requires the incubator structures to be removed from the site within 90 days after the discontinuation of use. The following photographs illustrate the proposed incubator restaurants.



- *Parking* – The Zoning Ordinance requires that all commercial parking spaces and drive aisles are paved with concrete. The use of flex-base for parking lot paving was approved in conjunction with the PD for the initial three (3) year period. The applicant is requesting the continued use of flex base. The proposed PD would permit continued use of flex base; however, it would require asphalt paving within three (3) years from the date of Town Council approval of this request.

In conjunction with the subdivision of the property, a parking agreement was established which requires relocation of parking from the southern lot (Lot 2) to the northern lot (Lot 1R), within 90 days from the time requested by the property owner of Lot 2.

- *Architecture* – This request would allow for structures associated with the food truck park use to be exempt from the architectural and masonry standards of the Zoning Ordinance and to comply with the representative elevations included in the PD. However, whenever the food truck park use ceases, redevelopment of the property would require compliance with the

Town’s architectural standards. The proposed PD includes images of the existing beverage center, stage, and shade structure as shown below, as well as the proposed restaurant incubators shown above.



- *Landscaping* – This request allows for landscaping associated with the food truck park use to be exempt from the minimum landscape standards of the Zoning Ordinance. However, whenever the food truck park use ceases, redevelopment of the property would require compliance with the Town’s landscape standards. Below is an image of the existing landscaping located within the development, which depicts the presence of several large trees.



As a companion item, the rezoning request from PD-84 to Downtown Retail (Z20-0012) is on the June 23, 2020 agenda.

Old Town Assessment, Phase 1 – The Old Town Assessment, Phase 1 Study recommends under the Guiding Principles that:

“Old Town should offer Prosper residents and visitors many gathering places, including both outdoor spaces such as plazas and open spaces and indoor places such as restaurants and performance spaces.”

Future Land Use Plan – The Future Land Use Plan recommends Old Town Main Street Retail for the property; the proposed Planned Development conforms to the Future Land Use Plan.

Thoroughfare Plan – The property has direct access to McKinley Street, a 60-foot, 2-lane, undivided roadway. The zoning exhibit complies with the Thoroughfare Plan.

Parks Master Plan – The Parks Master Plan does not indicate a park is needed on the subject property; however, a hike and bike trail will be needed at the time of development.

Legal Obligations and Review:

Notification was provided as required by the Zoning Ordinance and state law. Town staff has not received any Public Hearing Notice Reply Forms. Town Attorney, Terrence Welch of Brown and Hofmeister, L.L.P., has approved the standard ordinance as to form and legality.

Attached Documents:

1. Aerial and Zoning Maps
2. Current Exhibits A, B, C, D, and E
3. Proposed Exhibits A, B, C, and D
4. Ordinance

Planning & Zoning Commission Recommendation:

At their June 2, 2020 meeting, the Planning and Zoning Commission recommended the Town Council approve the request, by a vote of 6-0, subject to modifying the timeframe for improving the parking lot paving for the Food Truck Park from two (2) years to three (3) years.

Since the Planning & Zoning Commission meeting, the request has been modified to reflect the three (3) year timeframe for the required parking lot paving. Staff is supportive of the Planning & Zoning Commission's recommendation.

Staff Recommendation:

Town staff recommends the Town Council approve an ordinance amending Planned Development-84 (PD-84), on 1.1± acres, located on the southeast corner of Fifth Street and McKinley Street, generally to amend the property boundary, permitted uses, and development standards for Silo Park Food Truck Park.

Proposed Motion:

I move to approve an ordinance amending Planned Development-84 (PD-84), on 1.1± acres, located on the southeast corner of Fifth Street and McKinley Street, generally to amend the property boundary, permitted uses, and development standards for Silo Park Food Truck Park.



Item 11.

SIXTH ST

MAIN ST

FIFTH ST

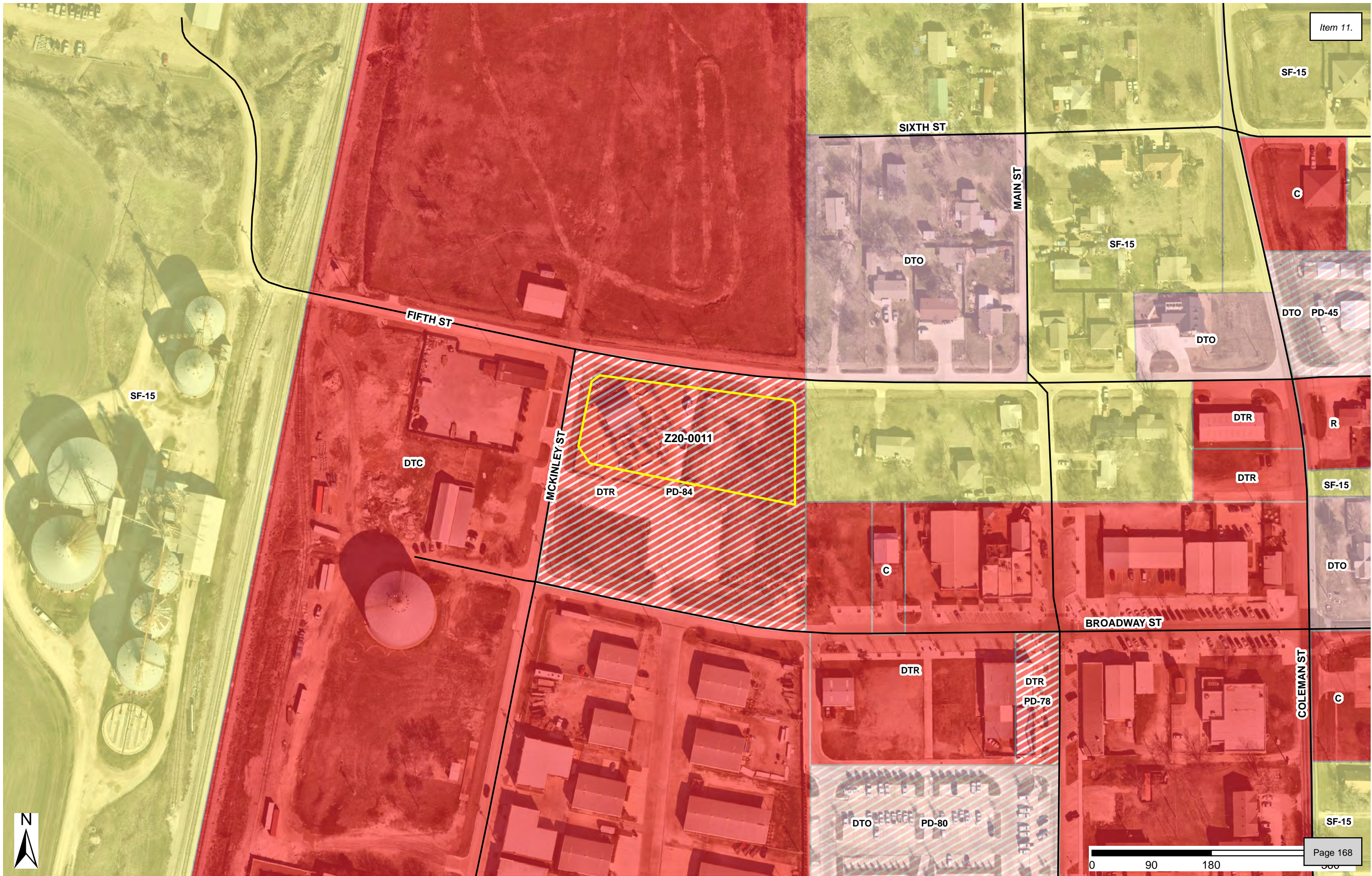
Z20-0011

MCKINLEY ST

BROADWAY ST

COLEMAN ST





Item 11.

SF-15

SIXTH ST

C

MAIN ST

DTO

SF-15

DTO PD-45

DTO

FIFTH ST

SF-15

Z20-0011

DTR

PD-84

DTC

MCKINLEY ST

DTR

R

DTR

SF-15

C

DTO

BROADWAY ST

C

DTR

DTR PD-78

COLEMAN ST

SF-15

DTO

PD-80

0 90 180

Page 168



SILO PARK

PROSPER, TEXAS



Exhibit A

A tract of land situated in the COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NUMBER 147, being that tract of land described in a deed to Prosper Co-op Gin Association, and recorded in Volume 853, Page 336, Deed Records, Collin County, Texas.

The exterior boundary of said tract of land is further described as follows:

Beginning at a 1/2" iron rod found being at the intersection of the South right of way of West 5th Street and the West right of way of Crockett Street and the POINT OF BEGINNING;

Thence S 00°05'18" W along the West right of way of Crockett Street 327.85 feet to the North right of way of W Broadway Street and marked by a capped 1/2" iron rod set stamped "EAGLE SURVEYING";

Thence N 78°36'53" W along said right of way 375.19 feet to the east right of way of Mckinley Street and marked by a 1/2" iron rod found;

Thence N 11°25'47" E along said right of way 299.85 feet to the South right of way of West 5th Street;

Thence S 82°35'57" E along said right of way 311.49 feet to the POINT OF BEGINNING and containing 2.45 acres more or less.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a licensed Land Surveyor under the laws of the State of Texas.

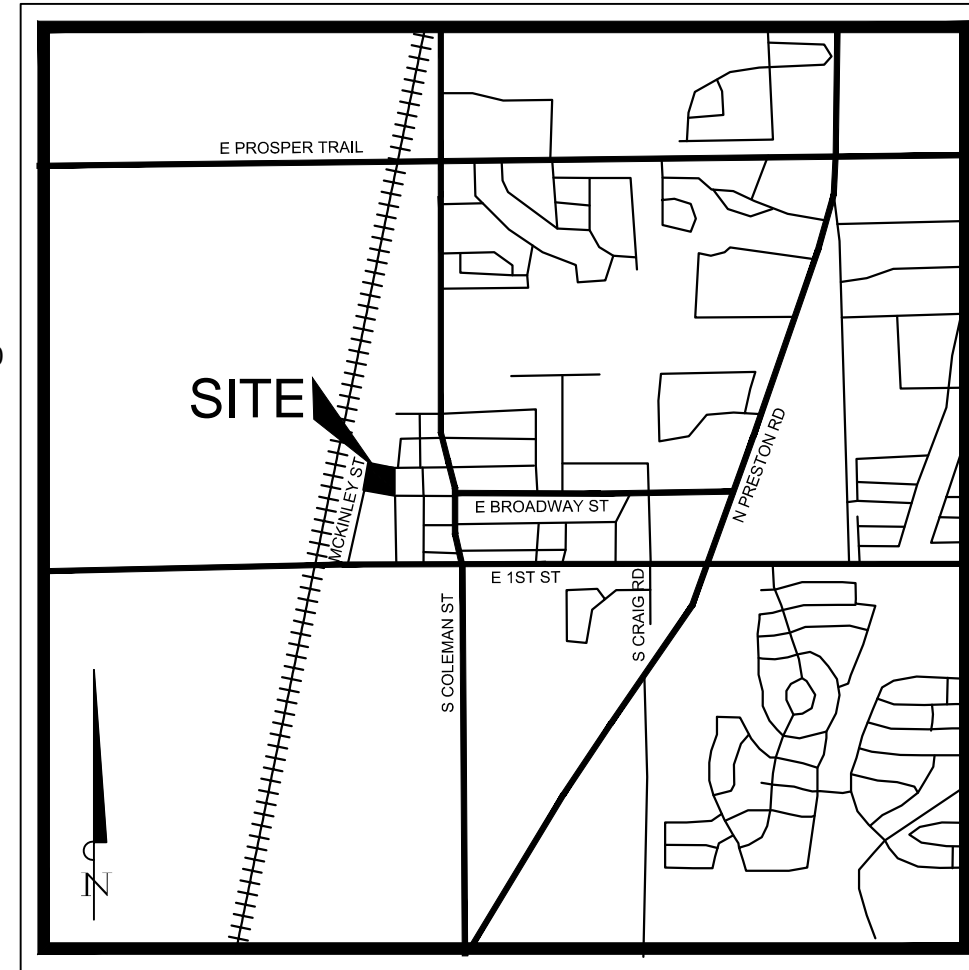
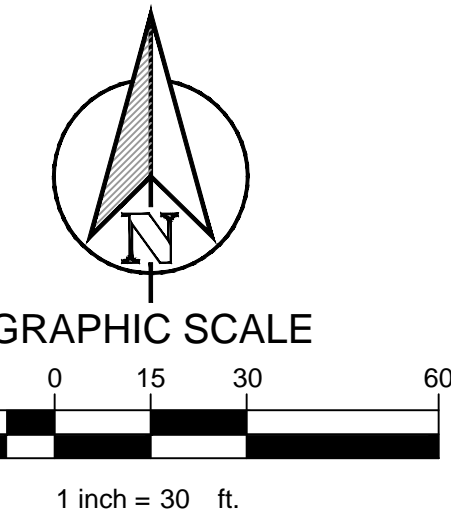
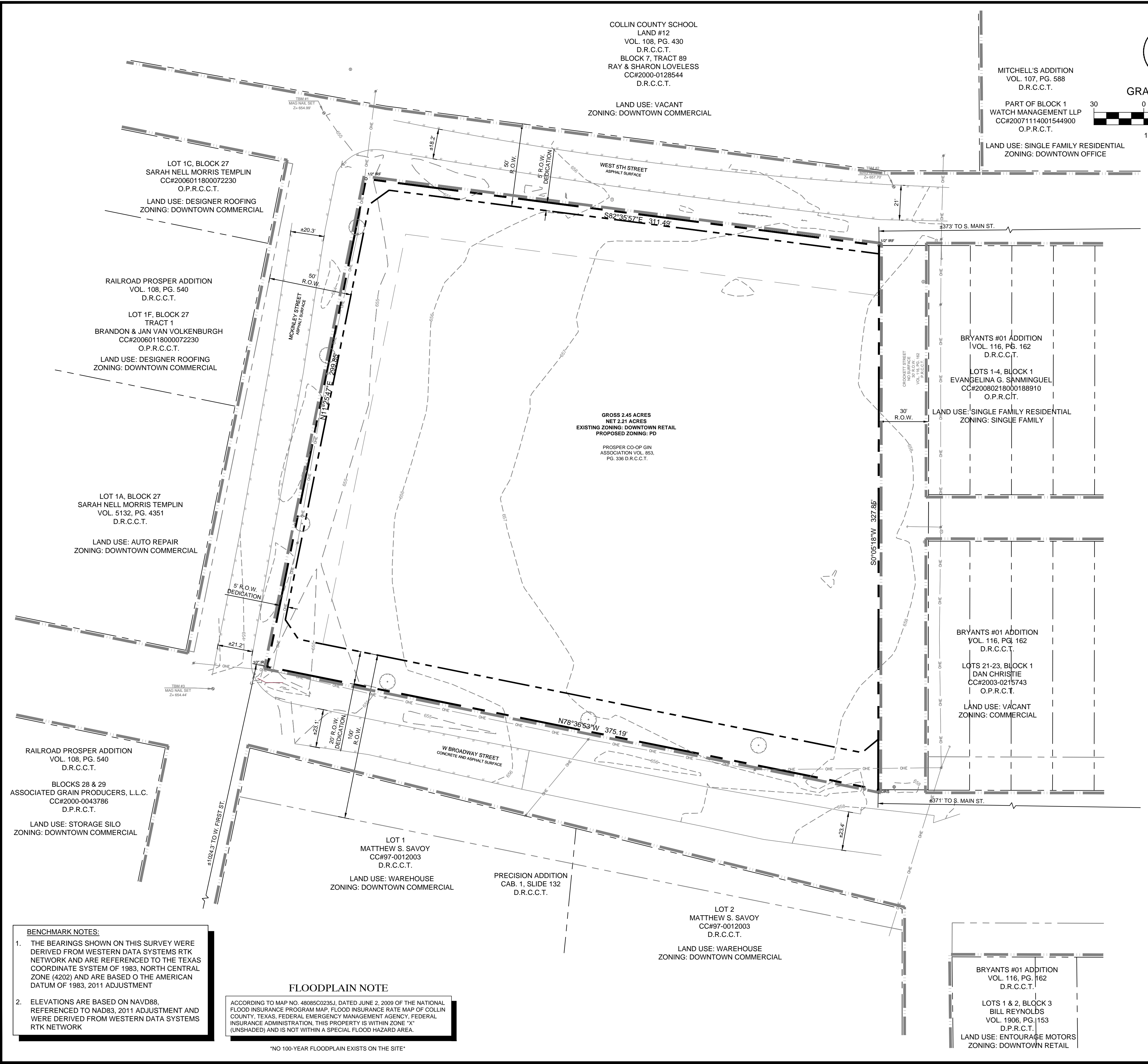
 2 Aug 2017

Ernest Woorster

Date

R.P.L.S. # 6509





LEGEND

	ZONING BOUNDARY
--	-----------------

EXHIBIT A

A tract of land situated in the COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NUMBER 147, being that tract of land described in a deed to Prosper Co-op Gin Association, and recorded in Volume 853, Page 336, Deed Records, Collin County, Texas.

The exterior boundary of said tract of land is further described as follows:
Beginning at a 1/2" iron rod found being at the intersection of the South right of way of West 5th Street and the West right of way of Crockett Street and the POINT OF BEGINNING;
Thence S 00°05'18" W along the West right of way of Crockett Street 327.85 feet to the North right of way of W Broadway Street and marked by a capped 1/2" iron rod set stamped "EAGLE SURVEYING";
Thence N 78°36'53" W along said right of way 375.19 feet to the east right of way of McKinley Street and marked by a 1/2" iron rod found;
Thence N 11°25'47" E along said right of way 299.85 feet to the South right of way of West 5th Street;
Thence S 82°35'57" E along said right of way 311.49 feet to the POINT OF BEGINNING and containing 2.45 acres more or less.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a licensed Land Surveyor under the laws of the State of Texas.

Ernest Wooster
R.P.L.S. # 6509

Date: 2 Aug 2017

CASE #:

SILO PARK		
EXHIBIT A		
DEVELOPER: SILO PARK LLC 1061 N. COLEMAN, SUITE 90 PROSPER, TEXAS 750578 PH: 214.725.1104 CONTACT NAME: DOUG WALKER		
APPLICANT: CLAYMOORE ENGINEERING, INC. 1903 CENTRAL DRIVE, SUITE #406 BEDFORD, TX 76021 PH: 817.281.0572 CONTACT NAME: MATT MOORE		
SURVEYOR: EAGLE SURVEYING, LLC 210 SOUTH ELM STREET DENTON, TX 76201 PH: 940.222.3009 CONTACT NAME: LARRY SPRADLING		
LEGAL DESCRIPTION: PROSPER CO-OP GIN ASSOCIATION VOL. 853, PG. 336 D.R.C.C.T.		
CITY: TOWN OF PROSPER	STATE: TEXAS	
COUNTY COLLIN	SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY	ABSTRACT NO. 147

TEXAS REGISTRATION #14199

CLAYMOORE ENGINEERING
1903 CENTRAL DRIVE, SUITE #406
BEDFORD, TEXAS 76021
PHONE: 817.281.0572
WWW.CLAYMOOREENGINEERING.COM

PRELIMINARY
FOR REVIEW ONLY
Not for construction purposes.
CLAYMOORE ENGINEERING
ENGINEERING AND PLANNING CONSULTANTS
Engineer: MATT MOORE
P.E. No. 95813, Date: 8/2/2017

SILO PARK
PROSPER CO-OP GIN ASSOCIATION
VOL. 853, PG. 336
D.R.C.C.T.
PROSPER, TEXAS

No.	DATE	REVISION	BY

EXHIBIT A

DESIGN: JEV
DRAWN: JEV
CHECKED: MAM
DATE: 8/2/2017

SHEET
EXH-A

File No. 2017-102

PLOTTED BY: JVALDEZ
PLOT DATE: 8/4/2017 10:47 AM
LOCATION: C:\EGN\TE\SHARED\PROJECTS\2017-134 BROADWAY FOOD TRUCK PARK\CADD\EXHIBIT\EXHIBIT-A.DWG
LAST SAVED: 8/3/2017 9:52 PM

BENCHMARK NOTES:
1. THE BEARINGS SHOWN ON THIS SURVEY WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK AND ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE (4202) AND ARE BASED ON THE AMERICAN DATUM OF 1983, 2011 ADJUSTMENT
2. ELEVATIONS ARE BASED ON NAVD88, REFERENCED TO NAD83, 2011 ADJUSTMENT AND WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK

FLOODPLAIN NOTE
ACCORDING TO MAP NO. 48085C0235J, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X" (UNSHADED) AND IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA.

NO 100-YEAR FLOODPLAIN EXISTS ON THE SITE

Z17-0009

EXHIBIT B

STATEMENT OF INTENT AND PURPOSE

Silo Park is to be a new gathering place in the shadows of the railroad silos in the Old Town District of Prosper, Texas. It will provide a wide selection of food, beverages, and entertainment in a family friendly environment. The guests are invited to stay and socialize. With the feel of a backyard party with dozens of your closest friends, guests can sit back, relax and enjoy a memorable social experience.

Silo Park will be a food truck park and entertainment venue situated on the northeast corner of W. 5th Street and N. McKinley Street in the Old Town District of Prosper, Texas. The park will have room for six full size food trucks, outdoor seating, a stage for live music and performances, a designated kid's area, and a freestanding beverage center with restrooms.

Z17-0009

**EXHIBIT C
PLANNED 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.

A. Use of Land and Buildings. The Tract shall develop in accordance with the uses permitted in the Downtown Retail (DTR) District as indicated in the Schedule of Uses in the Town's Zoning Ordinance, as it exists or may be amended, except as follows:

1. Temporary Food Truck Park and Outdoor Entertainment Venue

- a. For an initial term of three (3) years from the date of approval of this Planned Development, the site may develop as a food truck park and outdoor entertainment venue as shown in Exhibit D.
- b. If the developer wishes to continue the use of the site as a food truck park and outdoor entertainment venue beyond the initial three-year term, the developer shall make an application for a Specific Use Permit for the venue prior to the expiration of the initial three year term.
- c. No later than six (6) months prior to the third anniversary of the Town's approval of this ordinance, the owner/operator of the food truck park and outdoor entertainment venue shall present to the Town a Specific Use Permit application in full compliance with all Town zoning and subdivision regulations, including but not limited to building construction materials, landscaping, parking, fencing and related site development requirements.
- d. Alcoholic beverage sales shall be subject to all applicable Town of Prosper regulations and TABC permitting requirement.
- e. Following discontinuation of use all improvements shall be removed from the property and the property returned to pre-developed conditions within a period of time no great than 90 days.

B. Regulations

Except as noted below, the Tract shall develop in accordance with the development standards for the Downtown Retail (DTR) District, as it exists or may be amended.

1. Architecture – The exterior masonry façade requirements of Chapter 4, Sections 8 and 9.8 of the Town's Zoning Ordinance, as it exists or may be amended, shall not apply to the proposed structures located in the food truck park and outdoor entertainment venue, as shown on Exhibit D. Future redevelopment of the venue site shall be in full compliance

with all Zoning Ordinance requirements. The two future retail buildings shown on Exhibit D shall fully comply with Zoning Ordinance requirements at the time of development.

2. Landscaping – Requirements of Chapter 4, Section 2 shall not apply to the proposed food truck park and outdoor entertainment venue in accordance with Exhibit D. Future redevelopment of the venue site shall be in full compliance with all Zoning Ordinance requirements. The two future retail buildings shown on Exhibit D shall fully comply with Zoning Ordinance requirements at the time of development.
3. Parking and Paving – The number of required off-street parking spaces shall be provided in accordance with the parking shown on Exhibit D. The use of flex base material for the parking and drive aisles associated with the food truck park and outdoor entertainment venue shall be permitted. Future redevelopment of the venue site shall be in full compliance with all Zoning Ordinance requirements. Parking and drive aisles associated with the two future retail buildings shown on Exhibit D shall fully comply with the Town’s Zoning Ordinance, as it exists or may be amended, and the Town’s Design Standards and Specifications, as it exists or may be amended, at the time of development.

C. Proposed Site Improvements

The following site improvements shall be permitted as follows.

1. Beverage Center

The main structure on the site will be a 30 foot by 50 foot, 1,500 square foot, metal frame building with metal siding and a metal roof on a concrete slab. The building will have two ten-foot wide roll up doors along one side and one entry door on the end of the building. The structure will contain a business office, restrooms, a bar, and seating.



2. Patio Extension

A covered patio will be constructed along the length of the 50-foot Beverage Center building and extend outward approximately 20 feet, as shown below. The materials and means of construction of the patio cover shall comply with Town's Building Codes. The ground surface below patio cover will consist of decomposed granite.



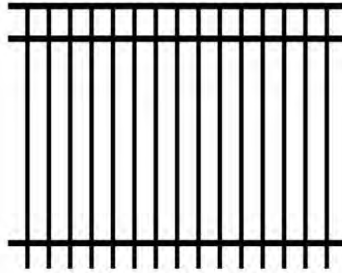
3. Live Music Stage

A stage associated with the food truck park and outdoor entertainment venue may be constructed on the site and will be approximately 20 feet by 20 feet in area and constructed with a wooden frame and corrugated metal sides and roof as shown below.



4. Site Fencing

Site fencing associated with the food truck park and outdoor entertainment venue shall consist of tubular steel fencing along the south side of Silo Park, and horizontal board fencing and/or tubular steel fencing along the east, west, and north sides of Silo Park, as shown below.



5. Shade Structures

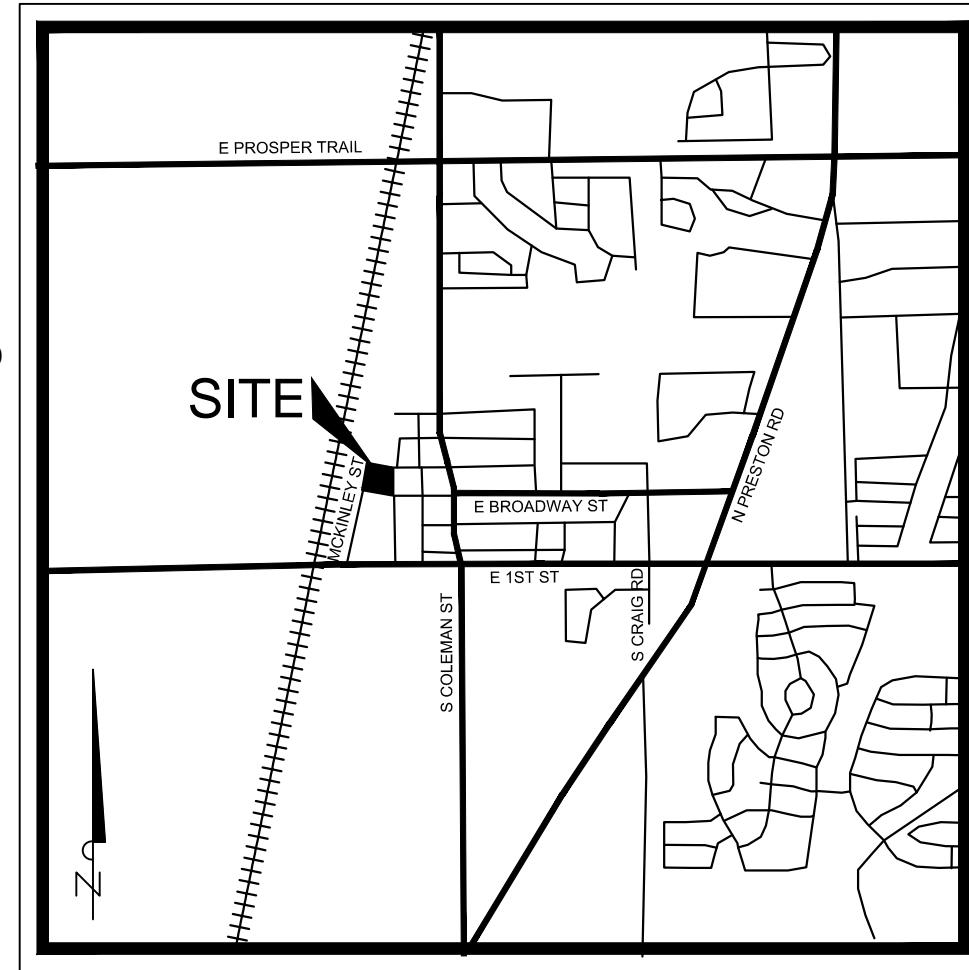
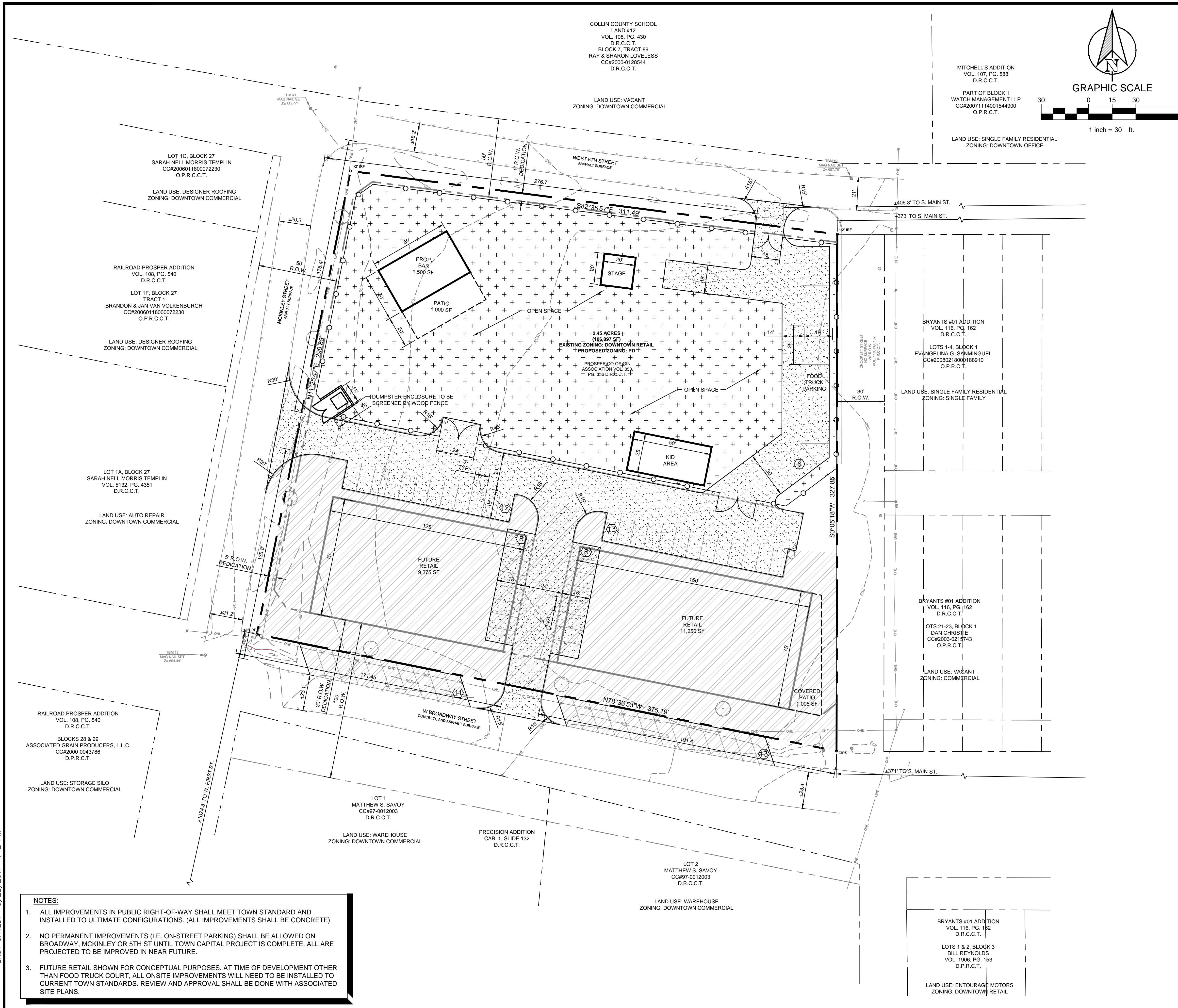
Shade structures associated with the food truck park and outdoor entertainment venue may be constructed on an as-needed basis. These structures, as shown below, will be approximately 12 feet by 12 feet in area as shown below.



6. Venue Lighting

Venue site lighting will consist mostly of string lighting extending across the site. Examples of the method of lighting are shown below. Lighting will be subject to Chapter 4, Section 6 of the Town's Zoning Ordinance, as it exists or may be amended.





LEGEND

[Pattern]	PROPOSED FLEXBASE
[Pattern]	PROPOSED DECOMPOSED GRANITE
[Pattern]	FUTURE DEVELOPMENT

FLOODPLAIN NOTE

ACCORDING TO MAP NO. 48085C02351, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X" (UNSHADED) AND IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA.

NO 100-YEAR FLOODPLAIN EXISTS ON THE SITE

BENCHMARK NOTES:

- THE BEARINGS SHOWN ON THIS SURVEY WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK AND ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE (4202) AND ARE BASED ON THE AMERICAN DATUM OF 1983, 2011 ADJUSTMENT
- ELEVATIONS ARE BASED ON NAVD88, REFERENCED TO NAD83, 2011 ADJUSTMENT AND WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK

CASE #: 217-0009

SILO PARK

EXHIBIT D

DEVELOPER:

SILO PARK LLC
1061 N. COLEMAN, SUITE 90
PROSPER, TEXAS 750578
PH: 214.725.1104 CONTACT NAME: DOUG WALKER

APPLICANT:

CLAYMOORE ENGINEERING, INC.
1903 CENTRAL DRIVE, SUITE #406
BEDFORD, TX 76021
PH: 817.281.0572 CONTACT NAME: MATT MOORE

SURVEYOR:

EAGLE SURVEYING, LLC
210 SOUTH ELM STREET
DENTON, TX 76201
PH: 940.222.3009 CONTACT NAME: LARRY SPRADLING

LEGAL DESCRIPTION:

PROSPER CO-OP GIN ASSOCIATION
VOL. 853, PG. 336
D.R.C.C.T.

CITY: TOWN OF PROSPER STATE: TEXAS

COUNTY: COLLIN SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY ABSTRACT NO. 147

NOTES:

- ALL IMPROVEMENTS IN PUBLIC RIGHT-OF-WAY SHALL MEET TOWN STANDARD AND INSTALLED TO ULTIMATE CONFIGURATIONS. (ALL IMPROVEMENTS SHALL BE CONCRETE)
- NO PERMANENT IMPROVEMENTS (I.E. ON-STREET PARKING) SHALL BE ALLOWED ON BROADWAY, MCKINLEY OR 5TH ST UNTIL TOWN CAPITAL PROJECT IS COMPLETE. ALL ARE PROJECTED TO BE IMPROVED IN NEAR FUTURE.
- FUTURE RETAIL SHOWN FOR CONCEPTUAL PURPOSES. AT TIME OF DEVELOPMENT OTHER THAN FOOD TRUCK COURT, ALL ONSITE IMPROVEMENTS WILL NEED TO BE INSTALLED TO CURRENT TOWN STANDARDS. REVIEW AND APPROVAL SHALL BE DONE WITH ASSOCIATED SITE PLANS.

PLOTTED BY: JVALDEZ
PLOT DATE: 8/22/2017 4:44 PM
LOCATION: C:\EGNYTE\SHARED\PROJECTS\2017-134 Broadway Food Truck Park\CADD\EXHIBIT\EXHIBIT-D.dwg
LAST SAVED: 8/22/2017 4:42 PM

TEXAS REGISTRATION #14199

CLAYMOORE ENGINEERING

PRELIMINARY

FOR REVIEW ONLY
Not for construction purposes.
CLAYMOORE ENGINEERING
ENGINEERING AND PLANNING CONSULTANTS

Engineer: MATT MOORE
P.E. No. 95813 Date: 8/23/2017

SILO PARK
PROSPER CO-OP GIN ASSOCIATION
VOL. 853, PG. 336
D.R.C.C.T.
PROSPER, TEXAS

No.	DATE	REVISION	BY

DESIGN: JEV
DRAWN: JEV
CHECKED: MAM
DATE: 8/23/2017

SHEET
EXH-D

File No. 2017-102

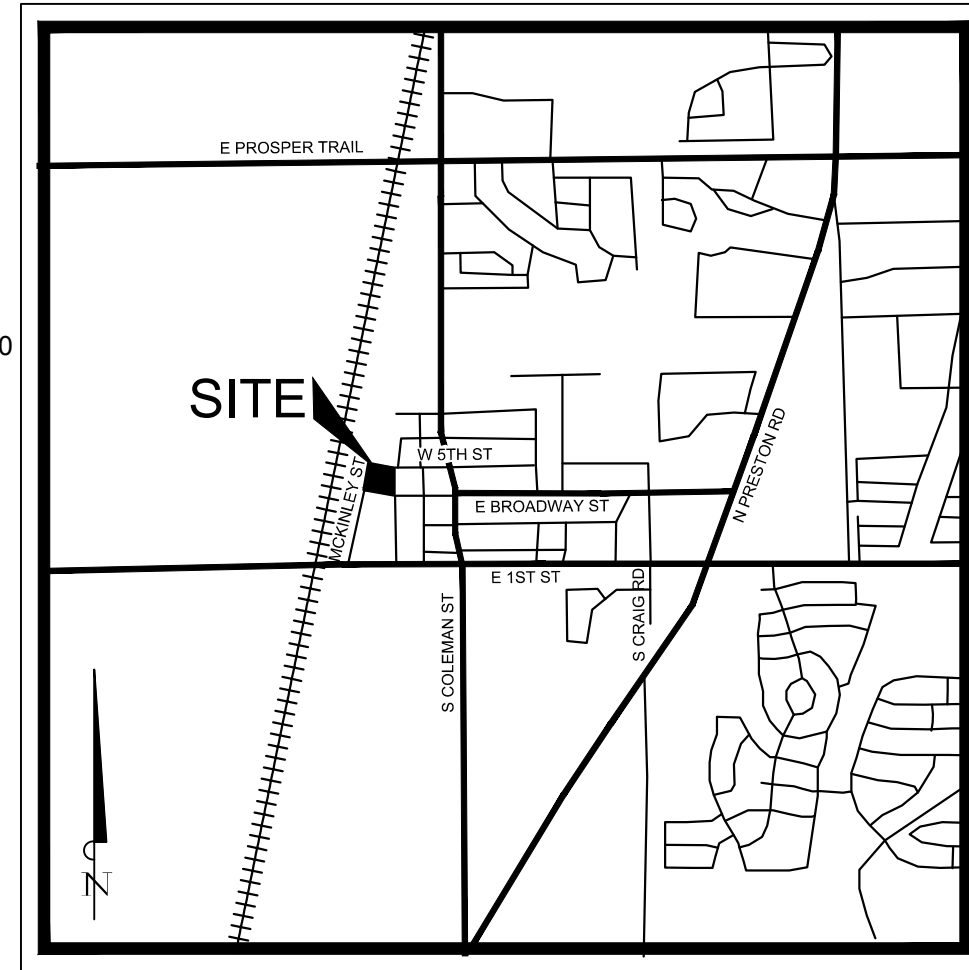
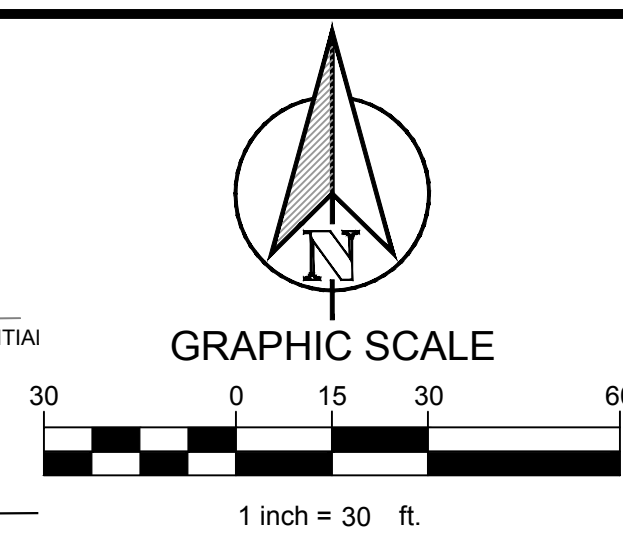
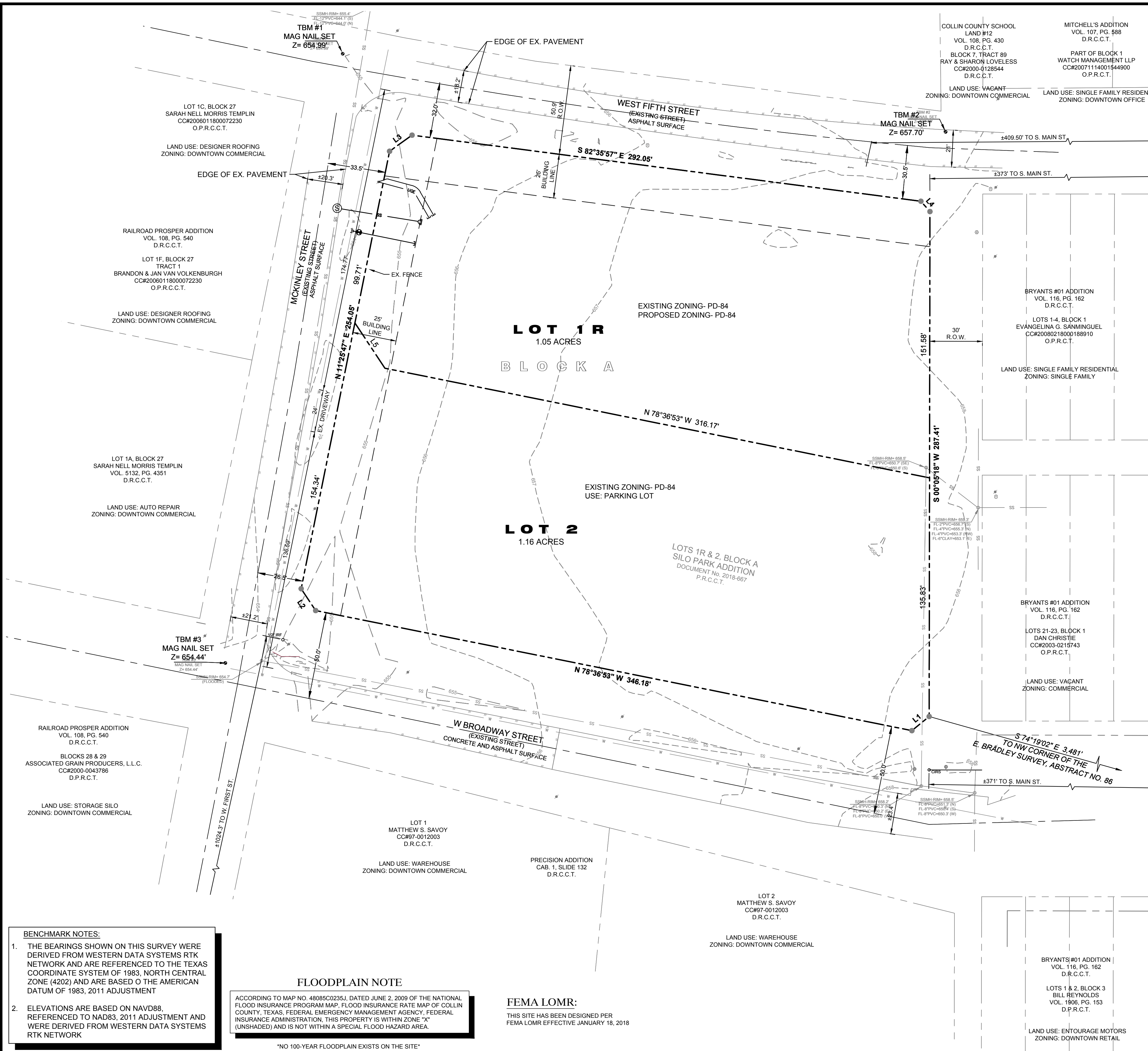
Z17-0009

EXHIBIT E

DEVELOPMENT SCHEDULE

Upon approval of the planned development zoning and site plan, it is anticipated that construction will begin in January 2018 with the park to be open for business in April 2018.

PLOTTED BY: LYNN ROWLAND
 PLOT DATE: 6/10/2020 10:02 AM
 LOCATION: Z:\PROJECTS\2017-134 BROADWAY FOOD TRUCK PARK\CADD\SHEETS\EXHIBIT A LOT 1.DWG
 LAST SAVED: 6/10/2020 8:47 AM



LEGAL DESCRIPTION

Being a 1.05 acre tract or parcel of land situated in the Collin County School Land Survey, Abstract Number 147 in the Town of Prosper, Collin County, Texas and being all of Lot 1R, Block A of Silo Park Addition, an addition to the Town of Prosper, Collin County, Texas, recorded in Document Number 2020-67 of the Plat Records of Collin County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING, at a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Northeast corner of said Lot 1R and in the South right-of-way line of W. Fifth Street, a variable width right-of-way and being at the beginning of a corner clip;

THENCE, South 41°15'20" East, with the East line of said Lot 1R, a distance of 7.79 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the end of said corner clip and being in the West right-of-way line of Crockett Street (unimproved) a 30' right-of-way recorded in Volume 116, Page 162 of the Deed Records of Collin County, Texas;

THENCE, South 00°05'18" West, with the East line of said Lot 1R and the common West right-of-way line of said Crockett Street, a distance of 151.55 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Southeast corner of said Lot 1R and the common Northeast corner of Lot 2, Block A of said Silo Park Addition;

THENCE, with the South line of said Lot 1R and the common North line of said Lot 2, the following courses and distances:

North 78°36'53" West, a distance of 316.17 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found;

North 33°35'31" West, a distance of 30.94 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the Southwest corner of said Lot 1R and the common Northwest corner of said Lot 2 and being in the East right-of-way line of McKinley Street, a 50' right-of-way;

THENCE, North 11°25'47" East, with the East line of said Lot 1R and the common East right-of-way line of said McKinley Street, a distance of 99.71 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the beginning of a corner clip;

THENCE, North 54°24'55" East, a distance of 15.72 feet to a 1/2" iron rod with green plastic cap stamped "EAGLE SURVEYING" found at the end of said corner clip and the Northwest corner of said Lot 1R and being in the South right-of-way line of said W. Fifth Street;

THENCE, South 82°35'57" East, with the North line of said Lot 1R and the South right-of-way line of said W. Fifth Street, a distance of 292.05 feet to the **POINT OF BEGINNING** and containing 1.05 acres of land more or less.

EAGLE SURVEYING		Eagle Surveying, LLC 210 South Elm Street Suite: 104 Denton, TX 76201 (940) 222-3009 www.eaglesurveying.com TX Firm # 10194177	I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a Registered Professional Land Surveyor under the laws of the State of Texas. <i>Matthew Hulse</i> Matthew Hulse R.P.L.S. # 6402 Date: 6-05-2020	
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BENCHMARK NOTES:

- THE BEARINGS SHOWN ON THIS SURVEY WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK AND ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE (4202) AND ARE BASED ON THE AMERICAN DATUM OF 1983, 2011 ADJUSTMENT
- ELEVATIONS ARE BASED ON NAVD83, REFERENCED TO NAD83, 2011 ADJUSTMENT AND WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK

FLOODPLAIN NOTE

ACCORDING TO MAP NO. 48085C02351, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X" (UNSHADED) AND IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA.

FEMA LOMR:
THIS SITE HAS BEEN DESIGNATED PER FEMA LOMR EFFECTIVE JANUARY 18, 2018

NO 100-YEAR FLOODPLAIN EXISTS ON THE SITE

LOT	ZONING	PROPOSED USE	LOT SIZE (ACRES)	LOT SIZE (SQ. FT.)	BLDG. AREA (SQ. FT.)	BLDG. HGT. (FT)	LOT COVERAGE				FLR AREA RATIO				HANDICAP SP.				TOTAL IMPERVIOUS (SQ FT)	LANDSCAPING				OPEN SPACE							
							REQ.		PROV.		REQ.		PROV.		REQ.		PROV.			REQ.		PROV.		REQ.		PROV.		REQ.		PROV.	
							REQ.	PROV.	REQ.	PROV.	REQ.	PROV.	REQ.	PROV.	REQ.	PROV.	REQ.	PROV.		REQ.	PROV.	REQ.	PROV.	REQ.	PROV.	REQ.	PROV.	REQ.	PROV.		
LOT 1R	PD	FOOD TRUCK PARK	1.05	45,977	1,500	16	40% MAX	3.3%	0.4:1 MAX	0.03	RESTAURANT (1 PER 75 SQ FT)	20	42	2	2	2,900	6%	630	8,170	3,218	13,567										

LINE	BEARING	DISTANCE
L1	S 50°44'12" W	12.68'
L2	N 33°35'33" W	14.91'
L3	N 54°24'55" E	15.72'
L4	S 41°15'20" E	7.79'
L5	N 33°35'31" W	30.94'

CASE No. 220-0011

SILO PARK- LOT 1R

EXHIBIT A

DEVELOPER:
SILO PARK LLC
1061 N. COLEMAN, SUITE 90
PROSPER, TEXAS 750578
PH: 214.725.1104
CONTACT NAME: DOUG WALKER

APPLICANT:
CLAYMOORE ENGINEERING, INC.
301 S. COLEMAN, SUITE 40
PROSPER, TX 75078
PH: 817.281.0572
CONTACT NAME: MATT MOORE

SURVEYOR:
EAGLE SURVEYING, LLC
210 SOUTH ELM STREET
DENTON, TX 76201
PH: 940.222.3009
CONTACT NAME: JOHN COX

LEGAL DESCRIPTION:
LOT 1R, BLOCK A
SILO PARK ADDITION
DOCUMENT No. 2018-667
P.R.C.C.T.

CITY: TOWN OF PROSPER STATE: TEXAS

COUNTY: COLLIN SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY ABSTRACT NO. 147

SILO PARK
PROSPER CO-OP GIN ASSOCIATION
VOL. 853, PG. 336
D.R.C.C.T.
PROSPER, TEXAS

EXHIBIT A

DESIGN: MBT
DRAWN: MBT
CHECKED: DD
DATE: 06/09/2020

SHEET
EX-A
File No. 2017-134

TEXAS REGISTRATION #14199

CLAYMOORE ENGINEERING

1900 CENTRAL EXPLORER SUITE 400
PROSPER, TEXAS 75078
WWW.CLAYMOOREENGINEERING.COM

STATE OF TEXAS

DREW DONOSKY
125651
LICENSED PROFESSIONAL ENGINEER

Drew Donosky

EXHIBIT B

STATEMENT OF INTENT AND PURPOSE

Silo Park is a gathering place in the shadows of the railroad silos in the Old Town District. It provides a wide selection of food, beverages, and entertainment in a family friendly environment. The guests are invited to stay and socialize. With the feel of a backyard party with dozens of your closest friends, guests can sit back, relax and enjoy a memorable social experience.

Silo Park is a food truck park and entertainment venue situated on the southeast corner of Fifth Street and McKinley Street in the Old Town District. The park has room for food trucks, outdoor seating, a stage for live music and performances, a designated kid's area, and a freestanding beverage center with restrooms.

**Z20-0011
EXHIBIT C
PLANNED 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.

A. Use of Land and Buildings. The Tract shall develop in accordance with the uses permitted in the Downtown Retail (DTR) District as indicated in the Schedule of Uses in the Town's Zoning Ordinance, as it exists or may be amended, except as follows:

1. Food Truck Park and Outdoor Entertainment Venue

- a. Food Truck Park and Outdoor Entertainment Venue shall be a permitted use on the subject property.
- b. Following discontinuation of use, all improvements shall be removed from the property and the property returned to pre-developed conditions within a period of time no greater than 90 days.
- c. As provided herein, two (2) 10-foot by 20-foot shipping container type structures may be permitted on the property for use as restaurant incubators only. They may not be used for any other purpose and must be removed within 90 days of the discontinuation of use.
- d. Alcoholic beverage sales shall be subject to all applicable Town of Prosper regulations and TABC permitting requirement.

B. Regulations

Except as noted below, the Tract shall develop in accordance with the development standards for the Downtown Retail (DTR) District, as it exists or may be amended.

1. Architecture – The exterior masonry façade requirements of Chapter 4, Sections 8 and 9.8 of the Town's Zoning Ordinance, as it exists or may be amended, shall not apply to the proposed structures located in the food truck park and outdoor entertainment venue, as shown on Exhibit D. Future redevelopment of the venue site shall be in full compliance with all Zoning Ordinance requirements.

2. Landscaping – Requirements of Chapter 4, Section 2 shall not apply to the proposed food truck park and outdoor entertainment venue in accordance with Exhibit D. Future redevelopment of the venue site shall be in full compliance with all Zoning Ordinance requirements.

3. Parking and Paving – The number of required off-street parking spaces shall be provided in accordance with the parking as shown on Exhibit D. The use of flex base material for parking and drive aisles associated with the food truck park and outdoor entertainment venue shall be permitted; however, within (3) three years from the date of approval of the Planned Development amendment by the Town Council, an asphalt

parking lot and drive aisles associated with the food truck park and outdoor entertainment venue shall be provided, in accordance with Exhibit D. Future redevelopment of the venue site shall be in full compliance with all Zoning Ordinance requirements.

C. Site Improvements

The following site improvements shall be permitted as follows.

1. Beverage Center

The main structure on the site is a 30 foot by 50 foot, 1,500 square foot, metal frame building with metal siding and a metal roof on a concrete slab. The building has two ten-foot wide roll up doors along one side and one entry door on the end of the building. The structure contains a business office, restrooms, a bar, and seating. A covered patio has been constructed along the length of the Beverage Center building and extends outward approximately 20 feet as shown below. The structure complies with the Town's Building Codes and the ground surface below consists of decomposed granite.



2. Restaurant Incubators

Two (2) future restaurant incubators are proposed in addition to the permitted food trucks. The incubators would be located in two (2) 10-foot by 20-foot shipping container type structures, as shown on Exhibit D. These incubators will be connected to the Town's water and sanitary sewer facilities in order to comply with the appropriate health and safety codes. Examples of the proposed restaurant incubators are shown below.



3. Live Music Stage

A stage associated with the food truck park and outdoor entertainment venue may be constructed on the site and will be approximately 20 feet by 20 feet in area and constructed with a wooden frame and corrugated metal sides and roof as shown below.



4. Site Fencing

Site fencing consists of horizontal board fencing with metal posts along all sides of the venue. Pedestrian and vehicular gates have been installed at various locations to provide controlled access.



5. Shade Structures

Shade structures associated with the food truck park and outdoor entertainment venue may be constructed on an as-needed basis. These structures, as shown below, will be approximately 12 feet by 12 feet in area, as shown below.

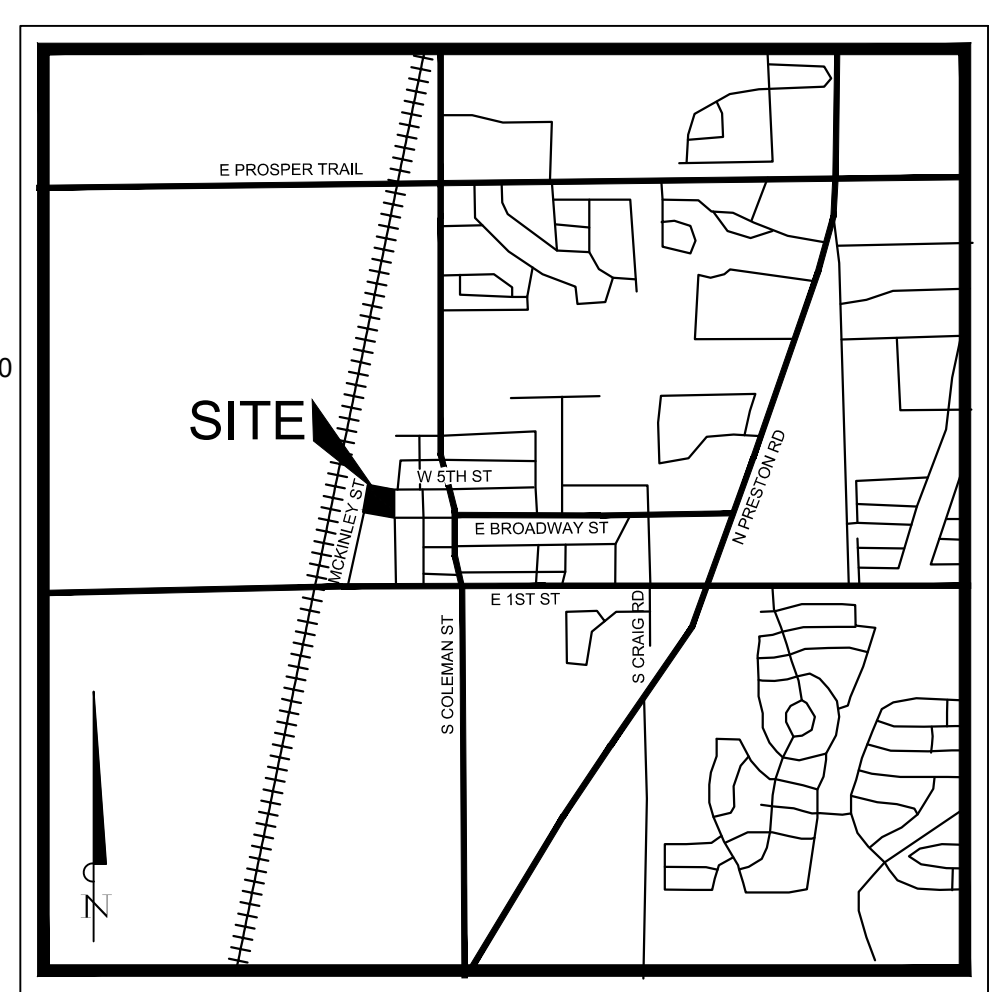
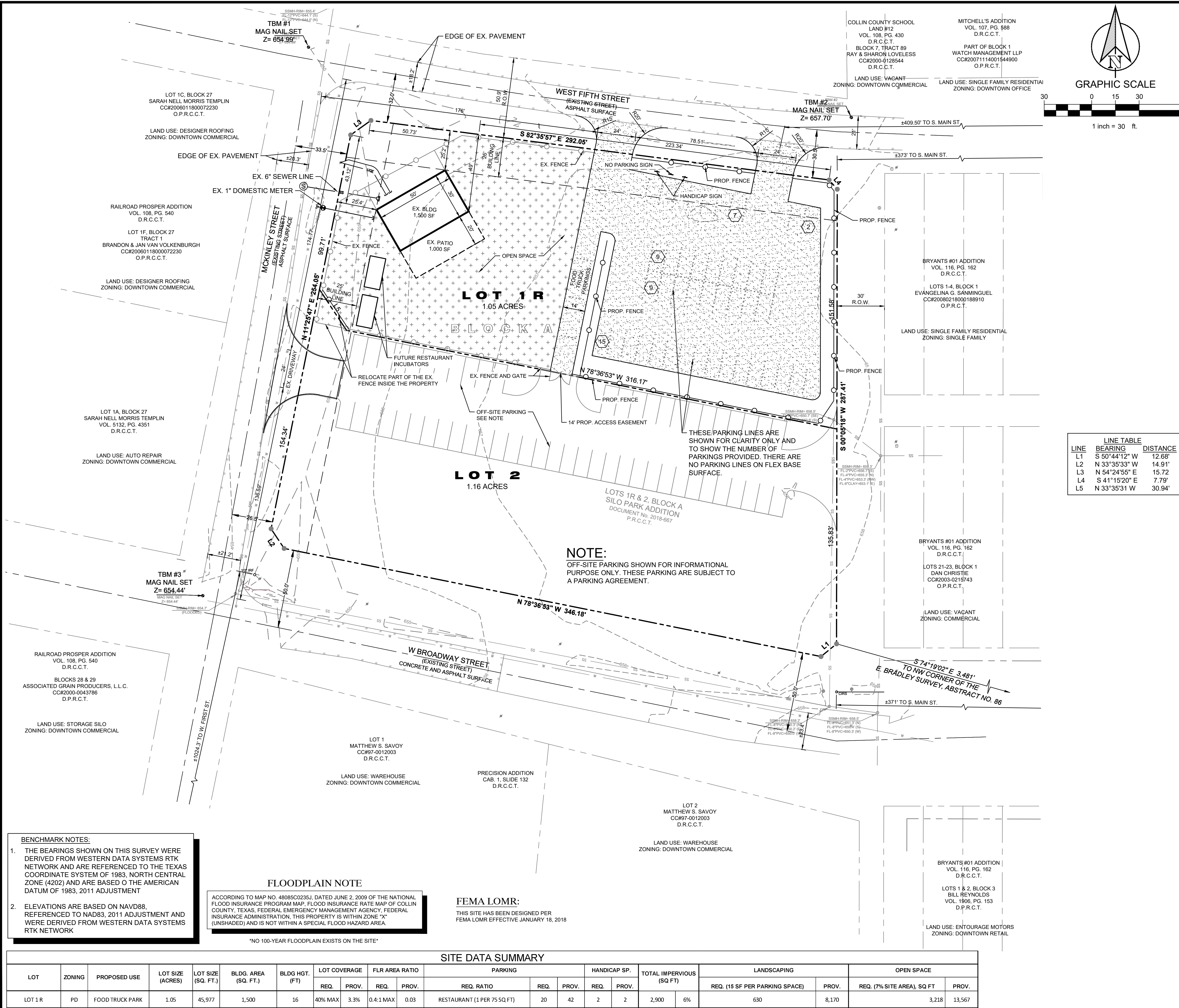


6. Venue Lighting

Venue site lighting consists mostly of string lighting extending across the site. Examples of the method of lighting are shown below. Lighting is subject to Chapter 4, Section 6 of the Town's Zoning Ordinance, as it exists or may be amended.



PLOTTED BY: DEING, TORRES
 PLOT DATE: 5/6/2020 4:41 PM
 LOCATION: Z:\PROJECTS\2017-134 BROADWAY FOOD TRUCK PARK\CADD\SHEETS\SP-1 SITE PLAN-NEW.DWG
 LAST SAVED: 5/6/2020 4:39 PM



VICINITY MAP
N.T.S.

LEGEND

	PROPOSED FLEXBASE
	PROPOSED DECOMPOSED GRANITE

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 50°44'12" W	12.68'
L2	N 33°35'33" W	14.91'
L3	N 54°24'55" E	15.72'
L4	S 41°15'20" E	7.79'
L5	N 33°35'31" W	30.94'

- TOWN OF PROSPER SITE PLAN GENERAL NOTES:
- DUMPSTERS AND TRASH COMPACTORS SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
 - OPEN STORAGE, WHERE PERMITTED, SHALL BE SCREENED IN ACCORDANCE WITH THE ZONING ORDINANCE.
 - 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 APPROVED BY THE FIRE DEPARTMENT.
 - 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.
 - 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.
 - ALL SIGNAGE IS SUBJECT TO BUILDING OFFICIAL APPROVAL.
 - ALL FENCES AND RETAINING WALLS SHALL BE SHOWN ON THE SITE PLAN AND ARE SUBJECT TO BUILDING OFFICIAL APPROVAL.
 - ALL EXTERIOR BUILDING MATERIALS ARE SUBJECT TO BUILDING OFFICIAL APPROVAL AND SHALL CONFORM TO THE APPROVED FAÇADE PLAN.
 - SIDEWALKS OF NOT LESS THAN SIX (6) FEET IN WIDTH ALONG THOROUGHFARES AND COLLECTORS AND FIVE (5) IN WIDTH ALONG RESIDENTIAL STREETS, AND BARRIER FREE RAMPS AT ALL CURB CROSSINGS SHALL BE PROVIDED PER TOWN STANDARDS.
 - APPROVAL OF THE SITE PLAN IS NOT FINAL UNTIL ALL ENGINEERING PLANS ARE APPROVED BY THE ENGINEERING DEPARTMENT.
 - SITE PLAN APPROVAL IS REQUIRED PRIOR TO GRADING RELEASE.
 - ALL NEW ELECTRICAL LINES SHALL BE INSTALLED AND/OR RELOCATED UNDERGROUND.
 - ALL MECHANICAL EQUIPMENT SHALL BE SCREENED FROM PUBLIC VIEW IN ACCORDANCE WITH THE ZONING ORDINANCE.
 - IMPACT FEES WILL BE ASSESSED IN ACCORDANCE WITH THE LAND USE CLASSIFICATION IDENTIFIED ON THE SITE DATA SUMMARY TABLE; HOWEVER, CHANGES TO THE PROPOSED LAND USE AT THE TIME OF AND/OR FINISH-OUT PERMIT MAY RESULT IN ADDITIONAL IMPACT FEES AND/OR PARKING REQUIREMENTS.
 - ALL DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
- CASE No. 220-0011

SILO PARK

EXHIBIT D

DEVELOPER:

SILO PARK LLC
1061 N. COLEMAN, SUITE 90
PROSPER, TEXAS 750578
PH: 214.725.1104 CONTACT NAME: DOUG WALKER

APPLICANT:

CLAYMOORE ENGINEERING, INC.
301 S. COLEMAN, SUITE 40
PROSPER, TX 75078
PH: 817.281.0572 CONTACT NAME: MATT MOORE

SURVEYOR:

EAGLE SURVEYING, LLC
210 SOUTH ELM STREET
DENTON, TX 76201
PH: 940.222.3009 CONTACT NAME: JOHN COX

LEGAL DESCRIPTION:

LOTS 1R & 2, BLOCK A
SILO PARK ADDITION
DOCUMENT No. 2018-667
P.R.C.C.T.

CITY: TOWN OF PROSPER STATE: TEXAS

COUNTY: COLLIN SURVEY: COLLIN COUNTY SCHOOL LAND SURVEY ABSTRACT NO. 147

TEXAS REGISTRATION #14199

CLAYMOORE ENGINEERING

1900 CENTRAL EXPLORER SUITE 400
PROSPER, TEXAS 75077
WWW.CLAYMOOREENGINEERING.COM



SILO PARK
 PROSPER CO-OP GIN ASSOCIATION
 VOL. 853, PG. 336
 D.R.C.C.T.
 PROSPER, TEXAS

No.	DATE	REVISION	BY

SITE PLAN
 380 W. BROADWAY ST.

DESIGN: MBT
DRAWN: MBT
CHECKED: DD
DATE: 5/6/2020

SHEET
SP-1

File No. 2017-134

BENCHMARK NOTES:

- THE BEARINGS SHOWN ON THIS SURVEY WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK AND ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE (4202) AND ARE BASED ON THE AMERICAN DATUM OF 1983, 2011 ADJUSTMENT
- ELEVATIONS ARE BASED ON NAVD83, REFERENCED TO NAD83, 2011 ADJUSTMENT AND WERE DERIVED FROM WESTERN DATA SYSTEMS RTK NETWORK

FLOODPLAIN NOTE

ACCORDING TO MAP NO. 48085C02351, DATED JUNE 2, 2009 OF THE NATIONAL FLOOD INSURANCE PROGRAM MAP, FLOOD INSURANCE RATE MAP OF COLLIN COUNTY, TEXAS, FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, THIS PROPERTY IS WITHIN ZONE "X" (UNSHADED) AND IS NOT WITHIN A SPECIAL FLOOD HAZARD AREA.

NO 100-YEAR FLOODPLAIN EXISTS ON THE SITE

FEMA LOMR:
THIS SITE HAS BEEN DESIGNATED PER FEMA LOMR EFFECTIVE JANUARY 18, 2018

SITE DATA SUMMARY

LOT	ZONING	PROPOSED USE	LOT SIZE (ACRES)	LOT SIZE (SQ. FT.)	BLDG. AREA (SQ. FT.)	BLDG. HGT. (FT)	LOT COVERAGE		FLR AREA RATIO	HANDICAP SP.	TOTAL IMPERVIOUS (SQ FT)	LANDSCAPING		OPEN SPACE							
							REQ.	PROV.				REQ. RATIO	REQ.	PROV.	REQ. (15 SF PER PARKING SPACE)	PROV.	REQ. (% SITE AREA), SQ FT	PROV.			
LOT 1R	PD	FOOD TRUCK PARK	1.05	45,977	1,500	16	40% MAX	3.3%	0.4:1 MAX	0.03	RESTAURANT (1 PER 75 SQ FT)	20	42	2	2	2,900	6%	690	8,170	3,218	13,567

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2020-____

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20 AND REPEALING ORDINANCE NO. 17-84; REZONING A TRACT OF LAND CONSISTING OF 1.05 ACRES, MORE OR LESS; SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-84 (PD-84); DESCRIBING THE TRACT TO BE REZONED; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVING AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

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

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request (Case Z20-0011) from ALDC Properties, LLC ("Applicant"), to rezone 1.05 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, from Planned Development-84 (PD-84), to Planned Development-84 (PD-84) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

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

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

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

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

SECTION 1

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

SECTION 2

Amendment to the Town's Zoning Ordinance. The Town's Zoning Ordinance, adopted by Ordinance No. 05-20 is amended as follows and Ordinance No. 17-84 is repealed in its entirety: The zoning designation of the below described property containing 1.05 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads, and alleyways contiguous

and/or adjacent thereto is hereby zoned as Planned Development-84 (PD-84) 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; and 3) the Site Plan, attached hereto as Exhibit D, which are incorporated herein for all purposes as if set forth verbatim.

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

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- b. One (1) copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy, and enforcing the zoning ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

SECTION 3

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

SECTION 4

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

SECTION 5

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

SECTION 6

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

SECTION 7

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

SECTION 8

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

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 23RD DAY OF JUNE, 2020.

Ray Smith, Mayor

ATTEST:

Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

Terrence S. Welch, Town Attorney



PLANNING

To: Mayor and Town Council
From: Alex Glushko, AICP, Planning Manager
Through: Harlan Jefferson, Town Manager
Re: Town Council Meeting – June 23, 2020

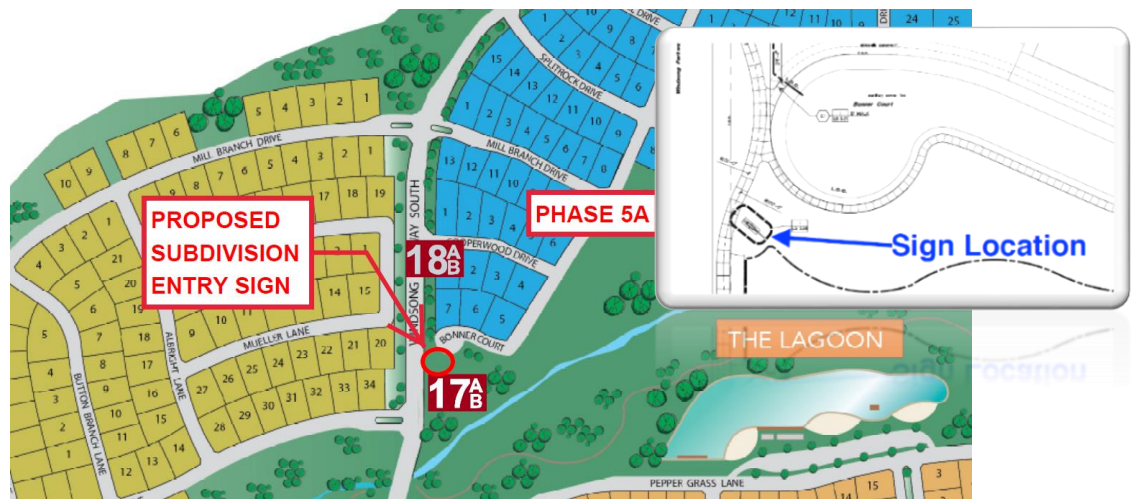
Agenda Item:

Conduct a Public Hearing, and consider and act upon a request for Sign Waivers to allow for a Subdivision Entry Sign and additional Development Signage in Windsong Ranch. (MD20-0009)

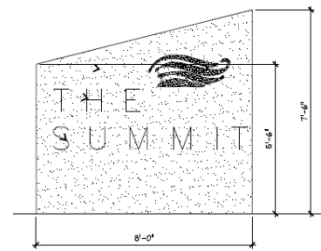
Description of Agenda Item:

Windsong Ranch is requesting Sign Waivers for two (2) types of signage within the development, Subdivision Entry Signs (i.e. Neighborhood Signage) and Development Signs (i.e. Marketing Monument Signage). The applicant provided a Request Letter detailing the need for each of the requested signs, which is attached for reference. The following is an outline of the proposed requests:

1. *Subdivision Entry Signs* – The Sign Ordinance requires Subdivision Entry Signs to be either free-standing or attached to a screening wall, located at a street entrance into the subdivision for which it is advertising. The applicant is proposing to locate a free-standing Subdivision Entry Sign for Windsong Ranch, Phase 5A in an area that is not located at a street entrance into the phase of the subdivision, as shown below.



The applicant has indicated the need for the Subdivision Entry Sign to be located away from an entry street, is to locate the sign closer to the model home, located on Bonner Court. The proposed Subdivision Entry Sign will resemble the existing Subdivision Entry Signs throughout the development, as shown to the right. The proposed Subdivision Entry Sign meets all remaining criteria outlined in the Sign Ordinance (i.e. size, height, material, etc.)



- 2. *Development Signs* – The Sign Ordinance allows one (1) Development Sign per street frontage. There is currently one (1) existing Development Sign located along Fishtrap Road, one (1) existing Development Sign located along Teel Parkway (north of Fishtrap Road), and one (1) existing Development Sign located at the intersection of Fishtrap Road and Teel Parkway. The applicant is proposing one (1) additional Development Sign along Fishtrap Road and one (1) additional Development Sign along Teel Parkway, as shown below.



The applicant indicated the need for the additional Development Signs is to allow for marketing and wayfinding to the townhome development. The proposed Development Signs will resemble the existing Development Signs throughout the development, as shown to the right. The proposed Development Signs meet all remaining criteria outlined in the Sign Ordinance (i.e. size, height, material, spacing, etc.) In addition, the signs shall be removed upon the completion of the Building Final Inspection for ninety-five percent (95%) of the homes within the subdivision being advertised.



Legal Obligations and Review:

Notification was provided to neighboring property owners as required by the Sign Ordinance. Staff has not received any Public Hearing Notice Reply Forms.

Attached Documents:

- 1. Subdivision Entry Sign Location Map and Elevations
- 2. Development Sign Location Map and Elevations
- 3. Request Letter

Town Staff Recommendation:

Staff recommends the Town Council approve the request for a Sign Waiver to allow for a Subdivision Entry Sign and additional Development Signage in Windsong Ranch.

Proposed Motion:

I move to approve the request for a Sign Waiver to allow for a Subdivision Entry Sign and additional Development Signage in Windsong Ranch.

WINDSONG RANCH EXISTING SIGNAGE MAY 2020

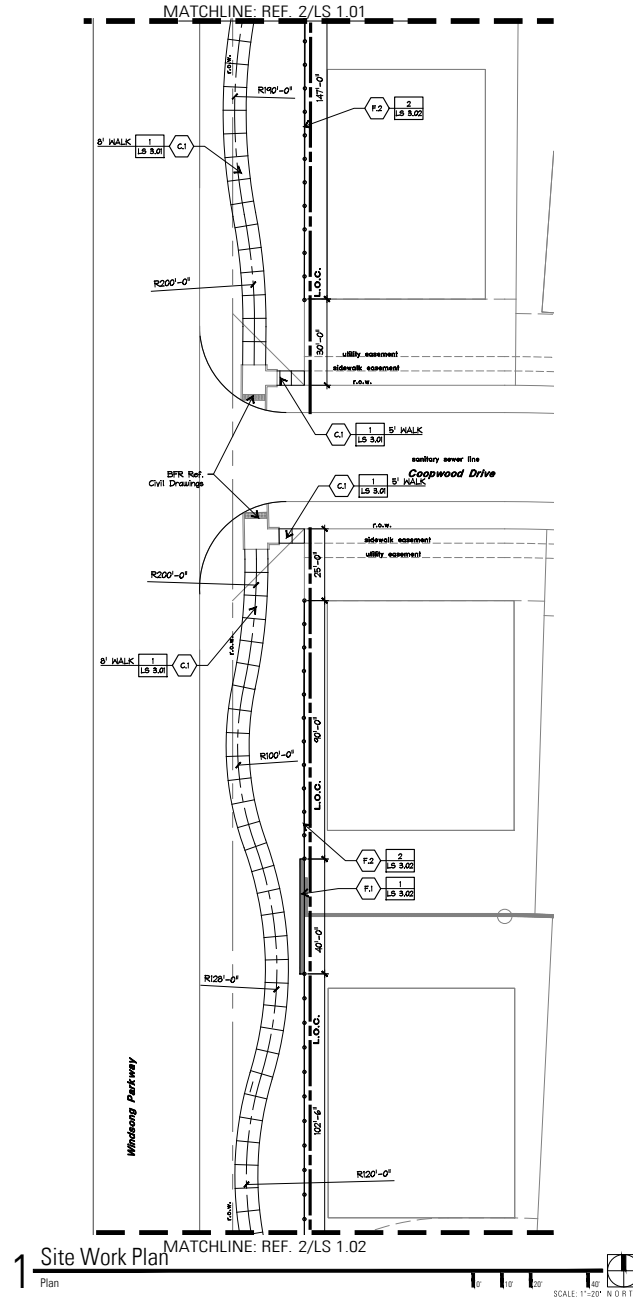
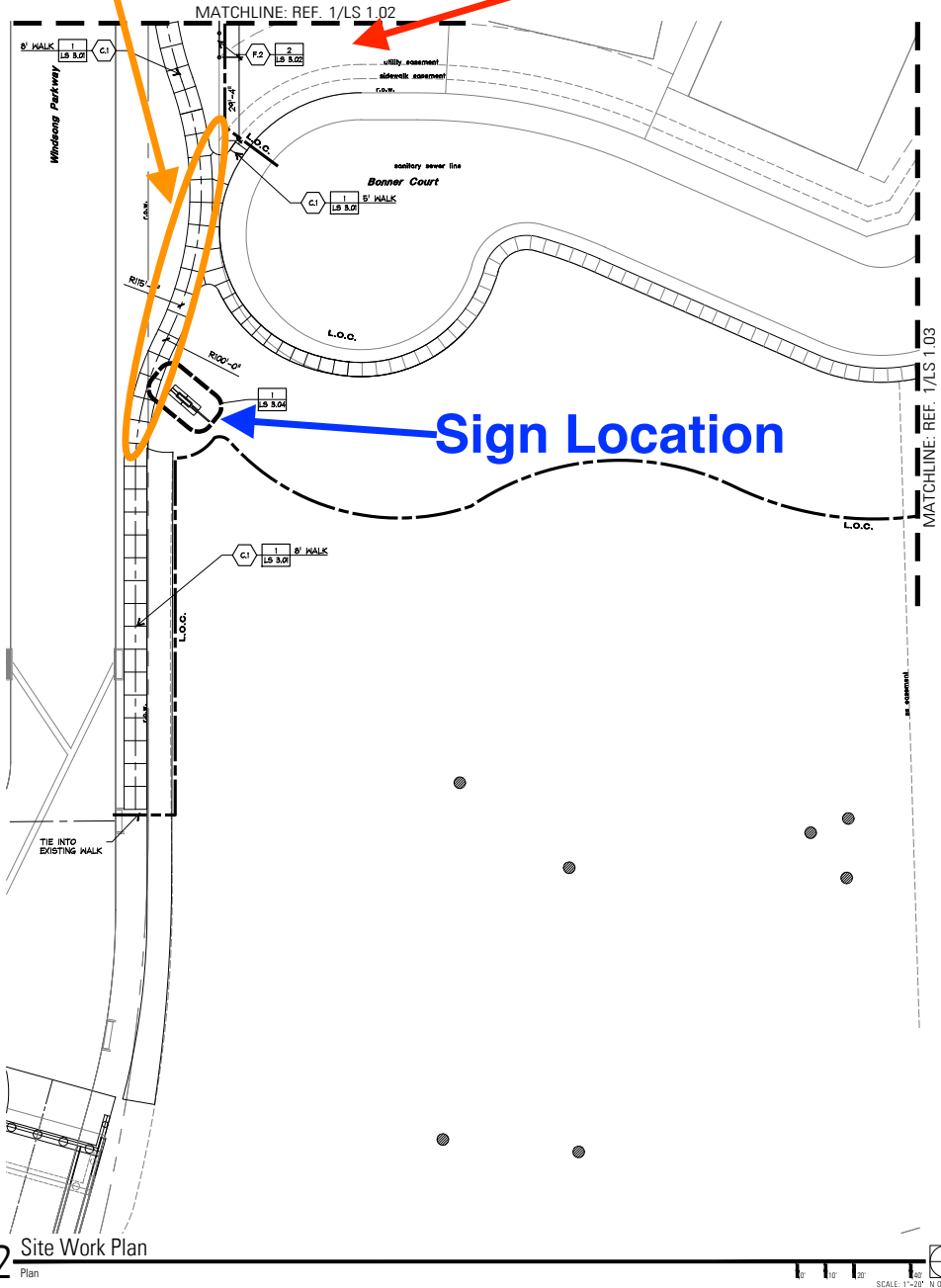
**PROPOSED
SUBDIVISION
ENTRY SIGN**



Pedestrian Access

Southgate Model Lot

Item 12.



project
Windsong Ranch Phase 5A
 grading, sitework, planting & irrigation
 Terra Verde Group
 Prosper, TX

project number
D18330

issue date
 March 14, 2019

designed: AH ZM
 drawn: AH ZM
 reviewed: MM KH

sheet title
Site Work Plan

sheet
LS 1.02

Z:\Terra_Verde\phase 5a_G18330\03_development\04_contract_documents\04_CAD\02_sheets\02-LS\18330-LS1-02.dwg

2 Site Work Plan

1 Site Work Plan

TBS
 landscape architects, planners & designers
 2001 Bryan Street
 Suite 1600
 Dallas, TX 75201
 (214) 744-0757
 tbspartners.com



project
Windsong Ranch
Phase 5A
 grading, site work, planting & irrigation
 Terra Verde Group
 Prosper, TX

project number
D18330

issue date
 October 31, 2019

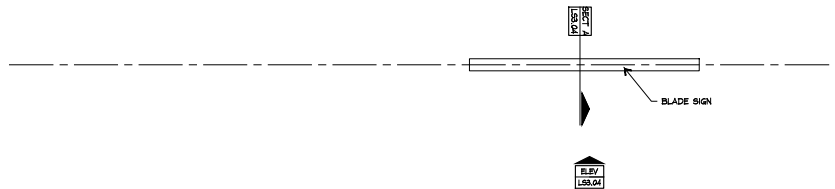
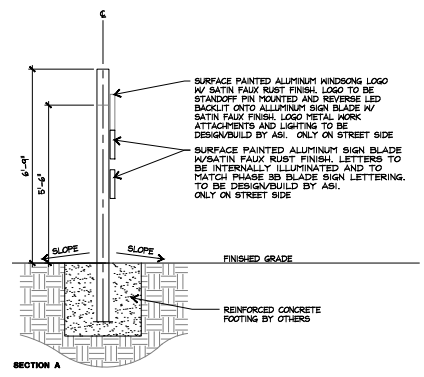
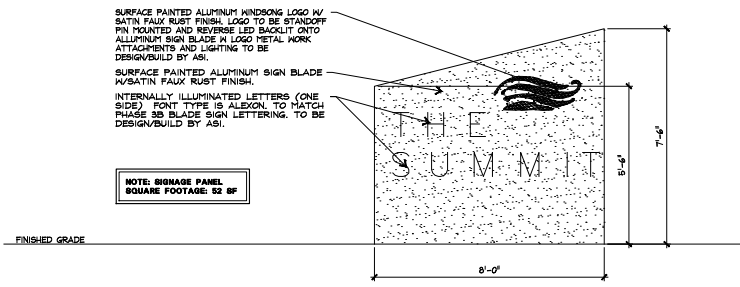
designed: AH ZM
 drawn: AH ZM
 reviewed: MM KH

02/26/2020 - BLADE SIGNAGE

sheet title
SECONDARY SIGNAGE DETAILS

sheet
LS 3.04

NOTE:
 1. ALL ENTRY SIGNAGE REQUIRES SEPARATE PERMIT AND REVIEW. CONTRACTOR TO ALLOW FOR ALL APPLICABLE COBTS IN BID.
 2. CONTRACTOR TO PROVIDE STRUCTURAL SHOP DRAWINGS BY LICENSED ENGINEER FOR APPROVAL.
 3. CONTRACTOR TO PROVIDE WALL MOCK-UP AND MATERIAL SUBMITTALS FOR APPROVAL BY THE OWNER AND LANDSCAPE ARCHITECT.
 4. CONTRACTOR TO MATCH FONT FROM EXISTING SIGNS



1 SECONDARY MONUMENTATION SIGN

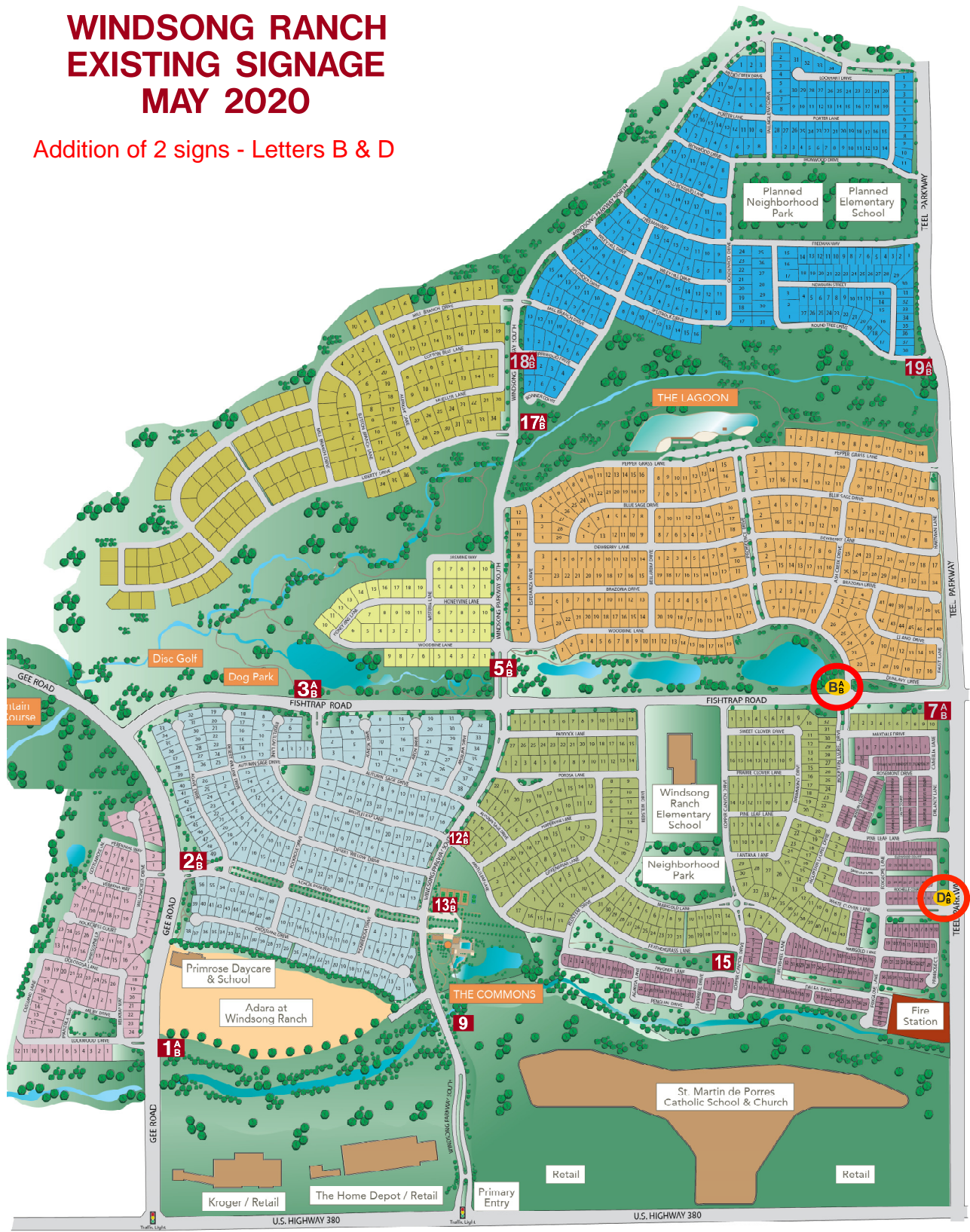
PLAN, ELEVATION, AND SECTION

SCALE: 1/2"=1'-0"

Z:\Terra Verde\Phase 5A_GHS\2019\3 documents\1\04 CONTRACT DOCUMENTS\04 CAD\02_SIGNAGE\02_SIGNAGE-LS3-04.dwg

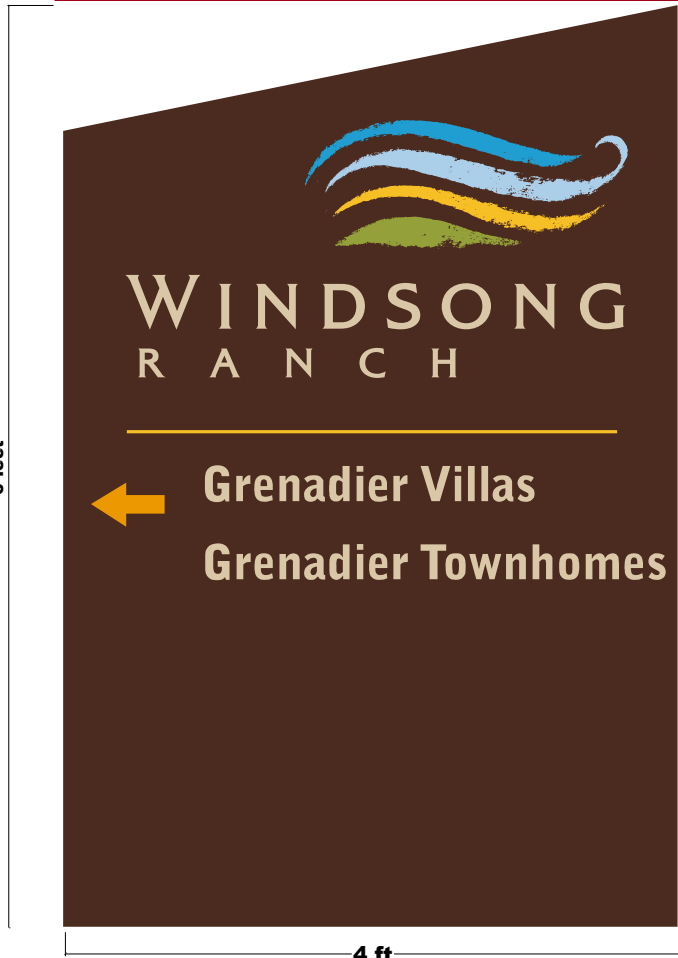
WINDSONG RANCH EXISTING SIGNAGE MAY 2020

Addition of 2 signs - Letters B & D



Proposed Small Directional Sign - Side 1
B-A Location: Fishtrap & Mountain Laurel

Proposed Small Directional Sign - Side 2
B-B Location: Fishtrap & Mountain Laurel

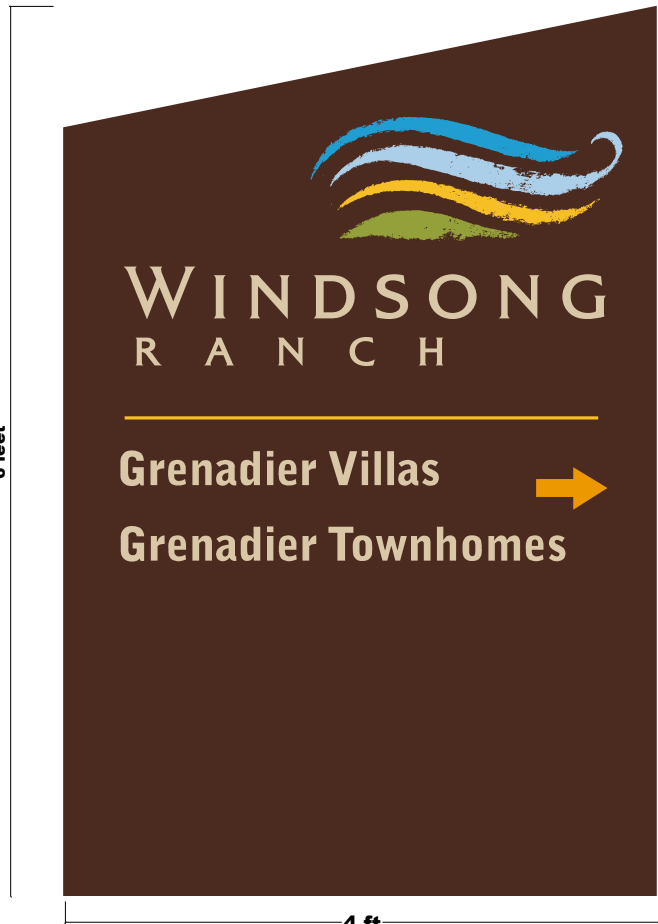
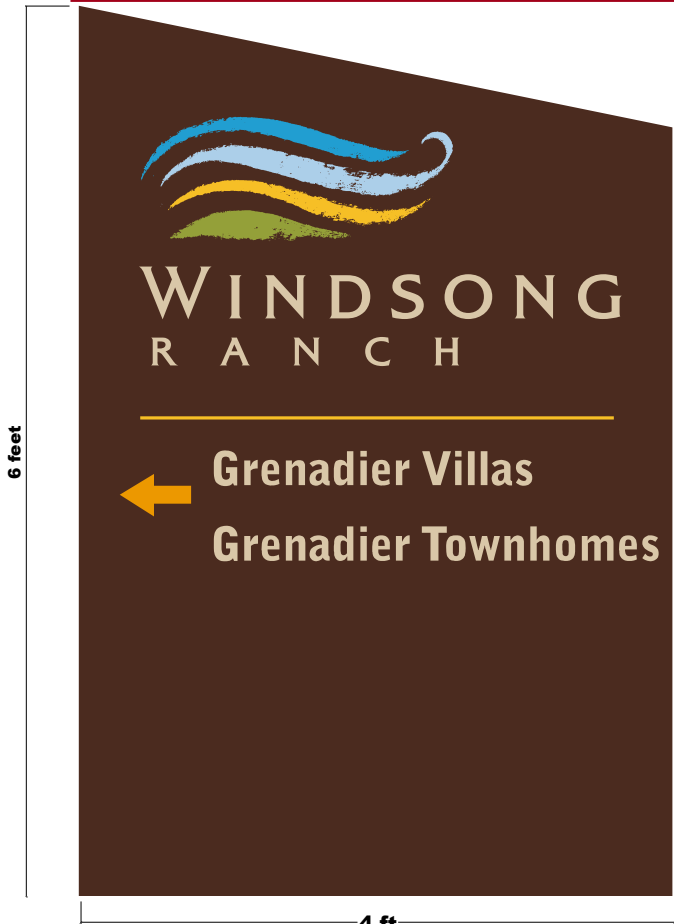


FACING EB TRAFFIC

FACING WB TRAFFIC

Proposed Small Directional Sign - Side 1
D-A Location: Teel & White Clover
W. side of Teel

Proposed Small Directional Sign - Sign 2
D-B Location: Teel & White Clover
W. side of Teel



FACING NB TRAFFIC

FACING SB TRAFFIC



May 29, 2020

VIA: e-Mail

Town of Prosper
Planning Department
Attn: Alex Glushko
200 S. Main Street
Prosper, Texas 75078
alex_glushko@prospertx.gov

**RE: Windsong Ranch Signage Variance Request
Neighborhood Signage (Ph 5A) / Marketing Monument Signage (Ph 2C-1 / 2C-2)**

Dear Alex,

Windsong Ranch has approved landscape plans that include monument signage on the Southwest corner of the Phase 5A Bonner Court cul-de-sac. This signage does not directly conform to the requirements of monument signage within the Signage ordinance; therefore, we are requesting a variance in accordance with section 1.16 Sign Requirements Relief Procedure. Outlined on the following pages and attachments, I've noted the grounds for the waiver.

In addition to this request, we are also requesting a variance in relation to our marketing monument signage. With our latest townhome phase addition, we would like to provide more visible directional signage to guide homebuyers to the new townhome model locations for Grenadier Homes. We have outlined on the following pages and provided attachments showing maps and signage renderings of our existing marketing signage and proposed signage locations to accommodate this need. The addition of this Grenadier-specific signage would be put in place following all Town signage ordinances, and will be removed once the phases has reach 95% buildout.

Please let me know if you have any questions regarding this request, or if you need us to provide any additional exhibits for presentation to P&Z and Town Council. Thank you for your consideration in this matter.

Sincerely,

David R. Blom
Partner / Vice President
Tellus Group LLC
dblom@tellusgroupllc.com

Enclosures / Addendum

CC (via e-Mail): Justin Craig | Jackie Kiefer | Tina Sauseda | Evelyn Mendez

Phase 5A Monument Signage Waiver

1. The requirement for which the Waiver is requested imposes an undue hardship on the applicant;

The requested waiver would allow for sign placement to occur where there is only a pedestrian entrance and not vehicular entrance to the street in which the builder model is located. The requirements identified within section, “**1.12 B. (13) Subdivision Entry Sign, subsection (e)**,” of the signage ordinance, limiting signage to entrance areas, imposes an undue hardship in terms of the proximity of the signage to the models and is not specific to pedestrian entrance points that will be used to access the model in this site-specific instance.

2. The proposed sign shall be of a unique Design and configuration;

The proposed sign is uniquely designed utilizing the same Windsong Ranch theme of materials. In this case uses a Satin Faux Rust finish metal structure, 52SF in area, with standoff pin mounted Windsong Logo and “The Summit” phase name elegantly reverse back-lit for evening identification of the Phase along the collector street (Windsong Parkway South).

3. The waiver is needed due to hardship caused by restricted area, shape, topography, or physical features that are unique to the property or structure on which the proposed sign would be placed, and such hardship is not self-imposed.

This waiver is being requested due to the unspecific nature of the signage ordinance 1.12 B. (13) Subdivision Entry Sign, subsection (e) which is silent as to whether a street entrance refers to pedestrian entrance or vehicular entrance.

4. Will substantially improve the convenience and welfare of the public and does not violate the intent of this ordinance.

The proximity of the signage to the model in this case will substantially improve the convenience and welfare of the builder by clearly identifying the Model location and entrance at the key pedestrian access point. The welfare of the public (and particularly Windsong Ranch residents) will be enhanced by reducing the non-essential traffic caused by potential homebuyers driving through residential streets looking for model homes. Windsong has grown to the point that there is a substantial presence of children out and about, which justifies taking actions that will minimize unnecessary vehicular traffic as much as possible.

5. The requirement or standard will not adversely impact an adjacent property owner.

The proposed signage will not adversely affect any adjacent property owner due to the location being well within the sphere of influence of the Windsong Ranch Master Plan. The nearest adjacent ownership consists of Windsong Ranch residential units and therefore would provide them with a positive and consistent phase signage concept.

Marketing Monument Signage (Ph 2C-1 / 2C-2)

1. Addition of two (2) signs notated with yellow circles and lettered B and D and revision of sign 12A and 12B to revise directional arrows for Grenadier.

The request is for two (2) additional signs specifically to direct homebuyer traffic to the Grenadier Homes phase/models. These signs would conform to our existing marketing signage with the brown wood face, Windsong Ranch logo, lettering type, and directional arrows. They would be erected in key locations to catch the drive-thru homebuyer traffic for easy directions, without having to stop at our Welcome Center first. Sign 12A/12B would be revised to add one foot (1') to the height, allowing room for a designation of Fishtrap Rd. for Grenadier buyers. Signage would be placed along major road thoroughfares including Windsong Parkway North, Fishtrap Road, and Teel Parkway.

2. Installation and Removal of Signage

If approved, the two (2) new signs would be erected in accordance with the Town of Prosper's signage ordinance. Once the phases listed above (Phases 2C-1 and 2C-2) reach a combined buildout of 95%, these signs will be removed from their locations.