



*Prosper is a place where everyone matters.*

**Agenda**  
**Prosper Town Council Meeting**  
Council Chambers  
Prosper Town Hall  
250 W. First Street, Prosper, Texas  
Tuesday, August 25, 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. Presenting Life Saving Awards to Firefighter Paramedics and Communication Officers. **(SB)**
2. Prosper Fire Department received recognition for Best Practices. **(SB)**

**CONSENT AGENDA:**

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

3. Consider and act upon the minutes from the August 11, 2020, Town Council meeting. **(ML)**
4. Consider and act upon approving an Amendment to the Facility Management Services Agreement between TDIndustries, Inc., and the Town of Prosper Texas, through the National Cooperative Purchasing Alliance (NCPA); and authorizing the Town Manager to execute the same. **(CS)**
5. Consider and act upon approving a Standard Form of Agreement with Pogue Construction Co., LP, for the build-out of existing shell space in Town Hall; the purchase and installation of furniture for the renovated spaces from Workspace Interiors by Office Depot, through the Omnia Partners Cooperative; and authorizing the Town Manager to execute the same. **(RB)**
6. Consider and act upon approving the purchase and installation of a modular building for Public Works, from Vanguard Modular Building Systems, LLC, through The Interlocal Purchasing System (TIPS) Cooperative Purchasing Program; and authorizing the Town Manager to execute the same. **(FJ)**
7. Consider and act upon an ordinance amending Section 12.09.004 "School Traffic Zones" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances by modifying the limits and hours of operation of such zones. **(HW)**
8. Consider and act upon authorizing the Town Manager to execute a First Amended Development Agreement between Matthew Clarke, and the Town of Prosper, Texas, related to the Downtown Office development, located at 603 E. Broadway Street. **(AG)**
9. Consider and act upon authorizing the Town Manager to execute a License, Maintenance and Hold Harmless Agreement between 1000 N. Preston, LLC, and the Town of Prosper, Texas, related to the installation and maintenance of angled parking stalls within the right-of-way of Hays Road adjacent to the development at 1000 N. Preston Road. **(DH)**
10. Consider and act upon an ordinance amending the Zoning Ordinance regarding Permitted Uses and Definitions, and Development Requirements, including but not limited to Landscaping, Parking, Screening, and Non-Residential Design and Development Standards. (Z20-0010). **(AG)**
11. 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)**

### **CITIZEN COMMENTS**

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

### **REGULAR AGENDA:**

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

Council during the Citizen Comments portion of the meeting or when the item is considered by the Town Council.

**Items for Individual Consideration:**

- [12.](#) Discussion on current and proposed Emergency Medical Services (EMS) Fee Schedules for medical transports by the Fire Department. **(SB)**
- [13.](#) Conduct a Public Hearing to consider and discuss the FY 2020-2021 Budget as proposed. **(BP)**
- [14.](#) Consider and act upon an ordinance amending Chapter 4, "Business Regulations," of the Code of Ordinances by adding a new Article 4.11, Single-Family Dwelling Transient Rentals," to prohibit the short term rental of single-family dwellings in the Town. **(JW)**
- [15.](#) Discussion on Speed Limit Ordinance. **(HW)**

**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.*

**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, August 21, 2020, and remained so posted at least 72 hours before said meeting was convened.

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Melissa Lee, Town Secretary

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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, August 11, 2020

### **Call to Order/ Roll Call.**

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

### **Council Members Present:**

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

### **Staff Members Present:**

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

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

Pastor Matt Anderson of One Community Church led the invocation. The Pledge of Allegiance and the Pledge to the Texas Flag were recited.

### **Announcements of recent and upcoming events.**

Fishtrap Road from Gray Wolf Drive to FM 1385 will be closed to through traffic for road construction improvements for approximately 30 days, weather permitting. Travelers will need to find alternate routes during this time.

Each Thursday, be on the lookout for "Thoroughfare Thursday" updates on the Town's Facebook page to learn about road improvement projects throughout the Town. Updates are also available

on the Town's Monthly CIP Report, which is available on the Engineering page on the Town website.

The Town's Public Works Department is hosting a free virtual class on Water Efficient Sprinklers on Tuesday, August 25, at 6pm. Residents will learn how to do minor repairs and simple irrigation tips that can make a MAJOR impact on your water waste and your water bill, and keep landscapes looking their best. Registration is available on the Water Conservation page on the Town website.

The Town has been notified of one positive case of West Nile Virus. Eliminating standing or stagnant water where mosquitoes can breed, and reducing the chances of mosquito bites are the most effective lines of defense against exposure to West Nile Virus. Remember to follow the 4 D's to reduce your risk of mosquito bites:

- Drain standing water so mosquitoes don't have a place to breed, and treat water that can't be drained.
- Defend by using an EPA-approved insect repellent.
- Dress in long sleeves and pants when outdoors.
- Limit outdoor activities dusk to dawn when mosquitoes are most active

The Town Council would like to wish all Prosper students, parents, and teachers a safe and successful school year.

### **Presentations.**

#### **1. Unity Table Proclamation (RB)**

Mayor Smith presented a proclamation to Pastor Matt Anderson of One Community Church proclaiming August 29-30, 2020, as Unity Table Weekend encouraging our friends and neighbors to share a meal to celebrate what unites us as a community.

#### **2. Recognition of Bond Committee (CS)**

Mayor Smith presented Certificates of Appreciation to David Bristol, Prosper Economic Development Corporation's Vice President and 2020 Bond Committee Chairman, Mayor Pro-Tem Vogelsang and to the 2020 Bond Committee. Mayor Smith thanked the committee for their commitment and dedication.

### **CONSENT AGENDA:**

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

- 3. Consider and act upon the minutes from the July 28, 2020, Town Council Meeting. (ML)**
- 4. Receive the June financial report. (BP)**
- 5. Receive the Quarterly Investment Report. (BP)**
- 6. Consider and act upon Ordinance No. 2020-58 establishing the 2020 certified appraisal roll. (BP)**

7. **Consider and act upon scheduling a Public Hearing on the FY 2020-2021 Proposed Budget. (BP)**
8. **Consider and act upon scheduling a Public Hearing for the FY 2020-2021 proposed tax rate. (BP)**
9. **Consider accepting submission of the 2020 no-new-revenue tax rate of \$0.515548 per \$100 taxable value and the voter-approval tax rate of \$0.550300 per \$100 taxable value. (BP)**

Mayor Smith removed Items 10, 11 and 12 from the Consent Agenda.

Councilmember Miller made a motion and Councilmember Andres seconded the motion to approve Items 3 thru 9 on the Consent Agenda.

The motion was approved by a vote of 7-0.

10. **Consider and act upon authorizing the Town Manager to execute a Professional Services Agreement between Halff Associates, Inc., and the Town of Prosper, Texas, related to the Downtown Monument Project (1922-PK). (DR)**

Deputy Mayor Pro-Tem Dixon requested clarification on the scope of the agreement and if the 12-month time frame of completion could be reduced. Dudley Raymond, Director of Parks and Recreation, confirmed it was the entire project not just the monument and would relay Deputy Mayor Pro-Tem Dixon's comments to the consultant regarding his request for a reduced project schedule.

Councilmember Ray asked if the funding for the Downtown Monument Project was primarily for the design phase and requested this item be tabled until input was received from the Downtown Visionary Committee and the EDC regarding this project. Mayor Pro-Tem Dixon responded the funding was for the design phase and recommended not tabling the item as it had been previously discussed by the Visionary Committee.

Deputy Mayor Pro-Tem Dixon made a motion and Councilmember Andres seconded the motion to approve the Professional Services Agreement between Halff Associates, Inc., and the Town of Prosper, Texas, related to the Downtown Monument Project (1922-PK).

The motion was approved by a vote of 6-1 with Councilmember Ray opposed.

11. **Consider and act upon authorizing the Town Manager to execute an Agreement to Contribute Right of Way Funds between the Texas Department of Transportation and the Town of Prosper, Texas, related to the construction of FM 1461 (Frontier Parkway) from SH 289 (Preston Road) to west of County Road 166. (HW)**

Councilmember Andres questioned if the execution of the agreement to contribute right of way funds finalized any citizen input that may be possible on right of way and the construction FM 1461. Hulon Webb, Engineering Services Director, responded there were still ongoing discussions of final design with the ability of public input.

Councilmember Andres made a motion and Councilmember Hodges seconded the motion to approve authorizing the Town Manager to execute an Agreement to Contribute Right of Way Funds between the Texas Department of Transportation and the Town of Prosper, Texas, related to the construction of FM 1461 (Frontier Parkway) from SH 289 (Preston Road) to west of County Road 166.

The motion was approved by a vote of 7-0.

**12. Consider and act upon an ordinance amending the Zoning Ordinance regarding Permitted Uses and Definitions, and Development Requirements, including but not limited to Landscaping, Parking, Screening, and Non-Residential Design and Development Standards. (Z20-0010). (AG)**

Mayor Smith recommended tabling this item until the August 25, 2020, Town Council meeting to allow for additional time for the development community to review the proposed amendments.

Councilmember Hodges made a motion and Councilmember Miller seconded the motion to table Item 12 until the August 25, 2020, Town Council meeting.

The motion was approved by a vote of 7-0.

**CITIZEN COMMENTS**

There were no citizen comments.

**REGULAR AGENDA:**

**Items for Individual Consideration:**

**13. Conduct a Public Hearing, and consider and act upon a request to modify the development standards of Planned Development-40 (PD-40), for Windsong Ranch, generally to modify the residential development standards, including, but not limited to building material, roofing, window, and building encroachment regulations. (Z20-0015). (AG)**

John Webb, Development Services Director, provided an overview of the request that would amend Planned Development-40 (PD-40) for Windsong Ranch generally to modify the residential development standards, including, but not limited to building material, roofing, window, and building encroachment regulations. The developer is currently working with Shaddock-Caldwell Custom Homes which intends to develop several Type C, D, and F lots within Windsong Ranch. The prospective builder has indicated certain development standards, intended for production builders, will inhibit development of their custom homes.

The developer, David Blom, Vice President/Partner for Tellus Group, LLC., discussed with Council the desire to offer a greater variety at the upper end of the product scale.

Mayor Smith opened the public hearing.

The builder, Ben Caldwell with Shaddock-Caldwell Custom Homes, presented examples of the proposed roof pitch, roof material and color. Cementitious siding and cedar shake siding were discussed as a primary exterior building material. As

well, Mr. Caldwell discussed side yard encroachment reduction, the removal of the requirement of window frame color and allowing for pin-mounted addresses for all lot types.

Deputy Mayor Pro-Tem Jason Dixon had questions about the architectural standards within the HOA regarding roof colors and future homeowners. Mr. Caldwell replied architectural control is legislated by the covenants, conditions, and restrictions (CC&Rs) in the HOA that governs the community. Additionally, within the HOA is an architectural review committee with approval rights to address this. Council discussed cedar shake wood used as an exterior building material and the maintenance and safety of it. Councilmember Ray had questions on roof pitch and the constraints of roof color.

Windsong resident Doug Charles, via Zoom, voiced concern that the product design proposed is inconsistent with the current subdivision standards for Windsong Ranch.

Windsong resident Mrs. Jacko, via Zoom, spoke on the possibility of increased insurance rates due to the use of wood products and a concern for the decline of standardization regarding building materials within the subdivision. Mrs. Jacko urged for some form of unity to the subdivision standards for Windsong Ranch.

Mayor Smith closed the public hearing.

After discussion, Councilmember Miller made a motion and Councilmember Ray seconded the motion to approve the request to modify the development standards of Planned Development-40 (PD-40), for Windsong Ranch, generally to modify the residential development standards, including, but not limited to building material, roofing, window, and building encroachment regulations (Z20-0015) contingent upon the following: Decorative wood products shall not be a permitted exterior surface, and before final Council approval of this planned development ordinance, the applicant shall meet with the Fire Chief and Town personnel to propose appropriate standards for decorative wood products as an accent material.

The motion was approved by a vote of 7-0.

14. **Consider and act upon Ordinance No. 2020-60 ordering a General Election to be held on November 3, 2020, and authorizing the Town Manager to execute contracts with the Collin County Election Administration, the Denton County Election Administration, and the Prosper Independent School District for joint election services. (ML)**

Melissa Lee, Town Secretary, provided information on the ordinance ordering a General Election to be held on November 3, 2020. In accordance with the Election Code, the Prosper Town Council ordered a General Election on February 11, 2020, to be held on the uniform election date in May for the purpose of electing Council members for Place 3 and Place 5. As a result of the COVID-19 public health emergency, Governor Abbott authorized municipalities to postpone municipal elections until the November 3, 2020, General Election. The Town Council approved an ordinance to postpone the election on March 24, 2020.

Councilmember Miller made a motion and Deputy Mayor Pro-Tem Dixon seconded the motion to approve Ordinance No. 2020-60 ordering a General Election to be held

on November 3, 2020, and authorizing the Town Manager to execute contracts with the Collin County Election Administration, the Denton County Election Administration, and the Prosper Independent School District for joint election services.

The motion was approved by a vote of 7-0.

**15. Consider and take action on Ordinance No. 2020-61 calling a bond election in the Town on November 3, 2020, and providing for the administration of the election. (CS)**

Chuck Springer, Executive Director of Administrative Services, provided an overview of the ordinance calling a bond election in the Town on November 3, 2020. The Town Council appointed a Citizens Bond Advisory Committee on February 25, 2020. The Committee held eight meetings from March through July. On July 14, 2020, Committee Vice Chair Curry Volelsang presented the Committee's unanimous recommendation to call a bond election with three propositions totaling \$210 million. The Committee also recommended specific language for the three propositions. The ordinance will call a bond election for the Town matching the recommendations of the Bond Committee with the following three propositions:

- Proposition A – authorizing the issuance of \$30,000,000 tax bonds for Public Safety Facilities;
- Proposition B – authorizing the issuance of \$30,000,000 tax bonds for Parks, Trails and Recreation Facilities;
- Proposition C – authorizing the issuance of \$150,000,000 tax bond for Streets and Roads.

Councilmember Hodges made a motion and Councilmember Andres seconded the motion to approve Ordinance No. 2020-61 calling a bond election in the Town on November 3, 2020, and providing for the administration of the election.

The motion was approved by a vote of 7-0.

**16. Consider and act upon Ordinance No. 2020-62 ordering a Special Local Option Election to be held on November 3, 2020, for the purpose of legalizing the sale of all alcoholic beverages for off-premise consumption only, and legalizing the sale of mixed beverages in restaurants by food and beverage certificate holders only. (ML)**

Melissa Lee, Town Secretary, provided information on the ordinance ordering a Special Local Option Election to be held on November 3, 2020. On June 11, 2020, the Town Secretary received an application to issue petitions for two Local Option Election propositions. The two petitions were submitted to the Town Secretary on July 12, 2020. The Election Code requires that for a Local Option Election to be held, a petition must be signed by thirty-five percent (35%) of the number of residents who voted in the last gubernatorial election. The number of signatures required for each petition to be sufficient is 3,186. If a submitted petition bears the required number of signatures, then the Town Council is required to order a Local Option Election. The Town Secretary had certified that both petitions have met the required number of signatures. The names of the signers will be retained on the original petitions in the Town Secretary's Office in accordance with the Town's Record Retention policy.

Councilmember Hodges made a motion and Deputy Mayor Pro-Tem Dixon seconded the motion to approve Ordinance No. 2020-62 ordering a Special Local Option Election to be held on November 3, 2020, for the purpose of legalizing the sale of all alcoholic beverages for off-premise consumption only, and legalizing the sale of mixed beverages in restaurants by food and beverage certificate holders only.

The motion was approved by a vote of 6-1 with Councilmember Miller opposed.

**17. Submission of the FY 2020-2021 Proposed Budget and Budget Message by the Town Manager. (BP)**

Harlan Jefferson, Town Manager, provided the Budget Message that included introductory comments on the current budget environment. The Town of Prosper FY 2020-2021 Proposed Budget addresses increased service levels to Town residents in response to continued growth, provides required or recommended capital investments in infrastructure and other public improvements as well as additional public safety resources. The Town has continued to thrive relative to many markets. Despite the Town's current and future growth potential and general optimism, this budget has been prepared with conservative revenue assumptions in mind.

Betty Pamplin, Finance Director, discussed FY 2020-2021 Proposed Budget with highlights that include no increase in property tax rate or utility rates for Town customers. Continued growth in property tax and sales tax was noted, as was continued staff additions to Public Safety. This budget will raise more revenue from property taxes than last year's budget by an amount of \$2,379,134, which is a 10.18 percent increase from last year's budget. The property tax revenue to be raised from new property added to the tax roll this year is \$1,874,898.

The FY 2020-2021 Proposed Budget Appropriations total \$60,242,561 for all operating funds, not including general debt service, capital projects, impact fees, vehicle equipment and replacement fund, or the Economic Development Corporation. Of that amount, approximately \$32,368,884 is for General Fund operations and maintenance, \$1,425,708 for the Crime Control and Prevention Special Purpose District, \$1,490,812 for the Fire Control, Prevention and Emergency Medical Services Special Purpose District, and \$24,957,157 for the Town's Enterprise Funds including Solid Waste, Water, and Sewer utilities as well as the Storm Drainage Utility Fund. General Debt Service Appropriations for the coming fiscal year are \$7,699,741.

Hulon Webb, Engineering Services Director, provided information on the Capital Improvement projects included in the FY 2020-2021 Proposed Budget. Street, traffic and facility project funding was discussed. Dudley Raymond, Director of Parks and Recreation, provided information on the park projects included in the FY 2020-2021 Proposed Budget.

Ms. Pamplin continued the presentation with an overview of the key dates in the budget process, which include Public Hearings on the FY 2020-2021 Budget and the proposed tax rate.

No further action was taken.

**18. Consider and act upon a proposed FY 2020-2021 property tax rate. (BP)**

Betty Pamplin, Finance Director, provided Council information on the proposed FY 2020-2021 property tax rate. According to Section 26.05(d) of the Property Tax Code, the Town is required to hold one public hearing and publish a newspaper ad if proposing to consider a tax rate that exceeds the no-new-revenue rate or voter-approval rate, whichever is lower. The rate the Town finally adopts can be lower than the proposed and published rate, but it cannot exceed it without undergoing the required posting requirements and timeframes.

Deputy Mayor Pro-Tem Dixon made a motion and Mayor Pro-Tem Vogelsang seconded the motion to place a proposal to adopt a FY 2020-2021 tax rate of fifty-two cents (\$0.52) per one hundred dollars (\$100) of valuation on the September 8, 2020, Town Council Agenda. The Town Council voted as follows:

Councilmember Miller: Approve  
 Deputy Mayor Pro-Tem Dixon: Approve  
 Mayor Smith: Approve  
 Mayor Pro-Tem Vogelsang: Approve  
 Councilmember Hodges: Approve  
 Councilmember Andres: Approve  
 Councilmember Ray: Approve

**19. Consider and act upon awarding Bid No. 2020-75-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the Prosper Trail – Coit Rd to Custer Rd 2-Lanes (CIP No. 2008-ST) project; and authorizing the Town Manager to execute a construction agreement for same. (HW)**

Hulon Webb, Engineering Services Director, provided an overview of project scope, location and cost. After taking into consideration cost and time, Mario Sinacola & Sons Excavating, Inc., submitted the lowest bid of \$5,236,331.05, with a final completion time of 330 days.

Council discussed the level of communication with the community regarding any disruptions that may occur. Director Webb commented on future public communication scheduled and noted there would be minimal disruptions to traffic.

Deputy Mayor Pro-Tem Dixon made a motion and Councilmember Ray seconded the motion to approve awarding Bid No. 2020-75-B to Mario Sinacola & Sons Excavating, Inc., related to construction services for the Prosper Trail – Coit Rd to Custer Rd 2-Lanes (CIP No. 2008-ST) project; and authorizing the Town Manager to execute a construction agreement for same.

The motion was approved by a vote of 7-0.

**20. Discussion on Third Floor Remodeling project and Public Works Modular Building. (RB)**

Robyn Battle, Executive Director of Community Services, discussed with Council the Third Floor Remodeling project and Public Works Modular Building. The COVID-19 public health emergency has caused the Town to look for new ways to create social distance between employees in order to provide a safer work environment. Town staff



is proposing to remodel the three unfinished shell spaces on the third floor of Town Hall, and purchase an additional modular building for Public Works, to increase the amount of space between employees in the Town Secretary, Communications, Information Technology, Human Resources, Finance, and Public Works divisions.

Councilmember Ray questioned the renovation cost and resulting increase of space to accommodate existing and additional future employees. Ms. Battle responded that the project qualifies as an eligible use of funds as it meets a short term need to get Town employees socially distanced. Staff requested, with the consensus of Council, to move forward with the preparation of construction documents to be presented at the August 25, 2020, Town Council meeting for consideration.

#### **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 551.071 - Consultation with the Town Attorney regarding legal issues associated with alcoholic beverage local option elections and all matters incident and related thereto.***

***Section 551.074 – To discuss appointments to the Board of Adjustment/Construction Board of Appeals, Parks & Recreation Board, Library Board, Prosper Economic Development Corporation Board, and Planning & Zoning Commission.***

The Town Council recessed into Executive Session at 8:38 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 9:23 p.m.

Councilmember Miller made a motion and Councilmember Hodges seconded the motion to appoint Ty Bledsoe to fill the unexpired term of Henry Coleman, Parks & Recreation Board Place 1.

The motion was approved by a vote of 7-0.

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

Council requested postponing the August 15, 2020, Town Council Special Called meeting, with a future meeting date to be determined.

#### **Adjourn.**

The meeting was adjourned at 9:25 p.m. on Tuesday, August 11, 2020.

These minutes approved on the 25th day of August 2020.

**APPROVED:**

\_\_\_\_\_  
**Ray Smith, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Melissa Lee, Town Secretary**

DRAFT



## ADMINISTRATION

**To: Mayor and Town Council**

**From: Chuck Springer, Executive Director of Administrative Services**

**Through: Harlan Jefferson, Town Manager**

**Re: Town Council Meeting – August 25, 2020**

**Agenda Item:**

Consider and act upon approving an Amendment to the Facility Management Services Agreement between TDIndustries, Inc., and the Town of Prosper Texas, through the National Cooperative Purchasing Alliance (NCPA); and authorizing the Town Manager to execute the same.

**Description of Agenda Item:**

In July 2018, the Town Council approved the Facility Management Services Agreement, in order to accommodate the immediate operational needs upon the opening of Town Hall. The initial Agreement was amended in August, 2019 to include the full range of services to maintain Town Hall. This amendment will add the necessary services for maintenance of the new Police Facility. Services are currently scheduled to begin at the Police Facility in October.

The following services are covered under this amended agreement:

- Custodian Services
- On Site Building Technician (split between Town Hall and Police Building)
- Floor Cleaning and Polishing
- Pest Control Services
- Coffee and Vending Services
- Water Feature Maintenance (Town Hall only)
- HVAC Maintenance
- Interior/Exterior Window Washing
- Generator Maintenance
- Fire Suppression System Maintenance
- Annual Roof Inspection (Town Hall only)

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 entered into a Master Interlocal Agreement with NCPA, effective June 1, 2018, which allows our local government to purchase certain goods or services through NCPA. The initial three-year term of the agreement is in effect through July 2021, with automatic one-year renewal periods. The Agreement allows for termination by the Town at any time, upon sixty days prior written notice.

**Budget Impact:**

The estimated annual amount for all Facilities Management Services as outlined is \$375,000 for FY 2020-21 and will be funded from 100-5480-50-05 Facilities Management. Subsequent annual expenditures will be subject to appropriations granted in future fiscal years.

**Legal Obligations and Review:**

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

**Attached Documents:**

1. Amendment to the Facility Management Services Agreement

**Town Staff Recommendation:**

Town staff recommends approving an Amendment to the Facility Management Services Agreement between TDIndustries, Inc., and the Town of Prosper Texas, through the National Cooperative Purchasing Alliance (NCPA); and authorizing the Town Manager to execute the same.

**Proposed Motion:**

I move to approve an Amendment to the Facility Management Services Agreement between TDIndustries, Inc., and the Town of Prosper Texas, through the National Cooperative Purchasing Alliance (NCPA); and authorize the Town Manager to execute the same.

**Amendment to  
Town of Prosper Facility Management  
Services Agreement**

*Item 4.*

This Amendment to Agreement (hereinafter referred to as "Amendment"), is entered into the day and year set forth below between TDIndustries Inc. (hereinafter referred to as "Contractor") with its principal place of business at 13850 Diplomat Drive, Dallas, Texas 75234 and the Town of Prosper with its principal address at 250 W First Street, Prosper, TX 75078 and the pending Prosper Police Department (hereinafter referred to as "Owner"). This amendment is referenced through the National Cooperative Purchasing Alliance (NCPA) with a Registered Quotation Number of 2019-4369986583 for Facility Services. In consideration of the mutual covenants set forth in the original Agreement between the Parties, dated 07/09/2018, hereinafter referred to as "Agreement," and other good and valuable consideration, the parties hereto agree to amend the following Attachments to the original Agreement:

1. Attachment B – NCPA Facility Services Pricing
2. Attachment C - Third-Party Service Providers

**Attachment B – NCPA Facility Services Pricing  
(Amendment)**

**Personnel - Included Benefits**

**Standard Benefits**

**Core Safety Training** - Included

**Training related to licensing** - Included

**Uniforms** – Included

**Communication Device** – Included

**Hourly Rates (per NCPA Contract)**

**Project Manager**

<b>Hourly Bill Rate</b>	<b>\$ 105.86</b>
<b>Annual Hours – 117 hours</b>	<b>\$ 12,385.62</b>

**Building Technician - Level Two**

<b>Hourly Bill Rate</b>	<b>\$ 42.40</b>
<b>Annual Hours – 2,080 hours</b>	<b>88,192</b>

**Building Technician – Level One**

<b>Hourly Bill Rate</b>	<b>\$ 36.63</b>
<b>Annual Hours – 96 hours</b>	<b>\$ 3,516.48</b>

**Additional Facility Services personnel may be added to project on an as needed basis. Hourly bill rates are based on NCPA Dallas labor classifications.**

**Mark-up on Third Party Contracts (NCPA Pricing)**

15%

**Computer Maintenance Management System (CMMS)**

One license @ \$3,750 per license per year: **\$3,750**

Overtime pay applies at 1.5 times.

NCPA pricing increases annually.

Coverage for PTO time not included in above pricing.

\*Changes in the cost of healthcare due to the Affordable Healthcare Act (AHA) may effective the future cost of healthcare premiums. Any changes will be passed through at cost.

**Attachment C - Third-Party Service Providers**  
**(Amendment)**

**Housekeeping Services: AHI Facility Services, Inc. (updated cost estimate)**

**Town Hall Pricing (w/o mark-up):**

1 Lead Cleaner (1,040 hours): \$13,333.09/year (\$1,111.09/month)  
 2 Cleaner Technicians (2,080 hours each): \$25,161.93/year (\$2,096.83/month)  
 1 Weekend Cleaner (182 hours): \$2,273.46/year (\$189.45/month)  
 Pressure Washing Services (quarterly basis): \$1,580/year (\$395/quarter)  
 Supplies: \$6,657/year  
 Equipment: \$3,593.30/year  
**Total: \$52,598.78/year (\$4,383.23/month)**

**Police Station**

1 Lead cleaner M-F (1300 hours): 15,600.00 /year (1,300/month)  
 1 General cleaner M-F (1300 hours): 14,300 / year (1191.66 month)  
 2 Weekend Cleaners (832 hours) 9,152.00 / year (762.66 month)  
 Exterior windows (twice annually) 1400.00 / year  
 Supplies: 3,454.08 / annually  
 Equipment: 3,981.20 / annually  
**Total: 62,227.17/year (5,185.60/month)**

**Mark-up (15%):** \$17,223.89 /year (1,435.32/month)

**Total:** \$132,049.84 /year (11,004.15/month)

\*No annual price increase for years 1-3.

**Pest Control Services: Green Pest Guys**

**Pricing (w/o mark-up):**

Town Hall \$3,468 (\$289 x 12months)

Police Station \$2,268 (189 x 12months)

\$425 (17 one-time bait box installations x \$25 each) TBD for the police department

\$495 (bait box services at \$45 x 11 months – 1<sup>st</sup> month included) TBD for the police department

With Bait Boxes: 6,656.00

**Mark-up (15%):** \$998.40

**Total:** \$7,654.40/year

\*No annual price increase for years 1-3.

**Coffee Services: Community Coffee (updated cost estimate based on Town Hall consumption)**

Town Hall \$9,000 year (750 X 12 months)

Police Station \$4500 year (375 X 12 months)

**Pricing:** \$13,500/year

**Mark-up (15%):** \$2025.00/year

**Total:** \$15,525/year (1,218.75 month)

Community Coffee will provide and maintain all coffee equipment at no charge to the Town of Prosper. Additional coffee products will be ordered as needed on an ongoing basis.

#### **Water Feature Maintenance: Prestige Pool & Patio (no updates)**

TDIndustries will manage service provider that will regularly maintain, and clean Prosper Town Hall's water feature and filters as needed on an ongoing basis.

**Pricing:** \$3,654.13/year

**Mark-up (15%):** \$548.12/year

**Total:** \$4,202.25/year

#### **Floor Cleaning & Polishing: GBS Group**

TDIndustries will manage service provider that will execute deep cleaning and polishing of Prosper Town Hall marble floors on a semi-annual basis. Additionally, the provider will clean and condition the library wood stairs annually. Service provider will also clean and seal tile bathroom floors at the town hall on an annual basis

Town Hall: \$10,695/year

**Service provider will clean and seal tile bathroom floors at the Police Station on an annual basis, will deep clean gym floor on a quarterly bases and will clean the LVT floor semi-annually.**

Police Station: 14,903 /year

**Mark-up (15%):** \$3,839.70/year

**Total:** \$29,437.70/year

#### **HVAC Planned Maintenance: TDIndustries - Service**

TDIndustries will manage TDIndustries' HVAC Service department to provide semi-annual planned maintenance inspections for Prosper Town Hall's HVAC systems.

**Town Hall:** \$6,536.95/year (\$3,268.48 semi-annually)

**Police Station:** 4,553.00/year (2,276.50 semi-annually)

**Mark-up (15%):** \$1,663.49/year

**Total:** \$12,753.44/year

#### **Interior / Exterior Window Washing: City Wide Building Services (No Updates)**

TDIndustries will manage service provider that will execute semi-annual window washing for all interior and exterior windows for Prosper's Town Hall.

**Pricing:** \$12,232/year (\$6,116/semi-annually)

**Mark-up (15%):** \$1,834.80

**Total:** \$14,066.80/year



**Generator Planned Maintenance: Clifford Power**

TDIndustries will manage service provider that will execute semi-annual planned maintenance inspections for Prosper Town Hall's generators.

Town Hall: \$1514.00/year (\$757.00/semi-annually)

Police Station: \$ 2587.00/ year (646.75/ quarter)

**Mark-up (15%):** \$615.15/year

**Total:** \$4,716.15/year

**Fire Suppression System Maintenance: Firetrol Protection Systems**

TDIndustries will manage service provider that will execute the annual inspection of all the fire and life safety systems at Prosper Town Hall.

Town Hall: \$3,195/year

Police Station: 1,395/year

**Mark-up (15%):** \$688.50/year

**Total:** \$5,278.50/year

**Annual Roof Inspection: Supreme Roofing (no updates)**

TDIndustries will manage service provider that will execute the annual roof inspection at Prosper's Town Hall which will include a digital report that documents all findings and deficiencies of each roof section.

**Pricing:** \$500/year

**Mark-up (15%):** \$75/year

**Total:** \$575/year

**Energy Management System**

TDIndustries will manage service provider that will provide test and inspection, technical support, and software services for the Energy Management and Control system. This will be on a semiannual basis for Town Hall and Police station.

**Pricing:** \$11,522/year

**Mark-up:** \$1,728.30

**Total:** \$13,250.30

**Total budget for this amendment: \$ 347,353.48**

**IN WITNESS WHEREOF**, the parties hereto caused this Amendment to the original Agreement to be executed this \_\_\_\_\_ day of August, 2020.

Contractor

Owner

NAME \_\_\_\_\_

Brian Lillard

NAME \_\_\_\_\_

Harlan Jefferson

TITLE Vice President

TITLE Town Manager

DATE \_\_\_\_\_

DATE \_\_\_\_\_



## COMMUNITY SERVICES

**To: Mayor and Town Council**

**From: Robyn Battle, Executive Director of Community Services**

**Through: Harlan Jefferson, Town Manager**

**Re: Town Council Meeting – August 25, 2020**

### **Agenda Item:**

Consider and act upon approving a Standard Form of Agreement with Pogue Construction Co., LP, for the build-out of existing shell space in Town Hall; the purchase and installation of furniture for the renovated spaces from Workspace Interiors by Office Depot, through the Omnia Partners Cooperative; and authorizing the Town Manager to execute the same.

### **Description of Agenda Item:**

This item is for the build-out of existing shell space in Town Hall to allow for social distancing of employees in Community Services, Information Technology, Human Resources, and Finance divisions, and the furniture for these spaces. This item has been approved by the Town Attorney as a qualifying expense under the CARES Act funding.

The Town will be connecting to existing systems. Therefore, the Town will use Pogue Construction Co., LP, the CMAR for Town Hall, for the build-out of the spaces in order to maintain the integrity of mechanical and system warranties.

The furniture for the renovated spaces will be purchased from Workspace Interiors by Office Depot. This is the same company the Town used to provide furniture for Town Hall, as well as the new Police Station and Dispatch Facility.

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 National IPA, now a part of the Omnia Partners Cooperative, entered into an interlocal agreement, effective April 5, 2013, which allows our local government to purchase certain goods or services through National IPA. The agreement remains in effect, until cancelled by either party with 30 days written notice.

**Budget Impact:**

The total project amount is \$507,472.23. The purchase cost for construction services is \$451,239.58 and will be funded from CARES Act fund 675-6110-10-00-2019-EM. The purchase cost for furniture is \$56,232.65 and will be funded from CARES Act fund 675-5220-10-00-2019-EM.

**Legal Obligations and Review:**

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

**Attached Documents:**

1. Workspace Interiors by Office Depot Proposals
2. Pogue Proposals
3. AIA Document A101-2017 Standard Form of Agreement
4. AIA Document A201-2007 General Conditions of the Contract

**Town Staff Recommendation:**

Staff recommends approving a Standard Form of Agreement with Pogue Construction Co., LP, for the build-out of existing shell space in Town Hall; the purchase and installation of furniture for the renovated spaces from Workspace Interiors by Office Depot, through the Omnia Partners Cooperative; and authorizing the Town Manager to execute the same.

**Proposed Motion:**

I move to approve a Standard Form of Agreement with Pogue Construction Co., LP, for the build-out of existing shell space in Town Hall; the purchase and installation of furniture for the renovated spaces from Workspace Interiors by Office Depot, through the Omnia Partners Cooperative; and authorize the Town Manager to execute the same.



# Proposal

Item 5.

Date: 7/31/2020

Reference #: 511268

Brenda Reber  
Business Development Manager  
972.804.4808 ph  
brenda.reber@workspaceinteriorsod.com

## Town of Prosper

Todd White  
250 W. First Street  
Prosper TX 75078

### Town of Prosper - 319 ADMIN ANNEX

Item	Qty	Product	Sell Price:	Unit	Extended
1	1	<b>Contract#R191812</b> Omnia Partners - New Contract Number		\$0.00	\$0.00
2	4	<b>EVABB01</b> Binder Bin		\$27.22	\$108.88
		SF-Storage Paint Colors (Acc)	~STD	Standard Paint Colors	
		Standard Paint Colors (Acc)	SDT	Stone Dust (Textured Cappuccino)	
3	8	<b>EVASS01R</b> Slant Sorter, Right		\$17.37	\$138.96
		SF-Storage Paint Colors (Acc)	~STD	Standard Paint Colors	
		Standard Paint Colors (Acc)	SDT	Stone Dust (Textured Cappuccino)	
4	1	<b>EVE8CP46</b> 46" - Pass Thru Cable		\$61.46	\$61.46
5	1	<b>EVE8CP76</b> 76" - Pass Thru Cable		\$73.20	\$73.20
6	1	<b>EVE8FR1</b> 72" Long, Floor Power Entry, Front Fed, Snaps into Knockout of Base Raceway		\$124.80	\$124.80
7	1	<b>EVE8PD36</b> 36", Power Distribution Housing		\$78.83	\$78.83
8	2	<b>EVE8PD54</b> 54", Power Distribution Housing		\$87.27	\$174.54
9	1	<b>EVE8RD1WHT</b> #1 Utility Circuit, Duplex Receptacle, White		\$13.13	\$13.13
10	1	<b>EVE8RD2</b> #2 Utility Circuit, Duplex Receptacle, Black		\$11.73	\$11.73
11	1	<b>EVE8RDA</b> A, Dedicated Circuit, Duplex Receptacle, Black		\$11.73	\$11.73
12	1	<b>EVE8RDBWHT</b>		\$13.13	\$13.13

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**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		B, Dedicated Circuit, Duplex Receptacle, White			
13	2	<b>EVET5L36</b> 36"w, Tasklight (Use w/ 42" or Wider Overhead or Shelf)		\$77.89	\$155.78
14	2	<b>EVHC12R</b> 12", Right, Single Cantilever		\$37.07	\$74.14
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
15	2	<b>EVHC18L</b> 18", Left, Single Cantilever		\$37.07	\$74.14
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
16	2	<b>EVHC18R</b> 18", Right, Single Cantilever		\$37.07	\$74.14
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
17	2	<b>EVHCB2</b> Corner Brackets Left and Right (Pair)		\$10.32	\$20.64
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
18	2	<b>EVHFB1</b> Flat bracket (Available in Black Only)		\$6.57	\$13.14
19	2	<b>EVPCPA266</b> 66"h, 2 Way Post, Includes Post, Hardware & Aluminum Trims		\$103.70	\$207.40
		20-Paint Colors (Alum + Metal) ~STD Standard Paint Colors			
		Standard Paint Options ~STD Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve			
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal) SDT Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)			
20	1	<b>EVPCPA366</b> 66"h, 3 Way Post, Includes Post, Hardware & Aluminum Trims		\$134.66	\$134.66
		20-Paint Colors (Alum + Metal) ~STD Standard Paint Colors			
		Standard Paint Options ~STD Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve			

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Item	Qty	Product	Sell Price:	Unit	Extended
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
21	2	<b>EVPERA54</b> 54"h, End of Run Post, Includes Post, Hardware & Aluminum Trim		\$41.29	\$82.58
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
22	1	<b>EVPERA66</b> 66"h, End of Run Post, Includes Post, Hardware & Aluminum Trim		\$45.99	\$45.99
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
23	2	<b>EVPF1S6630M</b> 66"h x 30"w, Slatwall Panel (12" SW), Single Sided		\$403.10	\$806.20
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (39)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (39)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (39)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (39)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Inside Position 2 (SW)	I2	ST	
		Grade Options - Inside Position 3 (39)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A	

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Item	Qty	Product		Sell Price:	Unit	Extended
			TOR	MOMENTUM PACT HARBOUR		
24	2	<b>EVPF1S6636M</b>			\$464.51	\$929.02
		66"h x 36"w, Slatwall Panel (12" SW), Single Sided				
		20-Frame Color (Panels)	~STD	Standard Paint Options		
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal		
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal		
		10-Panel Fabric Grade - Outside Position 1 (46)	~GR1	Panel Grade 1		
		Grade 1 - Outside Position 1	O1	Outside Position 1		
		Fabric Grade 1	~PN	Pinpoint		
		Pinpoint	PN12	Delight		
		Grade Options - Outside Position 2 (46)	~GR1	Grade 1 Fabrics		
		Grade 1 - Outside Position 2	O2	Outside Position 2		
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)		
			TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Outside Position 3 (46)	~GR1	Grade 1 Fabrics		
		Grade 1 - Outside Position 3	O3	Outside Position 3		
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)		
			TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Inside Position 1 (46)	~GR1	Grade 1 Fabrics		
		Grade 1 - Inside Position 1	I1	Inside Position 1		
		Fabric Grade 1	~PN	Pinpoint		
		Pinpoint	PN12	Delight		
		Inside Position 2 (SW)	I2	ST		
		Grade Options - Inside Position 3 (46)	~GR1	Grade 1 Fabrics		
		Grade 1 - Inside Position 3	I3	Inside Position 3		
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)		
			TOR	MOMENTUM PACT HARBOUR		
25	2	<b>EVPFA6624</b>			\$213.68	\$427.36
		66"h x 24"w, Segmented Fabric Acoustic Panel				
		20-Frame Color (Panels)	~STD	Standard Paint Options		
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal		
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal		
		10-Panel Fabric Grade - Outside Position 1 (37)	~GR1	Panel Grade 1		
		Grade 1 - Outside Position 1	O1	Outside Position 1		
		Fabric Grade 1	~PN	Pinpoint		
		Pinpoint	PN12	Delight		
		Grade Options - Outside Position 2 (37)	~GR1	Grade 1 Fabrics		



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Item	Qty	Product	Sell Price:	Unit	Extended
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
26	1	<b>EVPFA6630</b>		\$236.90	\$236.90
		66"h x 30"w, Segmented Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (42)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	

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Item	Qty	Product	Sell Price:	Unit	Extended
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
27	1	<b>EVPFA6636</b>		\$300.90	\$300.90
		66"h x 36"w, Segmented Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (51)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	

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**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product		Sell Price:	Unit	Extended
			TOR	MOMENTUM PACT HARBOUR		
28	2	<b>EVPFA6654</b> 66"h x 54"w, Segmented Fabric Acoustic Panel			\$364.90	\$729.80
		20-Frame Color (Panels)	~STD	Standard Paint Options		
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal		
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal		
		10-Panel Fabric Grade - Outside Position 1 (72)	~GR1	Panel Grade 1		
		Grade 1 - Outside Position 1	O1	Outside Position 1		
		Fabric Grade 1	~PN	Pinpoint		
		Pinpoint	PN12	Delight		
		Grade Options - Outside Position 2 (72)	~GR1	Grade 1 Fabrics		
		Grade 1 - Outside Position 2	O2	Outside Position 2		
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)		
			TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Outside Position 3 (72)	~GR1	Grade 1 Fabrics		
		Grade 1 - Outside Position 3	O3	Outside Position 3		
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)		
			TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Inside Position 1 (72)	~GR1	Grade 1 Fabrics		
		Grade 1 - Inside Position 1	I1	Inside Position 1		
		Fabric Grade 1	~PN	Pinpoint		
		Pinpoint	PN12	Delight		
		Grade Options - Inside Position 2 (72)	~GR1	Grade 1 Fabrics		
		Grade 1 - Inside Position 2	I2	Inside Position 2		
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)		
			TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Inside Position 3 (72)	~GR1	Grade 1 Fabrics		
		Grade 1 - Inside Position 3	I3	Inside Position 3		
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)		
			TOR	MOMENTUM PACT HARBOUR		
29	2	<b>EVPFP5424</b> 54"h x 24"w, Segmented Premium Fabric Acoustic Panel			\$196.65	\$393.30
		20-Frame Color (Panels)	~STD	Standard Paint Options		
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal		
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal		
		10-Panel Fabric Grade - Outside Position 1 (28)	~GR1	Panel Grade 1		
		Grade 1 - Outside Position 1	O1	Outside Position 1		

Date: 7/31/2020

Reference #: 511268

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**Town of Prosper**

Todd White  
250 W. First Street  
Prosper TX 75078

**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
30	5	<b>EVPIC66</b>			\$34.26 \$171.30
		66"h, Inline Panel Connector, Includes Post & Hardware, No Trim			
		20-Paint Colors (Inline Connectors)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Inline Connectors (Use w/ Matching Horizontal Reveal)	
		Inline Connectors (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust Inline (Use w/ Matching Horizontal Reveal) (Textured (	
31	2	<b>EVPMP24GIP</b>			\$120.59 \$241.18
		12"h x 24"w, Panel Mount Privacy Glass, Integrated Channel Extrusion with Aluminum Top Trim for Square Glass			
		20-Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
		54-Privacy Glazing (47)	~I1	Privacy Glazing Option	
		Privacy Glazing (47)	FRST	Frosted	
32	1	<b>EVPVPA266-56</b>			\$103.70 \$103.70
		66"h, Pos.1 54", 2 66", Base Raceway, 2 Way Variable Height Post, Aluminum Trim			
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	

Date: 7/31/2020

Reference #: 511268

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**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
33	1	<b>EVPVPA266-65</b> 66"h, Pos.1 66", 2 54", Base Raceway, 2 Way Variable Height Post, Aluminum Trim		\$103.70	\$103.70
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
34	2	<b>EVS1223BBF</b> 23"d x 15"w x 27.75"h, B/B/F Pedestal, Freestanding or Worksurface Supporting, 1200 Series		\$222.88	\$445.76
		SF-Storage Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
35	4	<b>EVS123033F</b> 40.5"h x 30"w, Lateral File, 3 Drawer, All openings are Fixed Front, 1200 Series		\$575.24	\$2,300.96
		SF-Storage Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
36	4	<b>EVSCWB423H</b> 3H x 42"w, Counterweight Balance, Lateral File		\$145.93	\$583.72
37	2	<b>EVSLK12</b> Lock for Flipper Door Storage		\$19.23	\$38.46
38	2	<b>EVSOF1254</b> 14.5"h x 54"w, Overhead Flipper Door Storage Unit, Lock (NIC)		\$236.01	\$472.02
		SF-Storage Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
39	2	<b>EVT1860</b> 18"d x 60"w, Lateral File Top		\$102.29	\$204.58
		SF-Lateral File Top Laminates	~TF	Thermally Fused Laminates (1" Thickness)	
		20-TF - Thermally Fused Laminates	SKC	Shaker Cherry	
		45-PVC Trim Colors	SKE	Shaker Cherry	
40	2	<b>EVWSNSC2430</b> 24"d x 30"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim		\$53.49	\$106.98
		SF- Worksurface Laminates (Straight)	~TF	Thermally Fused Laminates (1" Thickness)	

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**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		20-TF - Thermally Fused Laminates	SKC	Shaker Cherry	
		45-PVC Trim Colors	SKE	Shaker Cherry	
41	2	<b>EVWSNSC2466</b>		\$128.56	\$257.12
		24"d x 66"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim			
		SF- Worksurface Laminates (Straight)	~TF	Thermally Fused Laminates (1" Thickness)	
		20-TF - Thermally Fused Laminates	SKC	Shaker Cherry	
		45-PVC Trim Colors	SKE	Shaker Cherry	
42	1	<b>9PT5-3FR</b>		\$1,020.40	\$1,020.40
		24"d x 24"w x 65.25"h, FFF, Storage, Right Wardrobe, 9100 SERIES, UNIVERSAL FILING			
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W500	C-Keyed For Lock #W500	
43	1	<b>9PT5-3FR</b>		\$1,020.40	\$1,020.40
		24"d x 24"w x 65.25"h, FFF, Storage, Right Wardrobe, 9100 SERIES, UNIVERSAL FILING			
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W501	C-Keyed For Lock #W501	
44	72	<b>EVSC12</b>		\$2.34	\$168.48
		Slot Cover, Covers the Slots of a Slotted Connector BTW Modules as well as Corner Post, Price is Per Foot			
		20-Paint Colors (PVC)	~STD	Standard Paint Colors	
		Standard Paint Colors PVC)	SDT	Stone Dust (Textured Cappuccino)	
45	4	<b>1033.BK2.F.AR6</b>		\$388.78	\$1,555.12
		Novo, Highback, Mesh Back, Standard Synchro, Multi-Adj Arms			
		Adjustable Lumbar Color Selection	AL1	Black	
		Lumbar Accent Color Selection	LA2	Nickel	
		Seat Depth Adjustment Option Selection	E3	Seat Depth Adjustment Upgrade	
		Cylinder Height Option	CH1	Standard Cylinder	
		Frame Color Selection	FC1	Black Frame	
		Base Selection	B17	Black Nylon Base	
		Caster Selecton	CS5	Carpet Casters	
		Novo Mesh Back Colors	MC21	Nickel Mesh	
		Fabric or Leather Upholstery Selection	FABRIC	Fabric Grade Selections	

**Proposal**

Item 5.

Date: 7/31/2020

Reference #: 511268

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**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		CA Technical Bulletin 133 Fire Std Option for Fabric Selection	~	No Selection	
		Fabric Grade Selections	FG3	Fabric Grade 3	
		Fabric Grade 3 Selection	SLICE	Slice Standard Color Selection	
		Slice Color Selection	CHARCOAL	Slice Charcoal	
		Packaging Options	UC	Back attached to seat, base separate	
46	1	<b>Labor</b>		\$1,400.00	\$1,400.00
		Labor to Receive, assemble and deliver			
<b>Total:</b>					<b>\$15,710.36</b>



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Date: 7/31/2020  
Reference #: 511268

**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
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**Proposal Notes**

**Deposit Required:**

**Additional Information:**





# Proposal

Item 5.

Date: 7/31/2020

Reference #: 511268

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**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

## Town of Prosper - 319 ADMIN ANNEX

Item	Qty	Product	Sell Price:	Unit	Extended
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### TERMS AND CONDITIONS OF PURCHASE (FURNITURE)

- Office Depot, Inc. ("Office Depot") shall make commercially reasonable efforts to install all products as quickly as possible. However, any delivery and/or installation dates quoted to Customer are approximate, and Office Depot's obligation shall be only to deliver and/or install the products within a reasonable time. Also, due to certain factory shipment schedules, it is possible that Office Depot will be able to deliver and install portions of the job in phases. Customer will be invoiced for the items as they are delivered and payment will be due as set forth in Section 3 below.
- All prices are firm for thirty (30) days from date of proposal.
- Payment terms are net twenty (20) days from date of invoice, unless otherwise agreed to and as documented on the order or quote. Customer will be invoiced for items when delivery and installation (if applicable) is complete, and any punch issues are less than 10% of the value of the entire order. In no event shall payment be withheld for delivered products and services. Customer shall pay 90% of the invoice and may withhold 10% until completion of the job. The balance is payable immediately after any outstanding issues are resolved.
- All orders are subject to credit approval.
- Office Depot requires a minimum deposit equaling 50% on all orders over \$20,000. Said deposit will be applied to Customer's account until such product is delivered and invoiced. Each invoice, less its proportionate share of the deposit, will be due and payable as set forth in Section 4 above.
- All products and materials are subject to applicable taxes, as well as any applicable inbound freight and fabrication charges.
- An order is not cancelable once in production. "Quick ships" and fabric orders are not cancelable.
- Any quotation for special order products or materials shall be approved by an authorized Customer representative for correct product number, fabric, specifications and quantities. Any services rendered to Customer to change or modify the specification and layout before or during installation will be charged to Customer at prevailing rates. If such changes or modifications result in additional products, parts, materials or labor, they will be billed to Customer at prevailing rates.
- Delivery and installation services are conducted during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. If services are requested outside of normal business hours, if special handling or equipment is required, if moving of products other than delivered is required, or if there are any unusual condition not made known to Office Depot at the time of sale, extra labor charges at prevailing rates may apply.
- If during installation, additional products are necessary or required to complete the job, such additional products and labor will be charged to Customer at prevailing rates.
- Electric current, heat, hoisting and/or elevator service will be furnished without charge to Office Depot.
- Floors shall be smooth, level and free from debris, and concrete subject to dampness shall be waterproofed prior to delivery and installation of products.
- If Customer is unwilling or unable to accept delivery or installation of the products according to the specified schedule, the products will be stored at Customer's expense. Customer shall pay a warehouse charge payable monthly. Double handling of a product will be charged at our normal hourly rate.
- Office Depot makes no warranties, expressed or implied, as to merchantability or as the suitability of the products for any particular purpose, except those made by the manufacturer of the products. Any claim must be made to Office Depot in writing within five (5) days after delivery or installation of the products and if no claim is so received by Office Depot it will be conclusively presumed that Customer has accepted and that the products are as represented.
- No liability shall accrue against Office Depot as a result of breach of terms and conditions caused by any strike, act of God, lockout, accident, or delay beyond its control.
- Office Depot retains, and Customer hereby grants to Office Depot, a security interest in the products to secure the purchase price therefore. The products shall remain personal property regardless of being fixed to any real property. If Customer defaults in the payment of the purchase price when due, Office Depot shall have all rights and remedies granted by the Uniform Commercial Code. A finance charge of 2% per month (annual percentage rate 24%) will be charged on all past due balances. Customer shall pay all collection costs, including attorneys fee, in the event any claim is referred to a collection agency or attorney.
- Products shipped directly to Customer shall be the responsibility of Customer except if agreed in writing that Office Depot will provide delivery and installation services. The receiving Customer is responsible to inspect products and file any necessary freight claims with freight provider.
- Manufacturer warranties apply for parts only. Labor is not included.
- It is Customer's responsibility to furnish a certified electrician to "hardwire" cubicle stations to building power.
- All items set forth in the quotation are non-returnable.
- IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, WHETHER IN AN ACTION BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- Each party shall indemnify and hold harmless the other party from and against any and all third-party claims, demands, actions, suits, losses, liabilities, damages and all related costs and expenses, including without limitation reasonable attorneys' fees due to, arising from or relating to the negligent, willful or reckless act or omission of the indemnifying party.
- These terms and conditions shall be governed by the law of the State of Florida, without regard to conflict of laws principles.

Customer has read and understands these terms and conditions of purchase.

Customer: \_\_\_\_\_ Address: \_\_\_\_\_

Customer's Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Proposal**

Item 5.

Date: 7/31/2020  
Reference #: 511268

Brenda Reber  
Business Development Manager  
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**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

**Town of Prosper - 319 ADMIN ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
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**Special Instructions:**

Proposal valid for 30 days

Please note: a deposit is required on all furniture orders prior to order placement

One of the following is required prior to placing your order: Signed Terms and Condition, Furniture Agreement on file or a Workspace Interiors Furniture Addendum on file

Workspace Interiors may require additional credit information, prior to placing your order

The appropriate tax will be applied at the time of invoicing

This proposal contains **Special Order** items that are **Not Returnable**

Once an order is placed, cancellations are **Not Allowed**.

Estimated leadtime is subject to the manufactures production / shipping schedule



# Proposal

Item 5.

Date: 7/31/2020  
Reference #: 511446

Brenda Reber  
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**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

## Tonw of Prosper - 319 IT ANNEX

Item	Qty	Product	Sell Price:	Unit	Extended
1	1	<b>Contract #R191812</b> Omnia Partners - New Contract Number		\$0.00	\$0.00
2	3	<b>EVABB01</b> Binder Bin		\$27.22	\$81.66
		SF-Storage Paint Colors (Acc)	~STD	Standard Paint Colors	
		Standard Paint Colors (Acc)	SDT	Stone Dust (Textured Cappuccino)	
3	6	<b>EVASS01R</b> Slant Sorter, Right		\$17.37	\$104.22
		SF-Storage Paint Colors (Acc)	~STD	Standard Paint Colors	
		Standard Paint Colors (Acc)	SDT	Stone Dust (Textured Cappuccino)	
4	3	<b>EVE8CP16</b> 16" - Jumper Cable, Panel to Panel		\$45.99	\$137.97
5	1	<b>EVE8FR1</b> 72" Long, Floor Power Entry, Front Fed, Snaps into Knockout of Base Raceway		\$124.80	\$124.80
6	2	<b>EVE8FR1</b> 72" Long, Floor Power Entry, Front Fed, Snaps into Knockout of Base Raceway		\$124.80	\$249.60
7	4	<b>EVE8PD36</b> 36", Power Distribution Housing		\$78.83	\$315.32
8	2	<b>EVE8PD48</b> 48", Power Distribution Housing		\$86.80	\$173.60
9	3	<b>EVE8RD1WHT</b> #1 Utility Circuit, Duplex Receptacle, White		\$13.13	\$39.39
10	3	<b>EVE8RD2</b> #2 Utility Circuit, Duplex Receptacle, Black		\$11.73	\$35.19
11	1	<b>EVE8RD2WHT</b> #2 Utility Circuit, Duplex Receptacle, White		\$13.13	\$13.13
12	3	<b>EVE8RDA</b>		\$11.73	\$35.19

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Prosper TX 75078

**Tonw of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		A, Dedicated Circuit, Duplex Receptacle, Black			
13	3	<b>EVE8RDBWHT</b> B, Dedicated Circuit, Duplex Receptacle, White		\$13.13	\$39.39
14	1	<b>EVECC121</b> 21"H Cord Covers, Straight Panel Run, (6 per pack)		\$11.26	\$11.26
		20-Paint Colors (PVC) ~STD Standard Paint Colors			
		Standard Paint Colors PVC) SDT Stone Dust (Textured Cappuccino)			
15	4	<b>EVET5L24</b> 24"w, Tasklight (Use w/ 30" or Wider Overhead or Shelf)		\$72.73	\$290.92
16	2	<b>EVET5L36</b> 36"w, Tasklight (Use w/ 42" or Wider Overhead or Shelf)		\$77.89	\$155.78
17	1	<b>EVHC18L</b> 18", Left, Single Cantilever		\$37.07	\$37.07
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
18	1	<b>EVHC18R</b> 18", Right, Single Cantilever		\$37.07	\$37.07
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
19	3	<b>EVHC18R</b> 18", Right, Single Cantilever		\$37.07	\$111.21
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
20	2	<b>EVHCB2</b> Corner Brackets Left and Right (Pair)		\$10.32	\$20.64
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
21	1	<b>EVHFB1</b> Flat bracket (Available in Black Only)		\$6.57	\$6.57

Date: 7/31/2020

Reference #: 511446

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**Town of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
22	2	<b>EVHMEG30R</b> 28"h x 29"d, Metal End Gable, Right, Does NOT Support Two Adjoining Worksurfaces, Includes Leveling Glide and Sleeve 20-Paint Colors ~STD Standard Paint Colors Standard Paint Colors SDT Stone Dust (Textured Cappuccino)		\$104.63	\$209.26
23	1	<b>EVHSR2924</b> 23.38"h x .75"w x 12.5"d, Right, Support Leg, Use with 24" cantilever 20-Paint Colors ~STD Standard Paint Colors Standard Paint Colors SDT Stone Dust (Textured Cappuccino)		\$34.26	\$34.26
24	1	<b>EVPCPA266</b> 66"h, 2 Way Post, Includes Post, Hardware & Aluminum Trims 20-Paint Colors (Alum + Metal) ~STD Standard Paint Colors Standard Paint Options ~STD Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal) SDT Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)		\$103.70	\$103.70
25	6	<b>EVPERA54</b> 54"h, End of Run Post, Includes Post, Hardware & Aluminum Trim 20-Paint Colors (Alum + Metal) ~STD Standard Paint Colors Standard Paint Options ~STD Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal) SDT Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)		\$41.29	\$247.74
26	4	<b>EVPF1S6636M</b> 66"h x 36"w, Slatwall Panel (12" SW), Single Sided 20-Frame Color (Panels) ~STD Standard Paint Options Standard Paint Options ~STD Panels w/ Matching Horizontal Reveal Panels w/ Matching Horizontal Reveal SDT Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal 10-Panel Fabric Grade - Outside Position 1 (46) ~GR1 Panel Grade 1 Grade 1 - Outside Position 1 O1 Outside Position 1 Fabric Grade 1 ~PN Pinpoint Pinpoint PN12 Delight Grade Options - Outside Position 2 (46) ~GR1 Grade 1 Fabrics Grade 1 - Outside Position 2 O2 Outside Position 2 Fabric Grade 1 GPM1 Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A TOR MOMENTUM PACT HARBOUR Grade Options - Outside Position 3 (46) ~GR1 Grade 1 Fabrics Grade 1 - Outside Position 3 O3 Outside Position 3 Fabric Grade 1 GPM1 Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A		\$464.51	\$1,858.04

Date: 7/31/2020

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**Tonw of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Inside Position 1 (46)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Inside Position 2 (SW)	I2	ST	
		Grade Options - Inside Position 3 (46)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
		TOR	MOMENTUM PACT HARBOUR		
27	2	<b>EVPF1S6648M</b>		\$576.00	\$1,152.00
		66"h x 48"w, Slatwall Panel (12" SW), Single Sided			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (55)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
		TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Outside Position 3 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
		TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Inside Position 1 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Inside Position 2 (SW)	I2	ST	
		Grade Options - Inside Position 3 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
		TOR	MOMENTUM PACT HARBOUR		
28	3	<b>EVPFA6624</b>		\$213.68	\$641.04



Date: 7/31/2020  
Reference #: 511446

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**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

**Town of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		66"h x 24"w, Segmented Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (37)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (37)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
29	1	<b>EVPFA6654</b>			
		66"h x 54"w, Segmented Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (72)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	

\$364.90 \$364.90

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**Tonw of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Grade Options - Outside Position 2 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
30	1	<b>EVPFP5430</b>			
		54"h x 30"w, Segmented Premium Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (33)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (33)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (33)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (33)	~GR1	Grade 1 Fabrics	



Date: 7/31/2020

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**Tonw of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (33)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (33)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
31	5	<b>EVPFP5436</b>		\$255.49	\$1,277.45
		54"h x 36"w, Segmented Premium Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (40)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (40)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (40)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (40)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (40)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May A)	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (40)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	

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**Tonw of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Fabric Grade 1	GPM1	Graded In Grade 01 Panel Fabrics (Contact CC - Upcharges May Ap	
			TOR	MOMENTUM PACT HARBOUR	
32	4	<b>EVPIC66</b> 66"h, Inline Panel Connector, Includes Post & Hardware, No Trim		\$34.26	\$137.04
		20-Paint Colors (Inline Connectors)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Inline Connectors (Use w/ Matching Horizontal Reveal)	
		Inline Connectors (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust Inline (Use w/ Matching Horizontal Reveal) (Textured (	
33	4	<b>EVPIC66</b> 66"h, Inline Panel Connector, Includes Post & Hardware, No Trim		\$34.26	\$137.04
		20-Paint Colors (Inline Connectors)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Inline Connectors (Use w/ Matching Horizontal Reveal)	
		Inline Connectors (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust Inline (Use w/ Matching Horizontal Reveal) (Textured (	
34	1	<b>EVPMP30GIP</b> 12"h x 30"w, Panel Mount Privacy Glass, Integrated Channel Extrusion with Aluminum Top Trim for Square Glass		\$122.93	\$122.93
		20-Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
		54-Privacy Glazing (34)	~I1	Privacy Glazing Option	
		Privacy Glazing (34)	FRST	Frosted	
35	5	<b>EVPMP36GIP</b> 12"h x 36"w, Panel Mount Privacy Glass, Integrated Channel Extrusion with Aluminum Top Trim for Square Glass		\$125.28	\$626.40
		20-Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
		54-Privacy Glazing (24)	~I1	Privacy Glazing Option	
		Privacy Glazing (24)	FRST	Frosted	
36	3	<b>EVPVPA266-56</b> 66"h, Pos.1 54", 2 66", Base Raceway, 2 Way Variable Height Post, Aluminum Trim		\$103.70	\$311.10
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
37	3	<b>EVPVPA266-65</b> 66"h, Pos.1 66", 2 54", Base Raceway, 2 Way Variable Height Post, Aluminum Trim		\$103.70	\$311.10
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	

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**Town of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal) SDT Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)					
38	3	<b>EVS1229BBF</b> 29"d x 15"w x 27.75"w, B/B/F Pedestal, Freestanding or Worksurface Supporting, 1200 Series		\$246.33	\$738.99
		SF-Storage Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
39	6	<b>EVSLK12</b> Lock for Flipper Door Storage		\$19.23	\$115.38
40	4	<b>EVSO1236</b> 14.5"h x 36"w, Overhead Flipper Door Storage Unit, Lock (NIC)		\$181.59	\$726.36
		SF-Storage Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
41	2	<b>EVSO1248</b> 14.5"h x 48"w, Overhead Flipper Door Storage Unit, Lock (NIC)		\$217.24	\$434.48
		SF-Storage Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
42	1	<b>EVWSNSC2424</b> 24"d x 24"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim		\$50.21	\$50.21
		SF- Worksurface Laminates (Straight) ~TF Thermally Fused Laminates (1" Thickness)			
		20-TF - Thermally Fused Laminates SKC Shaker Cherry			
		45-PVC Trim Colors SKE Shaker Cherry			
43	2	<b>EVWSNSC3072</b> 30"d x 72"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim		\$141.23	\$282.46
		SF- Worksurface Laminates (Straight) ~TF Thermally Fused Laminates (1" Thickness)			
		20-TF - Thermally Fused Laminates SKC Shaker Cherry			
		45-PVC Trim Colors SKE Shaker Cherry			
44	1	<b>EVWSNSC3096</b> 30"d x 96"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim		\$289.50	\$289.50
		SF-Worksurface Laminates (Straight) ~TF Thermally Fused Laminates (1" Thickness)			
		20-TF - Thermally Fused Laminates SKC Shaker Cherry			
		45-PVC Trim Colors SKE Shaker Cherry			
45	1	<b>9PT5-3FL</b>		\$969.38	\$969.38

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Prosper TX 75078

**Tonw of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		24"d x 24"w x 65.25"h, FFF, Storage, Left Wardrobe, 9100 SERIES, UNIVERSAL FILING			
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W505	C-Keyed For Lock #W505	
46	1	<b>9PT5-3FR</b>		\$1,020.40	\$1,020.40
		24"d x 24"w x 65.25"h, FFF, Storage, Right Wardrobe, 9100 SERIES, UNIVERSAL FILING			
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W506	C-Keyed For Lock #W506	
47	1	<b>9PT5-3FR</b>		\$1,020.40	\$1,020.40
		24"d x 24"w x 65.25"h, FFF, Storage, Right Wardrobe, 9100 SERIES, UNIVERSAL FILING			
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W507	C-Keyed For Lock #W507	
48	61	<b>EVSC12</b>		\$2.34	\$142.74
		Slot Cover, Covers the Slots of a Slotted Connector BTW Modules as well as Corner Post, Price is Per Foot			
		20-Paint Colors (PVC)	~STD	Standard Paint Colors	
		Standard Paint Colors PVC)	SDT	Stone Dust (Textured Cappuccino)	
49	3	<b>1033.BK2.F.AR6</b>		\$388.78	\$1,166.34
		Novo, Highback, Mesh Back, Standard Synchro, Multi-Adj Arms			
		Adjustable Lumbar Color Selection	AL1	Black	
		Lumbar Accent Color Selection	LA2	Nickel	
		Seat Depth Adjustment Option Selection	E3	Seat Depth Adjustment Upgrade	
		Cylinder Height Option	CH1	Standard Cylinder	
		Frame Color Selection	FC1	Black Frame	
		Base Selection	B17	Black Nylon Base	
		Caster Selecton	CS5	Carpet Casters	
		Novo Mesh Back Colors	MC21	Nickel Mesh	
		Fabric or Leather Upholstery Selection	FABRIC	Fabric Grade Selections	
		CA Technical Bulletin 133 Fire Std Option for Fabric Selection	~	No Selection	
		Fabric Grade Selections	FG3	Fabric Grade 3	

**Proposal**

Item 5.

Date: 7/31/2020

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**Town of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Fabric Grade 3 Selection	SLICE	Slice Standard Color Selection	
		Slice Color Selection	CHARCOAL	Slice Charcoal	
		Packaging Options	UC	Back attached to seat, base separate	
50	1	<b>Labor</b>		\$2,005.00	\$2,005.00
		Labor to Receive, Deliver and Install - DAL48534			
<b>Total:</b>					<b>\$18,732.39</b>



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**Tonw of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
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**Proposal Notes**

**Deposit Required:**

**Additional Information:**





# Proposal

Item 5.

Date: 7/31/2020

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**Town of Prosper**  
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## Tonw of Prosper - 319 IT ANNEX

Item	Qty	Product	Sell Price:	Unit	Extended
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### TERMS AND CONDITIONS OF PURCHASE (FURNITURE)

- Office Depot, Inc. ("Office Depot") shall make commercially reasonable efforts to install all products as quickly as possible. However, any delivery and/or installation dates quoted to Customer are approximate, and Office Depot's obligation shall be only to deliver and/or install the products within a reasonable time. Also, due to certain factory shipment schedules, it is possible that Office Depot will be able to deliver and install portions of the job in phases. Customer will be invoiced for the items as they are delivered and payment will be due as set forth in Section 3 below.
- All prices are firm for thirty (30) days from date of proposal.
- Payment terms are net twenty (20) days from date of invoice, unless otherwise agreed to and as documented on the order or quote. Customer will be invoiced for items when delivery and installation (if applicable) is complete, and any punch issues are less than 10% of the value of the entire order. In no event shall payment be withheld for delivered products and services. Customer shall pay 90% of the invoice and may withhold 10% until completion of the job. The balance is payable immediately after any outstanding issues are resolved.
- All orders are subject to credit approval.
- Office Depot requires a minimum deposit equaling 50% on all orders over \$20,000. Said deposit will be applied to Customer's account until such product is delivered and invoiced. Each invoice, less its proportionate share of the deposit, will be due and payable as set forth in Section 4 above.
- All products and materials are subject to applicable taxes, as well as any applicable inbound freight and fabrication charges.
- An order is not cancelable once in production. "Quick ships" and fabric orders are not cancelable.
- Any quotation for special order products or materials shall be approved by an authorized Customer representative for correct product number, fabric, specifications and quantities. Any services rendered to Customer to change or modify the specification and layout before or during installation will be charged to Customer at prevailing rates. If such changes or modifications result in additional products, parts, materials or labor, they will be billed to Customer at prevailing rates.
- Delivery and installation services are conducted during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. If services are requested outside of normal business hours, if special handling or equipment is required, if moving of products other than delivered is required, or if there are any unusual condition not made known to Office Depot at the time of sale, extra labor charges at prevailing rates may apply.
- If during installation, additional products are necessary or required to complete the job, such additional products and labor will be charged to Customer at prevailing rates.
- Electric current, heat, hoisting and/or elevator service will be furnished without charge to Office Depot.
- Floors shall be smooth, level and free from debris, and concrete subject to dampness shall be waterproofed prior to delivery and installation of products.
- If Customer is unwilling or unable to accept delivery or installation of the products according to the specified schedule, the products will be stored at Customer's expense. Customer shall pay a warehouse charge payable monthly. Double handling of a product will be charged at our normal hourly rate.
- Office Depot makes no warranties, expressed or implied, as to merchantability or as the suitability of the products for any particular purpose, except those made by the manufacturer of the products. Any claim must be made to Office Depot in writing within five (5) days after delivery or installation of the products and if no claim is so received by Office Depot it will be conclusively presumed that Customer has accepted and that the products are as represented.
- No liability shall accrue against Office Depot as a result of breach of terms and conditions caused by any strike, act of God, lockout, accident, or delay beyond its control.
- Office Depot retains, and Customer hereby grants to Office Depot, a security interest in the products to secure the purchase price therefore. The products shall remain personal property regardless of being fixed to any real property. If Customer defaults in the payment of the purchase price when due, Office Depot shall have all rights and remedies granted by the Uniform Commercial Code. A finance charge of 2% per month (annual percentage rate 24%) will be charged on all past due balances. Customer shall pay all collection costs, including attorneys fee, in the event any claim is referred to a collection agency or attorney.
- Products shipped directly to Customer shall be the responsibility of Customer except if agreed in writing that Office Depot will provide delivery and installation services. The receiving Customer is responsible to inspect products and file any necessary freight claims with freight provider.
- Manufacturer warranties apply for parts only. Labor is not included.
- It is Customer's responsibility to furnish a certified electrician to "hardwire" cubicle stations to building power.
- All items set forth in the quotation are non-returnable.
- IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, WHETHER IN AN ACTION BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- Each party shall indemnify and hold harmless the other party from and against any and all third-party claims, demands, actions, suits, losses, liabilities, damages and all related costs and expenses, including without limitation reasonable attorneys' fees due to, arising from or relating to the negligent, willful or reckless act or omission of the indemnifying party.
- These terms and conditions shall be governed by the law of the State of Florida, without regard to conflict of laws principles.

Customer has read and understands these terms and conditions of purchase.

Customer: \_\_\_\_\_ Address: \_\_\_\_\_

Customer's Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Proposal**

Item 5.

Date: 7/31/2020  
Reference #: 511446

Brenda Reber  
Business Development Manager  
972.804.4808 ph  
brenda.reber@workspaceinteriorsod.com

**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

**Town of Prosper - 319 IT ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
<b>Special Instructions:</b>					

Proposal valid for 30 days

Please note: a deposit is required on all furniture orders prior to order placement

One of the following is required prior to placing your order: Signed Terms and Condition, Furniture Agreement on file or a Workspace Interiors Furniture Addendum on file

Workspace Interiors may require additional credit information, prior to placing your order

The appropriate tax will be applied at the time of invoicing

This proposal contains **Special Order** items that are **Not Returnable**

Once an order is placed, cancellations are **Not Allowed**.

Estimated leadtime is subject to the manufactures production / shipping schedule





# Proposal

Item 5.

Date: 7/31/2020  
Reference #: 511272

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**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

## Town of Prosper - 306 FINANCE ANNEX

Item	Qty	Product	Sell Price:	Unit	Extended
1	1	<b>Contract #R191812</b> Omnia Contract - New Contract Number		\$0.00	\$0.00
2	3	<b>EVABB01</b> Binder Bin		\$27.22	\$81.66
		SF-Storage Paint Colors (Acc)	~STD	Standard Paint Colors	
		Standard Paint Colors (Acc)	SDT	Stone Dust (Textured Cappuccino)	
3	6	<b>EVASS01R</b> Slant Sorter, Right		\$17.37	\$104.22
		SF-Storage Paint Colors (Acc)	~STD	Standard Paint Colors	
		Standard Paint Colors (Acc)	SDT	Stone Dust (Textured Cappuccino)	
4	3	<b>EVE8CP16</b> 16" - Jumper Cable, Panel to Panel		\$45.99	\$137.97
5	2	<b>EVE8CP20</b> 20" - Jumper Cable, Panel-Post-Panel		\$53.49	\$106.98
6	1	<b>EVE8FR1</b> 72" Long, Floor Power Entry, Front Fed, Snaps into Knockout of Base Raceway		\$124.80	\$124.80
7	3	<b>EVE8PD42</b> 42", Power Distribution Housing		\$80.23	\$240.69
8	3	<b>EVE8PD48</b> 48", Power Distribution Housing		\$86.80	\$260.40
9	4	<b>EVE8RD1WHT</b> #1 Utility Circuit, Duplex Receptacle, White		\$13.13	\$52.52
10	2	<b>EVE8RD2</b> #2 Utility Circuit, Duplex Receptacle, Black		\$11.73	\$23.46
11	3	<b>EVE8RDA</b> A, Dedicated Circuit, Duplex Receptacle, Black		\$11.73	\$35.19
12	3	<b>EVE8RDBWHT</b>		\$13.13	\$39.39

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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		B, Dedicated Circuit, Duplex Receptacle, White			
13	1	<b>EVECC121</b> 21"H Cord Covers, Straight Panel Run, (6 per pack)		\$11.26	\$11.26
		20-Paint Colors (PVC) ~STD Standard Paint Colors			
		Standard Paint Colors PVC) SDT Stone Dust (Textured Cappuccino)			
14	6	<b>EVET5L36</b> 36"w, Tasklight (Use w/ 42" or Wider Overhead or Shelf)		\$77.89	\$467.34
15	3	<b>EVHC18L</b> 18", Left, Single Cantilever		\$37.07	\$111.21
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
16	5	<b>EVHC18R</b> 18", Right, Single Cantilever		\$37.07	\$185.35
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
17	1	<b>EVHC18R</b> 18", Right, Single Cantilever		\$37.07	\$37.07
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
18	6	<b>EVHCB2</b> Corner Brackets Left and Right (Pair)		\$10.32	\$61.92
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
19	6	<b>EVHFB1</b> Flat bracket (Available in Black Only)		\$6.57	\$39.42
20	3	<b>EVHSR2924</b> 23.38"h x .75"w x 12.5"d, Right, Support Leg, Use with 24" cantilever		\$34.26	\$102.78
		20-Paint Colors ~STD Standard Paint Colors			
		Standard Paint Colors SDT Stone Dust (Textured Cappuccino)			
21	2	<b>EVPCPA266</b>		\$103.70	\$207.40

Date: 7/31/2020

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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		66"h, 2 Way Post, Includes Post, Hardware & Aluminum Trims			
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
22	2	<b>EVP CPA366</b>		\$134.66	\$269.32
		66"h, 3 Way Post, Includes Post, Hardware & Aluminum Trims			
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
23	6	<b>EVPERA54</b>		\$41.29	\$247.74
		54"h, End of Run Post, Includes Post, Hardware & Aluminum Trim			
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
24	3	<b>EV PF1S6642M</b>		\$529.04	\$1,587.12
		66"h x 42"w, Slatwall Panel (12" SW), Single Sided			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (51)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	

Date: 7/31/2020  
Reference #: 511272

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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Inside Position 2 (SW)	I2	ST	
		Grade Options - Inside Position 3 (51)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
25	3	<b>EVPF1S6648M</b>		\$576.00	\$1,728.00
		66"h x 48"w, Slatwall Panel (12" SW), Single Sided			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (55)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Inside Position 2 (SW)	I2	ST	
		Grade Options - Inside Position 3 (58)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
26	4	<b>EVPFA6630</b>		\$236.90	\$947.60
		66"h x 30"w, Segmented Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (42)	~GR1	Panel Grade 1	

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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (42)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
27	4	<b>EVPFA6654</b>			
		66"h x 54"w, Segmented Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (72)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	

\$364.90 \$1,459.60

Date: 7/31/2020

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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 3 (72)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
28	6	<b>EVPFP5424</b>		\$196.65	\$1,179.90
		54"h x 24"w, Segmented Premium Fabric Acoustic Panel			
		20-Frame Color (Panels)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Panels w/ Matching Horizontal Reveal	
		Panels w/ Matching Horizontal Reveal	SDT	Stone Dust (Textured Cappuccino) w/ Stone Dust Reveal	
		10-Panel Fabric Grade - Outside Position 1 (28)	~GR1	Panel Grade 1	
		Grade 1 - Outside Position 1	O1	Outside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Outside Position 2 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 2	O2	Outside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Outside Position 3 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Outside Position 3	O3	Outside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
			TOR	MOMENTUM PACT HARBOUR	
		Grade Options - Inside Position 1 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 1	I1	Inside Position 1	
		Fabric Grade 1	~PN	Pinpoint	
		Pinpoint	PN12	Delight	
		Grade Options - Inside Position 2 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 2	I2	Inside Position 2	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	

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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		TOR	MOMENTUM PACT HARBOUR		
		Grade Options - Inside Position 3 (28)	~GR1	Grade 1 Fabrics	
		Grade 1 - Inside Position 3	I3	Inside Position 3	
		Fabric Grade 1	COM	Grade 1/Customers Own Material	
		TOR	MOMENTUM PACT HARBOUR		
29	7	<b>EVPIC66</b>		\$34.26	\$239.82
		66"h, Inline Panel Connector, Includes Post & Hardware, No Trim			
		20-Paint Colors (Inline Connectors)	~STD	Standard Paint Options	
		Standard Paint Options	~STD	Inline Connectors (Use w/ Matching Horizontal Reveal)	
		Inline Connectors (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust Inline (Use w/ Matching Horizontal Reveal) (Textured (	
30	6	<b>EVPMP24GIP</b>		\$120.59	\$723.54
		12"h x 24"w, Panel Mount Privacy Glass, Integrated Channel Extrusion with Aluminum Top Trim for Square Glass			
		20-Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
		54-Privacy Glazing (47)	~I1	Privacy Glazing Option	
		Privacy Glazing (47)	FRST	Frosted	
31	1	<b>EVPVPA266-56</b>		\$103.70	\$103.70
		66"h, Pos.1 54", 2 66", Base Raceway, 2 Way Variable Height Post, Aluminum Trim			
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
32	1	<b>EVPVPA266-65</b>		\$103.70	\$103.70
		66"h, Pos.1 66", 2 54", Base Raceway, 2 Way Variable Height Post, Aluminum Trim			
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
33	2	<b>EVPVPA366-565</b>		\$134.66	\$269.32
		66"h, Pos.1 54", 2 66", 3 54", Base Raceway, 3 Way Variable Height Post, Aluminum Trim			
		20-Paint Colors (Alum + Metal)	~STD	Standard Paint Colors	
		Standard Paint Options	~STD	Connectors w/ Matching Inlines (Use w/ Matching Horizontal Reve	
		nnectors w/ Matching Inlines (Use w/ Matching Horizontal Reveal)	SDT	Stone Dust w/ Stone Dust Inlines (Textured Cappuccino)	
34	3	<b>EVS1223BBF</b>		\$222.88	\$668.64
		23"d x 15"w x 27.75"h, B/B/F Pedestal, Freestanding or Worksurface Supporting, 1200 Series			

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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		SF-Storage Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
35	1	<b>EVSC12</b>		\$2.34	\$2.34
		Slot Cover, Covers the Slots of a Slotted Connector BTW Modules as well as Corner Post, Price is Per Foot			
		20-Paint Colors (PVC)	~STD	Standard Paint Colors	
		Standard Paint Colors PVC	SDT	Stone Dust (Textured Cappuccino)	
36	3	<b>EVSO1242</b>		\$199.88	\$599.64
		14.5"h x 42"w, Overhead Flipper Door Storage Unit, Lock (NIC)			
		SF-Storage Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
37	3	<b>EVSO1248</b>		\$217.24	\$651.72
		14.5"h x 48"w, Overhead Flipper Door Storage Unit, Lock (NIC)			
		SF-Storage Paint Colors	~STD	Standard Paint Colors	
		Standard Paint Colors	SDT	Stone Dust (Textured Cappuccino)	
38	3	<b>EVWSNSC2430</b>		\$53.49	\$160.47
		24"d x 30"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim			
		SF- Worksurface Laminates (Straight)	~TF	Thermally Fused Laminates (1" Thickness)	
		20-TF - Thermally Fused Laminates	SKC	Shaker Cherry	
		45-PVC Trim Colors	SKE	Shaker Cherry	
39	3	<b>EVWSNSC2454</b>		\$109.79	\$329.37
		24"d x 54"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim			
		SF- Worksurface Laminates (Straight)	~TF	Thermally Fused Laminates (1" Thickness)	
		20-TF - Thermally Fused Laminates	SKC	Shaker Cherry	
		45-PVC Trim Colors	SKE	Shaker Cherry	
40	3	<b>EVWSNSC3090</b>		\$271.21	\$813.63
		30"d x 90"w, Straight Rectangular Worksurface No Scoops, Exact Depth, Exact Width, 3mm PVC Edge Trim			
		SF-Worksurface Laminates (Straight)	~TF	Thermally Fused Laminates (1" Thickness)	
		20-TF - Thermally Fused Laminates	SKC	Shaker Cherry	
		45-PVC Trim Colors	SKE	Shaker Cherry	
41	1	<b>9PT5-3FR</b>		\$1,020.40	\$1,020.40
		24"d x 24"w x 65.25"h, FFF, Storage, Right Wardrobe, 9100 SERIES, UNIVERSAL FILING			
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	



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**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W502	C-Keyed For Lock #W502	
42	1	<b>9PT5-3FR</b>			\$1,020.40
		24"d x 24"w x 65.25"h, FFF, Storage, Right Wardrobe, 9100 SERIES, UNIVERSAL FILING			\$1,020.40
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W503	C-Keyed For Lock #W503	
43	1	<b>9PT5-3FR</b>			\$969.38
		24"d x 24"w x 65.25"h, FFF, Storage, Right Wardrobe, 9100 SERIES, UNIVERSAL FILING			\$969.38
		Metal File Case & Storage Front Paint Finishes	~STD	Metal File Case & Storage Front Paint Finishes (Global Standard Pa	
		Global Standard Paint Finishes	~GLO	Global Standard Colors	
		Global Standard Colors	T20	1-Cappucino (Textured Stone Dust)	
		Key Options	W504	C-Keyed For Lock #W504	
44	127	<b>EVSC12</b>			\$2.34
		Slot Cover, Covers the Slots of a Slotted Connector BTW Modules as well as Corner Post, Price is Per Foot			\$297.18
		20-Paint Colors (PVC)	~STD	Standard Paint Colors	
		Standard Paint Colors PVC)	SDT	Stone Dust (Textured Cappuccino)	
45	3	<b>1033.BK2.F.AR6</b>			\$388.78
		Novo, Highback, Mesh Back, Standard Synchro, Multi-Adj Arms			\$1,166.34
		Adjustable Lumbar Color Selection	AL1	Black	
		Lumbar Accent Color Selection	LA2	Nickel	
		Seat Depth Adjustment Option Selection	E3	Seat Depth Adjustment Upgrade	
		Cylinder Height Option	CH1	Standard Cylinder	
		Frame Color Selection	FC1	Black Frame	
		Base Selection	B17	Black Nylon Base	
		Caster Selecton	CS5	Carpet Casters	
		Novo Mesh Back Colors	MC21	Nickel Mesh	
		Fabric or Leather Upholstery Selection	FABRIC	Fabric Grade Selections	
		CA Technical Bulletin 133 Fire Std Option for Fabric Selection	~	No Selection	
		Fabric Grade Selections	FG3	Fabric Grade 3	
		Fabric Grade 3 Selection	SLICE	Slice Standard Color Selection	
		Slice Color Selection	CHARCOAL	Slice Charcoal	
		Packaging Options	UC	Back attached to seat, base separate	



Brenda Reber  
Business Development Manager  
972.804.4808 ph  
brenda.reber@workspaceinteriorsod.com

**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

Date: 7/31/2020  
Reference #: 511272

**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
46	1	Labor		\$2,800.00	\$2,800.00
		Labor to Receive, Assemble and Install DAL48355			
Total:					\$21,789.90



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brenda.reber@workspaceinteriorsod.com

**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
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**Proposal Notes**

**Deposit Required:**

**Additional Information:**



# Proposal

Item 5.

Date: 7/31/2020

Reference #: 511272

Brenda Reber  
Business Development Manager  
972.804.4808 ph  
brenda.reber@workspaceinteriorsod.com

**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

## Town of Prosper - 306 FINANCE ANNEX

Item	Qty	Product	Sell Price:	Unit	Extended
------	-----	---------	-------------	------	----------

### TERMS AND CONDITIONS OF PURCHASE (FURNITURE)

- Office Depot, Inc. ("Office Depot") shall make commercially reasonable efforts to install all products as quickly as possible. However, any delivery and/or installation dates quoted to Customer are approximate, and Office Depot's obligation shall be only to deliver and/or install the products within a reasonable time. Also, due to certain factory shipment schedules, it is possible that Office Depot will be able to deliver and install portions of the job in phases. Customer will be invoiced for the items as they are delivered and payment will be due as set forth in Section 3 below.
- All prices are firm for thirty (30) days from date of proposal.
- Payment terms are net twenty (20) days from date of invoice, unless otherwise agreed to and as documented on the order or quote. Customer will be invoiced for items when delivery and installation (if applicable) is complete, and any punch issues are less than 10% of the value of the entire order. In no event shall payment be withheld for delivered products and services. Customer shall pay 90% of the invoice and may withhold 10% until completion of the job. The balance is payable immediately after any outstanding issues are resolved.
- All orders are subject to credit approval.
- Office Depot requires a minimum deposit equaling 50% on all orders over \$20,000. Said deposit will be applied to Customer's account until such product is delivered and invoiced. Each invoice, less its proportionate share of the deposit, will be due and payable as set forth in Section 4 above.
- All products and materials are subject to applicable taxes, as well as any applicable inbound freight and fabrication charges.
- An order is not cancelable once in production. "Quick ships" and fabric orders are not cancelable.
- Any quotation for special order products or materials shall be approved by an authorized Customer representative for correct product number, fabric, specifications and quantities. Any services rendered to Customer to change or modify the specification and layout before or during installation will be charged to Customer at prevailing rates. If such changes or modifications result in additional products, parts, materials or labor, they will be billed to Customer at prevailing rates.
- Delivery and installation services are conducted during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. If services are requested outside of normal business hours, if special handling or equipment is required, if moving of products other than delivered is required, or if there are any unusual condition not made known to Office Depot at the time of sale, extra labor charges at prevailing rates may apply.
- If during installation, additional products are necessary or required to complete the job, such additional products and labor will be charged to Customer at prevailing rates.
- Electric current, heat, hoisting and/or elevator service will be furnished without charge to Office Depot.
- Floors shall be smooth, level and free from debris, and concrete subject to dampness shall be waterproofed prior to delivery and installation of products.
- If Customer is unwilling or unable to accept delivery or installation of the products according to the specified schedule, the products will be stored at Customer's expense. Customer shall pay a warehouse charge payable monthly. Double handling of a product will be charged at our normal hourly rate.
- Office Depot makes no warranties, expressed or implied, as to merchantability or as the suitability of the products for any particular purpose, except those made by the manufacturer of the products. Any claim must be made to Office Depot in writing within five (5) days after delivery or installation of the products and if no claim is so received by Office Depot it will be conclusively presumed that Customer has accepted and that the products are as represented.
- No liability shall accrue against Office Depot as a result of breach of terms and conditions caused by any strike, act of God, lockout, accident, or delay beyond its control.
- Office Depot retains, and Customer hereby grants to Office Depot, a security interest in the products to secure the purchase price therefore. The products shall remain personal property regardless of being fixed to any real property. If Customer defaults in the payment of the purchase price when due, Office Depot shall have all rights and remedies granted by the Uniform Commercial Code. A finance charge of 2% per month (annual percentage rate 24%) will be charged on all past due balances. Customer shall pay all collection costs, including attorneys fee, in the event any claim is referred to a collection agency or attorney.
- Products shipped directly to Customer shall be the responsibility of Customer except if agreed in writing that Office Depot will provide delivery and installation services. The receiving Customer is responsible to inspect products and file any necessary freight claims with freight provider.
- Manufacturer warranties apply for parts only. Labor is not included.
- It is Customer's responsibility to furnish a certified electrician to "hardwire" cubicle stations to building power.
- All items set forth in the quotation are non-returnable.
- IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, WHETHER IN AN ACTION BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- Each party shall indemnify and hold harmless the other party from and against any and all third-party claims, demands, actions, suits, losses, liabilities, damages and all related costs and expenses, including without limitation reasonable attorneys' fees due to, arising from or relating to the negligent, willful or reckless act or omission of the indemnifying party.
- These terms and conditions shall be governed by the law of the State of Florida, without regard to conflict of laws principles.

Customer has read and understands these terms and conditions of purchase.

Customer: \_\_\_\_\_ Address: \_\_\_\_\_

Customer's Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Proposal**

Item 5.

Date: 7/31/2020  
Reference #: 511272

Brenda Reber  
Business Development Manager  
972.804.4808 ph  
brenda.reber@workspaceinteriorsod.com

**Town of Prosper**  
Todd White  
250 W. First Street  
Prosper TX 75078

**Town of Prosper - 306 FINANCE ANNEX**

Item	Qty	Product	Sell Price:	Unit	Extended
------	-----	---------	-------------	------	----------

**Special Instructions:**

Proposal valid for 30 days

Please note: a deposit is required on all furniture orders prior to order placement

One of the following is required prior to placing your order: Signed Terms and Condition, Furniture Agreement on file or a Workspace Interiors Furniture Addendum on file

Workspace Interiors may require additional credit information, prior to placing your order

The appropriate tax will be applied at the time of invoicing

This proposal contains **Special Order** items that are **Not Returnable**

Once an order is placed, cancellations are **Not Allowed**.

Estimated leadtime is subject to the manufactures production / shipping schedule



## Cost Proposal

To:  
Town of Prosper  
250 W First St.  
Prosper, TX 75078

Description: **Town Hall 3rd floor build out- Option #1** (Community Services)  
Date: 7/31/2020

Scope of Work	Description	Cost
01A- General Requirements		
Pogue Staff		\$ 7,500.00
Pogue Insurance		\$ 307.81
P&P Bond		\$ 3,327.92
Maintenance Bond -2yr		\$ 5,670.00
Cleaning- Daily/ Final		\$ 1,000.00
Elevator protection		\$ 300.00
Dust Control		\$ 300.00
06A- Millwork	Provide and install wood base and wood portals to match existing	\$ 13,188.00
08A- Glazing	Provide glazing at doors and sidelites	\$ 3,150.00
08B- Door/ Hardware	Provide and install aluminum frames, hardware, and wood doors to match existing	\$ 10,271.10
09A- Framing/Drywall	Provide framing, drywall, and ceilings per plans	\$ 38,738.70
09B- Flooring	Provide labor only to install flooring. Attic stock material to be used	\$ 3,502.46
09B- Floor protection	As required at existing spaces	\$ 420.00
09C- Painting	Provide tape, bed and paint to match existing	\$ 6,774.60
22A- Fire Suppression	Add sprinkler heads as required to existing fire suppression system	\$ 5,460.00
23A- HVAC	Provide HVAC ductwork, insulation and grilles, as required to tie into existing VAV's	\$ 33,180.00
23B- Test and Balance	Provide Test and Balance of new space	\$ 2,520.00
26A- Electrical	Provide electrical as shown including power, lighting, and low voltage rough in	\$ 29,473.50
27A- Data cabling	Provide and install data cabling as shown	\$ 13,973.36
28B- Fire Alarm	Provide and install fire alarm as required tied into existing system	\$ 8,400.00
28C- Access Control	Provide access control at corridor entry only	\$ 6,037.50
CM Fee @ 5%		\$ 9,674.75

### Total

**\$ 203,169.70**

Cost per S/F= \$ 186.74  
Total SF= 1088

### Clarifications

Temporary Electric excluded- (use existing)  
Corner guards excluded  
All Audio/ Visual scope excluded- Data cabling only included  
Furniture excluded  
Shop drawings included for Fire alarm and fire suppression only.  
Pricing based on information in the attached drawing set, RED areas only  
HVAC system to tie into existing VAV units. No equipment included in this pricing  
No flooring material included in this proposal. Labor only included. Attic stock material will be used.  
Door at corridor entry to include card reader and electrified hardware  
Finishes to match existing  
Contract to be standard AIA 101 language with standard A201 General Conditions  
Inspection fees excluded  
Permit fees excluded  
Sales tax excluded



## Cost Proposal

To:  
Town of Prosper  
250 W First St.  
Prosper, TX 75078

Description: **Town Hall 3rd floor build out- Option #2 (IT)**  
Date: 7/31/2020

Scope of Work	Description	Cost
01A- General Requirements		
Pogue Staff		\$ 7,500.00
Pogue Insurance		\$ 307.81
P&P Bond		\$ 1,929.67
Maintenance Bond -2yr		\$ 3,330.00
Cleaning- Daily/ Final		\$ 1,000.00
Elevator protection		\$ 300.00
Dust Control		\$ 300.00
06A- Millwork	Provide and install wood base and wood portals to match existing	\$ 3,192.00
08A- Glazing	Provide glazing at doors and sidelites	\$ 2,100.00
08B- Door/ Hardware	Provide and install aluminum frames, hardware, and wood doors to match existing	\$ 1,031.10
09A- Framing/Drywall	Provide framing and drywall per plans	\$ 20,634.60
09B- Flooring	Provide labor only to install flooring. Attic stock material to be used	\$ 2,271.61
09B- Floor protection	As required at existing spaces	\$ 420.00
09C- Painting	Provide tape, bed and paint to match existing	\$ 5,275.20
22A- Fire Suppression	Add sprinkler heads as required to existing fire suppression system	\$ 4,357.50
23A- HVAC	Provide HVAC ductwork, insulation and grilles, as required to tie into existing VAV's	\$ 18,270.00
23B- Test and Balance	Provide Test and Balance of new space	\$ 1,680.00
26A- Electrical	Provide electrical as shown including power, lighting, and low voltage rough in	\$ 16,894.50
27A- Data cabling	Provide and install data cabling as shown	\$ 8,067.68
28B- Fire Alarm	Provide and install fire alarm as required tied into existing system	\$ 7,297.50
28C- Access Control	Provide access control at corridor entry only	\$ 6,037.50
CM Fee @ 5%		\$ 5,609.83

### Total

**\$ 117,806.50**

Cost per S/F= \$ 171.73  
Total SF= 686

#### Clarifications

Temporary Electric excluded- (use existing)  
Corner guards excluded  
All Audio/ Visual scope excluded- Data cabling only included  
Furniture excluded  
Shop drawings included for Fire alarm and fire suppression only.  
Pricing based on information in the attached drawing set, RED areas only  
HVAC system to tie into existing VAV units. No equipment included in this pricing  
No flooring material included in this proposal. Labor only included. Attic stock material will be used.  
Door at corridor entry to include card reader and electrified hardware  
Finishes to match existing  
Contract to be standard AIA 101 language with standard A201 General Conditions  
Inspection fees excluded  
Permit fees excluded  
Sales tax excluded



## Cost Proposal

To:  
Town of Prosper  
250 W First St.  
Prosper, TX 75078

Description: **Town Hall 3rd floor build out- Option #3** (Finance/HR)  
Date: 7/31/2020

Scope of Work	Description	Cost
01A- General Requirements		
Pogue Staff		\$ 7,500.00
Pogue Insurance		\$ 307.81
P&P Bond		\$ 2,133.72
Maintenance Bond -2yr		\$ 3,660.00
Cleaning- Daily/ Final		\$ 1,000.00
Elevator protection		\$ 300.00
Dust Control		\$ 300.00
06A- Millwork	Provide and install wood base and wood portals to match existing	\$ 2,152.50
08A- Glazing	Provide glazing at doors and sidelites	\$ 1,050.00
08B- Door/ Hardware	Provide and install aluminum frames, hardware, and wood doors to match existing	\$ 4,578.00
09A- Framing/Drywall	Provide framing and drywall per plans	\$ 16,831.50
09B- Flooring	Provide labor only to install flooring. Attic stock material to be used	\$ 2,499.13
09B- Floor protection	As required at existing spaces	\$ 420.00
09C- Painting	Provide tape, bed and paint to match existing	\$ 3,906.00
22A- Fire Suppression	Add sprinkler heads as required to existing fire suppression system	\$ 3,990.00
23A- HVAC	Provide HVAC ductwork, insulation and grilles, as required to tie into existing VAV's	\$ 26,250.00
23B- Test and Balance	Provide Test and Balance of new space	\$ 1,050.00
26A- Electrical	Provide electrical as shown including power, lighting, and low voltage rough in	\$ 13,723.50
27A- Data cabling	Provide and install data cabling as shown	\$ 19,073.21
28B- Fire Alarm	Provide and install fire alarm as required tied into existing system	\$ 7,297.50
28C- Access Control	Provide access control at corridor entry only	\$ 6,037.50
CM Fee @ 5%		\$ 6,203.02

### Total

**\$ 130,263.38**

Cost per S/F= \$ 159.25  
Total SF= 818

### Clarifications

Temporary Electric excluded- (use existing)  
Corner guards excluded  
All Audio/ Visual scope excluded- Data cabling only included  
Furniture excluded  
Shop drawings included for Fire alarm and fire suppression only.  
Pricing based on information in the attached drawing set, RED areas only  
HVAC system to tie into existing VAV units. No equipment included in this pricing  
No flooring material included in this proposal. Labor only included. Attic stock material will be used.  
Door at corridor entry to include card reader and electrified hardware  
Finishes to match existing  
Contract to be standard AIA 101 language with standard A201 General Conditions  
Inspection fees excluded  
Permit fees excluded  
Sales tax excluded



# AIA® Document A101® – 2017

## **Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum**

**AGREEMENT** made as of the      day of      in the year  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

Town of Prosper  
250 W. First Street  
Prosper, TX 75078

and the Contractor:  
(Name, legal status, address and other information)

Pogue Construction Co. LP  
1512 Bray Central Drive, Suite 300  
McKinney, TX 75069

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

Town Hall 3rd Floor Renovations  
250 W. First Street  
Prosper, TX 75078

The Architect:  
(Name, legal status, address and other information)

The Owner and Contractor agree as follows.

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

## TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

## EXHIBIT A INSURANCE AND BONDS

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

**§ 3.1** The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

☐ The date of this Agreement.

☒ A date set forth in a notice to proceed issued by the Owner.

☐ Established as follows:

*(Insert a date or a means to determine the date of commencement of the Work.)*

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

**§ 3.2** The Contract Time shall be measured from the date of commencement of the Work.

#### § 3.3 Substantial Completion

**§ 3.3.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

☒ Not later than One Hundred Twenty Seven ( 127 ) calendar days from the date of commencement of the Work.

☐ By the following date:

**§ 3.3.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

<b>Portion of Work</b>	<b>Substantial Completion Date</b>
------------------------	------------------------------------

**§ 3.3.3** If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

#### ARTICLE 4 CONTRACT SUM

**§ 4.1** The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Four Hundred Fifty One Thousand Two Hundred Thirty Nine and 58/100 ( \$ 451,239.58 ), subject to additions and deductions as provided in the Contract Documents.

#### **§ 4.2 Alternates**

**§ 4.2.1** Alternates, if any, included in the Contract Sum:

<b>Item</b>	<b>Price</b>
None	

**§ 4.2.2** Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.  
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

<b>Item</b>	<b>Price</b>	<b>Conditions for Acceptance</b>
None		

**§ 4.3** Allowances, if any, included in the Contract Sum:  
(Identify each allowance.)

<b>Item</b>	<b>Price</b>
None	

**§ 4.4** Unit prices, if any:  
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

<b>Item</b>	<b>Units and Limitations</b>	<b>Price per Unit (\$0.00)</b>
None		

**§ 4.5** Liquidated damages, if any:  
(Insert terms and conditions for liquidated damages, if any.)

\$100/day

**§ 4.6** Other:  
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 25th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Forty Five ( 45 ) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

### § 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

5%

Init.

**§ 5.1.7.1.1** The following items are not subject to retainage:  
*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

**§ 5.1.7.2** Reduction or limitation of retainage, if any, shall be as follows:  
*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)*

**§ 5.1.7.3** Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:  
*(Insert any other conditions for release of retainage upon Substantial Completion.)*

**§ 5.1.8** If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

**§ 5.1.9** Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## **§ 5.2 Final Payment**

**§ 5.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

**§ 5.2.2** The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

Upon receipt of Certificate of Occupancy

## **§ 5.3 Interest**

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

%

## **ARTICLE 6 DISPUTE RESOLUTION**

### **§ 6.1 Initial Decision Maker**

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.  
*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

## § 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

☒ Arbitration pursuant to Section 15.4 of AIA Document A201–2017

☐ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

## ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

*(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

*(Name, address, email address, and other information)*

Todd White  
250 W. First Street  
Prosper, TX 75078  
twhite@prospertx.gov

§ 8.3 The Contractor's representative:

*(Name, address, email address, and other information)*

Roby Bledsoe  
1512 Bray Central Drive, Suite 300  
McKinney, TX 75069  
rbledsoe@pogueconstruction.com

Init.

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

### § 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

§ 8.7 Other provisions:

## ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this Agreement.)*

### .5 Drawings

Number	Title	Date
See Attached Exhibit A		

### .6 Specifications

Section	Title	Date	Pages
---------	-------	------	-------

### .7 Addenda, if any:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

### .8 Other Exhibits:

*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*

☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this Agreement.)

☐ The Sustainability Plan:

Title	Date	Pages
-------	------	-------

☐ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

**.9** Other documents, if any, listed below:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)*

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


Town of Prosper

Pogue Constructon Co., LP, a Texas Limited Partnership, acting by and through Ben Pogue, LC, a Texas limited liability company, General Partner

\_\_\_\_\_  
**OWNER** (Signature)

Harlan Jefferson, Town Manager

\_\_\_\_\_  
(Printed name and title)



\_\_\_\_\_  
**CONTRACTOR** (Signature)

Benjamin P. Pogue, Sole Member of Ben Pogue, LC, a Texas limited liability company

\_\_\_\_\_  
(Printed name and title)

Init.



## Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:26:58 ET on 08/18/2020.

### PAGE 1

Town of Prosper  
250 W. First Street  
Prosper, TX 75078

...

Pogue Construction Co. LP  
1512 Bray Central Drive, Suite 300  
McKinney, TX 75069

...

Town Hall 3rd Floor Renovations  
250 W. First Street  
Prosper, TX 75078

### PAGE 2

[ ☒ ] A date set forth in a notice to proceed issued by the Owner.

### PAGE 3

[ ☒ ] Not later than One Hundred Twenty Seven ( 127 ) calendar days from the date of commencement of the Work.

...

**§ 4.1** The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Four Hundred Fifty One Thoursand Two Hundred Thirty Nine and 58/100 (\$ 451,239.58 ), subject to additions and deductions as provided in the Contract Documents.

...

None

...

None

...

Item	Price
<u>None</u>	<u>Pric</u>

...

None

...

\$100/day

#### PAGE 4

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 25th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than Forty Five ( 45 ) days after the Architect receives the Application for Payment.

...

5%

#### PAGE 5

Upon receipt of Certificate of Occupancy

#### PAGE 6

[ X ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

...

Todd White  
250 W. First Street  
Prosper, TX 75078  
twhite@prospertx.gov

...

Roby Bledsoe  
1512 Bray Central Drive, Suite 300  
McKinney, TX 75069  
rbledsoe@pogueconstruction.com

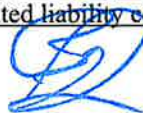
#### PAGE 7

See Attached Exhibit A

PAGE 8

Town of Prosper

Pogue Constructon Co., LP, a Texas Limited Partnership, acting by and through Ben Pogue, LC, a Texas limited liability company, General Partner



...

Harlan Jefferson, Town Manager

Benjamin P. Pouge, Sole Member of Ben Pogue, LC, a Texas limited liability company

## Certification of Document's Authenticity

### AIA® Document D401™ – 2003

I, Benjamin P. Pogue, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:26:58 ET on 08/18/2020 under Order No. 6365976674 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

# **AIA® Document A201® – 2017**

## **General Conditions of the Contract for Construction**

### **for the following PROJECT:**

*(Name and location or address)*

Town Hall 3rd Floor Renovations  
250 W. First Street  
Prosper, TX 75078

### **THE OWNER:**

*(Name, legal status and address)*

Town of Prosper  
250 W. First Street  
Prosper, TX 75078

### **THE ARCHITECT:**

*(Name, legal status and address)*

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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- 3 CONTRACTOR**
- 4 ARCHITECT**
- 5 SUBCONTRACTORS**
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**
- 7 CHANGES IN THE WORK**
- 8 TIME**
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- 10 PROTECTION OF PERSONS AND PROPERTY**
- 11 INSURANCE AND BONDS**
- 12 UNCOVERING AND CORRECTION OF WORK**
- 13 MISCELLANEOUS PROVISIONS**
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

Init.

15 CLAIMS AND DISPUTES

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## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 Basic Definitions

#### § 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### § 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### § 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### § 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### § 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

#### § 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### § 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### § 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

### § 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

**§ 1.2.1.1** The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

**§ 1.2.2** Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

**§ 1.2.3** Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### **§ 1.3 Capitalization**

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

### **§ 1.4 Interpretation**

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### **§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service**

**§ 1.5.1** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

### **§ 1.6 Notice**

**§ 1.6.1** Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

**§ 1.6.2** Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### **§ 1.7 Digital Data Use and Transmission**

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

## § 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 OWNER

### § 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### § 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

### § 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,



assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.3.2** The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

**§ 2.3.3** If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

**§ 2.3.4** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 2.3.5** The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

**§ 2.3.6** Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

#### **§ 2.4 Owner's Right to Stop the Work**

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

#### **§ 2.5 Owner's Right to Carry Out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### **ARTICLE 3 CONTRACTOR**

#### **§ 3.1 General**

**§ 3.1.1** The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

**§ 3.1.2** The Contractor shall perform the Work in accordance with the Contract Documents.

**§ 3.1.3** The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

## **§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

## **§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

## **§ 3.4 Labor and Materials**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**§ 3.4.2** Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

**§ 3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### **§ 3.5 Warranty**

**§ 3.5.1** The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

**§ 3.5.2** All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

### **§ 3.6 Taxes**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

**§ 3.7.3** If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### **§ 3.7.4 Concealed or Unknown Conditions**

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

**§ 3.8 Allowances**

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

**§ 3.8.3** Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

**§ 3.9 Superintendent**

**§ 3.9.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

**§ 3.9.2** The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

**§ 3.9.3** The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

**§ 3.10 Contractor's Construction and Submittal Schedules**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

**§ 3.10.2** The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the

Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

**§ 3.10.3** The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

**§ 3.11 Documents and Samples at the Site**

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

**§ 3.12 Shop Drawings, Product Data and Samples**

**§ 3.12.1** Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

**§ 3.12.2** Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

**§ 3.12.3** Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

**§ 3.12.4** Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

**§ 3.12.6** By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

**§ 3.12.7** The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 3.12.10.2** If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

### **§ 3.13 Use of Site**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **§ 3.14 Cutting and Patching**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### **§ 3.15 Cleaning Up**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

### § 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### § 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

### § 3.18 Indemnification

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## ARTICLE 4 ARCHITECT

### § 4.1 General

**§ 4.1.1** The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

**§ 4.1.2** Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

### § 4.2 Administration of the Contract

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the

Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

#### **§ 4.2.4 Communications**

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

**§ 4.2.5** Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

**§ 4.2.6** The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 4.2.7** The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 4.2.8** The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

**§ 4.2.9** The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

**§ 4.2.10** If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

**§ 4.2.11** The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 4.2.12** Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations



and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

**§ 4.2.13** The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

**§ 4.2.14** The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## **ARTICLE 5 SUBCONTRACTORS**

### **§ 5.1 Definitions**

**§ 5.1.1** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

**§ 5.1.2** A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### **§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work**

**§ 5.2.1** Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

**§ 5.2.2** The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

**§ 5.2.3** If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

**§ 5.2.4** The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

### **§ 5.3 Subcontractual Relations**

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,

prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### **§ 5.4 Contingent Assignment of Subcontracts**

**§ 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

**§ 5.4.2** Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

**§ 5.4.3** Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

#### **§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts**

**§ 6.1.1** The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

**§ 6.1.2** When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

**§ 6.1.3** The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

**§ 6.1.4** Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

#### **§ 6.2 Mutual Responsibility**

**§ 6.2.1** The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

**§ 6.2.2** If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work,

promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

**§ 6.2.3** The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

**§ 6.2.4** The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

**§ 6.2.5** The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

### **§ 6.3 Owner's Right to Clean Up**

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## **ARTICLE 7 CHANGES IN THE WORK**

### **§ 7.1 General**

**§ 7.1.1** Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

**§ 7.1.2** A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

**§ 7.1.3** Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

### **§ 7.2 Change Orders**

**§ 7.2.1** A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

### **§ 7.3 Construction Change Directives**

**§ 7.3.1** A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

**§ 7.3.2** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

**§ 7.3.4** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.5** If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

**§ 7.3.6** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.7** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

**§ 7.3.8** The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

**§ 7.3.9** Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

**§ 7.3.10** When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### **§ 7.4 Minor Changes in the Work**

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will

affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

## **ARTICLE 8 TIME**

### **§ 8.1 Definitions**

**§ 8.1.1** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

**§ 8.1.2** The date of commencement of the Work is the date established in the Agreement.

**§ 8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

### **§ 8.2 Progress and Completion**

**§ 8.2.1** Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

**§ 8.2.3** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

### **§ 8.3 Delays and Extensions of Time**

**§ 8.3.1** If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15.

**§ 8.3.3** This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 Contract Sum**

**§ 9.1.1** The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

**§ 9.1.2** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### **§ 9.2 Schedule of Values**

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and

unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### **§ 9.3 Applications for Payment**

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

**§ 9.3.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

### **§ 9.4 Certificates for Payment**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

## **§ 9.5 Decisions to Withhold Certification**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

**§ 9.5.2** When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

**§ 9.5.3** When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.4** If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

## **§ 9.6 Progress Payments**

**§ 9.6.1** After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

**§ 9.6.2** The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

**§ 9.6.3** The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

**§ 9.6.4** The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

**§ 9.6.5** The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

**§ 9.6.6** A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

**§ 9.6.7** Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

**§ 9.6.8** Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

### **§ 9.7 Failure of Payment**

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

### **§ 9.8 Substantial Completion**

**§ 9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

**§ 9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**§ 9.8.3** Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§ 9.8.5** The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.



## § 9.9 Partial Occupancy or Use

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§ 9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## § 9.10 Final Completion and Final Payment

**§ 9.10.1** Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

**§ 9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

### § 10.2 Safety of Persons and Property

**§ 10.2.1** The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

**§ 10.2.2** The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

**§ 10.2.3** The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

**§ 10.2.4** When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

**§ 10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

**§ 10.2.7** The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

### § 10.3 Hazardous Materials and Substances

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

**§ 10.3.2** Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

**§ 10.3.5** The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

## ARTICLE 11 INSURANCE AND BONDS

### § 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

### § 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

### **§ 11.3 Waivers of Subrogation**

**§ 11.3.1** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

### **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

### **§ 11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 Uncovering of Work**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to

the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

## **§ 12.2 Correction of Work**

### **§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

### **§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

**§ 12.2.2.2** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

**§ 12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

## **§ 12.3 Acceptance of Nonconforming Work**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **§ 13.1 Governing Law**

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### § 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance,



the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

#### **§ 14.3 Suspension by the Owner for Convenience**

**§ 14.3.1** The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

**§ 14.3.2** The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

#### **§ 14.4 Termination by the Owner for Convenience**

**§ 14.4.1** The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

**§ 14.4.2** Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

### **ARTICLE 15 CLAIMS AND DISPUTES**

#### **§ 15.1 Claims**

##### **§ 15.1.1 Definition**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

##### **§ 15.1.2 Time Limits on Claims**

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

##### **§ 15.1.3 Notice of Claims**

**§ 15.1.3.1** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

**§ 15.1.3.2** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

**§ 15.1.4 Continuing Contract Performance**

**§ 15.1.4.1** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

**§ 15.1.4.2** The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

**§ 15.1.5 Claims for Additional Cost**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

**§ 15.1.6 Claims for Additional Time**

**§ 15.1.6.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

**§ 15.1.7 Waiver of Claims for Consequential Damages**

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

**§ 15.2 Initial Decision**

**§ 15.2.1** Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 15.2.2** The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the

Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

**§ 15.2.3** In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

**§ 15.2.4** If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

**§ 15.2.5** The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

**§ 15.2.6** Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### **§ 15.3 Mediation**

**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**§ 15.4 Arbitration**

**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

**§ 15.4.2** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

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

**§ 15.4.4 Consolidation or Joinder**

**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

## **Additions and Deletions Report for** **AIA® Document A201® – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 17:29:17 ET on 08/17/2020.

### **PAGE 1**

Town Hall 3rd Floor Renovations  
250 W. First Street  
Prosper, TX 75078

...


Town of Prosper  
250 W. First Street  
Prosper, TX 75078

## Certification of Document's Authenticity

### AIA® Document D401™ – 2003

I, Benjamin P. Pogue, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:29:17 ET on 08/17/2020 under Order No. 2933912647 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

  
 (Signed)

  
 (Title)

  
 (Dated)



## PUBLIC WORKS

**To:** Mayor and Town Council

**From:** Frank E. Jaromin, P.E., Director of Public Works

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

**Re:** Town Council Meeting – August 25, 2020

**Agenda Item:**

Consider and act upon approving the purchase and installation of a modular building for Public Works, from Vanguard Modular Building Systems, LLC, through The Interlocal Purchasing System (TIPS) Cooperative Purchasing Program; and authorizing the Town Manager to execute the same.

**Description of Agenda Item:**

This item is for the purchase and installation of a modular building at Public Works to allow for social distancing of employees. There will be other expenses associated with the project, such as site preparation, electrical, etc. This item has been approved by the Town Attorney as a qualifying expense under the CARES Act funding, and is included in line 48 of the CARES Act Projects spreadsheet.

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 entered into an interlocal agreement with TIPS Cooperative Purchasing Program on December 13, 2011. Participation in the program allows our local government to purchase goods and services through the cooperative contract, while satisfying all competitive bidding requirements.

**Budget Impact:**

The purchase cost for the modular building is \$115,836.00, and will be funded from 675-6110-10-00-2019-EM (CARES Act Expense).

**Legal Obligations and Review:**

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

**Attached Documents:**

1. Vanguard Proposal

**Town Staff Recommendation:**

Town staff recommends approving the purchase and installation of a modular building for Public Works, from Vanguard Modular Building Systems, LLC, through The Interlocal Purchasing System (TIPS) Cooperative Purchasing Program; and authorizing the Town Manager to execute the same.

**Proposed Motion:**

I move to approve the purchase and installation of a modular building for Public Works, from Vanguard Modular Building Systems, LLC, through The Interlocal Purchasing System (TIPS) Cooperative Purchasing Program; and authorize the Town Manager to execute the same.



# modular project PROPOSAL

8/14/2020

VMBS Project: Proposal #38820



Town of Prosper  
Modular Office

Prosper, TX

Vanguard Modular Building Systems, LLC (Headquarters)  
717 Constitution Drive | Suite 100 | Exton, PA | 19341

(877) 438-8627 | VanguardModular.com | info@vanguardmodular.com



8/12/2020

Tristan Cisco  
Town of Prosper  
250 W. First Street  
Prosper, TX 75078

RE: Modular project in Prosper, TX

Dear Tristan,

We are pleased to have the opportunity to submit this proposal which has been carefully tailored to address your individual space requirements.

Vanguard Modular Building Systems, LLC has been committed to providing quality products, services, and customer satisfaction to both the public and private sectors since 1998. Our expertise in development and execution of wide-ranging space solutions affords us the distinct satisfaction of fulfilling each of our client's modular construction needs.

Proposal Contents (attached):

- Price Detail
- Floor Plan
- Specifications
- Delineation of Responsibilities
- Estimated Project Schedule
- Clarifications
- References

It is our goal to meet your particular needs, so please be certain to thoroughly review each attachment included in this proposal to ensure you completely understand the pricing, product, and service we are proposing.

Please do not hesitate to contact me for answers to any questions or concerns you may have regarding our proposed solution. It would be our pleasure to partner with you on this important project. Thank you for your consideration.

Sincerely,

Alex Nguyen  
Area Sales Manager

Project #38820  
8/14/2020

modular project

# Sale Price Detail

## BASE PRICE

<u>Scope of Work Description</u>	<u>Amount</u> (usd)
Used 42' x 64' modular building	\$87,690
Delivery & installation (block/level/anchor)	\$12,878
Building repairs	\$12,996

Base Price Total: **\$113,564**  
+ \$2,272

TIPS Fee (Purchasing Cooperative)

## OPTIONS

<i>Initials = Selected</i>	<u>Option Description</u>	<u>Amount</u> (usd)
	Install skirting	+\$3,126

## PROJECT DESCRIPTION DETAIL

Used 42' x 64' modular building coded for Texas. Standard delivery includes truck and trailer. Option to purchase through purchasing cooperative and skirting are priced as optional.

Initials: \_\_\_\_\_

**Pricing excludes all applicable taxes.** Buyer is responsible for all applicable taxes. Proposal Price does not include sales, use, or personal property taxes, except as may be additionally described. Unless otherwise specified, **Proposal is valid for 30 calendar days from the "Proposal Date"**. Vanguard Modular's willingness to enter into a contract at the price and/or terms of payment proposed is **contingent upon satisfactory credit review and approval**.



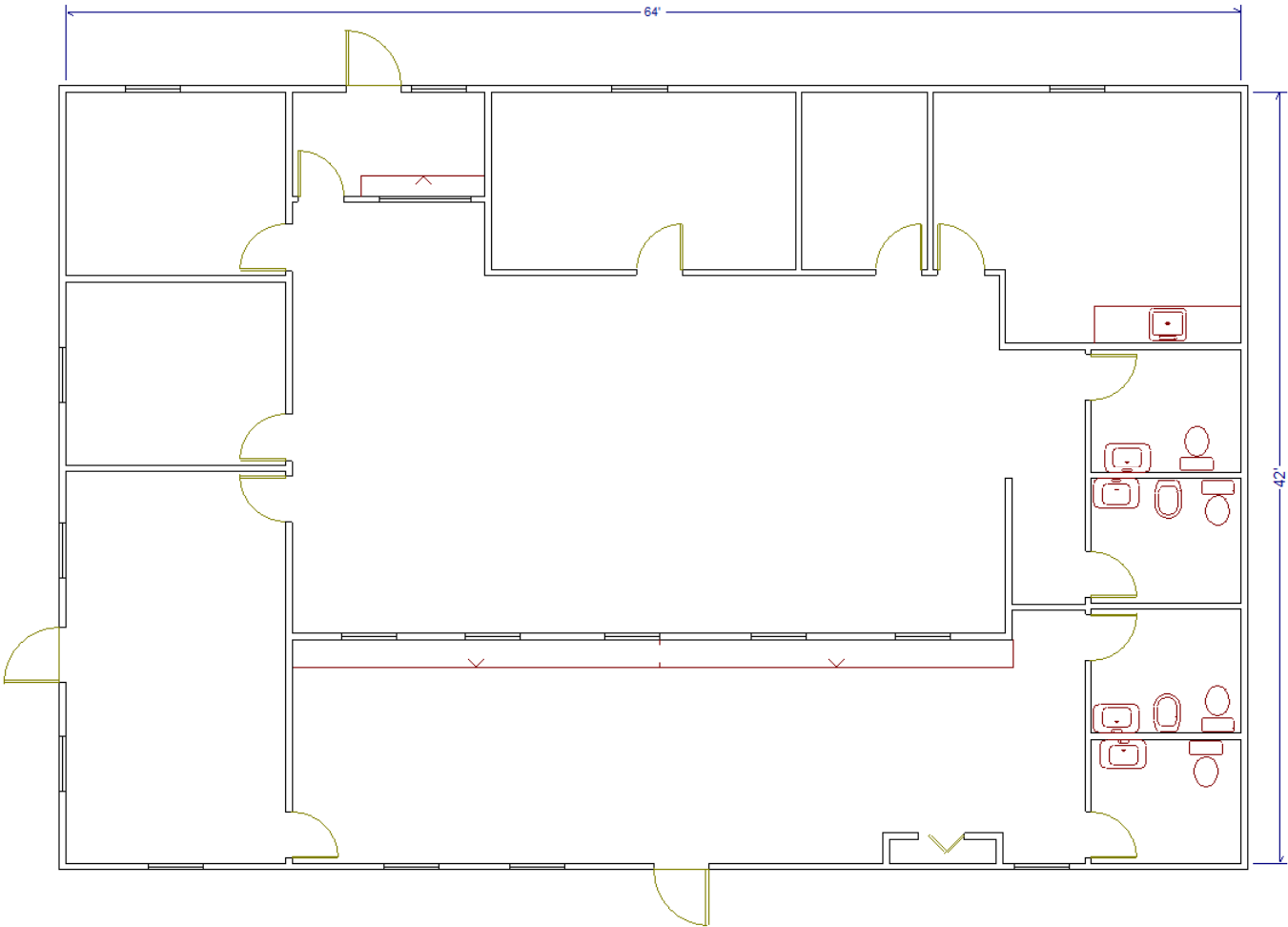
**VANGUARD**  
MODULAR BUILDING

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Project #38820  
8/14/2020

modular project  
**Floor Plan**

Current Building Layout



Initials: \_\_\_\_\_

Project #38820  
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**Building Pictures**

Building prior to returning from lease



Initials: \_\_\_\_\_



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Project #38820  
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modular project  
**Building Pictures**

Interior Pictures



Initials: \_\_\_\_\_

Project #38820  
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modular project  
**Building Pictures**



Initials: \_\_\_\_\_



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Project #38820  
8/14/2020

# modular project Specifications

## MODULAR BUILDING INFORMATION

<u>Unit No(s).</u>	<u>Unit Size(s)</u>	<u>State(s) Coded</u>	<u>Building Description</u>
<b>B21439</b>	<b>42' X 64'</b>	<b>TX</b>	<b>Modular Complex</b>

## SPECIFICATIONS

Manufacture stamped drawings available

Initials: \_\_\_\_\_



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8/14/2020

modular project

# Delineation of Responsibilities

Division	Sub	Description	VMBS	Owner	NA
<b>DIVISION 1 : GENERAL CONDITIONS</b>					
	1011	Performance Bonds			X
	1040	Building Permits/License			X
	1500	Temporary Heat/Lighting			X
		Portable Toilets			X
		Temporary Water & Power			X
	1502	Site Cleanup	X		
	1700	Closeout/Acceptance	X		
	1900	Miscellaneous			X
		Taxes		X	
		Prevailing Wage Scale (Davis-Bacon)			X
		Safety and Security Access Requirements For Workers		X	
		Project Terms of Payment	X		
		Invoicing Procedure	X		
<b>DIVISION 2 : SITE WORK</b>					
	2000	Site Work		X	
		Accessibility		X	
		Stake Site/Building Location		X	
	2160	Excavation & Grading		X	
		Spoilage Disposal		X	
		Erosion Control		X	
	2660	Final Connection of Domestic Water At Building Line		X	
	2740	Final Connection of Sewer To Single Point at Building Line		X	
	2900	Landscaping / Fine Grading		X	
		Seeding		X	
		Restoration		X	
<b>DIVISION 3 : Concrete (SITE ONLY)</b>					
	3300	Foundations			X
<b>DIVISION 6 : WOOD &amp; PLASTIC (SITE ONLY)</b>					
	6670	Decks/Landings			X
<b>DIVISION 9 : FINISHES (SITE ONLY)</b>					
	9650	VCT Flooring with / without carpet bar	X		
	9680	Carpeting with / without carpet bar			X
<b>DIVISION 10 : SPECIALTIES (SITE ONLY)</b>					
	10100	Marker/Chalk/Tack Boards		X	
	10425	Signage/Braille		X	
	10520	Fire Extinguishers		X	

Initials: \_\_\_\_\_



**VANGUARD**  
MODULAR BUILDING

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Project #38820  
8/14/2020

modular project

# Delineation of Responsibilities

Division	Sub	Description	VMBS	Owner	NA
	10532	Awnings			X
	10800	Toilet Accessories		X	
<b>DIVISION 13 : BUILDING (MODULAR BUILDING)</b>					
	13121	Delivery Of Modular Units To Site Including Transp. Permits	X		
	13122	Piers			X
		Dry-Stack Block/Steel Piers On ABS Pads	X		
		Surface Bond Dry Stack			X
	13123	Set-up	X		
		Structurally Connect Modular Floors & Roofs	X		
		Remove Hitches (Store Under Bldg or Stage Per Customer Req.)	X		
	13125	Trim Out Exterior & Interior Walls/ Ceiling/Floors/Adjust Doors	X		
	13126	Anchor Modular Units Per Design Criteria	X		
	13127	Skirting Match Bldg Siding (Frame, Vents, Access Panel Included)	X		
	13128	Roof Seaming	X		
	13151	Site Construct Connector Corridors	X		
<b>DIVISION 16 : ELECTRICAL (SITE ONLY)</b>					
	16410	Connect Electrical Service To Site		X	
		Main Disconnect For Modular Building Connection		X	
		Supply and Install MDP		X	
	16610	Fire / Smoke Alarm Systems			X
	16620	Security Intrusion System			X
	16740	Clocks/Bells			X
	16750	Communication Systems			X
		Tap Existing Comm Service For Site			X
		Final Connection of Comm System			X
	16770	Data Systems			X
		Tap Existing Data Service For Site			X
		Final Connection of Data System			X

Initials: \_\_\_\_\_



**VANGUARD**  
MODULAR BUILDING

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Project #38820  
8/14/2020

# modular project Schedule

## TIMELINE

<u>Estimated Completion</u>	<u>Milestone Description</u>
Phase 1: Contract Execution- Receipt of fully executed contract/ documents and deposit amount	Day 1
Phase 2: Deliver building blueprints to Lessee/Buyer	1 day from completion of Phase 1
Phase 3: Make ready and repairs	30-45 days from completion of Phase 2
Phase 4: Estimated schedule to complete Vanguards onsite scope of Work	14 days from completion of Phase 3

## SCHEDULE NOTES

Estimated time from Contract Execution (Phase 1) to Substantial Completion is 30-45 days. Schedule is Elongated by any delays in completing any phases.

Initials: \_\_\_\_\_

**Any Project Schedule provided with the Proposal is an estimate.** Project Schedule will be confirmed at or around the time of Award, and may be subject to change orders throughout the Project.



**VANGUARD**  
MODULAR BUILDING

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Project #38820  
8/14/2020

## modular project Terms & Exclusions

### Terms

1.	Unless otherwise specified, Proposal is valid for 30 calendar days from the "Proposal Date"
2.	Vanguard's willingness to enter into a contract at the price and/or terms of payment proposed is contingent upon satisfactory credit review and approval
3.	Proposal is contingent on mutually acceptable contract terms
4.	Any Project Schedule provided with the Proposal is an estimate. Project Schedule will be confirmed at or around the time of Award, and may be subject to change orders throughout the Project.
5.	Unless otherwise agreed in writing, Vanguard will not accept any Liquidated or other damages for delays.
6.	Prior to start of its Work, Vanguard shall provide a proper Certificate of Liability Insurance and Worker's Compensation. Unless otherwise agreed in writing, "All Risk" and other special insurance is not provided by Vanguard. As of the time of Substantial Completion, or as otherwise agreed, Buyer shall be responsible to insure the building(s), providing insurance coverage in the types and limits as may be required by the contract to adequately protect the interests of all applicable parties.
7.	Buyer is responsible for all applicable taxes. Proposal Price does not include sales, use, or personal property taxes, except as may be additionally described.
8.	Unless otherwise agreed to in advance as a condition of the Contract, price assumes the use of non-union labor at non-prevailing wages. Any requirement for the payment of prevailing wages or the use of union labor will result in additional charges.
9.	Vanguard will take reasonable protective precautions to avoid damage to property and equipment. Vanguard will not accept responsibility for damage caused to paved or unpaved surfaces due to weight of heavy equipment.
10.	TITLE - Vanguard Modular Building Systems, LLC will retain title to the work until such time that they have been paid in full for the delivery, installation and either direct sale or receipt of all amounts due to complete the finance lease of the building(s). Vanguard does not waive its rights to retain title and/or to place a lien or claim against the Owner/Buyer/Lessee if it becomes reasonably necessary in order to protect Vanguard's interests.
11.	INDEMNIFICATION - Vanguard Modular Building Systems, LLC will indemnify Owner/Buyer/Lessee to the extent that they are legally responsible and permitted by Vanguard's insurance carrier.
12.	START AND COMPLETION DATES - The contract Start Date shall be upon receipt of award and an executed contract. Barring any unforeseen delays, The Completion Date will be in accordance with bid specifications and the attached Schedule (to be confirmed upon receipt of award). Vanguard is not responsible for any delays or damages beyond its control including material shortages, strikes or union activity, fire, acts of God, freight embargoes, acts of war or terrorism, delays by regulatory or permit authorities, delays by the Owner or Architect or any employed by them, or any cause of delay beyond the control of Vanguard. In no event shall Vanguard be responsible for consequential or actual damages.
13.	Labor will be non-union at non-prevailing wages unless required by contract

### Exclusions

<i>X = Excluded</i>	
X	1. Impact fees
X	2. All applicable taxes (sales, property & use)
X	3. Bonding
X	4. Special insurance
X	5. Cranes and additional spotting apparatus
X	6. Fire suppression system
X	7. Site security ( <i>unless otherwise stated</i> )
X	8. Landscaping, irrigation, paving, walkways, curbing, and site restoration
X	9. Tap fees and lift station (if required)
X	10. Exterior fire rating
X	11. Architect and engineering fees
X	12. Rock removal
X	13. Off-site spoilage removal
X	14. Site utilities and connections to modular building – includes electric, gas, water, and sewer or septic
X	15. Communications services and connection – including but not limited to telephone, data, intercom, intrusion alarm, smoke & fire alarm
X	16. Lightning protection
X	17. Temporary access roads and walkways
X	18. Removal, repair, and/or replacement of obstructing fences, walls or gates
X	19. Temporary electric and water (contractor will supply power source for own tools and equipment)
X	20. Portable toilets
X	21. Laboratory and field testing of materials
X	22. Dedicated full-time site supervisory personnel (foreman will supervise work unless other provisions are required per the contract)
X	23. Costs associated with easement(s)

Initials: \_\_\_\_\_



**VANGUARD**  
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Project #38820  
8/14/2020

# modular project Site Requirements

## Site Requirements

<i>X = Applicable</i>	
X	1. No provisions allowed for obstructions below grade. If encountered, they would be a change order to the contract at an additional charge
X	2. The site must be level, dewatered, and accessible by truck with adequate turning radius and clearance from road to the site for delivery
X	3. Assumes site with 3,000 psf soil bearing capacity, bearing tests to be provided by Customer
X	4. All site plans and surveys to be provided by Customer
X	5. All underground utilities are to be clearly marked and flagged
X	6. Customer is responsible for obtaining and the cost of all permits, licenses, and Certificate of Occupancy
X	7. Due to volatility in fuel prices delivery charges are subject to a fuel surcharge.
X	8. Staging area adjacent to installation site, including any site improvements required to make it usable, by Customer
X	9. Where applicable, wheels and axles will remain on module(s), but may be removed and stored under for an additional fee
X	10. Site preparation by Customer
X	11. Building removal, return delivery, and site restoration will be billed at prevailing rates at time of return
X	12. Main electrical service to building panels by Customer
X	13. Customer is solely responsible to inform VMBS if site location is in a flood or fire zone
X	14. Customer is responsible for building maintenance

Initials: \_\_\_\_\_



**VANGUARD**  
MODULAR BUILDING

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modular project  
**Important Clarifications**

Project #38820  
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Initials: \_\_\_\_\_



**VANGUARD**  
MODULAR BUILDING

modular project  
**Proposal Acceptance**

Town Prosper

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8/14/2020

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Signature

Print Name

Acceptance Date

Vanguard Modular builds for you!



## ENGINEERING SERVICES

**To:** Mayor and Town Council

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

**Through:** Harlan Jefferson, Town Manager  
Rebecca Zook, Executive Director of Development & Infrastructure Services

**Re:** Town Council Meeting – August 25, 2020

### **Agenda Item:**

Consider and act upon an ordinance amending Section 12.09.004 "School Traffic Zones" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances by modifying the limits and hours of operation of such zones.

### **Description of Agenda Item:**

At the July 28, 2020, Town Council meeting, the Town Council adopted an ordinance adding new school zone locations for Stuber Elementary, Cockell Elementary and Rushing Middle School based on the typical hours of operation for school zones.

Typical hours of operation for school zones are from approximately 30 minutes before to approximately 15 minutes after the start of school and from approximately 15 minutes before to approximately 30 minutes after the end of school. Because of the atypical end time for the high school, the school zone times for the high school are set up to be 14 minutes before end of high school time and 31 minutes after.

The elementary, middle and high school times remain unchanged from last year and are shown below:

<b>Elementary School Hours</b>	<b>School Zone Hours</b>
7:45 AM to 2:50 PM	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM
<b>Middle School Hours</b>	<b>School Zone Hours</b>
8:10 AM to 3:25 PM	7:40 AM to 8:25 AM 3:10 PM to 3:55 PM
<b>High School Hours</b>	<b>School Zone Hours</b>
8:30 AM to 3:59 PM	8:00 AM to 8:45 AM 3:45 PM to 4:30 PM



With this year's opening of Rushing Middle School, the Prosper Independent School District (PISD), placed a school crossing guard at the intersection at Fishtrap Road and Chaucer Drive across from the middle school. During the first week of school, the school crossing guard noticed that many of the students were utilizing the crossing for access to Stuber Elementary. Due to the differences in the start and end times for the elementary and middle school, the school crossing guard informed Town staff that during the times when the elementary students were crossing, the school zone flashers along Fishtrap Road were not yet active, and requested that the school zone time be extended. Staff investigated the request and witnessed students and parents crossing Fishtrap Road at Chaucer Drive outside the school zone time for access to and from Stuber Elementary.

The Town's School Zone Policy allows for deviations based on engineering judgement and staff is recommending that the Town Council approve extending the morning and afternoon school zone time for Rushing Middle School to start 55 minutes before school to correspond to the start of the school zone hours for Stuber Elementary. The new school zone hours for Rushing Middle School are recommended as follows:

7:15 AM to 8:25 AM  
2:35 PM to 3:55 PM

Previously approved deviations from the typical hours of operation include the following:

- July 23, 2019 – Town Council approved extending the afternoon school zone time along La Cima Boulevard at Amistad Drive to end 70 minutes after Folsom Elementary ends to allow students walking home from Rogers Middle School additional time to cross La Cima Boulevard. This corresponds to the July 25, 2017, approved deviation along La Cima Boulevard at Arrowhead Drive.
- December 9, 2014 – Town Council approved extending the morning school zone time for Rogers Middle School to start 45 minutes before school due to the significant volume of early pedestrian traffic.
- July 25, 2017 – Town Council approved extending the afternoon school zone time along La Cima Boulevard at Arrowhead to end 70 minutes after Folsom Elementary ends to allow students walking home from Rogers Middle School additional time to cross La Cima Boulevard.

#### **Legal Obligations and Review:**

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

#### **Attached Documents:**

1. Ordinance

#### **Town Staff Recommendation:**

Town staff recommends that the Town Council approve an ordinance amending Section 12.09.004 "School Traffic Zones" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances by modifying the limits and hours of operation of such zone.

#### **Proposed Motion:**

I move to approve an ordinance amending Section 12.09.004 "School Traffic Zones" of Chapter 12 "Traffic and Vehicles" of the Town's Code of Ordinances by modifying the limits and hours of operation of such zones.

**TOWN OF PROSPER, TEXAS****ORDINANCE NO. 2020-**

**AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING SECTION 12.09.004, "SCHOOL TRAFFIC ZONES," OF CHAPTER 12, "TRAFFIC AND VEHICLES," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER BY MODIFYING THE LIMITS ON WHICH SCHOOL ZONES ARE ESTABLISHED; MODIFYING THE HOURS OF OPERATION OF SUCH ZONES; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the Town of Prosper, Texas ("Town"), is a home-rule municipal corporation duly organized under the laws of the State of Texas; and

**WHEREAS**, Section 541.302 of the Texas Transportation Code defines a "school crossing zone" as a reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies; and

**WHEREAS**, Section 545.356 of the Texas Transportation Code provides that the governing body of a municipality may alter prima facie speed limits by ordinance based on the results of an engineering and traffic investigation; and

**WHEREAS**, the Town Council has investigated and finds that it is necessary for the protection and safety of children going to and leaving public elementary and secondary schools within Prosper to amend Section 12.09.004, "School Traffic Zones," of the Code of Ordinances to modify the reduced speed school zones on certain public streets as set forth herein.

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

**SECTION 1**

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

**SECTION 2**

Existing Section 12.09.004, "School Traffic Zones," of Chapter 12, "Traffic and Vehicles," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended by modifying the limits on which school zones are established, and the hours of operation of such zones, to read as follows:

<u>Street Name</u>	<u>Limits</u>	<u>Hours of Operation</u>	<u>Speed Limit</u>
<u>Cockrell Elementary School</u>			
Cliff Creek Drive	From 130 feet southwest of school property line to Evergreen Drive.	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Escalante Trail	From Whitley Place Drive to Prosper Trail	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Evergreen Drive	From 130 feet southwest of Orchard Grove Dr.	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Fisher Road	From Escalante Drive to 205 feet east of Escalante Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Mesa Drive	From Escalante Drive to 200 feet east of Escalante Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Orchard Grove Drive	From Evergreen Drive to Escalante Trail	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Prosper Trail	From 750' west of Escalante Trail to 300' east of Escalante Trail	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Red Wing Drive	From Escalante Drive to 215 feet east of Escalante Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Whitley Place Drive	From 150 feet southwest of Escalante Trail to 150 feet northeast of Escalante Trail	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
<u>Folsom Elementary School</u>			
Amistad Drive	From La Cima Boulevard to 100 feet northwest of La Cima Boulevard	7:15 AM to 8:00 AM 2:35 PM to 4:00 PM	20
Amistad Drive	From La Cima Boulevard to 190 feet southeast of La Cima Boulevard	7:15 AM to 8:00 AM 2:35 PM to 4:00 PM	20
Arrowhead Drive	From La Cima Boulevard to 120 feet southeast of La Cima Boulevard	7:15 AM to 8:00 AM 2:35 PM to 4:00 PM	20
Arrowhead Drive	From 270 feet northwest of Sommerville Drive to Sommerville Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Buffalo Springs Drive	From 200 feet north of Cedar Lake Drive to 185 feet south of Cedar Lake Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Calaveras Court	From 260 feet northwest of Sommerville Drive to Sommerville Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Cedar Lake Drive	From 135 feet west of Buffalo Springs Drive to White River Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
La Cima Boulevard	From 255 feet southwest of Amistad Drive to 260 feet northeast of Amistad Drive	7:15 AM to 8:00 AM 2:35 PM to 4:00 PM	20
La Cima Boulevard	From 300 feet southwest of Arrowhead Drive to 300 feet northeast of Arrowhead Drive	7:15 AM to 8:00 AM 2:35 PM to 4:00 PM	20
Livingston Drive	From 180 feet northwest of Salada Drive to Twin Buttes Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Monticello Drive	From 130 feet northwest of La Cima Boulevard to La Cima Boulevard	7:15 AM to 8:00 AM 2:35 PM to 4:00 PM	20

Salada Drive	From Livingston Drive to 175 feet north east of Livingston Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Sommerville Drive	From White River Drive to Livingston Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Texana Drive	From Livingston Drive to 180 feet northeast of Livingston Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Twin Buttes Drive	From Livingston Drive to 170 feet northeast of Livingston Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
White River Drive	From 190 feet south of Cedar Lake Drive to 280 feet north of Sommerville Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
<u>Rucker Elementary School</u>			
Craig Road	From 100 feet north of Preston Road to 100 feet south of First Street	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
<u>Stuber Elementary School</u>			
Fishtrap Road	From 300 feet west of Village Park Lane to 610 feet east of Village Park Lane	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Village Park Lane	From Fishtrap Road to Highland Street	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Clearwater Drive	From 210 feet west of Village Park Lane to Village Park Lane	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Shadow Ridge Drive	From 215 feet west of Village Park Lane to Village Park Lane	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Highland Street	From 160 feet west of Village Park Lane to Village Park Lane	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Zilker Parkway	From 160 south of Highland Street to Highland Street	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
<u>Windsong Elementary School</u>			
Fishtrap Road	From 260 feet west of Windsong Parkway to 220 feet east of Windsong Parkway	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Windsong Parkway	From 120 feet north of Fishtrap Road to 120 feet south of Fishtrap Road	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Fishtrap Road	From 300 feet west of Redstem Drive to 300 feet east of Copper Canyon Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Paddock Lane	From 265 feet west of Redstem Drive to Redstem Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Porosa Lane	From 200 feet west of Redstem Drive to Redstem Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Copper Canyon Drive	From 115 feet south of Marigold Lane to Fishtrap Road	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Redstem Drive	From 125 feet south of Marigold Lane to Fishtrap Road	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Marigold Lane	From 145 feet west of Redstem Drive to 135 feet east of Copper Canyon Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Lantana Lane	From 200 feet east of Copper Canyon Drive to Copper Canyon Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20

Pine Leaf Lane	From 265 feet east of Copper Canyon Drive to Copper Canyon Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Prairie Clover Lane	From 265 feet east of Copper Canyon Drive to Copper Canyon Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
Sweet Clover Drive	From 265 feet east of Copper Canyon Drive to Copper Canyon Drive	7:15 AM to 8:00 AM 2:35 PM to 3:20 PM	20
<u>Reynolds Middle School</u>			
Church Street	From 30 feet north of Eighth Street to Prosper ISD Property Line	7:40 AM to 8:25 AM 3:10 PM to 3:55 PM	20
Coleman Street	From 160 feet north of Gorgeous Drive to 60 feet south of Wilson Drive	7:40 AM to 8:25 AM 3:10 PM to 3:55 PM	20
<u>Rogers Middle School</u>			
Coit Road	From 300 feet south of Richland Boulevard to 1,150 feet north of Richland Boulevard	7:25 AM to 8:25 AM 3:10 PM to 3:55 PM	20
Richland Boulevard	From 300 feet west of Coit Road to east end of roadway	7:25 AM to 8:25 AM 3:10 PM to 3:55 PM	20
<u>Rushing Middle School</u>			
Fishtrap Road	From 300 feet west of Chaucer Drive to 190 feet west of Winsor Dr.	7:15 AM to 8:25 AM 2:35 PM to 3:55 PM	20
Chaucer Drive	From Fishtrap Road to Clearwater Drive	7:15 AM to 8:25 AM 2:35 PM to 3:55 PM	20
Grove Vale Drive	From 30 feet south of Clearwater Drive to Clearwater Drive	7:15 AM to 8:25 AM 2:35 PM to 3:55 PM	20
Clearwater Drive	From 300 feet east of Chaucer Drive to Grove Vale Drive	7:15 AM to 8:25 AM 2:35 PM to 3:55 PM	20
<u>Prosper High School</u>			
Coleman Street	From 110 feet east of Talon Lane to 1,900 feet east of Talon Lane	8:00 AM to 8:45 AM 3:45 PM to 4:30 PM	20
Frontier Parkway	From 3,930 feet west of SH 289 (Preston Road) to 3,305 feet west of SH 289 (Preston Road)	8:00 AM to 8:45 AM 3:45 PM to 4:30 PM	20

### SECTION 3

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 repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

### SECTION 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not

affect the validity of the remaining portions of this Ordinance. The Town of 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.

#### **SECTION 5**

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

#### **SECTION 6**

This Ordinance shall become effective after its passage and publication, as required by law.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 25TH DAY OF AUGUST, 2020.**

**APPROVED:**

\_\_\_\_\_  
**Ray Smith, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Melissa Lee, 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  
Rebecca Zook, P.E., Executive Director of Development & Infrastructure Services

**Re:** Town Council Meeting – August 25, 2020

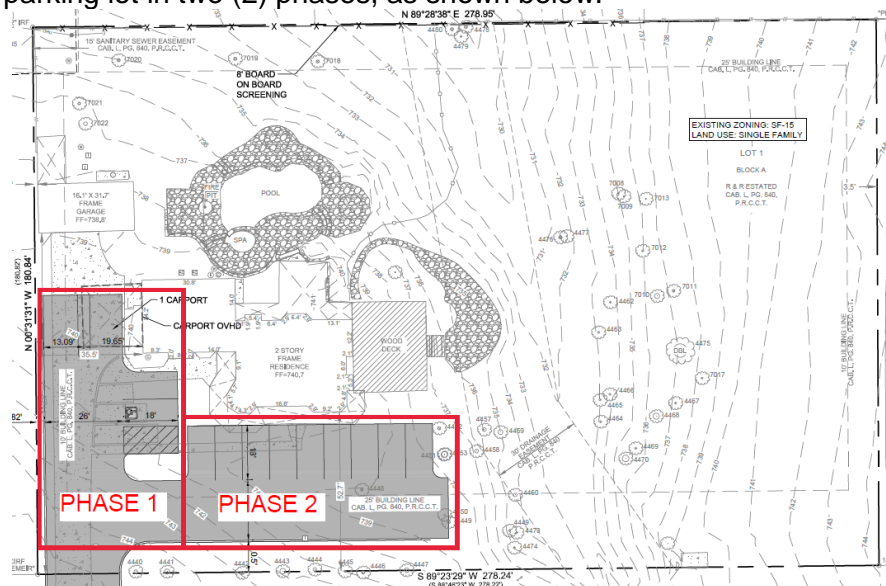
## Agenda Item:

Consider and act upon authorizing the Town Manager to execute a First Amended Development Agreement between Matthew Clarke, and the Town of Prosper, Texas, related to the Downtown Office development, located at 603 E. Broadway Street.

## Description of Agenda Item:

On February 25, 2020, the Town Council unanimously approved the rezoning request (Z19-0023) related to a downtown office development located at 603 E. Broadway Street, as well as a development agreement addressing, (1) maintenance and consistency of landscaping; (2) replacement landscaping; and (3) maintaining the current height of landscaping materials along Broadway Street as well as the inclusion of construction materials and architectural features.

With the proposed First Amended Development Agreement, the property owners are proposing to construct the parking lot in two (2) phases, as shown below:



The 2-story, 1,970 square-foot house, which is currently being converted into an office, requires a minimum of six (6) parking spaces, per requirements of the Zoning Ordinance. The applicant is proposing to construct six (6) parking spaces with Phase 1, in accordance with Town standards; however, the applicant is proposing to defer the construction of nine (9) parking spaces until Phase 2, which will occur within a period of three (3) years. The applicant has provided a letter detailing their request, which is attached for review.

**Legal Obligations and Review:**

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

**Attached Documents:**

1. Location Map
2. First Amended Development Agreement
3. Exhibit A-Property Description Request Letter
4. Exhibit B-Parking Lot Phasing Plan
5. Request Letter

**Town Staff Recommendation:**

Staff recommends the Town Manager to execute a First Amended Development Agreement between Matthew Clarke, and the Town of Prosper, Texas, related to the Downtown Office development, located at 603 E. Broadway Street.

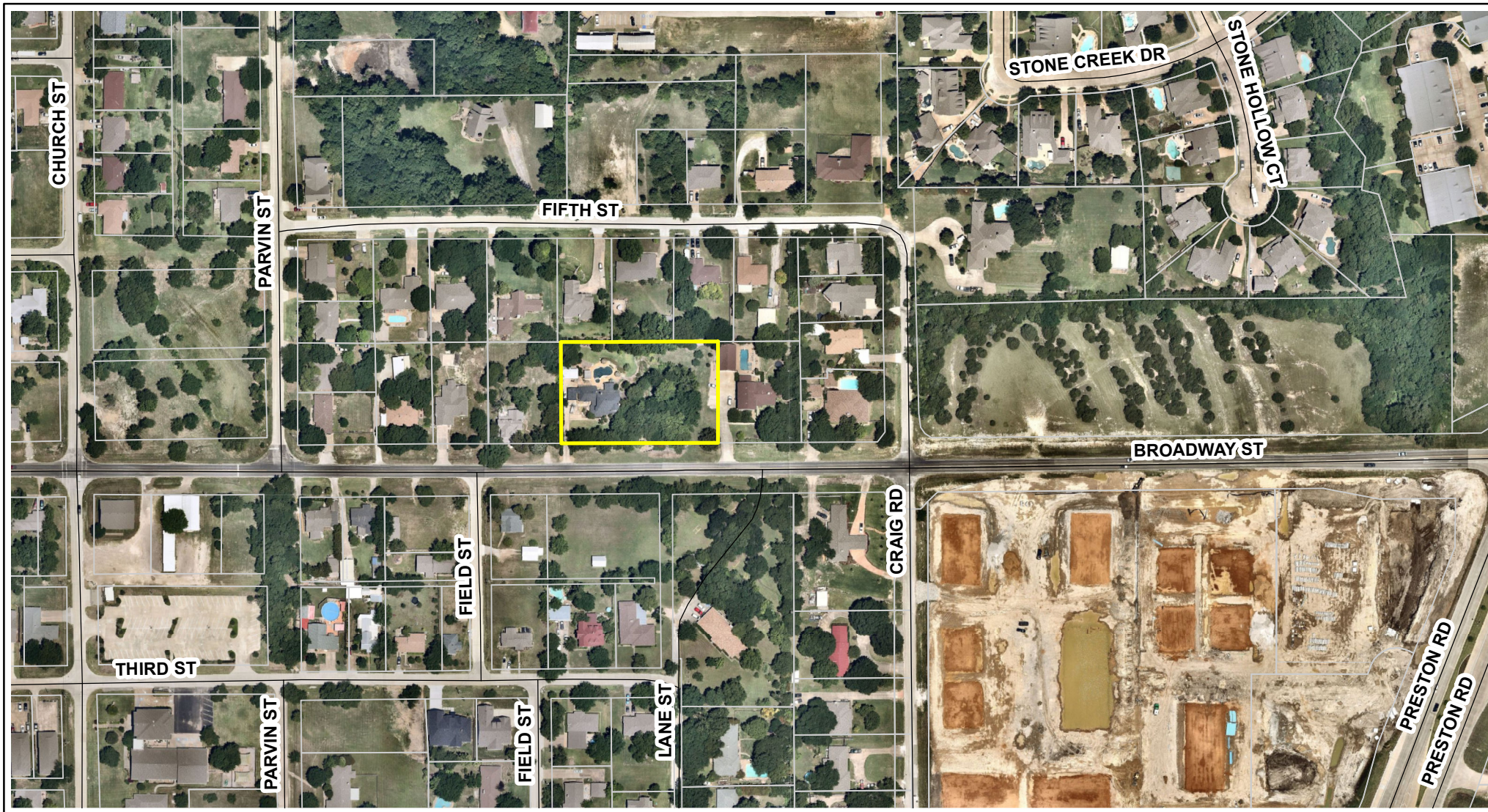
**Proposed Motion:**

I move to authorize the Town Manager to execute a First Amended Development Agreement between Matthew Clarke, and the Town of Prosper, Texas, related to the Downtown Office development, located at 603 E. Broadway Street.



# MD20-0013 - 603 East Broadway Street

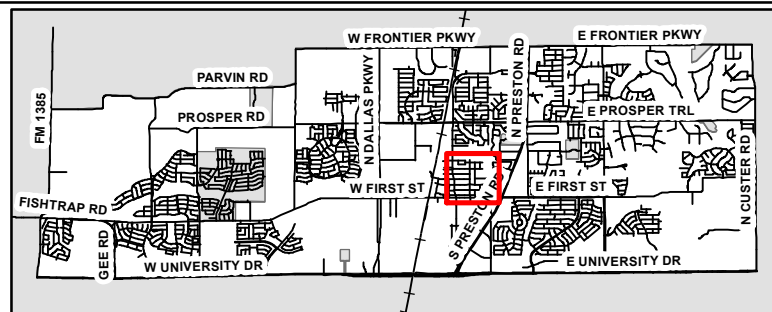
Item 8.



This map is for illustration purposes only.



0 250 500 Feet





## **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

**THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT** ("First Amendment") is entered into by and between the Town of Prosper, Texas ("Town"), and Dugan P. Kelley ("Owner") (individually, a "Party" and collectively, the "Parties") to be effective (the "Effective Date") on the latest date executed by a Party.

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

**WHEREAS**, Owner is the owner of property located at 603 Broadway in the Town, the legal description of which is more particularly described in Exhibit A, attached hereto and incorporated by reference (the "Property"); and

**WHEREAS**, on or about February 25, 2020, Owner and the Town entered into a Development Agreement relative to the Property, and said Agreement was filed in the Collin County real property records as Instrument #20200227000282360, the terms of which Agreement are incorporated by reference; and

**WHEREAS**, the Planned Development ordinance for this Property, Ordinance No. 2020-12 ("PD-102"), adopted by the Town on February 25, 2020, reflects a parking lot on the Property that accommodates fifteen (15) parking spaces permitted on dead-end drive aisles; and

**WHEREAS**, Owner has notified the Town that it wishes to construct the parking lot in two (2) phases, as depicted in Exhibit B, attached hereto and incorporated by reference; and

**WHEREAS**, Owner further has requested that the second phase of parking, as depicted in Exhibit B, be deferred for three (3) years from the date of Town approval of this First Amendment, subject to the terms and conditions contained herein.

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

1. **Deferral of Construction of Phase 2 of the Parking Lot.** The Parties acknowledge and agree that Owner may defer the construction of Phase 2 of the Parking Lot, as depicted in attached Exhibit B, for three (3) years from the date of the Town's approval of this First Amendment. No later than the conclusion of the three-year period referenced in this Paragraph, Owner shall submit all appropriate documentation to the Town for the construction of Phase 2 of the Parking Lot. In the event Owner fails to timely do so, the Town may issue citations to Owner for violation of the Parking Regulations referenced in Exhibit C to Ordinance No. 2020-12 (PD-102), and each continuing day's violation shall constitute a separate offense. Further, nothing contained herein shall limit any remedy which may be sought by the Town for any violation of this First Amendment.

**2. Applicability of the Development Agreement.** Except to the extent amended by this First Amendment, the terms and provisions of the Development Agreement approved by the Town on or about February 25, 2020, shall remain in full force and effect and the Development Agreement is incorporated by reference as if fully set forth herein.

**3. Authority to Execute.** This First Amendment shall become a binding obligation on the signatories upon execution by all signatories hereto. The Town warrants and represents that the individual executing this First Amendment on behalf of the Town has full authority to execute this First Amendment and to bind the Town to the same. Owner also warrants and represents that the individual executing this First Amendment on behalf of Owner has full authority to execute this First Amendment and bind Owner to the same. The Town Council hereby authorizes the Town Manager of the Town to execute this First Amendment on behalf of the Town.

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

**TOWN:**

**THE TOWN OF PROSPER, TEXAS**

By: \_\_\_\_\_  
Name: Harlan Jefferson  
Title: Town Manager, Town of Prosper

STATE OF TEXAS       )  
                                  )  
COUNTY OF COLLIN    )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2020, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas  
My Commission Expires: \_\_\_\_\_

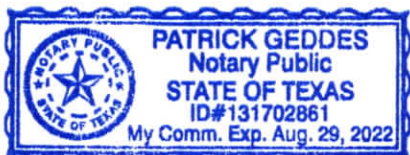
OWNER:

Matthew Clarke

By: Matthew Clarke

STATE OF TEXAS     )  
                                   )  
 COUNTY OF COLLIN    )

This instrument was acknowledged before me on the 11<sup>th</sup> day of August, 2020, by Matthew Clarke, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.



Patrick Geddes  
 Notary Public, State of Texas  
 My Commission Expires: 8-29-22

**EXHIBIT A**  
**(Property Description)**

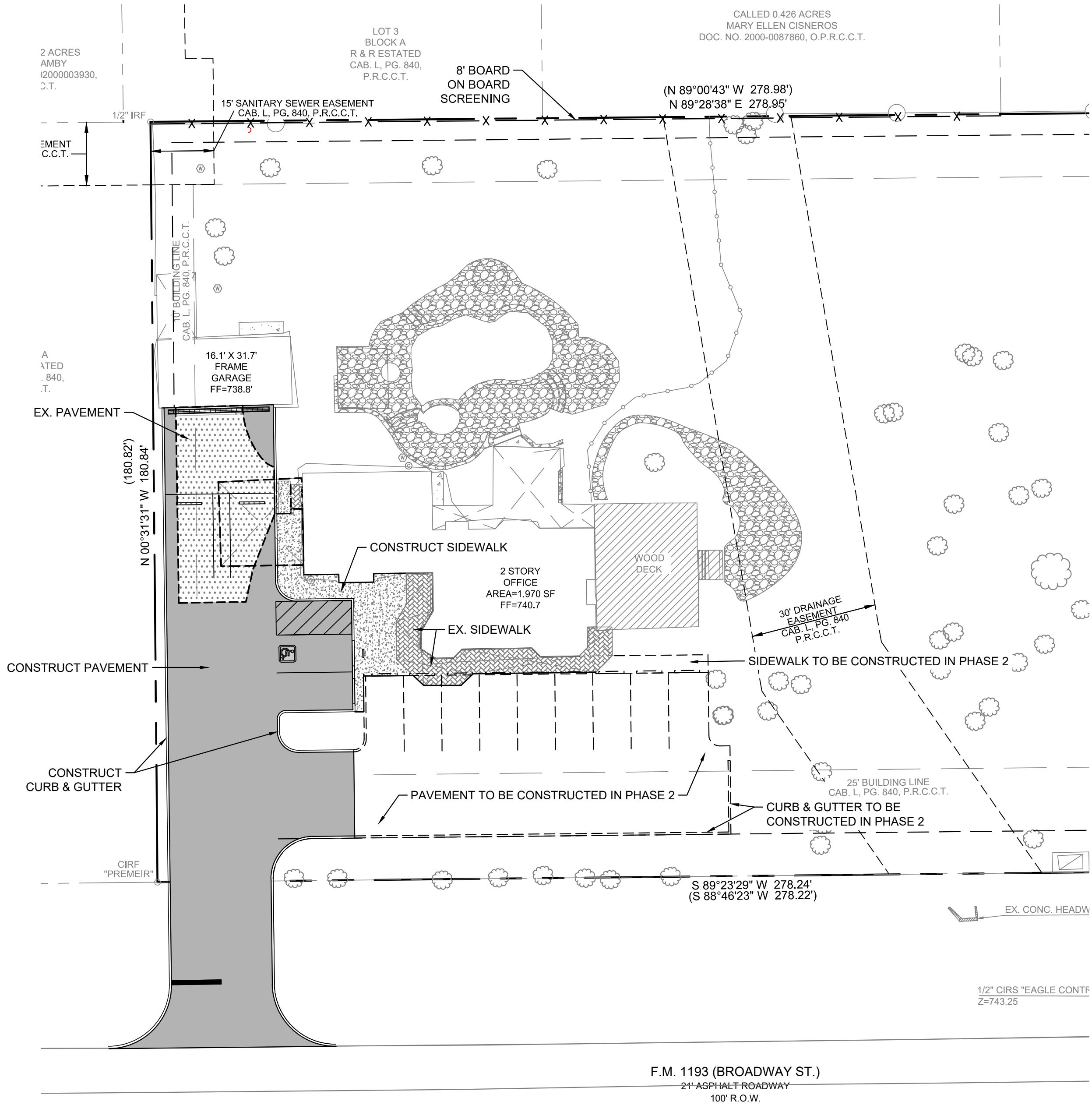
**EXHIBIT B**  
**(Depiction of Parking Lot Phasing)**





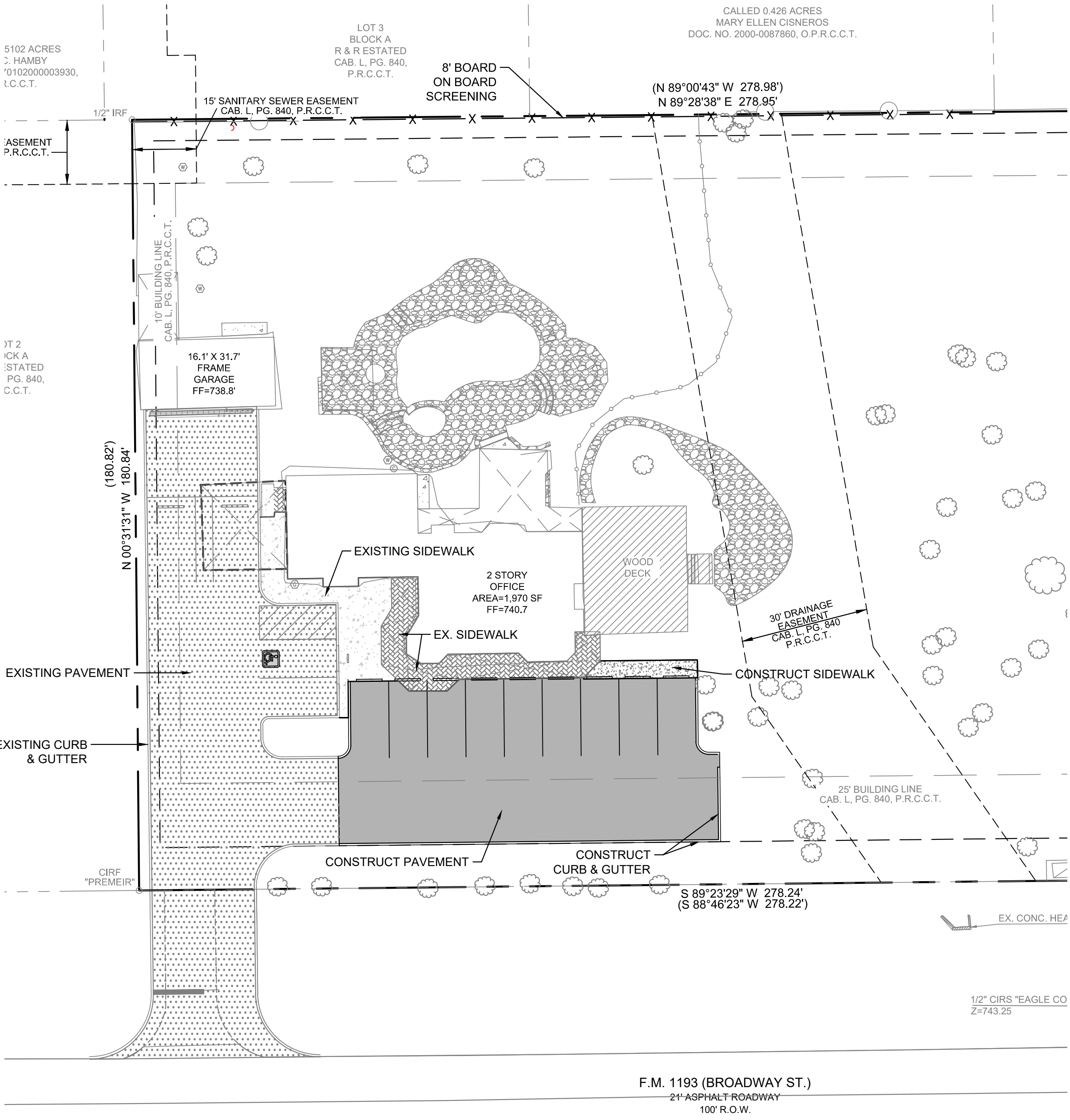


DESIGNED BY: DENG, TORRES  
PLOT DATE: 8/14/2020 8:07 AM  
Z:\PROJECTS\2019-160 KELLEY CLARK BROADWAY OFFICE\CADD\SHEETS\EXH-1 CONSTRUCTION PHASING.DWG  
LAST SAVED: 8/14/2020 8:08 AM



PHASE 1

LEGEND	
	PAVEMENT TO BE CONSTRUCTED
	EXISTING PAVEMENT
	EXISTING SIDEWALK TO REMAIN
	SIDEWALK TO BE CONSTRUCTED
	CURB & GUTTER TO BE CONSTRUCTED
	PROPERTY LINE



PHASE 2

- NOTES:
- ALL DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
  - REFER TO ARCHITECTURAL PLANS FOR BUILDING DIMENSIONS AND EXACT DOOR LOCATIONS.
  - REFER TO ARCHITECTURAL PLANS FOR FENCE AND GATE DETAILS.

603 BROADWAY CONCEPT  
PROSPER, TX

NO.	DATE	REVISION	BY
1	8/14/2020	REVISED PIPE MATERIALS	MBT

PHASE OF CONSTRUCTION

DESIGN:	MBT
DRAWN:	MBT
CHECKED:	ASD
DATE:	8/14/2020

EXH-1





August 14, 2020

Mr. Alex Glushko  
Senior Planner  
Town of Prosper  
409 E. First Street  
Prosper, TX 75078

**Re: 603 Broadway – Kelley Clarke Law Firm**

Dear Alex:

On behalf of our Client, Kelley Clarke, please let this letter outline the proposed operational plan for their business which will be relocated to 603 Broadway. Their firm specializes in real estate/business transactions and does not have Client meetings in their office. All of their business is handled through zoom meetings, conference calls, and written communication. Their firm has 4-5 employees present on a daily basis. The proposed parking reduction and phasing will still meet their daily needs of the business.

Please contact me if you have any questions.

Respectfully,

**ClayMoore Engineering, Inc.**

A handwritten signature in blue ink, appearing to read "Matt Moore".

Matt Moore, P.E.



## ENGINEERING SERVICES

**To:** Mayor and Town Council

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

**Through:** Harlan Jefferson, Town Manager  
Rebecca Zook, Executive Director of Development & Infrastructure Services

**Re:** Town Council Meeting – August 25, 2020

---

**Agenda Item:**

Consider and act upon authorizing the Town Manager to execute a License, Maintenance and Hold Harmless Agreement between 1000 N. Preston, LLC, and the Town of Prosper, Texas, related to the installation and maintenance of angled parking stalls within the right-of-way of Hays Road adjacent to the development at 1000 N. Preston Road.

**Description of Agenda Item:**

In 2014, the medical office building at 1000 N. Preston Road was developed in accordance with Town standards. However, due to the nature of the medical uses within the development, the minimum required parking was not sufficient to address the actual needs of the various tenants, and employees began parking within the right-of-way of Hays Road, overlapping into the required landscape setback of the development. Hays Road is intended to be a 37-foot collector roadway, which allows for on-street parallel parking. Currently only 24 feet of concrete roadway exists for Hays Road with no curb and gutter.

Staff worked with the property owner on the best approach to allow an interim condition for vehicles to park in the right-of-way and not in the landscape setback, and determined that a temporary angled parking approach achieves the developments needs while providing a safe means for vehicular parking. The property owner agrees that the angled parking would be installed and maintained at their expense, and at such time as Hays Road is improved to its ultimate 37-foot width, the angled parking will be removed and parallel parking along both sides of the roadway will be allowed (with certain constraints being separation distances from driveways and road intersections for visibility purposes).

**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

**Town Staff Recommendation:**

Town staff recommends that the Town Council authorize the Town Manager to execute a License, Maintenance and Hold Harmless Agreement between 1000 N. Preston, LLC, and the Town of Prosper, Texas, related to the installation and maintenance of angled parking stalls within the right-of-way of Hays Road adjacent to the development at 1000 N. Preston Road.

**Proposed Motion:**

I move to authorize the Town Manager to execute a License, Maintenance and Hold Harmless Agreement between 1000 N. Preston, LLC, and the Town of Prosper, Texas, related to the installation and maintenance of angled parking stalls within the right-of-way of Hays Road adjacent to the development at 1000 N. Preston Road.

## **LICENSE, MAINTENANCE & HOLD HARMLESS AGREEMENT**

This License, Maintenance & Hold Harmless Agreement ("**Agreement**"), dated August \_\_\_, 2020 (the "**Effective Date**") is made by and between 1000 North Preston, LLC, a Texas limited liability company ("**North Preston**"), and the Town of Prosper, Texas, a Texas home-rule municipality ("**Town**"), and is made with reference to the recitals set forth below concerning the real property located at 1000 North Preston Road, Prosper, Texas (the "**Property**"), as both described and depicted in Exhibit A.

**WHEREAS**, North Preston is the owner of the Property, a multi-tenant development consisting primarily of medical office uses; and

**WHEREAS**, due to the configuration of the Property, and the large number of customer/patient visits to the Property, the existing parking field is not able to appropriately supply adequate parking and as a consequence, it is not unusual that customers/patients park in the Town's right-of-way on landscaping, thereby damaging the landscaping; and

**WHEREAS**, in an effort to address the parking situation, North Preston and the Town have agreed that North Preston may construct parking spaces in the Town's right-of-way along Hays Road, as reflected in attached Exhibit B, attached hereto and incorporated by reference; and

**WHEREAS**, the Town has agreed to such minimal encroachment in its right-of-way, subject to the terms and conditions contained herein; and

**WHEREAS**, North Preston acknowledges and agrees that, at its sole cost and expense, shall construct and maintain the parking spaces to be located in the Town's right-of-way.

**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 North Preston permission to construct and maintain the parking spaces as referenced and depicted in attached Exhibit B. Further, North Preston agrees that the parking spaces it constructs shall fully comply with all Town ordinances, requirements, and regulations, including all building and construction codes.

2. **Hold Harmless**. North Preston shall hold harmless the Town and the Town'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 in any way related to the parking spaces to be constructed and maintained by North Preston, including any costs in any way associated with the construction, on-going maintenance, and/or on-going repair costs incurred by North Preston.

3. **Release**. North Preston hereby releases the Town, 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 construction, maintenance, or repair of the parking spaces within the Town's right-of-way, in whole or in part, directly or indirectly, as provided in this Agreement.

4. Ownership and Maintenance. North Preston shall always maintain the parking spaces in reasonable condition, and clean, 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 the Town's public right-of-way, but instead, this Agreement constitutes a grant of the privilege, permit, and license for North Preston.

6. Termination of License. The Parties agree and acknowledge that at such time in the future when the Town may opt to enlarge, expand, reconstruct or in any way alter Hays Road from its current status to a collector roadway, pursuant to the Town's Thoroughfare Plan as amended, then this Agreement shall cease upon thirty (30) days' notice to North Preston, and North Preston shall remove, or cause to be removed, all parking spaces in the Town's right-of-way, at its expense.

7. Mediation. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

8. Notification of Sale or Transfer; Assignment of Agreement. Owner shall notify the Town in writing of any sale or transfer of all or any portion of the Property, within ten (10) business days of such sale or transfer.

9. Sovereign Immunity. The Parties agree that the Town has not waived its sovereign or governmental immunity from suit by entering into and performing its obligations under this Agreement.

10. Filing in Deed Records. North Preston and the Town 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.

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

12. Severability. 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.

13. Venue. 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.

14. Execution in Counterparts. 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.

15. Notice. Any notices required or permitted to be given hereunder (each, a “Notice”) shall be given by certified or registered mail, return receipt requested, to the addresses set forth below or to such other single address as either party hereto shall notify the other:

If to the Town:           Town of Prosper  
250 W. First Street  
P.O. Box 307  
Prosper, Texas 75078  
Attention: Town Manager

If to North Preston:   1000 North Preston Road LLC  
c/o Donald E. Lookadoo  
8350 Meadow Road, Suite 163  
Dallas, Texas 75231

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

17. Incorporation of Recitals. The recitals set forth above are incorporated herein as if repeated verbatim.

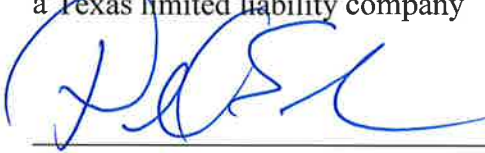
18. Amendment. This Agreement shall not be modified or amended except in writing signed by the Parties.

*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.

**1000 NORTH PRESTON ROAD LLC**

a Texas limited liability company


  
Donald E. Lookadoo, **MANAGER**

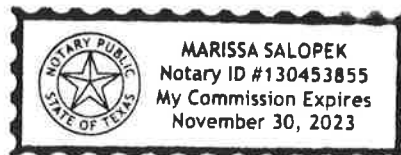
**THE STATE OF TEXAS** §

**COUNTY OF DALLAS** §

**BEFORE ME**, the undersigned authority, on this day personally appeared Donald E. Lookadoo, known to me to be one of the persons whose name is subscribed to the foregoing instrument; he acknowledged to me he is the Authorized Signatory of **1000 NORTH PRESTON ROAD 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 13<sup>th</sup> day of August, 2020.

  
Notary Public in and for the State of Texas  
My Commission Expires: 11/30/2022



**TOWN OF PROSPER, TEXAS**

By: \_\_\_\_\_  
 Harlan Jefferson, Town Manager

**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**  
**(Property Description)**

**EXHIBIT A**  
**METES AND BOUNDS DESCRIPTION**  
**1.512 ACRES, OUT OF LOT 2, BLOCK A, INDEPENDENT BANK CELINA**  
**IN THE JOHN R. TUMEY SURVEY, A-916, TOWN OF PROSPER, COLLIN COUNTY, TEXAS**

All that certain 1.512 acres of land, which is out of Lot 2, Block A, Independent Bank Celina, described in the plat recorded in Cabinet Q, Page 680 in the Plat Records of Collin County, Texas (P.R.C.C.T.) and more particularly described by metes and bounds as follows: (all bearings shown hereon are based on the east right-of-way line of State Highway 289 (right-of-way varies, also known as Preston Road), described in the Right-of-Way Dedication to the Texas Department of Transportation in Document Number 20110503000451620, recorded in the Deed Records of Collin County, Texas (D.R.C.C.T.));

**BEGINNING** at a 1/2" iron rod with a cap stamped "SPRY" set in the west right-of-way line of Hayes Road (right-of-way varies), for the southeast corner of Lot 2, Block A, and northeast corner of Lot 1, Block A, of said Independent Bank Celina, from which a 1/2" iron rod with a cap stamped "ISBELL" found for the southeast corner of said Lot 1, Block A, Independent Bank Celina, in the west right-of-way line of said Hayes Road, bears South 00° 18' 09" East - 266.52';

**THENCE** North 89° 17' 38" West - 186.91' to a 1/2" iron rod with a cap stamped "SPRY" set for the southwest corner of the herein described tract, in the east right-of-way line of said State Highway 289, from which a 1/2" iron rod with a cap stamped "ISBELL" found, bears North 89° 01' 00" West - 0.94', and from said set 1/2" iron rod with a cap stamped "SPRY" a TX DOT Monument found, in the east right-of-way line of said State Highway 289, bears South 22° 06' 13" West - 286.21';

**THENCE** along the east right-of-way line of said State Highway 289 as follows:

North 22° 06' 13" East - 62.71' to a TX DOT Monument found for a point of corner of the herein described lot;

North 12° 24' 19" East - 305.18' to a 1/2" iron rod with a cap stamped "ISBELL" found for a point for corner of the herein described tract;

North 10° 18' 35" East - 239.27' to a 1/2" iron rod with a cap stamped "SPRY" set for the northwest corner of the herein described lot, and the most westerly south corner of the said right-of-way dedication in Document Number 20110503000451620;

**THENCE** along the south line of said right-of-way dedication in Document Number 20110503000451620 as follows:

North 89° 14' 41" East - 25.13' to a 1/2" iron rod with a cap stamped "SPRY" set for a point for corner of the herein described lot;

South 36° 36' 59" East - 45.00' to a 1/2" iron rod with a cap stamped "SPRY" set for the northeast corner of the herein described lot, in the west right-of-way line of said Hayes Road;

**THENCE** South 00° 18' 09" East - 558.09' along the west right-of-way line of said Hayes Road, to the **POINT OF BEGINNING** and containing 1.512 Acres of land.

**SPRY**  **SURVEYORS**

8241 Mid-Cities Blvd., Suite 100 • North Richland Hills, TX 76182  
 Phone 817-494-6359 • email: [spry@sprysurveyors.com](mailto:spry@sprysurveyors.com)



Filed and Recorded  
 Official Public Records  
 Stacey Kemp, County Clerk  
 Collin County, TEXAS  
 07/24/2013 11:27:11 AM  
 \$24.00 C.J.A.M.A.L.  
 20130724001035510

*Stacey Kemp*



*David Lewis*  
 R.P.L.S. NO. 5647

*David Lewis*



**Exhibit B**  
**(Right-of-Way Parking Depiction)**

# 1000 N. PRESTON ROAD

## PROPOSED OVERFLOW PARKING - 22 SPACES

ARCHITECT:

Stephen Hundley AIA

7921 Deer Trail

Dallas, Texas 75238

214-683-0104

shundley@schaia.org

22 SPACES AT A 45° PARKING

TYPICAL 9'X20' SPACE

DIRECTION OF DRAINAGE

TP GUY LINE

CONC CURB STOPS

HAYS RD.

NEW 5" THK CONC PAVING  
REINFORCED WITH #3S @  
24" OC (MATCHES ORIGINAL)

EXISTING TREES AND SHRUBS TO REMAIN

DRAINAGE NOTES: NEW PAVING  
WILL MATCH EXISTING GRADES -  
AND DRAINAGE PATTERN.

EXISTING PARKING SPACES

Existing  
Building

EXISTING PARKING SPACES

Seal

Project: 1000 N Preston Rd.

File: 06\_05 Site Plan.dwg

Date: 24, June 2020

Scale: 1" = 40'

Revision Date

1 24 June 2020

△

△

△

Sheet Name

SITE PLAN EXHIBIT

Sheet Number

01

N. PRESTON RD.

SITE PLAN



## PLANNING



**To:** Mayor and Town Council

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

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

**Re:** Town Council Meeting – August 25, 2020

---

**Agenda Item:**

Consider and act upon an ordinance amending the Zoning Ordinance regarding Permitted Uses and Definitions, and Development Requirements, including but not limited to Landscaping, Parking, Screening, and Non-Residential Design and Development Standards. (Z20-0010).

**Description of Agenda Item:**

On August 11, 2020, this item was tabled by the Town Council to the August 25<sup>th</sup> meeting to allow for additional time for the development community to review the proposed amendments. Since that time, staff has been contacted by Blue Star Land Development regarding the proposed amendments and possible changes to the proposed ordinance. Staff requests the Town Council table this request to the September 8, 2020, Town Council meeting, to allow additional time to work with Blue Star Land Development regarding their questions and possible changes to the proposed ordinance.

**Town Staff Recommendation:**

Staff recommends the Town Council table this request to the September 8, 2020, Town Council meeting.

**Proposed Motion:**

I move to table this request to the September 8, 2020, Town Council meeting.

## PLANNING



**To:** Mayor and Town Council

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

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

**Re:** Town Council Meeting – August 25, 2020

---

**Agenda Item:**

Consider and act upon whether to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department, pursuant to Chapter 4, Section 1.5(C)(7) and 1.6(B)(7) of the Town's Zoning Ordinance, regarding action taken by the Planning & Zoning Commission on any Site Plan or Preliminary Site Plan.

**Description of Agenda Item:**

Attached is the Site Plan that was acted on by the Planning & Zoning Commission at their August 18, 2020 meeting. Per the Zoning Ordinance, the Town Council has the ability to direct staff to submit a written notice of appeal on behalf of the Town Council to the Development Services Department for any Preliminary Site Plan or Site Plan acted on by the Planning & Zoning Commission.

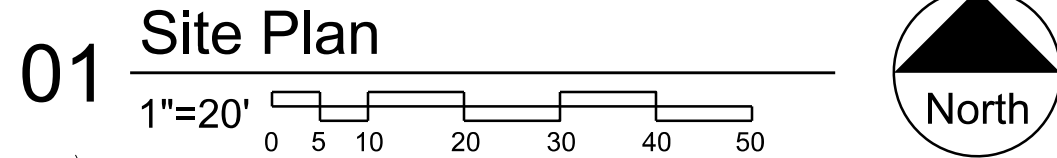
**Attached Documents:**

1. Site Plan for Bliss Pet Resort (expansion)

**Town Staff Recommendation:**

Town staff recommends the Town Council take no action on this item.





- Site data summary table with the following information and appropriate column totals:
- |   |                             |
|---|-----------------------------|
| Zoning:   | Commercial                  |
| Proposed Use:   | Dog Day Care                |
| Lot Area excluding right-of-way (square footage and acreage): | 20,763 Sq. Ft / 0.476 Acres |
| Building Area (gross square footage):                         | 4,089 Sq. Ft                |
| Building Height (feet and number of stories):                 | 22'-2" to apex / 1 story    |
| Lot Coverage:   | 10,838 Sq. Ft               |
| Floor Area Ratio (for non-residential zoning):                | .20                         |
| Total Parking Required (1:500):                               | <b>9 parking spaces</b>     |
| Total Parking Provided:                                       | 12 parking spaces           |
| Handicap Parking Required, including van accessible:          | 1                           |
| Handicap Parking Provided, including van accessible:          | 1 parking space             |
| Interior Landscaping Required:                                | NA                          |
| Interior Landscaping Provided:                                | NA                          |
| Square footage of Impervious Surface                          | 6,543 Sq. Ft.               |
| Open Space Required:  | NA                          |
| Open Space Provided:  | NA                          |



Case No. D20-0071

**BLISS RESORT ADDITION**

BLISS RESORT ADDITION  
LOT 1, BLOCK A  
0.554 ACRES (0.476 NET ACRES) OF LAND IN THE  
COLLIN COUNTY SCHOOL LAND SURVEY  
ABSTRACT NO. 147  
IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS

for:  
200  
Pros

Sheet  
**SP-1**  
Site Plan





## FIRE DEPARTMENT

**To:** Mayor and Town Council  
**From:** Stuart Blasingame, Fire Department  
**Through:** Harlan Jefferson, Town Manager  
**Re:** Town Council Meeting – August 25, 2020

**Agenda Item:**

Discussion on current and proposed Emergency Medical Services (EMS) Fee Schedules for medical transports by the fire department.

**Description of Agenda Item:**

It has been many years since the EMS billing structure has been fully evaluated and compared against the cost of EMS expendables and supplies. After carefully evaluating almost 18 months of billing data from our billing agency and comparing our current rates against the Town's comparator cities and neighboring municipalities, it was apparent that our billing rates were in need of a market adjustment. This adjustment will allow us to maintain a financially responsible process and budgeting plan to bring us more in line with equivalent EMS systems and support our annual EMS expenditures. The last rate increase was October 12, 2010.

**Budget Impact:**

Based on comparison data submitted by our billing provider, we would anticipate a revenue increase over \$300,000 annually if approved.

**Attached Documents:**

EMS Billing Comparison of comparator cities.

**Town Staff Recommendation:**

Town Staff is requesting the Town Council provide feedback on the proposed EMS Fee revisions.

## EMS Billing Comparison

Item 12.

	Prosper	Colleyville	Coppell	University Park	Celina	Pilot Point	Little Elm	The Colony	Proposed
<b>ALS</b>	\$ 800.00	\$ 1,400.00	\$ 1,600.00	\$ 1,350.00	\$ 1,350.00	\$ 1,200.00	\$ 1,045.00	\$ 900.00	\$ 1,350.00
<b>BLS</b>	\$ 800.00	\$ 1,000.00	\$ 1,400.00	\$ 1,150.00		\$ 1,000.00	\$ 935.00	\$ 850.00	\$ 1,050.00
<b>ASL-2</b>	\$ 800.00	\$ 1,800.00	\$ 1,750.00	\$ 1,450.00	\$ 1,000.00	\$ 1,400.00	\$ 1,210.00	\$ 1,100.00	\$ 1,450.00
<b>ALSD1</b>	\$ 145.00	\$ 400.00	\$ 400.00	\$ 400.00	\$ 300.00	\$ 400.00	\$ 495.00	\$ 200.00	\$ 400.00
<b>BLSDI</b>	\$ 75.00	\$ 250.00	\$ 350.00	\$ 300.00	\$ 24.00	\$ 250.00	\$ 275.00	\$ 150.00	\$ 250.00
<b>MILE</b>	\$ 12.00	\$ 18.00	\$ 24.00	\$ 24.00	\$ 125.00	\$ 16.00	\$ 24.00	\$ 15.00	\$ 24.00
<b>OXYGN</b>	\$ 30.00	\$ 150.00	\$ 125.00	\$ 119.00	\$ 200.00	\$ 125.00	\$ 125.00	\$ 50.00	\$ 130.00

### Billing Period 10/1/2018 - 9/30/2019

		Actual		Proposed	
		Avg. Billed	Avg. Payments	Avg. Billed	Avg. Payments
		\$ 997.71	\$ 563.50	\$ 1,757.24	\$ 992.49
Payor Mix					
Medicare	33%	Total Payment		Total Payment	
Medicaid	4%	\$416,986.00		\$734,271.96	
Commercial	46%				
Private	15%				

### Billing Period 10/1/2019 - 3/30/2020

		Actual		Proposed	
		Avg. Billed	Avg. Payments	Avg. Billed	Avg. Payments
Payor Mix		\$ 1,003.04	\$ 565.22	\$ 1,766.64	\$ 995.50
Medicare	32%				
Medicaid	6%				
Commercial	44%				
Private	17%				
		Total Payment		Total Payment	
		\$253,264.01		\$425,080.55	

## EMS Billing Comparison

Item 12.

### EMS Billing Definitions:

ALS: Advanced Life Support. Anything involving IVs, medications, EKG interpretation etc

BLS: Basic Life Support. Any patient requiring medical attention/assessment with no invasive procedures or advanced equipment

ALS2: Advanced Life Support: Intubation, cardiac arrest, multiple IV lines and medications

ALSDI: Advanced Life Support Disposable items

BLSDI: Basic Life Support Disposable Items

**FINANCE**

**To:** Mayor and Town Council

**From:** Betty Pamplin, Finance Director

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

**Re:** Town Council Meeting – August 25, 2020

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**Agenda Item:**

Conduct a Public Hearing to consider and discuss the FY 2020-2021 Budget as proposed. **(BP)**

**Description of Agenda Item:**

According to Local Government Code Chapter 102 and the Town Charter, the Town must hold a Public Hearing on the proposed budget.

**Attached Documents:**

1. 2020-2021 Capital Improvement Program

**Town Staff Recommendation:**

Town staff recommends that the Town Council conduct a public hearing to receive feedback from the community and provide Town staff with direction on any changes to the proposed budget.

Other than the Public Hearing, the Town Council does not need to take action on this item.

Summary of Capital Improvement Program - 08/25 DRAFT  
General Fund Projects

Item 13.

Index	Street Projects								Total Cost	Other Sources	Funding Sources			Issued 2019-2020	Unissued Debt Schedule						Index		
			Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025			2025-2030	Issued Debt Authorized	Unissued Debt Authorized		Unissued Debt Unauthorized	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025		2025-2030	
01	1836-ST	DNT Southbound Frontage Road	17,000,000							17,000,000	17,000,000	X											01
02	1511-ST	Prosper Trail (Kroger - Coit): (Design)	305,000							305,000	305,000	A											02
03	1511-ST	Prosper Trail (Kroger - Coit): (Construction)	4,564,055							4,564,055	4,465,846	A,D,K	98,209										03
04	1512-ST	First Street (DNT - Coleman): (Design)	2,786,567							2,786,567	2,439,915	A,D	346,652										04
05	1507-ST	West Prosper Road Improvements, Segment D: (Construction)	3,404,618							3,404,618			3,404,618										05
06	1708-ST	E-W Collector (Cook Lane - DNT); design done w/ Cook Lane	1,455,000							1,455,000	1,375,000	A	80,000										06
07	1820-ST	First Street/DNT Intersection Improvements: (Design)	137,000							137,000	137,000	D											07
08	1820-ST	First Street/DNT Intersection Improvements: (Construction)	1,250,000							1,250,000	1,250,000	A											08
09	1823-ST	Victory Way (Coleman - Frontier) - 2 lanes: (Design)	300,000							300,000	250,000	D	50,000										09
10	1823-ST	Victory Way (Coleman - Frontier) - 2 lanes: (Construction)	2,200,000							2,200,000			2,200,000										10
11	1709-ST	Prosper Trail (Coit - Custer) - 4 lanes: (Design)	810,000							810,000	810,000	A											11
12	2008-ST	Prosper Trail (Coit - Custer) - 2 lanes: (Construction)	6,300,000							6,300,000	1,250,000	D	300,000		4,750,000	4,750,000							12
13	1825-ST	Coleman (Rogers MS - Turn Lane): (Design & Construction)	375,000							375,000	375,000	D											13
14	1819-ST	Coleman Street (at Prosper HS): (Design & Construction)	790,000							790,000	790,000	C, K											14
15	1923-ST	Fishtrap (Segments 1, 4); (Elem to DNT) schematic: (Design)	778,900							778,900	778,900	D											15
16	2009-ST	Fishtrap, Segment 1 (Teel - Middle School): (Construction)	1,470,000							1,470,000			280,000		1,190,000	1,190,000							16
17	1932-ST	Coit Road and US 380 (SB Right Turn Lane): (Design)	6,300							6,300	6,300	A,D											17
18	1932-ST	Coit Road and US 380 (SB Right Turn Lane): (Construction)	125,000							125,000	35,000	A	90,000										18
19	1830-ST	Prosper Trail/DNT Intersection Improvements: (Design)	88,000							88,000	88,000	A,D											19
20	1830-ST	Prosper Trail/DNT Intersection Improvements: (Construction)	2,000,000							2,000,000			400,000		1,600,000	1,600,000							20
21	1824-ST	Fishtrap (Teel Intersection Improvements): (Design)	150,000							150,000	150,000	D											21
22	1824-ST	Fishtrap (Teel Intersection Improvements): (Construction)	1,400,000							1,400,000			1,400,000										22
23	1708-ST	Cook Lane (First - End): (Design)	150,000							150,000	150,000	A											23
24	1708-ST	Cook Lane (First - End): (Construction)	3,500,000							3,500,000			600,000		2,900,000	2,900,000							24
25	2014-ST	First Street (Coit - Custer) - 4 lanes: (Design)	1,000,000							1,000,000					1,000,000	1,000,000							25
26	2010-ST	Fishtrap (Teel - Gee Road): (Design)	400,000							400,000	400,000	C											26
27	2011-ST	Gee Road (Fishtrap - Windsong Retail): (Design)	250,000							250,000	250,000	C											27
28	2012-ST	Fishtrap (Elem - DNT) - 4 lanes: (Design)	900,000							900,000	300,000	A,D,K			600,000	600,000							28
29	1710-ST	Coit Road (First - Frontier) - 4 lanes: (Design)	1,289,900							1,289,900	1,289,900	A,X											29
30	2013-ST	Teel (US 380 Intersection Improvements): (Design)	100,000							100,000	100,000	A,K											30
31	1307-ST	Frontier Parkway (BNSF Overpass)	3,650,000	29,912,496						33,562,496	27,812,496	A,X	0		5,750,000		5,750,000						31
32	1805-ST	FM 2478 (US 380 - FM 1461)	391,869	57,000,000						57,391,869	57,391,869	A,K,X											32
33	1934-ST	DNT Overpass at US380	80,970,000		9,030,000					90,000,000	83,970,000	D,J,X			6,030,000		6,030,000						33
34	2017-ST	Fishtrap, Segment 4 (Middle - Elem) - 4 lanes: (Construction)		2,750,000						2,750,000					2,750,000		2,750,000						34
35	1936-ST	US 380 (US 377 - Denton County Line)		178,105,000						178,105,000	178,105,000	D,X											35
36	1938-ST	FM 1461 (SH 289 - CR 165)		175,000	175,000	175,000	45,190,870			45,715,870	45,715,870	A,X											36
37	1933-ST	Fishtrap (Segment 2) - PISD reimbursement			1,164,000					1,164,000					1,164,000		1,164,000						37
38	1937-ST	DNT Main Lane (US 380 - FM 428)			35,000,000	315,000,000				350,000,000	350,000,000	X											38
	Subtotal		140,297,209	267,942,496	45,369,000	175,000	360,190,870	0	0	813,974,575	776,991,096		9,249,479	0	27,734,000	12,040,000	8,500,000	7,194,000	0	0	0	0	

Design	9,451,667	0	0	0	0	0	0	9,451,667
Construction	27,914,055	32,662,496	1,164,000	0	0	0	0	61,740,551
Design & Construction	102,931,487	235,280,000	44,205,000	175,000	360,190,870	0	0	742,782,357
Land/Easements	0	0	0	0	0	0	0	0

Index	Traffic Projects								Funding Sources			Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Unissued Debt Schedule						Index	
			Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	Total Cost	Other Sources				Issued 2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025		2025-2030
01	1929-ST	BNSF Quiet Zone First/Fifth	145,000							145,000	145,000	D										01
02	1909-TR	Traffic Signal - Coit Rd & First Street: (Construction)	288,244							288,244	288,244	A,D										02
03	1939-TR	Traffic Signal - DNT & Frontier: (Collin County)	400,000							400,000	400,000	X										03
04	1940-TR	Traffic Signal - DNT & Prosper Trail: (Collin County)	400,000							400,000	400,000	X										04
05	1928-TR	Traffic Signal - Fishtrap & Teel Parkway: (Design)	34,100							34,100	34,100	A										05
06	1928-TR	Traffic Signal - Fishtrap & Teel Parkway: (Construction)	400,000							400,000	400,000	A										06
07	2004-TR	Traffic Signal - Fishtrap & Gee Road: (Design)	50,000							50,000	50,000	A										07
08	2004-TR	Traffic Signal - Fishtrap & Gee Road: (Construction)	250,000							250,000	250,000	A										08
09	2007-TR	Traffic Signal - SH 289 & Lovers Lane (TIRZ #1)	300,000							300,000	300,000	H										09
10	2005-TR	Traffic Signal - Coit Rd & Richland: (Design)	50,000							50,000	50,000	A										10
11	2005-TR	Traffic Signal - Coit Rd & Richland: (Construction)	410,000							410,000	410,000	A										11
12	2101-TR	Traffic Signal - Fishtrap & Artesia Boulevard: (Design)		50,000						50,000	50,000	A,C										12
13	2101-TR	Traffic Signal - Fishtrap & Artesia Boulevard: (Construction)		425,000						425,000	425,000	A,C										13
14	1935-TR	Traffic Signal - FM 1385 & Fishtrap: (TxDOT)		250,000						250,000	250,000	X										14
15		Traffic Signal - FM 2478 (Custer Rd) & First Street: (TxDOT)			500,000					500,000	500,000	X										15
16		Traffic Signal - First Street & La Cima: (Design)			50,000					50,000	50,000	A										16
17		Traffic Signal - First Street & La Cima: (Construction)			400,000					400,000	400,000	A										17
18		Traffic Signal - First Street & Coleman: (Design)				50,000				50,000	50,000	A										18
19		Traffic Signal - First Street & Coleman: (Construction)				425,000				425,000	425,000	A										19
	Subtotal		2,727,344	725,000	950,000	475,000	0	0	0	4,877,344	4,877,344		0	0	0	0	0	0	0	0	0	

Design	134,100	50,000	50,000	50,000	0	0	0	284,100
Construction	1,493,244	425,000	400,000	425,000	0	0	0	2,743,244
Design & Construction	1,100,000	250,000	500,000	0	0	0	0	1,850,000
Land/Easements	0	0	0	0	0	0	0	0

Summary of Capital Improvement Program - 08/25 DRAFT  
General Fund Projects

Index	Park Projects									Funding Sources			Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Unissued Debt Schedule							Index
			Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	Total Cost	Other Sources	Issued 2019-2020				2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030		
	Neighborhood Park																						
01		Town Hall Open Space Park: (Design)	55,000							55,000	55,000 D											01	
02		Tanners Mill Park: (Construction)	468,000							468,000	468,000 C											02	
03		Star Trail Park #2 (7.5 Acres / No Lights): (Construction)	535,000							535,000	535,000 C											03	
04		Windsong Ranch Park #2 (7.5 Acres / No Lights): (Design)		30,000						30,000	30,000 C											04	
05		Windsong Ranch Park #2 (7.5 Acres / No Lights): (Construction)		230,000						230,000	230,000 C											05	
06		Lakewood Preserve (22 Acres / Lights): (Construction)	423,000	544,500						967,500	967,500 C											06	
07	1802-PK	Hays Park (2 Acres / No Lights): (Design )	85,000							85,000	85,000 G											07	
08	1802-PK	Hays Park (2 Acres / No Lights): (Construction)		375,000						375,000	375,000 G											08	
09		Pecan Grove Phase 2 (21.5 Acres / No Lights) (basketball, pavilion, parking, security lighting): (Design)	67,500							67,500	500 G	67,000										09	
10		Pecan Grove Phase 2 (21.5 Acres / No Lights) (basketball, pavilion, parking, security lighting): (Construction)		575,000						575,000	575,000 G											10	
11		Prairie Park (6.7 Acres / No Lights)	300,000		300,000					600,000	600,000 C											11	
	Trails																						
12	1801-PK	Whitley Place H&B Trail Extension: (Design)	70,000							70,000	70,000 G											12	
13	1910-PK	Hike and Bike Master Plan: (Design)	68,000							68,000	68,000 D											13	
14		Star Trail H&B Trail Phases 1, 2, 3, and 4: (Construction)	200,000							200,000	200,000 C											14	
15	1926-PK	Whitley Place H&B Trail (OH Easement): (Design)	10,000							10,000		10,000										15	
16	1926-PK	Whitley Place H&B Trail (OH Easement): (Construction)	270,000							270,000		270,000										16	
17	1801-PK	Whitley Place H&B Trail Extension: (Construction)	680,000							680,000	500,000 G	180,000										17	
18		Windsong H&B Trail Ph 3C,5,6A, 6B, 7, 8, and 9: (Design)		40,000						40,000	40,000 C											18	
19		Windsong H&B Trail Ph 3C,5,6A, 6B, 7, 8, and 9: (Construction)	1,351,572	435,000	495,000					2,281,572	2,281,572 C											19	
	Community Park																						
20		Frontier Park Storage: (Design & Construction)	147,927							147,927	147,927 D											20	
	Medians																						
21	1723-PK	State Highway 289 Gateway Monument	474,752							474,752	474,752 D											21	
22	1818-PK	Additional Turf Irrigation SH 289	80,000							80,000	80,000 D											22	
23	1813-PK	SH 289/US 380 Green Ribbon Landscape Irrigation	809,250							809,250	809,250 B,D											23	
24	2018-PK	Coleman Street Median Landscaping (Talon - Victory): (Design)	30,000							30,000	30,000 A											24	
25	2018-PK	Coleman Street Median Landscaping (Talon - Victory): (Construction)	320,000							320,000	320,000 A											25	
26	1922-PK	Downtown Monument (Broadway/Preston): (Design)	16,000	75,000						91,000	91,000 D											26	
27	1922-PK	Downtown Monument (Broadway/Preston): (Construction)		380,000						380,000	380,000 D,K											27	
	Subtotal		6,461,001	2,684,500	795,000	0	0	0	0	9,940,501	9,413,501	527,000	0	0	0	0	0	0	0	0	0	0	

Design	401,500	145,000	0	0	0	0	0	0	546,500
Construction	5,911,574	2,539,500	795,000	0	0	0	0	0	9,246,074
Design & Construction	147,927	0	0	0	0	0	0	0	147,927
Land/Easements	0	0	0	0	0	0	0	0	0

Index	Facility Projects									Funding Sources			Unissued Debt Schedule							Index		
			Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	Total Cost	Other Sources	Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Issued 2019-2020	2020-2021	2021-2022	2022-2023	2023-2024		2024-2025	2025-2030
01	1713-FC	Police Station and Dispatch - Professional Services	1,644,696							1,644,696	31,293	▯	1,613,403									01
02	1904-FC	Police Station and Dispatch - Development Costs	550,000							550,000			550,000									02
03	1905-FC	Police Station and Dispatch - Construction	12,645,804							12,645,804	1,435,000	▯	11,210,804									03
04	1906-FC	Police Station and Dispatch - Furniture, Fixtures, and Equipment	1,165,000							1,165,000	1,165,000	▯										04
05	2102-FC	Radio Tower for Communications		500,000						500,000				500,000			500,000					05
	Subtotal		16,005,500	500,000	0	0	0	0	0	16,505,500	2,631,293		13,374,207	0	500,000	0	500,000	0	0	0	0	

Design	2,194,696	0	0	0	0	0	0	0	2,194,696
Construction	13,810,804	0	0	0	0	0	0	0	13,810,804
Design & Construction	0	500,000	0	0	0	0	0	0	500,000
Land/Easements	0	0	0	0	0	0	0	0	0

Grand Total General Fund	165,491,054	271,851,996	47,114,000	650,000	360,190,870	0	0	845,297,920	793,913,234	#REF!	23,150,686	0	28,234,000	12,040,000	9,000,000	7,194,000	0	0	0	0	0
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Design	12,181,963	195,000	50,000	50,000	0	0	0	12,476,963
Construction	49,129,677	35,626,996	2,359,000	425,000	0	0	0	87,540,673
Design & Construction	104,179,414	236,030,000	44,705,000	175,000	360,190,870	0	0	745,280,284
Land/Easements	0	0	0	0	0	0	0	0

##	Design
##	Construction
##	Design & Construction

Description Codes - Other Sources							
A	Impact Fees	D	General Fund	G	Park Development Fund	K	Escrows
B	Grant and Interlocal Funds	E	Water / Wastewater Fund	H	TIRZ #1	X	Non-Cash Contributions
C	Developer Agreements	F	Stormwater Drainage Fund	J	TIRZ #2	Z	Other Sources (See Detail)

Summary of Capital Improvement Program - 08/25 DRAFT																				Item 13.				
Enterprise Fund Projects																								
Index	Water Projects		Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	Total Cost	Funding Sources		Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Unissued Debt Schedule							Index	
											Other Sources					Issued 2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030		
01	1902-WA	Custer Road Meter Station and WL Relocations: (Design)	359,225							359,225	359,225	E									01			
02	1902-WA	Custer Road Meter Station and WL Relocations: (Land/Easements)	53,244							53,244	53,244	E									02			
03	1902-WA	Custer Road Meter Station and WL Relocations: (Construction)	3,454,363							3,454,363	3,454,363	E									03			
04	1715-WA	Fishtrap 2.5 MG Elevated Storage Tank: (Design)	325,700							325,700	325,700	A									04			
05	1715-WA	Fishtrap 2.5 MG Elevated Storage Tank: (Construction)	6,108,000							6,108,000	3,143,000	A	2,965,000								05			
06	1716-WA	LPP Water Line Phase 1a & 1b: (Design)	829,850							829,850	829,850	A									06			
07	1716-WA	LPP Water Line Phase 1a & 1b: (Construction)	10,658,200							10,658,200	175,000	A	10,483,200								07			
08	1716-WA	LPP Water Line Phase 1 Easement Costs	1,691,500							1,691,500	0	A	1,691,500								08			
09	1501-WA	LPP Pump Station and LPP WL Phase 2: (Design)	1,585,100							1,585,100	277,081	A	1,308,019								09			
10	1501-WA	LPP Pump Station and LPP WL Phase 2: (Construction)			15,200,000					15,200,000	4,000,000	A			11,200,000		5,600,000	5,600,000			10			
11	1810-WA	LPP Water Line Phase 2 Easement Costs		1,000,000						1,000,000	1,000,000	A									11			
12	1708-WA	E-W Collector (Cook Lane - DNT) Water Line: (Construction)	295,775							295,775	289,750	E	6,025								12			
13	1708-WA	Cook Lane (First - End): (Construction)	400,000							400,000	400,000	E									13			
14		LPP Future Expansion (2026): (Design)						1,400,000		1,400,000					1,400,000					1,400,000	14			
15		LPP Future Expansion (2026): (Construction)						12,600,000		12,600,000					12,600,000					12,600,000	15			
16	1930-WA	Broadway (Parvin-Craig): (Construction)	150,000							150,000	150,000	E									16			
	Subtotal		25,910,957	1,000,000	15,200,000	0	0	0	14,000,000	56,110,957	14,457,213		16,453,744	0	25,200,000	0	0	5,600,000	5,600,000	0	0	14,000,000		
		Design	3,099,875	0	0	0	0	0	1,400,000	4,499,875														
		Construction	21,066,338	0	15,200,000	0	0	0	12,600,000	48,866,338														
		Design & Construction	0	0	0	0	0	0	0	0														
		Land/Easements	1,744,744	1,000,000	0	0	0	0	0	2,744,744														
Index	Wastewater Projects		Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	Total Cost	Funding Sources		Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Unissued Debt Schedule							Index	
											Other Sources					Issued 2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030		
01	1903-WW	Church / Parvin Wastewater Reconstruction: (Construction)	100,000							100,000	100,000	E										01		
02	2103-WW	Doe Branch Parallel Interceptor (2021): (Design)			500,000					500,000	500,000											02		
03	2103-WW	Doe Branch Parallel Interceptor (2021): (Construction)			4,500,000					4,500,000	1,000,000				3,500,000			3,500,000				03		
04		Doe Branch, Phase 3 WWTP (2025): (Design)				1,450,000			0	1,450,000	1,450,000	E								0	04			
05		Doe Branch, Phase 3 WWTP (2025): (Construction)				13,050,000				13,050,000					13,050,000			13,050,000				05		
	Subtotal		100,000	0	5,000,000	14,500,000	0	0	0	19,600,000	3,050,000		0	0	16,550,000	0	0	3,500,000	13,050,000	0	0	0		
		Design	0	0	500,000	1,450,000	0	0	0	1,950,000														
		Construction	100,000	0	4,500,000	13,050,000	0	0	0	17,650,000														
		Design & Construction	0	0	0	0	0	0	0	0														
		Land/Easements	0	0	0	0	0	0	0	0														
Index	Drainage Projects		Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	Total Cost	Funding Sources		Issued Debt Authorized	Unissued Debt Authorized	Unissued Debt Unauthorized	Unissued Debt Schedule							Index	
											Other Sources					Issued 2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030		
01	1614-DR	Coleman Street Channel Improvements: (Construction)		400,000						400,000			(0)		400,000			400,000				01		
02	1613-DR	Old Town Drainage - Church & Parvin: (Design)	40,000							40,000	40,000	F										02		
03	1613-DR	Old Town Drainage - Church & Parvin: (Construction)	460,000	215,000						675,000			460,000					215,000				03		
04	1718-DR	Old Town Regional Retention - Broadway: (Design)	25,000							25,000			25,000			0						04		
05	1718-DR	Old Town Regional Retention - Broadway: (Construction)	616,686							616,686			616,686		215,000							05		
06	2024-DR	Old Town Regional Retention Pond #2 - Land Acquisition		385,000						385,000					385,000			385,000				06		
07	2003-DR	Frontier Park/Preston Lakes Drainage: (Design)	100,000							100,000	100,000	F										07		
08	2003-DR	Frontier Park/Preston Lakes Drainage: (Construction)			985,000					985,000					985,000			985,000				08		
	Subtotal		1,241,686	1,000,000	985,000	0	0	0	0	3,226,686	140,000		1,101,686	0	1,985,000	0	0	1,000,000	985,000	0	0	0		
		Design	165,000	0	0	0	0	0	0	165,000														
		Construction	1,076,686	615,000	985,000	0	0	0	0	2,676,686														
		Design & Construction	0	0	0	0	0	0	0	0														
		Land/Easements	0	385,000	0	0	0	0	0	385,000														
	Grand Total Enterprise Funds		27,252,643	2,000,000	21,185,000	14,500,000	0	0	14,000,000	78,937,643	17,647,213		17,555,430	0	43,735,000	0	0	1,000,000	10,085,000	18,650,000	0	0	14,000,000	
		Design	3,264,875	0	500,000	1,450,000	0	0	1,400,000	6,614,875														
		Construction	22,243,024	615,000	20,685,000	13,050,000	0	0	12,600,000	69,193,024														
		Design & Construction	0	0	0	0	0	0	0	0														
		Land/Easements	1,744,744	1,385,000	0	0	0	0	0	3,129,744														

Summary of Capital Improvement Program - 08/25 DRAFT  
Capital Improvement Program Summary

	Capital Improvement Program Summary								Funding Sources		Issued Debt	Unissued Debt	Unissued Debt	Issued							
		Prior Years	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	Total Cost	Other Sources	Authorized	Authorized	Unauthorized	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2030	
	General Fund	165,491,054	271,851,996	47,114,000	650,000	360,190,870	0	0	845,297,920	793,913,234	23,150,686	0	28,234,000	12,040,000	9,000,000	7,194,000	0	0	0	0	
	Enterprise Funds	27,252,643	2,000,000	21,185,000	14,500,000	0	0	14,000,000	78,937,643	17,647,213	17,555,430	0	43,735,000	0	1,000,000	10,085,000	18,650,000	0	0	14,000,000	
	Grand Total Capital Improvement Program	192,743,697	273,851,996	68,299,000	15,150,000	360,190,870	0	14,000,000	924,235,563	811,560,447	40,706,116	0	71,969,000	12,040,000	10,000,000	17,279,000	18,650,000	0	0	14,000,000	

Design	15,446,838	195,000	550,000	1,500,000	0	0	1,400,000	19,091,838
Construction	71,372,701	36,241,996	23,044,000	13,475,000	0	0	12,600,000	156,733,697
Design & Construction	104,179,414	236,030,000	44,705,000	175,000	360,190,870	0	0	745,280,284
Land/Easements	1,744,744	1,385,000	0	0	0	0	0	3,129,744



## DEVELOPMENT SERVICES



**To:** Mayor and Town Council

**From:** John Webb, AICP, Director of Development Services

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

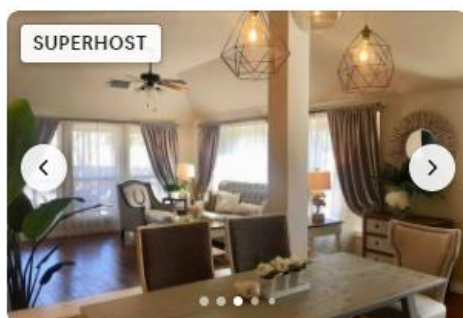
**Re:** Town Council Meeting – August 25, 2020

### Agenda Item:

Consider and act upon an ordinance amending Chapter 4, “Business Regulations,” of the Code of Ordinances by adding a new Article 4.11, Single-Family Dwelling Transient Rentals,” to prohibit the short term rental of single-family dwellings in the Town.

### Description of Agenda Item:

A short term rental (STR) is a type of lodging where a home, or part of a home, is rented for a fee for fewer than thirty (30) consecutive nights. Over the past several years, the number of STR's has increased significantly. In the United States, there are over 2,700 cities and counties with at least 50 STR's. In Prosper, there have been as many eight (8) homes marketed as a STR; currently there are two (2) homes, pictured below being offered for short term rentals during the next two (2) months



Entire house in Prosper

Welcome Home!

8 guests · 4 bedrooms · 5 beds · 3 baths  
Wifi · Air conditioning · Free parking

★ 4.74 (19)

**\$201 / night**  
\$2,379 total



Entire house in Prosper

Spacious Home In Prosper. Perfect for Families!



13 guests · 5 bedrooms · 5 beds · 3 baths

Wifi · Air conditioning · Free parking

Rare find

~~\$299~~ \$239 / night~~\$2,253 total~~

### Why Regulate STR's?

The influx of out-of-town visitors upsets the peaceful enjoyment of long-standing residential neighborhoods. Short-term renters have no stake in the community, and therefore no reason to care how the neighborhood around them suffers from their vacation activities including turning the home into a party house. The major complaints are generally,

- 1) Noise regarding the number of guests and the hospitality nature of the use.
- 2) Security in regard to large groups of strangers. In November 2019 a fatal shooting occurred at a home in Plano being used as a STR.
- 3) Parking and traffic impact due to the lack of sufficient on-site parking to accommodate large groups.

In response to these issues and the negative impacts, staff recommends that STR's, defined as a "single-family dwelling transient rental" in the attached ordinance, be prohibited in the Town.

### Legal Obligations and Review:

Town Attorney, Terrence Welch of Brown & Hofmeister, L.L.P., prepared the ordinance.

### Attached Documents:

1. Ordinance

### Town Staff Recommendation:

Town staff recommends the Town Council approve an ordinance amending Chapter 4, "Business Regulations," of the Code of Ordinances by adding a new Article 4.11, Single-Family Dwelling Transient Rentals," to prohibit the short term rental of single-family dwellings in the Town.

### Proposed Motion:

I move to approve an ordinance amending Chapter 4, "Business Regulations," of the Code of Ordinances by adding a new Article 4.11, Single-Family Dwelling Transient Rentals," to prohibit the short term rental of single-family dwellings in the Town.

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 2020-\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING CHAPTER 4, "BUSINESS REGULATIONS," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS, BY ADDING A NEW ARTICLE 4.11, "SINGLE-FAMILY DWELLING TRANSIENT RENTALS," TO GENERALLY PROHIBIT THE SHORT-TERM RENTAL OF SINGLE-FAMILY DWELLINGS IN THE TOWN; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

**WHEREAS**, the Town of Prosper, Texas ("Town"), is a home-rule municipal corporation duly organized under the laws of the State of Texas; and

**WHEREAS**, the Town is authorized to adopt and enforce ordinances necessary to protect health, life, and property to preserve good government and the security of its inhabitants; and

**WHEREAS**, the Town has adopted a comprehensive Zoning Ordinance to regulate the location and use of buildings and land in full accordance with Chapter 211 of the Texas Local Government Code, as amended; and

**WHEREAS**, the Town's Zoning Ordinance presently does not allow short-term rentals of property; and

**WHEREAS**, both "guest houses," pursuant to Chapter 3, § 1.4, subpart 45(i), of the Town's Zoning Ordinance, and "residential garage lofts," pursuant to Chapter 3, § 1.4, subpart 46(e), of the Town's Zoning Ordinance, prohibit the lease or rental of those structures; and

**WHEREAS**, single-family dwelling transient rentals are not currently listed as a permitted or specific use in any Zoning District within the Town and therefore are prohibited under the Town's Zoning Ordinance; and

**WHEREAS**, throughout the Dallas-Fort Worth Metroplex, including within the Town, there has been a proliferation of single-family dwelling transient rentals within single-family residential areas; and

**WHEREAS**, single-family dwelling transient rentals are not consistent with the character or nature of single-family residential uses in the Town; are not suitable in residential neighborhoods; are not compatible with residential uses; and the neighborhood adjacency of single-family dwelling transient rentals in residential neighborhoods is or may become harmful; and

**WHEREAS**, single-family dwelling transient rentals in the Town, with their attendant traffic, parking, noise, and litter issues, along with the influx of non-residents into residential areas, are incompatible with the intent of residential districts in the Town, the desires and expectations of the Town's residents, and are contrary to the long-standing single-family residential character of the community; and

**WHEREAS**, single-family dwelling transient rentals in residential areas of the Town may pose a risk of an increase in public nuisances, disruption of neighborhoods, and additional code enforcement-related issues; and

**WHEREAS**, the experience of other local governments in Texas dealing with the short-term rental of properties has shown that enforcement actions are sometimes necessary, as addressed in greater detail at pages 40-41 of the opinion of the Texas Third Court of Appeals in *Zaatari v. City of Austin, Texas*, No. 03-17-00812-CV, \_\_\_ S.W.3d \_\_\_ (Tex. App.-Austin Nov. 27, 2019), listing a municipality's ability to address the possible negative effects of short-term rentals, including noise, public urination and defecation, littering, parking, disorderly conduct and public intoxication, among others; and

**WHEREAS**, in *Zaatari* the Court held at page 40 of its opinion that Austin's "stated concerns . . . were to reduce the likelihood of short-term rentals [serving] as raucous 'party houses' in otherwise quiet neighborhoods and to reduce possible strain on neighborhood infrastructure," and these are "certainly valid c[municipal] concerns"; and

**WHEREAS**, the Town Council has determined that it is a necessity to regulate activities as provided for herein to safeguard the public; and

**WHEREAS**, moreover, with the onset of the novel coronavirus, and its impact on the residents of the Town and the public health and safety, the short-term rental of property could endanger the residents of the Town by exposing them to individuals who desire to rent who are or may be asymptomatic or experiencing symptoms of the novel coronavirus, without knowing in fact that they are or may be infected by the novel coronavirus.

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

### **SECTION 1**

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

### **SECTION 2**

From and after the effective date of this Ordinance, Chapter 4, "Business Regulations," of the Code of Ordinances is hereby amended by adding a new Article 4.11, "Single-Family Dwelling Transient Rentals," to read as follows:

#### **"ARTICLE 14.11 SINGLE-FAMILY DWELLING TRANSIENT RENTALS**

##### **Sec. 14.11.001 Definitions**

*Single-family dwelling transient rental.* The rental or offer for rental of any single-family dwelling or any portion of a single-family dwelling for a period of less than 30 days.

*Rental.* The renting, bartering, trading, letting or otherwise allowing the use of a single-family dwelling or room or rooms within a single-family dwelling for compensation. This shall not restrict, limit or interfere with any homeowner from participating in a leaseback upon the sale of a single-family dwelling.

*Leaseback.* An arrangement where the seller of a home leases the home back from the purchaser. In a leaseback arrangement, the specifics of the arrangements are typically made prior or immediately after the sale of the home.

**Sec. 14.11.002      Single-family dwelling transient rentals prohibited**

All single-family dwelling transient rentals are hereby prohibited and unlawful within the Town of Prosper."

**SECTION 3**

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 repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

**SECTION 4**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of 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.

**SECTION 5**

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by fine not to exceed the sum of five hundred dollars (\$500.00), and each and every day such violation shall continue shall constitute a separate offense.

**SECTION 6**

This Ordinance shall become effective after its passage and publication, as required by law.

**DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 25TH DAY OF AUGUST, 2020.**

**APPROVED:**

\_\_\_\_\_  
**Ray Smith, Mayor**

**ATTEST:**

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**Melissa Lee, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

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**Terrence S. Welch, Town Attorney**



## ENGINEERING SERVICES

**To:** Mayor and Town Council

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

**Through:** Harlan Jefferson, Town Manager  
Rebecca Zook, Executive Director of Development & Infrastructure Services

**Re:** Town Council Meeting – August 25, 2020

**Agenda Item:**

Discussion on Speed Limit Ordinance.

**Description of Agenda Item:**

Since the last ordinance updating the speed limits in 2017, the Town has added several new roadways, and there are some other roadways currently being constructed that all require speed limits be established. Additionally, staff has analyzed several traffic accidents around the Gates of Prosper development and is recommending lowering speeds in the vicinity of the commercial development from 45 mph to 40 mph to improve safety. Lastly, staff is recommending the speed limit along existing Windsong Parkway be lowered to be more conducive of a residential neighborhood environment.

The following table summarizes the speed limits that are intended to be added or modified and are also depicted in the attached existing and proposed speed limit maps:

<u>Street Name</u>	<u>Limits</u>	<u>Prop</u>
Coleman Street	Richland Boulevard to Lovers Lane	40
Coleman Street	Lovers Lane to Broadway	30
Cook Lane	<del>1,300 feet south of Prosper Trail to Prosper Trail</del>	<del>35</del>
Cook Lane	First Street to Prosper Trail	35
CR 27	<del>Dallas Parkway to First Street</del>	<del>35</del>
Good Hope Road	Windsong Parkway to Parvin Road	35
Legacy Drive	<del>US 380 (University Drive) to Prairie Drive</del>	<del>45</del>
Legacy Drive	US 380 (University Drive) to 1,600 feet north of Prairie Drive	45
Lovers Lane	US 380 (University Drive) to SH 289 (Preston Road)	40
Lovers Lane	SH 289 (Preston Road) to Coleman Road	40
Prairie Drive	<del>1,400 feet west of Legacy Drive to Legacy Drive</del>	<del>45</del>

<u>Street Name</u>	<u>Limits</u>	<u>Prop</u>
Prairie Drive	1,400 feet west of Legacy Drive to 1,900 feet east of Legacy Drive	45
<del>Prosper Trail</del>	<del>Legacy Drive to Dallas Parkway</del>	<del>35</del>
Prosper Trail	Legacy Drive to 1,000 feet east of Legacy Drive	35
Prosper Trail	1,000 feet east of Legacy Drive to Dallas Parkway	45
<del>Richland Boulevard</del>	<del>SH 289 (Preston Road) to Lovers Lane</del>	<del>45</del>
Richland Boulevard	Coleman Street to Lovers Lane	40
<del>Richland Boulevard</del>	<del>900 feet west of La Cima Boulevard to 400 feet east of La Cima Boulevard</del>	<del>45</del>
Richland Boulevard	1,100 feet west of La Cima Boulevard to 900 feet east of La Cima Boulevard	45
Safety Way	Dallas Parkway to Cook Lane	35
Shawnee Trail	Star Trace Parkway to Caruth Drive	45
<del>Teel Parkway</del>	<del>US 380 (University Drive) to Fishtrap Road</del>	<del>45</del>
Teel Parkway	US 380 (University Drive) to Windsong Parkway	45
<del>Teel Parkway</del>	<del>Fishtrap Road to Prosper Road</del>	<del>35</del>
Teel Parkway	Windsong Parkway to Prosper Road	35
Victory Way	Coleman Street to Frontier Parkway	45
Windsong Parkway	US 380 (University Drive) to 1,000 feet north of US 380 (University Drive)	30
<del>Windsong Parkway</del>	<del>1,000 feet north of US 380 (University Drive) to Mill Branch Drive</del>	<del>35</del>

Included in the proposed ordinance amendment under the State Highway section will be the removal of Business 289 (Coleman Street) from US 380 (University Drive) to FM 1193 (Broadway) since it is no longer on the state system. The proposed speed limits to Coleman Street account for the new limits of Coleman Street south of Broadway.

#### **Attached Documents:**

1. Existing Speed Limit Map
2. Proposed Speed Limit Map

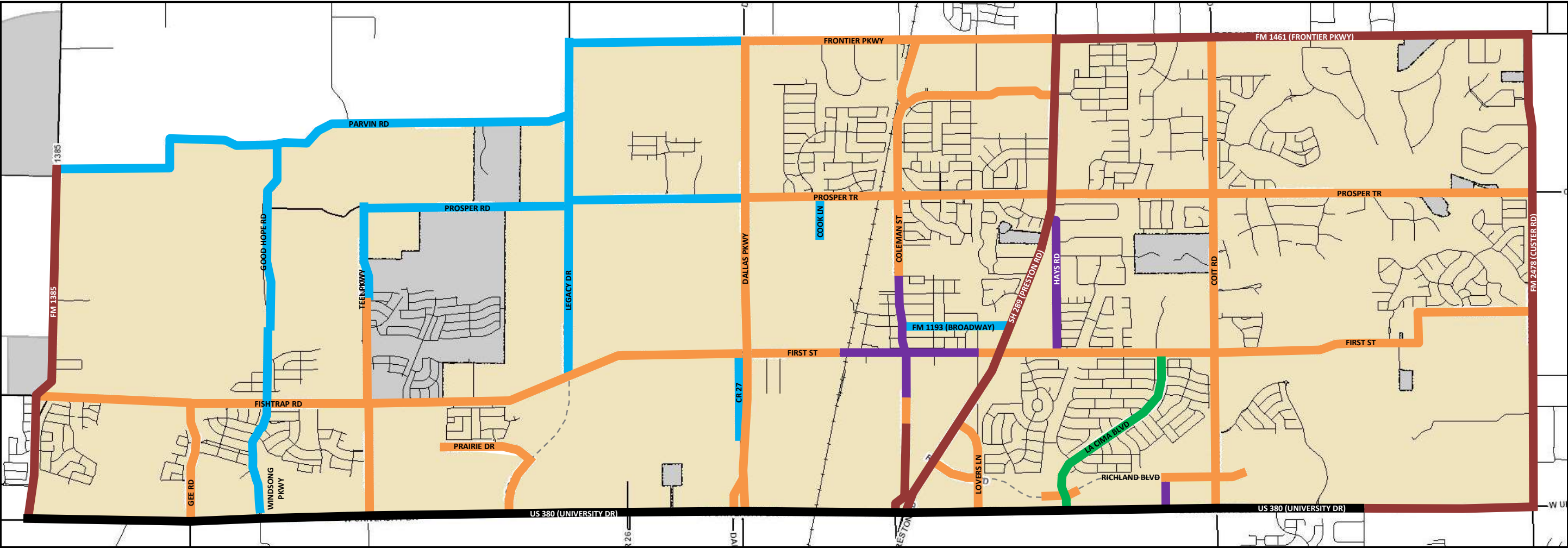
#### **Town Staff Recommendation:**

Town staff recommends the Town Council provide any feedback on the proposed speed limit updates.





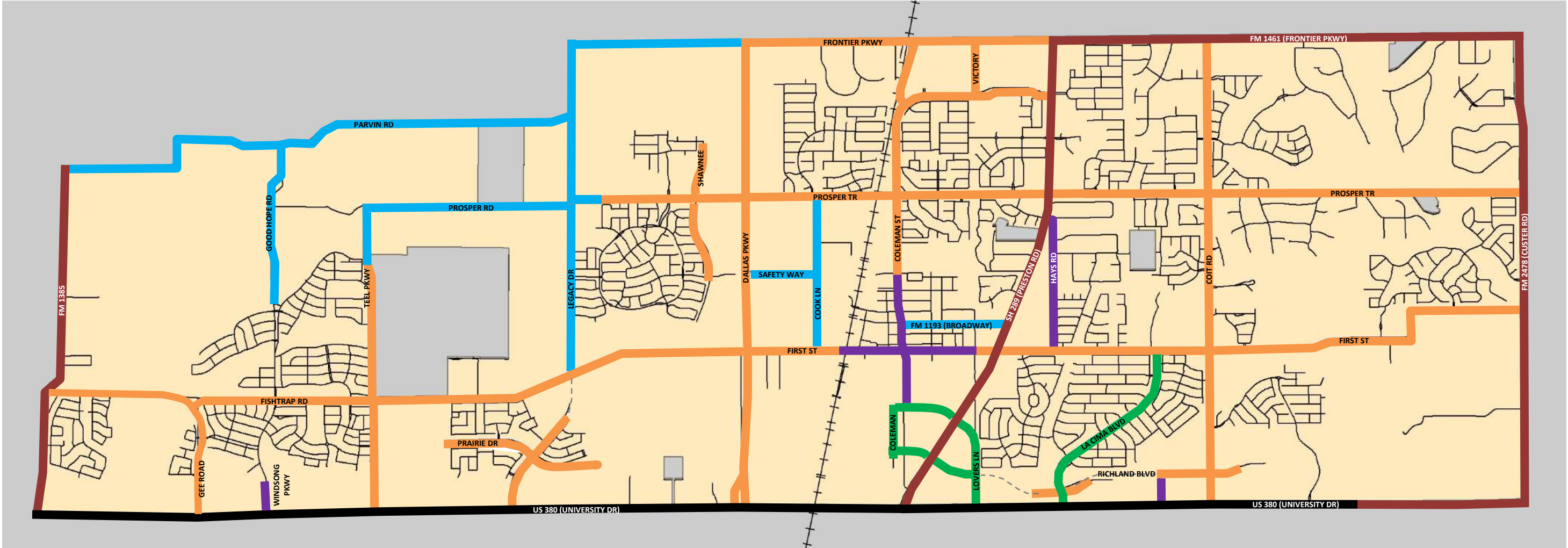
Existing Speed Limits



ALL NEIGHBORHOOD STREETS ARE 25 MPH UNLESS OTHERWISE NOTED



Proposed Speed Limits



ALL NEIGHBORHOOD STREETS ARE 25 MPH UNLESS OTHERWISE NOTED